

Texas Historical Statutes Project

1970 SUPPLEMENT
TO
VERNON'S TEXAS STATUTES 1948



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VERNON'S
TEXAS STATUTES
1970 SUPPLEMENT

Including General and Permanent Laws
of the
60th Legislature, First Called Session, 1968
and the
61st Legislature, Regular Session, 1969
61st Legislature,
First and Second Called Sessions, 1969

TABLES and INDEX

Supplementing
Vernon's Texas Statutes 1948
and
1950-1968 Supplements

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WEST PUBLISHING CO.

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1970 SUPPLEMENT

This Supplement to Vernon's Texas Statutes includes the laws of a general and permanent nature enacted at the First Called Session of the 60th Legislature and at the Regular and Called Sessions of the 61st Legislature. The sessions convened and adjourned as follows:

	Convened	Adjourned
First Called Session, 60th Leg.	June 4, 1968	July 3, 1968
Regular Session, 61st Leg.	Jan. 14, 1969	June 2, 1969
First Called Session, 61st Leg.	July 28, 1969	Aug. 26, 1969
Second Called Session, 61st Leg.	Aug. 27, 1969	Sept. 9, 1969

This volume supplements the 1948 edition of Vernon's Texas Statutes and the 1950, 1952, 1954, 1956, 1958, 1960, 1962, 1964, 1966 and 1968 Supplements.

Constitutional amendments, approved by the voters on November 5, 1968 and August 5, 1969, are also included.

To assist the user in readily locating any article or section affected by legislation from 1949 through 1969, a special Table has been prepared and is printed on the colored pages herein.

Vernon's Texas Statutes 1948 and Supplements are under the same classification and arrangement as **Vernon's Annotated Texas Statutes**. This means that users of this popular edition may go from any article therein to the same article in **Vernon's Annotated Texas Statutes** where the complete constructions of the law by the state and federal courts, as well as complete historical data relative to the origin and development of the law, are conveniently available.

The same practical features which have served to popularize the 1948 Edition, such as a complete index, tables, etc., are continued in the Supplements.

The Publisher extends appreciative thanks to the office of the Secretary of State, as well as to other state officials, for guidance and suggestions during the preparation of this work.

WEST PUBLISHING Co.

January, 1970

Cite this Book thus:

- Vernon's Texas Civ.St., Art. —.
- Vernon's Texas Bus. & C. Code, § —.
- Vernon's Texas Bus. Corp. Act, Art. —.
- Vernon's Texas C. C. P., Art. —.
- Vernon's Texas Educ. Code, § —.
- Vernon's Texas Elec. Code, Art. —.
- Vernon's Texas Family Code, § —.
- Vernon's Texas Ins. Code, Art. —.
- Vernon's Texas P. C., Art. —.
- Vernon's Texas Prob. Code, § —.
- Vernon's Texas Tax.Gen., Art. —.

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Civil Statutes

Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
1a	New	1961	46a,		
1b	New	1965	§§ 1d, 1e	Added	1968
1c	New	1970	§ 4	Am.	1970
17	Am.	1964	§ 5	Am.	1952
23	Am.	1958	§ 6	Am.	1952
28a	Am.	1964	§ 6	Am.	1961
29	Am.	1961	§ 6	Am.	1964
29b	New	1958	§ 6	Am.	1968
29c	New	1958	§ 9	Am.	1952
29c-1	New	1970	§ 10	Am.	1966
29d	New	1964	46b	Am.	1952
29e	New	1968	46c-1	Am.	1961
41a	Am.	1960		Am.	1970
§§ 2, 3	Am.	1961	46c-2	Am.	1970
§ 4	Am.	1952	46c-3	Am.	1961
§ 4(a)	New	1961		Am.	1970
§ 5	Am.	1952	46c-4	Am.	1961
§ 8	Am.	1952		Am.	1970
§ 8	Am.	1961	46c-5	Am.	1970
§§ 9, 10	Am.	1961	46c-6	Am.	1961
§ 12	Am.	1961		Am.	1970
§ 13	Am.	1961	Subd. 10	Added	1966
§ 15	Am.	1952	46c-7	Rep.	1961
§ 15	Am.	1961	46c-7 (former- ly 46c-8)	Am.	1961
§§ 16, 18	Am.	1961		Am.	1970
§ 20	Rep.	1961	46c-8	New	1961
§ 22	Am.	1961		Am.	1970
§ 23	Am.	1961	46e-1	Am.	1952
§ 24	Am.	1961	(1)	Am.	1966
46a,			(2)	Am.	1966
§ 1	Am.	1968	46e-3(2)	Am.	1961
§ 1a	Am.	1952		Am.	1964
§ 1a	Am.	1968	46e-13	Am.	1952
§§ 1b, 1c	New	1952			

VERNON'S TEXAS STATUTES

Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
46f—1, §§ 1, 2	New	1968	118b,		
52	Rep.	1954	§ 25	Am.	1964
55c, §§ 1-17	New	1968	§ 27	Rep.	1964
§ 1	Am.	1970	118c—1,		
§ 2	Am.	1970	§ 2	Am.	1958
§ 2A	Added	1970	§ 10	Am.	1954
§ 3	Am.	1970	§ 10	Am.	1956
§ 5	Am.	1970	118c—2,		
§ 6	Am.	1970	§ 2	Am.	1958
§ 8	Am.	1970	§ 10	Am.	1954
§ 14	Am.	1970	§ 10	Am.	1956
§ 14A	Added	1970	118c—2	Rep.	1958
§ 15	Am.	1970	118c—3	New	1956
§ 15A	Added	1970	§ 2	Am.	1958
§ 15B	Added	1970	§§ 5, 6	Rep.	1958
57	Am.	1954	118d	New	1950
	Am.	1960	§ 6	Am.	1952
	Am.	1961	§ 9	Am.	1952
64a	Added	1970	§§ 14-16	Am.	1952
69	Am.	1958	note	New	1954
82a	New	1956	118e	New	1950
	Am.	1958	119	Am.	1960
93b,			120	Rep.	1960
§ 2	Am.	1956	121	Am.	1960
§ 2	Am.	1970	122	Am.	1960
§ 2(e)	Am.	1958	123	Am.	1960
§ 3	Am.	1954	124	Am.	1960
§ 3	Am.	1956	125	Am.	1960
§ 3	Am.	1958	126	Am.	1960
§ 3	Am.	1970	127	Am.	1960
§ 4	Am.	1956	128	Am.	1960
§ 4	Am.	1970	128a	New	1961
§ 6	Am.	1970	129	Am.	1960
§ 7	Am.	1954	130	Am.	1960
§ 7	Am.	1970	131	Am.	1960
§ 10	Am.	1954	131a	New	1960
93c	New	1954	132	Am.	1960
94			133	Am.	1960
to			134	Rep.	1960
96	Rep.	1961	135	Am.	1960
97	Am.	1950		Am.	1964
	Rep.	1961	135a—4, §§ 1-4	New	1968
98			135b—1	Am.	1956
to				Am.	1958
108	Rep.	1961		Rep.	1964
108a	New	1961	135b—2	New	1950
117, § 3	Am.	1956		Rep.	1952
117a	Rep.	1954	135b—3	New	1952
118a,				Rep.	1954
§ 3	Am.	1956	135b—4	New	1954
§ 9	Am.	1956		Am.	1958
§ 12	Am.	1954	§ 2	Am.	1970
§ 12	Am.	1956	§ 2(f)	Am.	1968
118b,			§ 3(c)	Am.	1968
§ 1	Am.	1964	§ 5(d)	Am.	1968
§ 3	Am.	1964	§ 17	Am.	1966
§ 4	Am.	1964	§ 17	Am.	1968
	Am.	1966	§ 17	Am.	1970
§ 6	Am.	1964	§ 17a	Rep.	1968
§ 11	Am.	1964	135b—5	New	1964
§ 24	Am.	1956			
§ 24A	New	1956			

ARTICLES AFFECTED FROM 1949 TO 1969

Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
135c	New	1956	167		
§ 1	Am.	1961	to		
139,			173	Rep.	1966
Subsec. 2	Am.	1966	174	Am.	1961
149j	New	1952		Rep.	1966
149k	New	1952	175	Rep.	1966
165-9	New	1964	176	Rep.	1966
165a-4,			176B	New	1950
§ 3(5)	Rep.	1966	177	Rep.	1966
§ 3a	Added	1970	179a	New	1958
§ 4, Subsec. B	Rep.	1966	179b	New	1958
§ 4, Subsec. C	Am.	1966	179c	New	1964
§ 5(H)	Am.	1960	190a-2	New	1958
§ 5, subsec. H	Am.	1968	190d-1	New	1960
§ 6	Am.	1966	190j	New	1960
§ 6(g)	Am.	1968	192b	Am.	1952
§ 7	Am.	1960	§ 1	Am.	1961
165a-4a	New	1961	193	Am.	1952
165a-8	New	1950		Am.	1961
165a-9	New	1952		Rep.	1966
	Rep.	1954	193a	New	1966
165a-10	New	1954	194a	Rep.	1964
§ 1	Am.	1956	195	Am.	1952
§ 3	Am.	1968		Rep.	1966
§ 9A	Added	1966	§ 1	Am.	1961
165-3, §§ 1-4	Am.	1968	§ 2	Am.	1961
§ 7	Am.	1968	§ 2	Rep.	1964
§ 7a	Added	1968	195a	New	1966
165-3a	New	1961	195a	Am.	1968
§ 2	Am.	1968	195a-1	New	1970
§ 3	Am.	1968	195a-2	New	1970
§ 3a	Added	1970	197a	New	1958
§ 4	Am.	1968		Rep.	1966
§ 4	Am.	1970	197b	New	1966
§ 5	Am.	1968		Rep.	1968
§ 6	Am.	1970	197c, §§ 1-27	New	1968
§ 7	Am.	1970	198	Am.	1964
165-4a	Am.	1950		Am.	1968
§ 1	Am.	1970	199(2)	Am.	1970
§ 2	Am.	1952	(5)	Am.	1952
§ 2	Am.	1960		Am.	1954
§ 2	Am.	1970		Am.	1961
§ 3	Added	1970		Am.	1970
165-4b	New	1950	199(6)	New	1958
165-6	New	1950	199(7)	Am.	1950
165-7	New	1950		Am.	1954
	Rep.	1954	199(8)	Am.	1970
165-8	New	1958	199(9)	Am.	1954
§ 3	Am.	1970		Am.	1956
§ 4	Am.	1970	§ 9	Am.	1950
§ 8	Am.	1970	§ 10A	Added	1966
§ 9	Am.	1960	199(10)	Am.	1960
§ 9	Am.	1961	199(11)	Am.	1950
§ 9	Am.	1970		Am.	1952
§ 15	Am.	1961		Am.	1956
§ 16	Am.	1961		Am.	1958
§ 16-A	Added	1970		Am.	1960
§ 17	Am.	1961		Am.	1964
§ 17a	New	1961	199(14)	Am.	1952
§ 18	Am.	1961		Am.	1956
166	Rep.	1966			
166a	New	1966			

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Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
199(19),			199(115)	New	1950
§§ 1-4	Am.	1970		Am.	1970
§§ 8-12	New	1950	199(117),		
	Rep.	1952	§ 4	Rep.	1950
199(20)	New	1966	199(118)	New	1950
199(22)	New	1970	199(119)	Am.	1970
199(25)		1956	199(120)	New	1958
199(32)	New	1952	199(121)	New	1960
	New	1961	199(122)	New	1958
199(33)	Am.	1956	199(124)		
199(36)	Am.	1950	§ 17	Am.	1970
199(37)	Am.	1956	§ 19	Am.	1970
	Am.	1964	199(128)	New	1950
(37)	Am.	1970	199(131)	New	1958
199(38)	Am.	1956	199(132)	New	1952
199(42)	New	1961		Am.	1956
199(43),			§ 6	Am.	1960
§ 5	Am.	1960	199(134)	New	1950
199(47)	Am.	1970	199(135)	New	1952
199(49)	Am.	1970		Am.	1954
199(51)	Am.	1950	§ 1	Am.	1958
§ 2	Am.	1954	199 § 3	Am.	1958
199(58)	Am.	1956	§ 5	Am.	1958
199(62)	Am.	1956	§§ 7-9	Am.	1958
	Am.	1970	199(136)	New	1956
199(63)	Am.	1952	199(137)	New	1966
199(64)	New	1958	199(138)	New	1956
199(70)	Am.	1950		Am.	1956
199(71)	Am.	1970	199(139)	Am.	1956
199(72)	Am.	1960	199(140)	New	1956
199(75)	Am.	1950	199(142)	New	1956
	Am.	1956		Am.	1956
199(76)	Am.	1950	199(143)	New	1956
199(77)	Am.	1950	199(144)	New	1961
199(79)	Am.	1950	199(145)	New	1956
	Am.	1970	§ 1	Am.	1970
199(83)	Am.	1954	§ 3	Am.	1970
199(84)	Am.	1964	§ 5	Am.	1970
199(85)	Am.	1950	§ 8	Am.	1970
	Am.	1966	§ 9	Am.	1970
199(87)	Am.	1950	199(146)	New	1960
199(88)	New	1952	199(150)	New	1958
	Am.	1956	§ 16	Rep.	1964
199(90)	New	1961	199(153)	New	1956
199(102)	Am.	1954	199(154)	New	1958
	Am.	1956	199(155)	New	1958
	Am.	1961	199(155)	Am.	1968
	Am.	1970	§ 5	Am.	1964
199(104)	New	1961	199(156)	New	1958
	Am.	1968	199(160)	New	1958
199(105)	Am.	1950	199(161)	New	1960
	Am.	1952	§ 6	Am.	1964
199(106)	Am.	1960	199(162)	New	1964
199(107)	Am.	1950	Subsec. (D)	Am.	1966
§ 5a	Rep.	1966	199(163)	New	1964
§ 7	Am.	1966	199(164)	New	1964
199(108)	Added	1970	199(165)	New	1964
199(109)	Am.	1956	199(166)	New	1964
	Am.	1961	199(167)	New	1964
199(112)	Am.	1956	199(170)	New	1970
199(114)			199(171)	New	1966
Subd. (l)	New	1954	199(174)	Transferred	1968
			199(176 to 180)	Transferred	1968

ARTICLES AFFECTED FROM 1949 TO 1969

Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
199(186)	New	1970	326k-§ 2b	New	1960
199(229)	Added	1970		Am.	1968
199a	New	1970	§ 2b	Am.	1970
200a,			326k-13	New	1950
§ 1	Am.	1960	326k-14	New	1952
	Am.	1970		Am.	1958
§ 2	Am.	1966		Am.	1964
§ 2a	New	1961		Am.	1970
§ 5a	New	1958	326k-15	New	1952
§ 10a	Added	1966		Am.	1958
§ 11(a)	Added	1968	326k-16	New	1952
§ 11(b)	Added	1970	326k-17	New	1952
224				Rep.	1958
to			326k-18	New	1952
238	New	1966	§ 4	Am.	1970
238-1			§ 5	Am.	1970
to			326k-19	New	1952
238-6	New	1966		Am.	1961
249a,				Am.	1968
§§ 2-5	Am.	1952		Am.	1970
§§ 3-14	Am.	1956	326k-20	New	1952
§ 4	Am.	1970	326k-21	New	1952
§ 5	Am.	1970	326k-21	Am.	1960
§ 6	Am.	1970	326k-22	New	1954
§ 7	Am.	1970	§ 4	Am.	1968
§§ 7-10	Am.	1952	§ 5	Am.	1968
§ 9	Am.	1970	326k-22, § 6	Am.	1968
§ 10	Am.	1970	326k-23	New	1954
§ 11	Am.	1970	§ 4	Am.	1965
§§ 12, 13	Am.	1952	326k-24	New	1954
§ 12	Am.	1970		Am.	1968
§ 14	Rep.	1952	326k-25	New	1954
249c	New	1970	§§ 1, 2	Am.	1964
249d	New	1970	326k-26	New	1954
260-1	Am.	1956	326k-27	New	1956
	Am.	1958		Am.	1962
	Rep.	1966	326k-28	New	1956
261 to 274	Rep.	1968	§ 3a	Added	1970
279	Am.	1966	§ 4	Am.	1961
279a	Am.	1958		Am.	1964
306	Am.	1956	§ 4	Am.	1970
306a,			§ 5	Am.	1961
§ 2	Am.	1966		Am.	1964
307A	Am.	1958	326k-29	New	1956
307B	Am.	1961		Am.	1966
310	Am.	1968	326k-30	New	1956
319	Am.	1952	326k-30a	New	1960
320a-1	Am.	1950	326k-30a, §§ 2, 3	Am.	1968
§ 2	Am.	1966	§ 8	Am.	1968
§ 6	Am.	1970	326k-31		
322	Am.	1964	to		
322	Am.	1968	326k-33	New	1956
322c	New	1950	326k-34	New	1956
325b	New	1961		Rep.	1968
326	Am.	1970	326k-35	New	1956
326e	Am.	1970	§ 2	Rep.	1968
326k-7	Rep.	1970	326k-36	New	1956
326k-12	Am.	1950	326k-36a	New	1961
	Am.	1954		Am.	1970
§ 1a	New	1958	326k-37	New	1958
§ 2a	Rep.	1968			
§ 2-a	New	1952			

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Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
326k-38	New	1958	342-104	Am.	1961
	Rep.	1961		Am.	1968
326k-38a	New	1961	342-109	Am.	1960
	Am.	1966	342-111	Am.	1970
	Am.	1970	342-112	Am.	1952
326k-39	New	1958	342-112A	New	1952
	Rep.	1961	342-114	Am.	1970
326k-40	New	1958	342-115	Am.	1964
§ 1	Am.	1961	342-201	Am.	1952
	Am.	1968	342-202	Am.	1952
§ 2	Am.	1961	342-203	Am.	1952
326k-41	New	1960	342-204	Am.	1952
326k-41a	New	1960		Am.	1964
	Am.	1961		New	1970
326k-42	New	1960	342-205	Am.	1952
326k-43	New	1960		Am.	1961
326k-43a	New	1964		Am.	1970
326k-44	New	1961	342-208	Am.	1952
326k-45	New	1961		Am.	1970
326k-46	New	1961	342-208A	New	1952
326k-47	New	1961		Rep.	1960
326k-48	New	1964	342-301	Am.	1958
326k-48	Am.	1968		Am.	1961
326k-48a, §§ 1-3	New	1968	342-303	Am.	1960
326k-49	New	1964	342-304	Am.	1964
326k-49a	New	1970	342-305	Am.	1964
326k-50	New	1964	342-312	Am.	1968
§ 4	Am.	1966		Am.	1970
326k-51	New	1964	342-314	New	1956
326k-52			342-315	Added	1968
to			342-401	Am.	1968
326k-56	New	1966	342-402	Am.	1960
326k-56a	New	1970	342-404	Am.	1960
326k-56(c)	Am.	1968	342-405	Am.	1970
326k-57	New	1968	342-406	Am.	1960
326k-58, §§ 1-8	New	1968		Am.	1968
326k-59, §§ 1-8	New	1968	342-408	Am.	1960
326k-60	New	1968	342-501A	New	1958
326k-61, §§ 1-4	New	1968	342-502	Am.	1960
326k-61a	New	1970	342-503	Am.	1970
326k-62	New	1968	342-504	Am.	1960
326k-63	New	1970		Am.	1964
326l-1	New	1966		Am.	1970
	Am.	1970	§ 2	Am.	1962
326l-2, §§ 1-6	New	1968	§ 2(c)	Am.	1968
326l-3	New	1970	342-505	Am.	1968
331d	Am.	1950	342-505a	New	1956
331e	New	1950	342-506	Am.	1970
331f	New	1950	342-507	Am.	1950
331f-1, §§ 1, 2	New	1968		Am.	1960
	New	1970		Am.	1970
331g	New	1952	342-509a	New	1964
331g-1	New	1956	342-602	Am.	1970
§ 2a	New	1960	342-606	Am.	1960
331h	New	1954		Am.	1968
331i	New	1960		Am.	1970
§ 2	Am.	1970	342-701		
§ 3	Am.	1970	to		
331j	New	1961	342-703	Rep.	1966
331k, §§ 1-4	New	1968	342-704	Am.	1958
341-1	New	1970		Rep.	1966
342-101A	New	1952	342-705	Rep.	1966

ARTICLES AFFECTED FROM 1949 TO 1969

Clv.St. Art.	Effect	Vernon's Texas St.Supp.	Clv.St. Art.	Effect	Vernon's Texas St.Supp.
342-706	Rep.	1966	581-23		
342-707a	Am.	1950	to		
342-709	Am.	1964	581-28	New	1958
342-711	Rep.	1966	581-29	New	1958
342-712	Rep.	1966		Am.	1961
342-902	Am.	1958	Subsec. G	Rep.	1964
342-903	Am.	1958	581-30		
	Am.	1960	to		
	Am.	1964	581-32	New	1958
342-908	Am.	1964	581-33	New	1958
	Am.	1966		Am.	1964
342-910a, § 1c	Am.	1968	581-34	New	1958
342-951	New	1970	581-35	New	1958
489d	New	1964	G	Am.	1960
548b	New	1956	M	Am.	1960
§ 1	Am.	1964	581-36		
§ 1a	Am.	1964	to		
§ 3	Am.	1964	581-39	New	1958
§ 5	Am.	1964	582-1	New	1960
548b, §§ 1-10a	Am.	1968	§ 3a	Am.	1964
565a, §§ 1-4	New	1968	582-1	Rep.	1968
567			600a	Am.	1950
to				Am.	1952
571	Rep.	1966		Am.	1954
575	Rep.	1966		Rep.	1956
576	Rep.	1966	601	New	1954
577	Rep.	1968	602	Am.	1954
578	Rep.	1968	603-605	Rep.	1958
579-1 to 579-42	New	1956	607-629	Rep.	1964
	Rep.	1958	613	Am.	1956
580-1 to 580-39	New	1956	630	Am.	1962
	Rep.	1957	631-633	Rep.	1958
581-1			634	Am.	1950
to				Am.	1952
581-4	New	1958		Am.	1956
581-5	New	1958		Rep.	1958
Subs. E	Am.	1964	634 1/4	Rep.	1958
Subs. G-I	Am.	1964	634a	Rep.	1958
Subs. O	Am.	1964	634(B)	Rep.	1970
Subs. Q	New	1960	634(C)	Rep.	1970
Subs. R	Added	1964	635	Am.	1968
581-6	New	1958	636-648	Rep.	1958
581-7	New	1958	649	Am.	1956
Subs. A	Am.	1964		Rep.	1958
Subs. D	Added	1964	650-652	Rep.	1958
581-8	New	1958	653	Am.	1956
581-9	New	1958		Rep.	1958
Subsec. B	Am.	1964	654	Rep.	1958
581-10			655	Am.	1956
to				Am.	1968
581-12	New	1958	656	Rep.	1956
581-13	New	1958	659-664	Rep.	1958
	Am.	1964	664-2	New	1958
581-14	New	1958	664-3	New	1958
Subsec. (G)	Added	1964	§ 13	Am.	1966
581-15			666	Am.	1950
to				Am.	1958
581-21			§ 6a	Added	1968
581-22	New	1958	666-1	Am.	1950
Par. A	Am.	1961		Rep.	1958
			666-2	New	1950
				Rep.	1958

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666a—1	Rep.	1958	695c,		
666a—2	New	1958	§ 1	Am.	1964
666b, § 2	Am.	1968	§ 2(1) a	New	1958
670-672	Rep.	1966	§ 2(3)	Am.	1961
677	Rep.	1950	§ 4(7)	Am.	1952
678	Am.	1952		Am.	1964
	Am.	1970		Am.	1970
678a	Abolished	1966	§ 5	Am.	1970
678g	New	1970	§ 6-A	Added	1966
678d	Am.	1961	§ 7A	New	1954
	Rep.	1966	§ 8	New	1950
678d—1	New	1966	§ 8(a)	Am.	1954
678e	New	1964	§ 8(a), subsec.		
§ 7a	Am.	1968	2(e)	Am.	1966
678f	New	1966	§ 12	Am.	1968
678m	New	1956		Am.	1970
§ 1	Am.	1964	§ 14	Am.	1961
§ 15	Am.	1964	§ 15	Am.	1952
§ 16A	New	1964	§ 16—A	Added	1958
§ 19a	Am.	1970	§ 16—B	Added	1958
678m—1	New	1958		Am.	1966
678m—2	New	1958		Am.	1968
§ 1	Am.	1958		Am.	1970
678m—3	New	1958	§ 16—C	Added	1958
678m—4	New	1960	§ 17	Am.	1964
679	Rep.	1966		Am.	1968
680	Rep.	1966		Am.	1970
681	Am.	1950	§ 17A	New	1964
	Rep.	1966	§ 17—A	Am.	1970
682	Rep.	1966	§ 18	Am.	1964
683	Rep.	1966	§ 18A	Added	1964
684-687	Rep.	1960	§ 18—A	Am.	1970
688	Am.	1952	§ 18B	Added	1964
688a	New	1952	§ 19	Am.	1964
689	Am.	1952		Am.	1968
689a—2	Am.	1952	§ 20	Am.	1968
689a—3	Rep.	1958		Am.	1970
689a—4	Am.	1952	§ 27	Am.	1968
689a—4a	New	1952	§ 27(1)	Am.	1958
689a—5	Am.	1958		Am.	1960
	Am.	1958	§ 28	Am.	1958
689a—6	Am.	1952	§ 29	Am.	1954
	Am.	1970	§ 29—A	New	1960
689a—7	Am.	1958	§ 32	Am.	1970
689a—8a	New	1958	§ 38	Am.	1968
689a—9a	New	1954	§ 41	Am.	1964
689a—17	Rep.	1958		Am.	1968
689a—17a	New	1958	695c note	Am.	1958
	Rep.	1970	695c—1	New	1964
689a—18	Rep.	1958	695c—2	New	1966
689a—19a	New	1958		Am.	1970
	Rep.	1970	695g	New	1952
691	Am.	1952	§ 1	Am.	1954
692	Am.	1952		Am.	1956
694	Am.	1950	§ 1(b)	Am.	1964
695			§§ 2-12	Am.	1954
§ 19A	Added	1964	§ 3	Am.	1956
695a			§ 4	Am.	1956
§ 4	Am.	1970	§ 7	Am.	1956
			§ 13a	New	1954
			695h	New	1956
			§ 1(c)	Am.	1958
				Am.	1961

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695i	New	1958	835p, §§ 1, 2	New	1968
	Rep.	1970	835q	New	1970
695j	New	1961	835r	New	1970
§ 1(g)	Am.	1966	836	Am.	1950
§ 1(j)	Added	1966	838	Rep.	1964
§ 3	Am.	1966	840	Am.	1964
695j—1, §§ 1-17	New	1968	842a	Am.	1961
§§ 19-23	New	1968	842b-842f	Rep.	1952
695k	New	1966	842g	New	1952
§ 2	Am.	1970	843	New	1964
695k—1	New	1970		Rep.	1968
702	Am.	1954	851—C	New	1964
703a	New	1956		Rep.	1968
703b	New	1958	852	Rep.	1964
708b—1	Am.	1950	852a	New	1964
709a	New	1954	§ 2.01a	Added	1970
709b	New	1961	§ 2.02	Am.	1970
709c	New	1961	§ 4.02	Am.	1970
715a	New	1968	§ 5.05	Am.	1966
717	Am.	1952	§ 6.08	Am.	1966
717f	New	1950	§ 6.19	Added	1970
717g	New	1952	§ 6.20	Added	1970
717h	New	1952	853		
717i	New	1954	to		
717j	New	1956	881	Rep.	1964
	Rep.	1961	881a—1		
717j—1	New	1961	to		
§§ 1-4	Am.	1968	881a—7	Rep.	1964
717k	New	1956	881a—8	Am.	1952
§ 2	Am.	1970		Rep.	1964
§ 7	Am.	1970	881a—9	Am.	1950
717k—1, §§ 1-3	New	1968		Am.	1952
717k—2	New	1970		Rep.	1964
717k—3	New	1970	881a—10	Am.	1950
717k—4	New	1970		Rep.	1964
717l	New	1958	881a—11	Rep.	1964
717m	New	1960	881a—12	Am.	1952
717n	New	1961		Rep.	1964
717o, §§ 1-14	New	1968	881a—13		
718	Am.	1964	to		
725b	New	1961	881a—21	Rep.	1964
726c	New	1964	881a—23	Am.	1954
752a	Am.	1956		Am.	1958
752b	Am.	1970		Rep.	1964
752y—4	New	1958	881a—24	Am.	1950
752y—5	New	1960		Rep.	1964
752y—6	New	1970	881a—25	Am.	1950
784a,				Rep.	1964
§ 4	Am.	1960	881a—26		
795a	New	1964	to		
802g	New	1956	881a—36	Rep.	1964
802h	New	1961	881a—37	Am.	1950
§ 1	Am.	1968		Rep.	1964
822	Rep.	1954	881a—38		
835h	New	1950	to		
835i	New	1952	881a—43	Rep.	1964
835j	New	1950	881a—44	Am.	1950
835k	New	1950		Rep.	1964
835k—1, §§ 1-4	New	1968	881a—45		
835l	New	1952	to		
835m	New	1954	881a—56	Rep.	1964
835n	New	1960	881a—57	Am.	1950
835o	New	1964		Rep.	1964

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881a—58			969a—1	New	1954
to			969b	New	1970
881a—60	Rep.	1964	969c—1, §§ 1, 2	New	1968
881a—61	Am.	1950	969d	New	1954
	Rep.	1964	969e	New	1970
881a—62	Rep.	1964	970a	New	1964
881a—63	Am.	1950	§ 6	Am.	1966
	Rep.	1964	971a	New	1950
881a—64			973	Am.	1954
to			973a	New	1950
881a—69	Rep.	1964	973b	New	1960
881b	New	1950	974a,		
	Rep.	1964	§ 1	Am.	1950
883	Am.	1966	§ 3	Am.	1956
	Am.	1970	§ 10	Rep.	1950
889a	Rep.	1970	974a—1	New	1966
890—898	Rep.	1966	974a—2	New	1966
899	Rep.	1968	974c—2	New	1950
911a,			974c—3	New	1950
§ 15	Am.	1961	974c—4	New	1950
§ 16	Rep.	1961	974c—5	New	1961
911b,			974c—6	New	1961
§ 1a(1)	Am.	1966	974c—7, §§ 1-3	New	1968
§ 1a(1) (e)	New	1956	974d—2	New	1950
	Am.	1958	974d—3	New	1954
§ 1c	Added	1964	974d—4	New	1956
§ 1(g)	Am.	1966	974d—5	New	1956
§ 1(i)	Am.	1961	974d—6	New	1958
§ 1j	Added	1964	974d—7	New	1958
§ 1¼	New	1964	974d—8	New	1961
§ 13aa	Added	1966	974d—9	New	1961
911f	New	1966	974d—10	New	1964
911g	New	1970	974d—11	New	1966
912a—2	Am.	1952	974d—12, §§ 1-4	New	1968
912a—3	Am.	1952	974d—13	New	1970
	Am.	1956	974d—14	New	1970
	Am.	1964	974e—7	New	1950
912a—4	Am.	1952	974e—8	New	1952
912a—5	Am.	1964	974f—1, §§ 1, 2	New	1968
912a—15	Am.	1964	974g	New	1950
912a—24	Am.	1956	§ 1	Am.	1954
	Am.	1968	974—1	New	1950
912a—28			974—2	New	1950
to			976a	New	1950
912a—30	New	1956	976b	New	1950
912a—31	New	1956	976c	New	1966
	Am.	1964	977	Am.	1950
912a—32	New	1956	978	Am.	1968
912a—33	New	1956	978a	New	1966
912a—34	Added	1970	978b	Am.	1968
931b—1	New	1970	980	Am.	1964
932	Rep.	1956	980a	New	1966
966b	New	1952	980b	New	1968
966c	New	1954	981	Rep.	1964
§ 4	Am.	1956	982	Rep.	1964
966d	New	1956	984	Rep.	1964
966d—1	New	1964	985	Rep.	1964
966e	New	1958	986	Rep.	1964
966f	New	1960	989	Am.	1964
§ 4	Am.	1960		Am.	1966
966g	New	1960	998	Am.	1968
966h	New	1961	999	Am.	1968

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Clv.St. Art.	Effect	Vernon's Texas St.Supp.	Clv.St. Art.	Effect	Vernon's Texas St.Supp.
999	Am.	1970	1098	Am.	1964
999a	New	1950	1105a, § 2	Am.	1968
999b	New	1970	1105b,		
1011	Am.	1950	§ 1	Am.	1952
1011a	Am.	1960	§ 9	Am.	1964
1011f	Am.	1950		Am.	1968
	Am.	1954	1105b-1, §§ 1, 2	New	1968
	Am.	1961	1105b-2	New	1970
1011g	Am.	1960	1105c	New	1961
	Am.	1961	1109a,		
1011l	New	1958	§ 2	Am.	1954
1011m	New	1966	§ 6	Am.	1954
	Am.	1970	§ 7	Am.	1954
1015b	Rep.	1970	1109a-3	New	1964
1015c-1	New	1956	1109c	Rep.	1970
1015c-2	New	1966	1109e	New	1950
1015g,			1109e-1, §§ 1-4	New	1968
§ 1	Am.	1956	1109f	New	1956
§ 5	Am.	1956	1109f-1	New	1960
§ 13	Am.	1956	1109g	New	1956
§ 13(a)	Added	1956	1109h	New	1958
§ 13(b)	Added	1956	§ 4	Am.	1960
	Am.	1966		Am.	1961
§ 13(c)	Added	1956	§ 5(d)	Am.	1960
	Am.	1966	1109i	New	1958
§ 13(d)	Added	1968	§ 1	Am.	1960
1015g-1	New	1961	§ 3a	New	1960
1015g-2	New	1966	1109i-1	New	1961
1015g-3	New	1970	1109j	New	1960
1015h	New	1950	1109k	New	1960
1015i	New	1954	§ 2	Am.	1970
1015j	New	1956	1110b	New	1950
1015k	New	1960	1110c	New	1964
1015l	New	1968	§ 2(A)	Am.	1968
1015m	New	1970	§ 19	Am.	1968
1016	Am.	1961		Am.	1970
1027c-1	New	1964	1110d	New	1966
1042b	Am.	1968	1110e	New	1970
1060a	Am.	1964	1111a	New	1950
1064	Am.	1968	1111b	New	1950
1066b,			§ 1	Am.	1952
§ 1	Am.	1952	1111c	New	1952
	Am.	1960	1112	Am.	1954
§ 1a	New	1964	1113a	New	1950
§ 1b	Added	1968		Am.	1954
§ 2	Am.	1952		Am.	1966
	Am.	1960	1118n-5	New	1950
§ 2a	New	1952	§ 1a	New	1956
	Am.	1960	1118n-6	New	1956
	Am.	1964	1118n-7	New	1956
1066c, §§ 1-14	New	1968	1118n-8	New	1958
1066c			1118n-9	New	1961
§ 2(B)	Am.	1970	1118n-10	New	1964
§ 2(K)	Am.	1970	1118q	New	1950
§ 3	Am.	1970	1118r	New	1952
§ 4(C)	Am.	1970	1118s	New	1952
§ 5	Am.	1970	1118t	New	1954
§ 6(B1)	Am.	1970	1118u	New	1954
§ 6(C)	Am.	1970	1118v	New	1958
1085a	Am.	1950	1118w	New	1958
	Am.	1952	§ 1a	Added	1970
§ 2a	Added	1966	1143	Am.	1968
1093	Am.	1964			

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1144	Am.	1968	1266	Am.	1960
1152	Am.	1968		Am.	1961
1153a	New	1961	1268a	New	1960
1154	New	1950	1268b	New	1964
1158	Am.	1968	1269h-2	New	1960
1161	Am.	1954	1269j-4	New	1952
1170	Am.	1961	1269j-4.1	New	1966
1170a	New	1952	§§ 1-4	Am.	1968
1171	Rep.	1961	§ 8	Am.	1968
1174a-1	New	1952	1269j-4.2	New	1970
1174a-2	New	1954	1269j-4.3	New	1970
1174a-3	New	1956	1269j-5	New	1956
1174a-4	New	1960	§ 1	Am.	1958
1174a-5	New	1961	§ 4(a)	New	1961
1174a-6	New	1961	1269j-5.1	New	1964
1174a-7	New	1966	§ 1	Am.	1968
1174a-8	New	1966	1269j-5.2, §§ 1, 2	New	1968
1174e	New	1961	1269j-6	New	1956
1175,			1269j-7	New	1958
Subd. 2	Am.	1964	1269j-8, §§ 1-5	New	1968
Subd. 19	Am.	1968	1269j-9	New	1970
1175e	New	1970	1269j-101	New	1970
1176a	Am.	1966	1269k		
1176b-3	New	1961	§ 10	Am.	1970
1182c-1	Am.	1950	1269l,		
	Am.	1958	§ 7-a	New	1952
§ 2a	New	1954	1269l-1	New	1950
§ 2b	New	1961	1269l-2	New	1958
	Am.	1968	§ 1	Am.	1961
§ 4	Am.	1960	1269l-2.1	New	1970
1182c-2	New	1958	1269l-3	New	1958
1182c-3	New	1958	§ 4, par. (h)	Am.	1968
	Rep.	1960	§ 4, par. (j)	Am.	1968
1182c-4	New	1958	1269m,		
1182c-5	New	1960	§ 2	Am.	1958
1182c-6	New	1960	§ 5a	New	1950
1182d-1	New	1960	§ 8	Am.	1950
1182g, §§ 1-5	New	1968	§ 9	Am.	1950
1187-1	New	1968		Am.	1958
1187a-2	New	1956	§ 12	Am.	1958
1187c	New	1950	§ 13	Am.	1958
§ 7	Am.	1958	§ 14	Am.	1950
1187e	Am.	1960		Am.	1958
1187f	New	1961	§ 14D	Am.	1956
	Am.	1970		Am.	1964
1188	Am.	1958	§ 16	Am.	1952
1191	Am.	1958		Am.	1956
1191a	New	1958	§ 16a	New	1950
1194A	Added	1970	§ 18	Am.	1956
1196(a)	New	1950	§ 20	Am.	1956
1197a	New	1954	§ 21	Am.	1956
1200c	New	1950	§ 22	New	1950
	Am.	1961	§ 22a	New	1952
1200c, § 1	Am.	1968	§ 23	Am.	1952
1200d	New	1956	§ 25	Rep.	1958
1200aa	New	1970	§ 26	Am.	1956
1211	Am.	1964		Am.	1958
1241			§ 26(a)	New	1958
to			§ 27(a)	Am.	1958
1243	Rep.	1968	§ 27(b)	Am.	1952
1241a, §§ 1-5	New	1968		Am.	1956
1261	Rep.	1968	§ 28(a)	New	1952

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1273a	Rep.	1952	1302d—1	New	1956
1273b	New	1952		Rep.	1961
1287a,			1302e	Rep.	1961
§ 3	Am.	1954	1302f	Rep.	1961
§ 3a	New	1950	1302g	New	1950
	New	1954		Rep.	1961
§ 3b	New	1950	1302h	New	1950
1287—1	Am.	1950		Rep.	1961
§§ 1-7	Rep.	1964	1302i	New	1954
§ 8	Am.	1958		Rep.	1961
	Rep.	1964	1303, 1304	Rep.	1961
§ 9	Rep.	1964	1304a	Rep.	1961
§ 10	New	1958	1305	Rep.	1961
1287—2	Am.	1964	1306	Rep.	1961
1287—3	New	1964	1307	Rep.	1961
§ 6	Am.	1966	1308-1313	Rep.	1961
1291a	New	1964	1314	Am.	1952
1291b	New	1970		Rep.	1961
1293a	New	1970	1314a	New	1960
1299	Rep.	1964		Rep.	1961
1300	Rep.	1968	1315-1317	Rep.	1961
1301a	New	1964	1318-1320	Rep.	1961
1301b	New	1970	1321a	Rep.	1961
1302	Am.	1950	1322-1326	Rep.	1961
	Am.	1952	1327	Am.	1952
	Am.	1954	1327a	New	1950
	Rep.	1961		Rep.	1961
1302—1.01			1328-1333	Rep.	1961
to			1334a	Rep.	1956
1302—2.05	New	1961	1334b	New	1956
1302—2.06	New	1961		Rep.	1961
§ A	Am.	1964	1335-1347	Rep.	1961
§ B	Added	1964	1348	Rep.	1964
1302—2.07	New	1961	1352	Rep.	1961
1302—2.08	New	1961	1357	Rep.	1961
1302—2.09	Added	1968	1358	Rep.	1961
1302—3.01			1358a	New	1964
to			1358—1, 1359	Rep.	1961
1302—3.05	New	1961	1358b	New	1968
1302—4.01			1360	Am.	1960
to				Rep.	1961
1302—4.07	New	1961	1361-1379	Rep.	1961
1302—5.01			1380-1382	Rep.	1961
to			1383	Rep.	1961
1302—5.19	New	1961	1384-1395	Rep.	1961
1302—6.01	New	1961	1395a	New	1950
	Rep.	1966	1396-1398	Rep.	1961
1302—6.02	New	1961	1396—1.01	New	1960
	Am.	1966	1396—1.02	New	1960
	Rep.	1966	1396—2.01	New	1960
1302—6.03	New	1961	Subsec. (A) (1)	Added	1961
	Rep.	1966	1396—2.02		
1302—6.04	New	1961	to		
	Am.	1964	1396—2.05	New	1960
	Am.	1966	1396—2.06		
	Rep.	1966	§ A	Am.	1970
1302—6.05			1396—2.06		
to			§ D	Am.	1970
1302—6.24	Rep.	1966	1396—2.07	New	1960
1302a	Rep.	1952	1396—2.08	New	1960
1302b			§ E	Added	1961
to					
1302d	Rep.	1961			

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1396—2.09			1396—8.15 § D	Am.	1970
to			§ E	Am.	1970
1396—2.14	New	1960	1396—8.16		
§ E	Added	1968	to		
1396—2.15	New	1960	1396—9.01	New	1960
1396—2.16	New	1960	1396—9.02	New	1960
1396—2.17	New	1960	§ C	Am.	1966
	Am.	1968	§ E	Am.	1966
1396—2.18	New	1960	§ F	Added	1966
§ A	Am.	1968	§ F	Am.	1970
1396—2.19			§ G	Added	1966
to			1396—9.03	New	1960
1396—2.26	New	1960		Am.	1961
1396—3.01	New	1960	1396—9.04		
1396—3.02	New	1960	to		
§ A	Am.	1966	1396—10.03	New	1960
1396—3.03			1396—10.04	New	1960
to			§ G	Added	1961
1396—3.05	New	1960	1396—10.05		
1396—4.01			to		
to			1396—11.01	New	1960
1396—4.06	New	1960	1408	Rep.	1961
1396—5.01			1409	Rep.	1961
to			1410	Rep.	1961
1396—5.09	New	1960	1411	Rep.	1961
1396—6.01			1412—1415	Rep.	1961
to			1433	Am.	1950
1396—6.06	New	1960	1433a	New	1950
1396—7.01	New	1960	1434a,		
§ A	Am.	1966	§ 3	Am.	1960
	Am.	1970		Am.	1961
§ B	Added	1966	§ 5	Am.	1961
	Am.	1970	§ 5	Am.	1968
1396—7.01			§ 6	Am.	1961
§ C	Am.	1970	§ 8	Am.	1961
1396—7.01			§ 9	New	1961
§ D	Am.	1970	1436	Am.	1968
1396—7.01			1436a	New	1950
§ E	Am.	1970	§§ 1, 1a	Am.	1968
1396—7.02	New	1960	1436b	New	1952
§ A	Am.	1966	1438a	New	1952
	Am.	1970		Am.	1966
1396—7.03				Rep.	1968
to			1440	Am.	1964
1396—7.12	New	1960	1446.1		
	Am.	1968	to		
1396—8.01			1446.3	New	1966
to			1446.4, §§ 1, 2	New	1968
1396—8.07	New	1960	1478—1494	Rep.	1961
1396—8.08			1499a	New	1952
§ A	Am.	1970	1513a	New	1958
1396—8.08				Am.	1968
§ D	Added	1970	1524a,		
1396—8.09			§ 2	Am.	1952
to			§ 4	Am.	1950
1396—8.14	New	1960	§ 7	Am.	1952
1396—8.15	New	1960	§ 14	New	1960
§ A	Am.	1966		Rep.	1968
	Am.	1970	1524a—1	New	1952
§ B	Added	1966		Rep.	1964
	Am.	1970	1527a	New	1970
§ C	Am.	1970			

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Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
1528b,			1645a-5	Am.	1950
§ 3	Am.	1958	1645a-8	New	1952
§ 12	Am.	1958		Am.	1954
1528c	New	1950	1646b	New	1950
§ 2(7)	Am.	1954	1649	Am.	1956
§ 4(5)	Am.	1954	1650	Am.	1964
1528d	New	1964	1650a	Added	1968
1528e	New	1970	1651	Am.	1960
1528f	New	1970	1652	Rep.	1970
1529	Am.	1954	1657a	New	1968
	Rep.	1961	1659	Am.	1964
1530	Rep.	1961		Am.	1966
1531	Rep.	1961	1659a	New	1960
1532-1538g	Rep.	1961	1659b	Added	1970
1538h	Am.	1956	1663a	Added	1968
1538i-1538m	Rep.	1961	1665	Am.	1956
1538n	New	1952	1679	Am.	1960
	Am.	1954	1688	Rep.	1970
	Rep.	1961	1689	Am.	1964
1577	Am.	1950	1696a	New	1956
	Am.	1954	1702a-1	Am.	1958
	Am.	1968	§ 1	Am.	1968
1577a	New	1952	1702b-6	Rep.	1950
1577b	New	1961	1702e	New	1950
1577c	New	1966	1702f	New	1950
1578a	New	1966	1702g	New	1950
1580 note	Am.	1950	1702h	New	1952
	Am.	1956	1702i	New	1954
	Am.	1958	1728	Am.	1954
	Am.	1960	1735a	Am.	1968
1581d	New	1950	1738	Am.	1964
1581d-1	New	1964	1817	Am.	1958
1581e	New	1950		Am.	1964
1581e-1	New	1970		Am.	1968
1581f	New	1964	1817a	New	1958
1581g	New	1966		Am.	1968
1581g	Am.	1968	1819	Am.	1958
1605	Am.	1954	1821	Am.	1954
1605a			1824a	Added	1970
§ 2	Am.	1964	1827	Am.	1958
1605a-1	New	1958	1897	Am.	1970
1605a-2	New	1961	1903	Am.	1964
1605a-3	New	1961	1919	Am.	1952
1605a-4	New	1970		Am.	1956
1606 note	New	1960	§ 2	Am.	1970
1606b	New	1952	1926-42a	New	1968
1606c	New	1952	1926-44, § B	Am.	1968
§ 1	Am.	1954	§ F	Am.	1968
§ 1	Am.	1968	1926-45	New	1970
1630b	New	1954	1926-63, § 4	Am.	1968
§ 1	Am.	1970	1934a-10	Am.	1958
§ 4	Am.	1970	1934a-12	New	1950
1630c	New	1958	1934a-13	New	1950
1641	Am.	1956	1934a-14	New	1950
1641c	New	1958	1934a-15	New	1954
1641d	New	1960		Am.	1970
1641e	New	1961	1934a-15		
1644a-1	New	1956	§ 1(b)	Am.	1961
1644c-1	New	1961	§ 1(c)	Am.	1966
1645	Am.	1950		Am.	1958
	Am.	1956	1934a-16	New	1960
1645a-1	Am.	1950	1934a-17	New	1964

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1934a-18	New	1964	1970-301e	New	1961
1937	Am.	1966	1970-301f	New	1964
	Am.	1970	1970-301h	New	1968
1969a-2	New	1952		Am.	1970
§ 1	Am.	1961	1970-305,		
1969a-3	New	1956	§ 2	Am.	1970
1970-31.1	New	1964	§ 6	Am.	1970
1970-31a	New	1952	§ 7	Am.	1956
§ 13	Am.	1970		Am.	1960
1970-31b	New	1964	1970-305a	New	1952
§ 11	Am.	1970	1970-305b	New	1954
1970-62a	New	1954	1970-310	Am.	1970
1970-62b	New	1961	1970-310 note	Am.	1958
§ 13	Am.	1961		Am.	1960
1970-62c	New	1964	1970-311a	New	1956
1970-75a	New	1966	1970-314	Rep.	1966
1970-77	Am.	1961	1970-314a	New	1966
1970-77 note	New	1961	1970-318a	New	1952
1970-95	Am.	1961	1970-322a		
1970-96	Am.	1961	§ 1	Am.	1970
1970-110a	New	1950	§ 4	Added	1970
	Am.	1970	1970-324	Am.	1950
§ 1	Am.	1968		Am.	1964
§ 9	Am.	1964	§ 5	Am.	1966
	Am.	1968	§ 6	Am.	1966
§ 11	Am.	1964	§ 9	Am.	1964
1970-110a.1	New	1968	§ 17	Am.	1966
	Rep.	1970	§ 17	Am.	1968
1970-110a.2, §§ 2-16	New	1968	1970-324a	New	1964
1970-110b	New	1952	§ 6	Am.	1966
§ 1	Am.	1961	§ 17	Am.	1966
§ 2	Am.	1961		Am.	1968
1970-110c	New	1958	1970-324b	New	1966
§ 1	Am.	1961	1970-324c	New	1968
§ 2A	Rep.	1961	1970-325	New	1950
1970-110c.1	New	1964	1970-330		
1970-110d	New	1961	§ 1	Am.	1964
1970-113	Am.	1964	§ 2	Am.	1964
1970-114	Am.	1950	1970-331	Rep.	1966
1970-115	Am.	1950	1970-331a	New	1966
1970-122	Am.	1950		Rep.	1968
	Am.	1952	1970-331b	New	1968
	Am.	1956		Am.	1970
	Am.	1964	1970-332, § 16	Am.	1968
	Am.	1968		Am.	1970
1970-126a	New	1966	§ 18A	Added	1968
§ 8	Am.	1968	1970-332		
1970-127a	New	1966	§ 18A	Am.	1970
1970-138	Am.	1956	1970-333a	New	1956
1970-141.1	New	1956	1970-336	New	1950
1970-141.2	New	1970	1970-337	New	1950
1970-141a	New	1952	1970-338	New	1950
1970-223a, §§ 1-8	New	1968		Rep.	1970
1970-298b	New	1952	1970-338A	New	1960
§ 10	Am.	1966	1970-338B	New	1970
§ 12	Am.	1970	1970-339	New	1950
1970-298c	New	1966	§ 2	Am.	1968
1970-300a	New	1950	§ 4	Am.	1968
1970-301a	New	1952	§ 5	Am.	1954
1970-301b	New	1952		Am.	1956
1970-301c	New	1954	§ 6	Am.	1968
1970-301d	New	1958	§ 8	Am.	1956
			§ 15	Am.	1956

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Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
1970—339 § 17	Am.	1952	2075	Am.	1956
	Am.	1956	2093e	New	1950
	Am.	1968	2093f	New	1970
1970—339A	New	1956	2094	Am.	1950
§ 4	Am.	1968		Am.	1958
§ 6	Am.	1968		Am.	1964
§ 8	Am.	1956		Am.	1966
§ 10	Am.	1968	2094, subsec. (c)	Am.	1968
§ 18	Am.	1956	subsec. (k)	Added	1968
	Am.	1968	subsec. (m)	Added	1968
1970—340	New	1950	subsec. (n)	Added	1968
§ 1a	Added	1964	subsec. (o)	Added	1970
1970—340.1	New	1958	subsec. (p)	Added	1970
1970—341	New	1952	subsec. (q)	Added	1970
	Am.	1970	subsec. (r)	Added	1970
§ 11	Am.	1966	subsec. (s)	Added	1970
1970—342	New	1954	subsec. (t)	Added	1970
	Am.	1961	subsec. (u)	Added	1970
	Am.	1964	2095	Am.	1950
§ 4a	Added	1970		Am.	1960
§ 9	Am.	1966		Am.	1964
§ 9	Am.	1970	2096	Am.	1960
1970—342a	New	1966	2097	Am.	1960
	Am.	1970	2099	Am.	1960
1970—343	New	1956	2100a	New	1970
1970—344	New	1958	2101,		
1970—345	New	1958	§ 4	New	1961
§ 3	Am.	1960	§ 5	Added	1968
§ 11	Am.	1960	2102	Am.	1961
§§ 14, 15	Am.	1961	2103b	New	1964
§ 14	Am.	1968	§ 1	Am.	1966
§ 15a	New	1960	2122	Am.	1954
1970—346	New	1960		Am.	1966
1970—347	New	1960	2133	Am.	1957
1970—348	New	1964		Am.	1970
§ 2	Am.	1966	2135	Am.	1956
§ 17	Am.	1970		Am.	1966
§ 18a	Added	1966	(4)	Am.	1954
1970—349	New	1966	(17)	New	1958
	Am.	1970		Am.	1968
1970—350, §§ 1-6	New	1968	2137	Am.	1968
1970—351, §§ 1-7	New	1968	2168a	Am.	1950
1970—352	New	1970	2194a	New	1964
1970a—1	New	1958	2226	Am.	1950
1983	Am.	1966		Am.	1954
	Rep.	1968	2226a	New	1966
1984	Rep.	1966	2268a	New	1950
1985	Am.	1966	2292a	New	1964
	Rep.	1968	2292j	New	1970
1994	Am.	1961	2320b	Am.	1966
1995			§ 4	Rep.	1952
(9)	Am.	1954	2320c	New	1950
(9a)	New	1954	§ 2	Am.	1970
(17a)	New	1956	§ 2A	Added	1970
1995, subd. 1	Rep.	1968	§ 2B	Added	1970
subd. 16	Am.	1970	§ 2C	Added	1970
subd. 17a	Am.	1970	2323a	New	1952
2031b	New	1960	2324	Am.	1956
2039a	Am.	1950		Am.	1961
§ 1	Am.	1954	2325	Rep.	1956
	Am.	1960	2326	Am.	1950
§ 2	Am.	1954		Am.	1954
§ 4	Am.	1954	2326a	Am.	1958
2039c	Am.	1950	2326i	New	1950

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2326j	New	1950	2326j—35	Superseded	
	Am.	1958		in part	1970
2326j—1	New	1958	2326j—36	New	1964
	Am.	1958	§§ 1, 2	New	1968
	Am.	1964	2326j—37	New	1964
	Am.	1968	2326j—38	New	1966
2326j—2	New	1958		Am.	1970
2326j—3	New	1960	2326j—39	New	1966
2326j—3a	New	1968	2326j—40	New	1966
2326j—4	New	1960		Superseded	
2326j—4a, §§ 1, 2	New	1968		in part	1970
2326j—5	New	1960	2326j—41	New	1966
	Am.	1968		Am.	1970
2326j—6	New	1960	2326j—42		
	Am.	1966	to		
§ 1	Am.	1970	2326j—47	New	1966
2326j—7	New	1960	2326j—48	New	1966
	Am.	1964		Am.	1970
2326j—8	New	1961	2326j—49	New	1966
2326j—9	New	1961		Superseded	
2326j—10	New	1961		in part	1970
	Am.	1968	2326j—50,		
2326j—11	New	1961	2326j—51	New	1966
2326j—12	New	1961	2326j—51a	New	1968
2326j—13	New	1961	2326j—52	New	1966
2326j—13, §§ 1, 2	New	1968	§ 1	Am.	1968
2326j—14	New	1961	2326j—53	New	1966
	New	1970	2326j—54, §§ 1-4	New	1968
2326j—15	New	1964	2326j—55, §§ 1, 2	New	1968
2326j—15a	New	1970	2326j—56, §§ 1-3	New	1968
2326j—16	New	1964	2326j—57, §§ 1, 2	New	1968
2326j—16a	New	1970	2326j—58	New	1968
2326j—17	New	1964	2326j—59, §§ 1, 2	New	1968
§ 1	Am.	1970	2326j—60, §§ 1, 2	New	1968
2326j—18	New	1964	2326j—61, §§ 1, 2	New	1968
2326j—19	New	1964	2326j—62, §§ 1, 2	New	1968
	Am.	1968	2326j—63	New	1970
2326j—20			2326j—64	New	1970
§§ 1, 2	New	1964	2326j—65	New	1970
2326j—21			2326j—66	New	1970
§§ 1, 2	New	1964	2326j—67	New	1970
2326j—22	New	1964	2326j—68	New	1970
	Am.	1970	2326j—69	New	1970
2326j—23	New	1964	2326j—70	New	1970
	Am.	1970	2326j—71	New	1970
2326j—24	New	1964	2326j—72	New	1970
2326j—25	New	1964	2326j—73	New	1970
2326j—25a	New	1970	2326j—74	New	1970
2326j—26	New	1964	2326j—75	New	1970
§ 1	Am.	1970	2326j—76	New	1970
2326j—27	New	1964	2326k	New	1952
2326j—28	New	1964	2326k combined with 2326		1954
2326j—29	New	1964	2326l	New	1958
	Am.	1970	2326l—1	New	1966
2326j—30	New	1964	2326l—2	New	1966
2326j—31	New	1964	2326m	New	1960
2326j—32	New	1964	2326n	New	1960
	Rep.	1968	§ 1	Am.	1964
2326j—32a, §§ 1-4	New	1968	2326o	New	1970
2326j—33	New	1964	2327c	New	1950
§ 1	Am.	1970	2327d	New	1952
2326j—34	New	1964		Am.	1956
§ 1	Am.	1970	§ 1A	Added	1968
2326j—35	New	1964			

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2328a,			2338-8	New	1958
§ 1	Am.	1970	§ 2	Am.	1958
§ 3	Am.	1954		Am.	1968
§ 3	Am.	1970	§ 5	Am.	1968
§ 4	Am.	1970	§ 6	Am.	1958
§ 6	Am.	1970	§ 9	Am.	1958
§ 7	Am.	1970	2338-9	New	1958
2328b-1	New	1952	§ 3	Am.	1968
	Am.	1954	§ 8	Am.	1968
	Rep.	1966	§ 21	New	1960
2328b-2	New	1952		Am.	1968
	Rep.	1966	§ 22	New	1960
2328b-3	New	1952	2338-9a	New	1960
	Am.	1954	§ 3a	Added	1968
	Rep.	1966	§ 5	Am.	1968
2328b-4	New	1966	2338-9b, §§ 1-17	New	1968
§ 2(o)	Am.	1970	2338-9c	New	1970
2329	Rep.	1950	2338-10	New	1960
2330	Am.	1970	§ 2	Am.	1964
2332a	Added	1966		Am.	1968
2335	Am.	1964	§ 3	Am.	1968
2338-1	Am.	1950	§ 6	Am.	1968
§ 3	Am.	1966	§ 8	Am.	1968
	Am.	1968	§ 13	Am.	1968
§ 4	Am.	1952	§ 14	Am.	1968
	Am.	1954	§ 18	Am.	1968
§ 5	Am.	1966	2338-11	New	1960
	Am.	1968	§ 3	Am.	1968
§ 6	Am.	1966	§ 16-A	New	1960
	Am.	1968	2338-11a	New	1964
§ 7-B	Added	1970	§ 3	Am.	1968
§ 12	Am.	1966	2338-11b	New	1970
	Am.	1968	2338-12	New	1960
§ 13	Am.	1966	2338-13	New	1960
	Am.	1968	§ 2	Am.	1968
§ 13-B	New	1960	2338-14	New	1961
§ 14	Am.	1966	§ 3	Am.	1968
§ 15	Am.	1970	§ 6	Am.	1964
§ 15-A	Added	1970	2338-15	New	1964
§ 17	Am.	1966	§ 1a	Added	1966
§ 21-A	Added	1970	§ 3	Am.	1966
2338-2	New	1950	§ 9	Am.	1964
§ 1	Am.	1960	§ 11	Am.	1966
2338-2a	New	1958	§§ 1-16	Am.	1968
	Rep.	1966	2338-15, § 3	Am.	1968
2338-2b	New	1966	2338-15a	New	1966
2338-2c	New	1970	§§ 1-16	Am.	1968
2338-3	New	1950	2338-15b, §§ 1-16	New	1968
§ 2	Am.	1968	2338-15c	New	1970
§§ 2-4	Am.	1952	2338-16	New	1964
§ 4	Am.	1968	§ 2	Am.	1964
§ 6	Am.	1968		Am.	1970
§§ 6-9	Am.	1952	§ 3	Am.	1968
§§ 12-14	Am.	1952	§ 4	Am.	1964
2338-3a	New	1958	§ 7	Am.	1964
§ 1	Am.	1966	§ 8	Am.	1970
2338-4	New	1952	§ 10	Am.	1970
2338-5	New	1954	2338-17	New	1964
§ 3	Am.	1968	§ 2	Am.	1968
2338-6	New	1954	2338-17		
2338-7	New	1956	§ 5a	Added	1970
§ 3	Am.	1968	§ 7	Am.	1970
§§ 5-7	Am.	1968	§ 16	Am.	1970
2338-7a	New	1958			

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2338—18	New	1966	2370a	New	1950
§ 7	Am.	1968		Expired	1952
2338—18a	New	1970	2370b	New	1958
2338—19	New	1966	2370b—1	New	1970
§ 2	Am.	1970	2370c	New	1964
§ 3	Am.	1968	2370c—1	New	1970
2338—20	New	1966	2370d	New	1966
§ 3	Am.	1968	2370e	New	1970
2343	Am.	1966	2371	Am.	1952
2350,			2372a—1	New	1954
§ 1a	Am.	1970	2372d—2	New	1950
§ 2a	New	1950	§ 1	Am.	1960
§ 2b	New	1952	2372d—3	New	1952
2350(6)	Am.	1950	2372d—4, §§ 1-9	New	1968
	Am.	1954	2372d—5	New	1970
2350m,			2372f—1	New	1961
§ 3a	New	1956	2372f—2	New	1964
§ 3b	New	1956	2372f—3	New	1964
2350n	New	1952	2372f—4	New	1964
	Rep.	1960	2372f—5	New	1966
2350o	New	1960	2372f—6	New	1966
2351	Am.	1950	2372f—7	New	1970
2351½	Added	1966	2372f—8	New	1970
2351a—1	Am.	1961	2372h,		
2351a—4	New	1950	§ 6	Am.	1950
2351a—5	New	1952	2372h—1	New	1960
	Am.	1966	2372h—2	New	1960
2351a—6	New	1958	2372h—3	New	1966
§ 12	Am.	1960	2372h—4	New	1970
	Am.	1968	2372i	New	1950
2351d	New	1950	2372j	New	1950
2351e	New	1950	2372k	New	1952
2351f	New	1952	2372l	New	1954
2351f—1	New	1970	2372m	New	1956
2351g	New	1956		Am.	1956
	Rep.	1966		Am.	1970
2351g—1	New	1966	2372n	New	1956
2351g—2	New	1970	2372o	New	1960
2351h	New	1958	2372p	New	1961
2352d	Am.	1956	2372p—1	New	1970
§ 1	Am.	1952	2372q	New	1961
2352e	New	1961	2372r	New	1964
2352f	New	1970	2372r—1, §§ 1, 2	New	1968
2367a	New	1960	2372s	New	1966
§ 2	Am.	1960	§ 3	Am.	1968
2368a,			§ 6	Am.	1968
§ 2	Am.	1950	2372s—1	New	1966
	Am.	1966	§ 1	Am.	1970
	Am.	1968	§ 2	Am.	1970
§ 2a	New	1954	2373	Am.	1968
§ 2b	New	1954	2393a	Added	1968
§§ 5, 6	Am.	1952	2399	Am.	1968
2368a—1	New	1950	2428	Am.	1956
2368a—2	New	1954		Am.	1970
2368a—3	New	1954	2460a	New	1954
2368a—4	New	1956	§ 2	Am.	1964
2368a—5	New	1958	§ 5	Am.	1956
2368a—6	New	1960		Am.	1964
2368a—7	New	1961	§ 5a	New	1956
2368a—8	New	1961		Am.	1964
2368a—9	New	1964	2461	Am.	1950
2368a—10	New	1966		Rep.	1970
2368a—11, §§ 1, 2	New	1968	2461—1	New	1970
2368f	New	1950	2461—2	New	1970

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2461-3	New	1970	2468	Am.	1950
2461-4	New	1970		Rep.	1970
2461-5	New	1970	2469	Am.	1950
2461-6	New	1970		Am.	1964
2461-7	New	1970		Am.	1966
2461-8	New	1970		Rep.	1970
2461-9	New	1970	2470	Am.	1950
2461-10	New	1970		Am.	1961
2461-11	New	1970		Am.	1964
2461-12	New	1970		Rep.	1970
2461-13	New	1970	2471	Am.	1950
2461-14	New	1970		Am.	1961
2461-15	New	1970		Rep.	1970
2461-16	New	1970	2477	Am.	1950
2461-17	New	1970		Am.	1954
2461-18	New	1970	§ 2, Subsec. 2	Am.	1966
2461-19	New	1970		Rep.	1970
2461-20	New	1970	2480	Am.	1964
2461-21	New	1970		Rep.	1970
2461-22	New	1970	2481	Am.	1958
2461-23	New	1970		Rep.	1970
2461-24	New	1970	2482	Am.	1958
2461-25	New	1970		Am.	1961
2461-26	New	1970		Am.	1964
2461-27	New	1970		Am.	1966
2461-28	New	1970		Rep.	1970
2461-29	New	1970	2483	Am.	1954
2461-30	New	1970		Am.	1964
2461-31	New	1970		Rep.	1970
2461-32	New	1970	2484	Am.	1950
2461-33	New	1970		Am.	1954
2461-34	New	1970		Rep.	1970
2461-35	New	1970	2484a	Am.	1964
2461-36	New	1970		Rep.	1970
2461-37	New	1970	2484b	New	1950
2461-38	New	1970		Am.	1964
2461-39	New	1970		Rep.	1970
2461-40	New	1970	2484c	Am.	1964
2461-41	New	1970		Rep.	1970
2461-42	New	1970	2484d	Added	1966
2461-43	New	1970		Rep.	1970
2461-44	New	1970	2525	Am.	1964
2461-45	New	1970	2529	Am.	1956
2461-46	New	1970		Am.	1968
2461-47	New	1970	2529c, §§ 1, 2	New	1968
2461-48	New	1970	2530a	New	1954
2461-49	New	1970	2543c	Am.	1952
2462	Am.	1950	§ 3	Am.	1968
	Am.	1964	2543d	Added	1970
§ 7	Am.	1966	2549	Am.	1970
§ 8	Am.	1966	2553	Am.	1950
	Rep.	1970	2558a,		
2464	Am.	1950	§ 4a	Am.	1960
	Rep.	1970	§ 4b	Added	1970
2465	Am.	1950	2570-2583	Rep.	1956
	Am.	1952	2583a	New	1952
	Am.	1954		Rep.	1956
	Am.	1960	2584a	New	1968
	Am.	1961	2585b	New	1966
	Am.	1964	2585c	New	1968
§ 7	Added	1966	2585d	New	1968
2465	Rep.	1970	2587	Rep.	1970
2466	Am.	1964	2589d	New	1954
	Rep.	1970			

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2589d,			2613c	New	1956
§ 1	Am.	1970	2614	Am.	1960
§ 2	Am.	1970	2615b,		
2589e	New	1954	§ 4A	Rep.	1960
	Am.	1970	2615d	New	1950
2589f	New	1960		Am.	1958
2591a, § 1	Am.	1968	2615d, § 2	Am.	1968
2592a	New	1950	2615e	New	1950
2594	Am.	1970	2615f	New	1955
2594a	New	1968	2615f—1	New	1966
2597	Am.	1950	§ 1	Am.	1968
2603a,			§§ 4A, 4B	Added	1968
§ 4	Am.	1958	2615f—1a	New	1970
§ 5	Am.	1958	2615f—1b	New	1970
	Am.	1966	2615f—2	New	1966
§ 8	Am.	1956		Unconstitutional	1970
§ 11	Am.	1968	2615f—3	New	1970
§ 11	Am.	1970	2615g	New	1961
2603a—1	New	1966	§ 7a	Am.	1964
2603b—2	New	1961	§ 10	Am.	1964
2603b—3	New	1961	§ 10a	Added	1964
2603b—4, §§ 1-3	New	1968	§ 10b	Added	1970
2603f—1	New	1960	§ 11	Am.	1964
2603f—2	New	1964	2616a	New	1950
2603f—3	New	1970	2618	Am.	1954
2603g	New	1954		Am.	1960
2603h	New	1958	2619a	New	1964
2603i	New	1960	§ 3a	Added	1966
2603j	New	1961	2620	Am.	1950
2605	Rep.	1952	2620a	New	1950
2606b	New	1950	§ 2	Am.	1966
2606c	New	1960	2621a	New	1960
§ 4	Am.	1968	2623c—1	New	1960
2606c—1	New	1964	2623c—2	New	1960
2606c—1.1	New	1970	2623c—3	New	1960
2606c—2	New	1970	2623c—4	New	1960
2606c—2.1	New	1970	2623c—5	New	1960
2606c—3	New	1970		Am.	1966
2606c—3.1	New	1970	2623c—6	New	1960
2606c—4	New	1970	2623c—7	New	1960
2606d, §§ 1-4	New	1968	2623c—8	New	1961
2607a			2623c—9	New	1966
§§ 1-3	New	1964	2624	Am.	1958
2613	Am.	1952	2624b	New	1958
2613a—3	Am.	1954	2624c	New	1958
§ 1	Am.	1958	2628a—1a, §§ 1-5	New	1968
§ 10	Am.	1968	2628a—9, § 10	Am.	1968
2613a—4			2628a—10	New	1964
§ 1a	Added	1966	2628a—11	New	1966
§ 1b	Added	1970	2628d	New	1956
§ 2	Am.	1970	2628e	New	1970
§ 3	Am.	1970	2629a	New	1970
§ 4	Am.	1966	2630	Am.	1970
§ 4	Am.	1970	2632c	Am.	1964
§ 6	Am.	1970	2632d	New	1954
§ 7	Am.	1970	2632e	New	1958
§ 8	Am.	1970	§ 1	Am.	1958
§ 13	Added	1966	2632f	New	1961
2613a—7	New	1956	2632f—1	New	1968
2613a—8	New	1958	2632g	New	1968
2613a—9	New	1966	2632h, §§ 1-5	New	1968
2613a—10	New	1966	2632i	New	1970
2613a—11	New	1970	2633a	New	1950

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2637j	New	1952	2654c,		
§ 3	Added	1970	§ 1(d to o)	Am.	1970
§ 4	(renum.)		§ 1(6)	Am.	1954
	&		§ 1(h)	Am.	1966
	Am.	1970	§ 1a	Added	1968
§ 5	(renum.)		§ 6	Am.	1968
	&		§ 8	Am.	1968
	Am.	1970	§ 1a	Added	1970
2643b-1	New	1952	§ 2	Am.	1968
2643d	New	1950	§ 3	Am.	1970
§ 1	Am.	1956	2654d-1	New	1950
2643d-1	New	1961		Am.	1958
2643e	New	1950	2654e	Am.	1964
2643f	New	1952		Am.	1966
2643f-1	New	1956		Am.	1968
2643g	New	1954	2654f	New	1950
	Am.	1956	2654f-1	New	1966
2643g-1	New	1961	2654f-2	New	1966
2644a	New	1966	§ 1	Am.	1968
2647	Am.	1950	§ 2	Am.	1968
2647c	Am.	1950	2654f-3, §§ 1-7	New	1968
2647c-1, §§ 1, 2	New	1968	2654g	New	1966
2647c-2, §§ 1-7	New	1968	Art. II, § 1	Am.	1970
§ 2	Am.	1970	Art. II, § 7	Am.	1968
2647d	New	1950	Art. II, § 9	Am.	1968
	Am.	1964	2654-1	New	1950
2647d-1	New	1964	§ 4	Added	1952
2647d-2	New	1966	§ 4a	Added	1954
2647d-3	New	1970	2654-1a	New	1960
2647e	New	1950		Rep.	1970
2647f	New	1950	2654-1b	New	1960
	Am.	1970		Rep.	1970
2647f-1	New	1970	2654-1c, §§ 1-7	New	1968
2647g	New	1950		Rep.	1970
	Am.	1970	2654-1d	New	1970
2647h	New	1958	2654-1e	New	1970
	Am.	1966	2654-1f	New	1970
2647h-1	New	1970	2654-1g	New	1970
2647i	New	1961	2654-2	New	1950
2648a	New	1966	2654-3	New	1950
	Am.	1970		Rep.	1970
2650	Rep.	1954	2654-3a	New	1952
2651a	New	1950	§ 1	Am.	1956
	Am.	1961		Am.	1964
2651b	New	1961	2654-3a	Rep.	1970
2652	Rep.	1954	2654-3b	New	1961
2654.1	New	1960		Rep.	1970
	Am.	1970	2654-3c	New	1964
2654.2	New	1964		Rep.	1970
2654.3	New	1970	2654-3d	New	1966
2654a	Am.	1960		Rep.	1970
§ 2	Am.	1964	2654-3e, §§ 1, 2	New	1968
2654b-1,			2654-3e	Rep.	1970
§ 1	Am.	1960	2654-3f	New	1970
§ 2	Am.	1966	2654-4	New	1950
§ 3	Am.	1966		Rep.	1970
§ 5	New	1954	2654-5	New	1950
§ 6	Added	1968		Rep.	1970
2654c	Am.	1958	2654-6	New	1950
§ 1	Am.	1961		Rep.	1970
	Am.	1968	2654-7	New	1950
				Rep.	1970
			2654-8	New	1970

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2655 to 2663a	Rep.	1970	2687	Am.	1968
2663b-1			2687, 2687a	Rep.	1970
§ 1	Rep.	1970	2688	Rep.	1970
§ 2	Am.	1968	2688a	Rep.	1970
§ 3	Rep.	1970	2688c	New	1950
§ 4	Am.	1968		Am.	1952
2663b-2	New	1956		Am.	1954
§ 1	Am.	1968		Am.	1958
2663b-3, §§ 1, 2	New	1968		Am.	1961
2663b-3	Rep.	1970		Rep.	1961
2664 to 2668	Rep.	1970	2688d	New	1961
2668a	New	1961	2688e	New	1961
2668b	New	1964		Rep.	1970
2668c	New	1964	2688f.		
2668d	New	1964	§§ 1-3	New	1961
2668e	New	1966	2688g	New	1964
2669	Am.	1961	2688h	New	1964
Par. (a)	Am.	1968	subsec. (c)	Added	1970
2669	Rep.	1970	2688h-1, §§ 1, 2	New	1968
2671	Am.	1956	2688i	New	1964
2671, 2672	Rep.	1970	2688i-1	New	1966
2673	Am.	1956	2688i-2, §§ 1-8	New	1968
2673	Rep.	1970	2688j	New	1964
	Am.	1961	Subsec. (a)	Am.	1968
2673a-2673i	New	1950	2688k	New	1964
2673a to 2673i	Rep.	1970	2688k-1, §§ 1-3	New	1968
2675-1,			2688l to 2688n	New	1966
§ 3	New	1961	2688n-1	New	1968
	Am.	1966	2688o	New	1966
2674, 2675	Rep.	1970	2688p, §§ 1, 2	New	1968
2675-1 note	New	1950	2688q	New	1970
2675-1	Rep.	1970	2688r	New	1970
2675b-1			2688s	New	1970
to			2688t	New	1970
2675b-6	Rep.	1970	2688u	New	1970
2675b-8			2689 to 2691	Rep.	1970
to			2692 to 2695	Rep.	1970
2675b-10	Rep.	1970	2696	Am.	1954
2675c-1	New	1956		Rep.	1970
	Rep.	1960	2696a	New	1970
2675c-2	New	1960	2697	Rep.	1970
§ 2	Am.	1966	2698	Am.	1954
2675c-2	Rep.	1970		Rep.	1970
2675j	Rep.	1970	2699	Rep.	1970
2675k	New	1964	2699a, 2700	Rep.	1970
§ 6(b)	Am.	1968	2700	Am.	1950
§ 6(d)	Am.	1968	2700e	New	1966
§ 7(i)	Am.	1968	2700e-1	New	1968
2675k	Rep.	1970		Am.	1970
2675l	New	1970	2700e-2, §§ 1-3	New	1968
2675m	New	1970	2700e-3	New	1970
2675n	New	1970	2700e-4	New	1970
2676	Am.	1958	2700e-5	New	1970
	Rep.	1970	2700e-6	New	1970
2676a	New	1964	2700e-7	New	1970
2676b	New	1966	2700e-8	New	1970
2676c	New	1966	2700e-9	New	1970
2677	Rep.	1970	2701	Am.	1954
2678a to 2681	Rep.	1970		Rep.	1970
2681a	New	1964	2703 to 2740	Rep.	1970
2681a to 2685	Rep.	1970	2741	Rep.	1970
2686	Rep.	1970	2741a	New	1960
			2741a, 2742	Rep.	1970

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2742b	Rep.	1970	2773	Am.	1954
2742e-1	Rep.	1970		Rep.	1970
2742f, § 1	Am.	1968	2773a	Rep.	1970
	Rep.	1970	2774	Rep.	1970
2742f-2	New	1964	2774b	New	1952
2742j	Rep.	1970		Am.	1966
2742m	Rep.	1970	2774c	New	1954
2742o	New	1950		Rep.	1970
2743, 2744	Rep.	1970	2774c-1	New	1966
2744b	Rep.	1970	2774d	New	1958
2744a-1	New	1950	2775	Rep.	1970
2744e-4,			2775a	New	1954
§ 5	Am.	1952	2775a-1	New	1956
§ 7	Am.	1952		Am.	1964
2744e-5	New	1950		Am.	1966
2744e-6	New	1950	2775a-2	New	1960
2745, 2745a	Rep.	1970	2775a-3	New	1964
2745b	New	1950	2775a-4	New	1964
	Am.	1960	2775a-5	New	1966
	Rep.	1970	2775a-6	New	1966
2745c	New	1958	2775a-7	New	1966
	Am.	1960	2775a-8, §§ 1-3	New	1968
§ 1	Am.	1964	2775a-9, §§ 1-5	New	1968
§ 1a	Am.	1961	2775b	New	1960
	Rep.	1964	2775c	New	1960
2745c	Rep.	1970	2775c-1	New	1966
2746	Am.	1950	2775d	New	1961
	Rep.	1970	2775e	New	1964
2746a	Am.	1958	2775e-1	New	1970
2746a, 2746b	Rep.	1970	2775e-2	New	1970
2746c	New	1960	2775f	New	1966
2746c to 2750	Rep.	1970	§ 2	Am.	1968
2750a to 2750a-1	Rep.	1970	§ 4a	Added	1968
2750a-2	New	1954	2775f-1, §§ 1-4	New	1968
	Am.	1956	2776	Rep.	1970
2750a-2 to 2752	Rep.	1970	2776a	New	1966
2752a	New	1964	2777	Rep.	1970
2752a to 2753	Rep.	1970	2777-1	New	1968
2754 to 2756	Rep.	1970		Rep.	1970
2756b	Rep.	1970	2777d	Am.	1950
2756c	New	1954	§ 4a	New	1960
§ 2a	New	1958	2777d-1	New	1960
§ 3	Am.	1964	2777d-2	New	1961
2756c	Rep.	1970	2777d-3	New	1966
2756d	New	1964	2777d-4	New	1966
2757	Am.	1960	2777f	New	1961
	Am.	1961	2778, 2779	Rep.	1970
2757 to 2761a	Rep.	1970	2779b	New	1954
2762	Rep.	1970	§ 1	Am.	1956
2763	Am.	1952	2779b to 2781a	Rep.	1970
	Rep.	1970	2781a, §§ 1, 2	New	1968
2763a	Am.	1961	2783	Rep.	1970
2764	Rep.	1970	2783c,		
2766	Rep.	1970	§ 1	Am.	1952
2766a	New	1956	§ 2	Am.	1952
2766b	New	1961	§§ 4-6	Am.	1952
2766c	New	1964	§ 8	Am.	1952
2767	Am.	1956	2783c	Rep.	1970
2767 to 2767f	Rep.	1970	2783d,		
2767h	New	1964	§ 5	Am.	1954
2767-1	New	1956	§ 6	Am.	1950
	Rep.	1970	§ 6a	New	1961
2768 to 2772	Rep.	1970		Am.	1968

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2783e	New	1950	2790d—14	New	1970
2783f	New	1954	2790d—15	New	1970
2783g	New	1961	2790d—16	New	1970
2784e	Rep.	1970	2790d—17	New	1970
2784e—1	New	1956	2790e,		
	Am.	1958	§ 11	Am.	1956
	Rep.	1970	2790e	Rep.	1970
2784e—2	New	1960	2790l	New	1950
2784e—3	New	1960	2790m	New	1950
	Am.	1961	2790n	New	1960
2784e—4	New	1960	2791	Rep.	1970
2784e—5	New	1964	2792	Am.	1966
2784e—6	New	1964		Rep.	1970
2784e—7	New	1968	2792a	Rep.	1970
2784e—8, §§ 1, 2	New	1968	2792c	New	1970
2784e—9, §§ 1, 2	New	1968	2792d	New	1970
2784e—10, §§ 1, 2	New	1968	2792—1	New	1968
2784e—11	New	1970	2793, 2794	Rep.	1970
2784e—12	New	1970	2795	Am.	1966
2784f	New	1950		Rep.	1970
2784g	New	1954	2796	Rep.	1970
§ 4	Rep.	1960	2797 to 2802	Rep.	1970
2784g—1	New	1964	2802—1	New	1956
2784h	New	1964		Rep.	1970
2785	Am.	1954	2802e	Rep.	1970
	Rep.	1970	2802e—1	Am.	1950
2785a	Rep.	1970		Am.	1952
2786	Am.	1958		Am.	1956
	Am.	1964		Rep.	1970
	Rep.	1970	2802e—5, §§ 1-5	New	1968
2786a, 2786b	Rep.	1970		Rep.	1970
2786c	New	1952	2802f—3	New	1954
	Rep.	1970		Rep.	1970
2786d	New	1954	2802i—18	Rep.	1970
	Am.	1958	2802i—24	Rep.	1970
	Rep.	1970	2802i—28	New	1950
2786e	New	1954	2802i—29	New	1952
§ 1	Am.	1964	§ 1A	New	1968
	Rep.	1970	2802i—30	New	1958
2786f	New	1954	2802i—31	New	1960
2787, 2787a	Rep.	1970	2802i—32	New	1966
2788	Rep.	1970	2802j	New	1952
2788a	New	1950	2802j	Rep.	1970
§ 1	Am.	1958	2802k	New	1966
2789	Am.	1950		Rep.	1970
	Rep.	1970	2803	Am.	1968
2789a to 2789c	Rep.	1970		Rep.	1970
2789d	New	1952	2803a	Rep.	1970
	Rep.	1970	2803b	Am.	1968
2789e	New	1958		Rep.	1970
	Rep.	1970	2803c	New	1950
2790	Rep.	1970	2803d	New	1960
2790a—6	New	1950	2804	Rep.	1970
2790d—8	New	1950	2804a	New	1954
2790d—9	New	1960	2805	Rep.	1970
2790d—10	New	1966	2805a	New	1950
2790d—11, §§ 1-5	New	1968		Rep.	1970
2790d—12, §§ 1-3	New	1968	2806	Am.	1966
2790d—13	New	1970		Rep.	1970
			2806d	New	1950
			2806d—1	New	1960

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2806e	New	1950	2815h-5	Rep.	1970
	Am.	1956	2815h-6	New	1950
	Am.	1968	2815h-7	New	1952
	Rep.	1970	2815h-8	New	1958
2807 to 2815-1	Rep.	1970		Rep.	1970
2815-2	New	1950	2815h-9	New	1960
	Rep.	1952		Rep.	1970
2815-3	New	1961	2815h-10	New	1961
§ 1a	Am.	1961	2815h-11	New	1964
2815-4	New	1964	2815j-1	Rep.	1970
§ 1, Subsec. A	Am.	1966	2815j-2	New	1950
2815a	Rep.	1966	§ 4a	Rep.	1964
2815a-1	New	1964	2815j-2	Rep.	1970
2815b to 2815g	Rep.	1966	2815k,		
2815g-1a	Am.	1952	§ 6	Am.	1950
2815g-1b	New	1958	§ 8(1)	New	1950
2815g-1c	New	1964	2815k-1	Am.	1952
§ 1	Am.	1966	§ 8a	Added	1968
2815g-1d	New	1966	2815k-2	New	1960
2815g-39				Rep.	1966
to			2815k-3	New	1961
2815g-43	New	1950	2815k-4, §§ 1-3	New	1968
2815g-44			2815m	Rep.	1970
to			2815m-1	New	1950
2815g-46	New	1952	2815m-2	New	1966
2815g-47	New	1954	2815m-3, §§ 1-7	New	1968
2815g-48	New	1956	2815n	New	1950
2815g-49	New	1956	§ 1(a)	New	1961
2815g-50	New	1956	§ 2a	New	1958
2815g-51	New	1958	§ 2(a)	New	1961
2815g-52	New	1960	§ 3	Am.	1961
2815g-53	New	1961	§ 5	Am.	1961
2815g-54	New	1961	§ 7	Am.	1961
2815g-55	New	1961	2815n-1	New	1966
2815g-56	New	1964	§ 2(2)	Rep.	1970
2815g-57	New	1964	§ 3	Am.	1970
2815g-58	New	1966	2815o	New	1950
2815g-59, §§ 1-4	New	1968		Rep.	1970
2815g-60	New	1970	2815o-1	New	1952
2815h,				Rep.	1970
§ 7a(1)	New	1952	2815o-1a	New	1960
§ 7b	Am.	1950	2815o-1b	New	1964
§ 17	Am.	1958		Rep.	1970
	Am.	1960	2815o-1c	New	1970
§ 17(a)	Am.	1950	2815p	New	1950
	Am.	1958	2815p-1	New	1964
§ 18	Am.	1960	2815p-1		
§ 19	Am.	1960	to		
§ 19a	Added	1966	2815s-1	Rep.	1970
§ 21	Am.	1960	2815q	New	1950
	Am.	1966	2815q-1	New	1964
	Am.	1968	2815q-2	New	1966
§ 21a	New	1961	2815r	New	1950
	Rep.	1966	§ 1	Am.	1964
§ 21b	Added	1966	§ 2	Am.	1964
§ 21c	Added	1966		Am.	1966
2815h	Rep.	1970	§ 3	Am.	1952
2815h-1a	New	1968		Am.	1964
	Rep.	1970	§ 4	Am.	1952
2815h-1b	New	1970	§ 5	Am.	1964
2815h-2a	New	1970	§ 6	Am.	1964
2815h-3b, § 3a	Added	1968	2815r-1	New	1956
2815h-3b	Rep.	1970	§ 1	Am.	1961

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2815r—1,			2844	Rep.	1950
§ 5a	New	1958	2844a	Rep.	1950
§ 6a	New	1958	2845 to 2850	Rep.	1970
2815r—2	New	1966	2851	Am.	1954
2815s	New	1966		Rep.	1970
2815s—1	New	1956	2852 to 2858	Rep.	1970
2815t	New	1952	2859	Rep.	1954
§ 1	Am.	1968	2860 to 2873	Rep.	1970
§ 1a	Added	1968	2874	Am.	1954
§ 5	Am.	1968		Rep.	1970
§ 6	Am.	1968	2875	Am.	1956
§ 7	Am.	1968		Am.	1958
§ 11	Am.	1968		Rep.	1970
§ 15a	New	1961	2876 to 2876b	Rep.	1970
2815t—1	New	1960	2876c	Am.	1954
	Rep.	1970		Rep.	1970
2815t—2	New	1966	2876d to 2876j	Rep.	1970
	Rep.	1970	2876k	New	1958
2815t—3	New	1968		Am.	1960
	Rep.	1970		Am.	1966
2816	Am.	1954		Rep.	1970
	Rep.	1970	2876l	New	1964
2816a	Am.	1954		Rep.	1970
	Rep.	1970	2877	Am.	1954
2817	Am.	1954		Rep.	1970
	Rep.	1970	2878 to 2880	Rep.	1970
2817a	Am.	1954	2880a	Rep.	1956
	Rep.	1970	2881	Rep.	1970
2818	Rep.	1970	2882	Rep.	1956
2819	Am.	1954	2883	Rep.	1956
	Rep.	1970	2883a, 2884	Rep.	1970
2820	Am.	1954	2885	Rep.	1970
	Rep.	1970	2886 to 2889b	Rep.	1970
2821	Am.	1950	2890	Rep.	1956
	Am.	1954	2891	Rep.	1956
	Rep.	1970	2891a	Rep.	1970
2822	Rep.	1970	2891b	New	1956
2822a	Am.	1954	§ 4	Am.	1964
2822a	Rep.	1970	§ 13(b)	Am.	1964
2823, 2824	Rep.	1970		Am.	1968
2825 to 2827a	Rep.	1970	2891b	Rep.	1970
2827b	New	1960	2891c, §§ 1-8	New	1968
2827b—1	New	1966		Rep.	1970
2827c	New	1964	2891d	New	1970
	Rep.	1970	2891—1	Rep.	1970
2827d	New	1966	2891—2	New	1968
2827e	New	1966		Rep.	1970
2828 to 2831	Rep.	1970	2891—50, §§ 1-8	New	1968
2832	Am.	1960		Rep.	1970
2832c, §§ 1-13	New	1968	2891—101	New	1970
	Rep.	1970	2891—102	New	1970
2833	Am.	1956	2891—103	New	1970
	Rep.	1970	2891—104	New	1970
2833a to 2835b	Rep.	1970	2891—105	New	1970
2835c	New	1954	2891—106	New	1970
	Rep.	1970	2891—107	New	1970
2836 to 2838	Rep.	1970	2892	Am.	1964
2839 to 2842	Rep.	1970		Am.	1966
2843	Am.	1950		Rep.	1970
	Am.	1960	2892a	Rep.	1964
	Am.	1961	2892b	Rep.	1964
	Rep.	1970	2893	Am.	1966
2843a	Rep.	1970		Rep.	1970

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2894 to 2898	Rep.	1970	2919e—3, §§ 1-19	New	1968
2898a	New	1968	§ 11	Am.	1970
	Rep.	1970	§ 15	Am.	1970
2898—1	Rep.	1952	§ 16	Am.	1970
2899, 2899a	Rep.	1970	§§ 20-23	Added	1970
2900	Rep.	1970	2919f	New	1956
2900a	New	1958		Rep.	1970
	Rep.	1970	2919g	New	1958
2901	Rep.	1970		Rep.	1970
2901a	New	1958	2919g—1	New	1964
	Rep.	1970	2919h	New	1960
2902 to 2904a	Rep.	1970		Rep.	1970
2905	Rep.	1970	2919i	New	1966
2905b	New	1966	§ 3A	New	1968
	Rep.	1970		Rep.	1970
2906	Am.	1958	2919j, §§ 1-12	New	1968
	Rep.	1970	2922a	New	1950
2906a	New	1970		Am.	1968
2906—1	New	1958		Rep.	1970
	Rep.	1970	2922aa to 2922c	Rep.	1970
2906—2	New	1958	2922f	Am.	1950
	Rep.	1970		Am.	1958
2906—3	New	1958		Rep.	1970
	Rep.	1970	2922g to 2922l	Rep.	1970
2908, 2908a	Rep.	1970	2922l(1)	Rep.	1970
2908b	New	1950	2922l(3)	New	1950
§§ 2, 3	Am.	1952	2922l(3.1)	New	1964
2909	Rep.	1970	2922l(4)	New	1950
2909b	New	1956		Rep.	1970
2909b	Rep.	1970	2922l(5)	New	1952
2909c	New	1956		Rep.	1970
§§ 1-3	Am.	1968	2922l(6)	New	1952
§ 8(a)	New	1960	§ 1	Am.	1956
§ 8b	Added	1966	2922l(6)	Rep.	1970
2909c—1, §§ 1-9	New	1968	2922l(7)	New	1956
2909c—2	New	1968		Rep.	1970
2909c—3	New	1970	2922l(8)	New	1956
2909d	New	1958	2922zz—1	Rep.	1970
2910	Rep.	1970		Am.	1958
2911	Am.	1956	2922—1	Am.	1950
	Rep.	1970		Am.	1956
2911a	Rep.	1970	§ 1(18)	Am.	1961
2911b	New	1968	§ 1(19)	Am.	1952
	Rep.	1970	§ 3(3)	Am.	1968
2912, 2913	Rep.	1970	§ 4(4)	Am.	1961
2915 to 2918	Rep.	1970	§ 4(5)	Am.	1958
2919	Am.	1961	§ 5	Am.	1952
	Rep.	1970	§ 5(1)	Am.	1954
2919c	New	1950	§ 5(2)	Am.	1954
2919d	New	1952	§ 5(4)	Am.	1954
§ 2	Am.	1960	§ 5(7)	Am.	1954
§ 5a	New	1956	§ 6(2b)	Am.	1960
2919d—1, §§ 1, 2	New	1968	§ 7(4)	Am.	1961
2919e	New	1954	§ 7(5)	Added	1968
	Rep.	1966	§ 8	Am.	1954
2919e—1	New	1956	§ 10(4)	Am.	1968
2919e—2	New	1956	§ 10(5b)	Am.	1960
	Am.	1966		Am.	1968
§ 4a	Added	1970	§ 10(5c)	Am.	1968
§ 18	New	1960	2922—1	Rep.	1970
2919e—2.1	New	1970	2922—1a	New	1954
				Rep.	1970

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2922-1b	New	1960	2922-12	New	1950
	Am.	1961	2922-12	Rep.	1970
	Am.	1968	2922-13	New	1950
	Rep.	1970	§ 1(4)	Am.	1952
2922-1c	New	1960		Am.	1954
	Rep.	1970	§ 1(4) a	Am.	1958
2922-1d	New	1964		Am.	1964
	Rep.	1970		Am.	1966
2922-1e	New	1964	§ 1(4A)	Added	1966
	Rep.	1970	2922-13	Rep.	1970
2922-1f	New	1964	2922-13a	New	1960
	Rep.	1970		Rep.	1970
2922-1g, §§ 1, 2	New	1968	2922-13b	New	1961
	Rep.	1970		Rep.	1970
2922-1h, §§ 1, 2	New	1968	2922-13c	New	1961
	Rep.	1970		Rep.	1970
2922-1i, §§ 1-8	New	1968	2922-13d	New	1966
§ 2(c)	Am.	1970		Rep.	1970
§ 6	Am.	1970	2922-14	New	1950
§ 8	Am.	1970		Am.	1958
2922-1j	New	1970		Am.	1968
2922-1k	New	1970	§ 1	Am.	1961
2922-1.01	New	1970	§ 1, Subsec. 1	Am.	1966
2922-1.02	New	1970	§ 1-a	New	1956
2922-1.03	New	1970	§ 1-b	New	1956
2922-1.04	New	1970	§ 1-c	New	1956
2922-1.05	New	1970	§ 2	Am.	1961
2922-1.06	New	1970	2922-14	Rep.	1970
2922-1.07	New	1970	2922-14a	New	1966
2922-2 to 2922-8	Rep.	1952		Rep.	1970
2922-2.01	New	1970	2922-14b	New	1964
2922-2.02	New	1970		Rep.	1970
2922-2.03	New	1970	2922-14c	New	1966
2922-2.04	New	1970	§ 1	Am.	1954
2922-2.05	New	1970		Am.	1961
2922-2.06	New	1970		Am.	1966
2922-3.01	New	1970	§ 2	Am.	1952
2922-3.02	New	1970		Am.	1958
2922-3.03	New	1970	§ 2(2) (a) (b)	Am.	1961
2922-3.04	New	1970	§ 2A	Added	1966
2922-3.05	New	1970	2922-14c	Rep.	1970
2922-3.06	New	1970	2922-14d	New	1970
2922-3.07	New	1970	2922-15, § 2(1)	Am.	1968
2922-3.08	New	1970		Rep.	1970
2922-4.01	New	1970	2922-15a	New	1970
2922-4.02	New	1970	2922-16,		
2922-4.03	New	1970	§ 1	Am.	1961
2922-4.04	New	1970	§ 2	Am.	1956
2922-4.05	New	1970		Am.	1961
2922-4.06	New	1970		Am.	1966
2922-4.07	New	1970		Am.	1968
2922-4.08	New	1970	§ 3	Am.	1954
2922-4.09	New	1970	§ 4	Am.	1956
2922-4.10	New	1970		Am.	1961
2922-4.11	New	1970		Am.	1966
2922-5.01	New	1970		Am.	1968
2922-5.02	New	1970	§ 4A	New	1961
2922-10.01	New	1970	§ 5	Am.	1956
2922-11	New	1950		Am.	1961
2922-11	Rep.	1970		Am.	1964
2922-11a	New	1970	2922-16	Rep.	1970
2922-11b	New	1970	2922-16a	New	1958
2922-11c	New	1970		Rep.	1970

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2922-16b	New	1961	3085-3105	Rep.	1952
2922-16c	New	1961	3106	Am.	1950
	Rep.	1970		Rep.	1952
2922-16d	New	1961	3107, 3108	Rep.	1952
	Rep.	1970	3109	Am.	1950
2922-16e	New	1966		Rep.	1952
§§ 1, 2	Am.	1968	3110-3116f	Rep.	1952
2922-16e	Rep.	1970	3116g	New	1952
2922-16f	New	1970	3117-3121	Rep.	1952
2922-17			3122	Am.	1950
to				Rep.	1952
2922-21	Rep.	1970	3123	Am.	1950
2922-21a	New	1961		Rep.	1952
	Rep.	1970	3124	Am.	1950
2922-21b	New	1961		Rep.	1952
	Rep.	1970	3125-3127	Rep.	1952
2922-22	Rep.	1970	3128	Am.	1950
2922-23	New	1952		Rep.	1952
	Rep.	1970	3129-3153	Rep.	1952
2922-24	New	1958	3153a	New	1950
	Rep.	1970		Rep.	1952
2922-25	New	1966	3154	Rep.	1952
§ 5(a)	Am.	1968	3154(a)	New	1952
2922-25a	New	1970		Rep.	1968
2922-26, §§ 1-6	New	1968	3155-3158	Rep.	1952
	Rep.	1970	3158a	New	1952
2922-27	New	1970		Am.	1960
2923-2942a	Rep.	1952		Rep.	1968
2943	Am.	1952	3159-3173	Rep.	1952
2944-2956	Rep.	1952	3174a	New	1950
2956a	New	1950	3174a note	New	1961
	Rep.	1952	3174b	New	1950
2957-2977	Rep.	1952	§ 8	Am.	1960
2977a	Inoperative	1950	3174b-1	New	1956
2978	Rep.	1952		Rep.	1958
2978a	Am.	1950	3174b-2	New	1956
	Rep.	1952	3174b-3	New	1956
2978b	New	1950		Am.	1966
	Rep.	1952	3174b-4	New	1958
2980	Am.	1950	§ 8	Am.	1961
	Rep.	1952		Am.	1964
2981-2997c	Rep.	1952	3174b-5	New	1961
2997d	New	1950	§ 1	Am.	1964
	Rep.	1952	3174b-6	New	1961
2998-3007	Rep.	1958	3174b-7	New	1966
3008	Am.	1950	3174c	New	1960
	Rep.	1952	3177	Am.	1952
3009-3011	Rep.	1952	3179a	New	1960
3012	Am.	1950	3183a	Am.	1950
	Rep.	1952	§ 1	Am.	1964
3013-3026	Rep.	1952	§ 11	Am.	1968
3026a	Am.	1950	3183b-1	New	1960
	Am.	1952	3183c	New	1952
3027	Rep.	1952	3183d	New	1954
3028	Am.	1950		Rep.	1960
	Rep.	1952	3183e	New	1956
3029-3040	Rep.	1952	3183f	New	1961
3040a	New	1950	3183g, §§ 1, 2	New	1968
	Rep.	1952	3186	Rep.	1958
3041-3083	Rep.	1952	3186a	Rep.	1958
3084	Am.	1950	3193	Rep.	1958
	Rep.	1952			

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3193—1	New	1956	3241	Am.	1954
	Rep.	1958		Rep.	1960
3194—3196	Rep.	1958	3242—3246	Rep.	1960
3196b	New	1950	3248—3251a	Rep.	1960
3196c	New	1952	3252—3254	Rep.	1954
3196c—1	New	1958	3254a	Rep.	1960
3196d	New	1952	3254a—1	Am.	1950
	Rep.	1958		Rep.	1960
3201a	New	1954	3254c	Am.	1950
3201a—1	New	1966	3254c—1	New	1952
3201b	New	1954	3254c—2	New	1966
	Rep.	1964	3254d	Am.	1950
3201b—1	New	1956		Rep.	1960
	Rep.	1964	3254d—1	New	1952
3201b—2	New	1964		Rep.	1960
3202—a	Am.	1954	3255b	New	1952
3202—c	New	1950	3259a	Rep.	1966
	Rep.	1970	3259a—1	New	1966
§ 1	Am.	1966	3263a	Rep.	1954
3203 to 3205	Rep.	1970	3263c	New	1950
3205a	New	1950	3263d	New	1961
	Rep.	1970	3263e	New	1964
3206	Rep.	1954	3263f	New	1970
3207	Rep.	1970	3264,		
3207a	Am.	1950	subd. 6	Am.	1961
	Am.	1958	3265		
§ 1	Am.	1958	§ 6	Added	1970
§ 2	Am.	1966	§ 7	Added	1970
§ 2a	Added	1966	3266(3)	Am.	1956
	Am.	1966		Am.	1960
3207b	New	1950	(6)	Am.	1961
3207c,				Am.	1966
§ 1(n)	Added	1966	(7)	Am.	1961
	Am.	1966	(8)	New	1961
3213a	New	1966	3266, § 3(a)	Added	1968
3220a, §§ 1, 2	New	1968	3271a		
3220—1	Rep.	1954	§ 1	Am.	1966
3221c	New	1964	§ 1.1	Added	1966
	Am.	1966	§ 1.2	Added	1966
§§ 2, 3	Am.	1968	§ 1.3	Added	1966
3222a	New	1958	§ 2	Am.	1966
3222b	New	1961	§ 8	Am.	1966
§ 1	Am.	1964	§ 8a	Added	1966
	Am.	1970	§ 12a	New	1961
§ 1a	New	1964	§ 16	Am.	1966
	Am.	1970	§ 18	Am.	1966
§ 6	Am.	1970	§ 20	Am.	1966
3222b—1	New	1966	3272a	New	1961
§ 1A	Added	1970	§ 3	Am.	1966
§ 1B	Added	1970	§ 4	Am.	1966
3223—3232	Rep.	1950	§ 6	Am.	1966
3232a	New	1950	§ 7	Am.	1966
	Rep.	1958	§ 16	Added	1966
3232b	New	1958	3272b	New	1966
3232c	New	1961	3273	Am.	1961
	Am.	1964	3284	Am.	1961
3233—3238	Rep.	1956	3290—3582	Rep.	1956
3238b	New	1952	3582a	New	1952
	Rep.	1960		Rep.	1956
3238c	New	1956	3583—3597	Rep.	1956
	Rep.	1960	3597a	New	1950
3239	Rep.	1960		Rep.	1956
3240	Rep.	1960	3598—3703	Rep.	1956

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3712a, § 1	New	1968	3883i-1	New	1966
3715a	Added	1968		Am.	1970
3726a	New	1958	3886b-1	New	1966
	Am.	1966		Am.	1970
3731a	New	1952	3886b-2	New	1970
	Am.	1961	3886b-3	New	1970
§ 7	Am.	1954	3886f	Am.	1950
3731b	New	1958	§ 1	Am.	1956
3731c	New	1960		Am.	1968
3737d	New	1950	§ 3a	New	1956
	Rep.	1956	3886g	New	1952
3737d-1	New	1956	§ 1	Am.	1966
§ 1	Am.	1960	§ 2	Am.	1966
3737e	New	1952	3886h	New	1954
§ 5	Added	1970		Am.	1958
§ 6	Added	1970		Am.	1960
§ 7	Added	1970		Am.	1964
§ 8	Added	1970	§ 1	Am.	1970
3737f	New	1970	3886i	New	1961
3833	Am.	1970	3886j	New	1970
3867-3871	Rep.	1956	3887a-1	New	1970
3871a	New	1956	3887a-2	New	1970
3871b	New	1956	3887b	New	1954
§ 9	Am.	1968	3888	Am.	1952
§ 14	Am.	1964		Am.	1954
§ 21	Am.	1968		Rep.	1970
§ 22A	Added	1970	3888b	New	1954
3871c	New	1958		Rep.	1970
3871d	New	1961	3899b		
3871e	New	1964	§ 1a	New	1964
3871f	New	1966	§ 3	Am.	1954
3872	Am.	1954		Am.	1964
3875	Am.	1954	3899b-1	Added	1966
3881a-3881d	New	1954	3902f-1	New	1954
3881e	New	1958	3902f-2	New	1961
3883c-2	New	1970	3902f-3, §§ 1, 2	New	1968
3883c-3	New	1970	3902f-4	New	1970
3883f-1	New	1961	3902h-2	New	1956
	Rep.	1968	3902i	New	1950
3883f-2, §§ 1, 2	New	1968	3902j	New	1952
3883h	New	1956		Am.	1958
3883i	New	1956	3903e	New	1950
	Am.	1958	3903f	New	1966
§ 1(a)	Am.	1961	3912c-1	New	1966
§ 1A	Added	1966	3912e,		
§ 1B	Added	1970	§ 1	Am.	1960
§ 1½	Added	1966	§ 3	Am.	1960
§ 2A	Added	1970	§ 13	Am.	1950
§ 2B	Added	1970	§ 13(b)	Am.	1964
§ 4(a)	New	1961	§ 15	Am.	1950
	Am.	1970	§ 15(a)	Rep.	1964
§ 4(b)	Added	1966	§ 17	Am.	1950
§ 5	Am.	1960	§ 19(q)	Am.	1956
§ 7a	New	1960	3912e-4b	New	1950
§ 8	Am.	1960	3912e-4c	New	1952
§ 8(a)	Am.	1966	3912e-4d	New	1954
	Am.	1970		Am.	1956
§ 8(b)	New	1961	3912e-5a	New	1956
	Am.	1966		Rep.	1958
	Am.	1968	3912e-5b	New	1956
§ 8a	Added	1966	3912e-5c	New	1958
§ 18	Added	1966			

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3912e-5d	New	1961	3943e	New	1952
3912e-5e	New	1966	3945	Am.	1960
3912e-14			3946a	New	1964
to			3959	Am.	1950
3912e-16	New	1950	3959a	New	1950
3912e-17	New	1961	3972a	Inoperative	1952
3912e-18	New	1961	3975a	New	1958
3912e-19	New	1961	3975b	New	1966
3912e-20	New	1964	3995	Rep.	1968
3912e-21	New	1964	3995a	Rep.	1968
3912e-22, §§ 1, 2	New	1968	3996	Rep.	1968
3912e-23	New	1970	3997	Rep.	1968
3912e-24	New	1970	3998	Rep.	1968
3912f-4	New	1950	3999	Rep.	1968
3912f-5	New	1968	4000	Am.	1950
3912g	New	1950		Rep.	1966
3912h	New	1950	4001	Am.	1961
3912i	New	1958		Rep.	1966
§ 9	Am.	1966	4002	Rep.	1966
§ 9(1)	Am.	1968	4003	Rep.	1966
§ 15	Added	1968	4004	Rep.	1968
3912j	New	1964	4025a	New	1952
	Am.	1968	4025b	New	1958
3913	Am.	1961	4026a	Rep.	1968
	Am.	1966	4026b	New	1956
3914	Am.	1961	4032	Rep.	1952
3918	Am.	1956	4032a	Rep.	1950
	Am.	1961	4032b	New	1950
3919	Rep.	1961	4032b-1	New	1958
3920	Rep.	1952	4032c	New	1956
3921	Am.	1952	4050c	New	1950
	Am.	1970	4050c-1	New	1958
3921a	New	1952	4050d	New	1952
3924	Am.	1950	4050e	New	1966
3927	Am.	1958	4050f	New	1966
	Am.	1970	4053	Am.	1964
3927a	New	1958	4075a	New	1950
3927b	New	1966		New	1960
	Am.	1968		Am.	1964
3930	Am.	1958	§ 6(h), par. 4	Am.	1968
	Am.	1968	§ 9	Am.	1968
3930a	New	1961	§ 11A	Added	1964
	Rep.	1968		Am.	1966
3930a note	New	1961	4075c	New	1966
3930a-1	Added	1970	4101-2		
3930(b)	Added	1968	§ 4	Am.	1966
3933	Rep.	1968	4102-4123a	Rep.	1956
3933a	New	1966	4123a-1	Am.	1950
	Am.	1968		Rep.	1956
3936e-1	New	1968	4123a-2 to 4167	Rep.	1956
3936f-1	New	1961	4168	Am.	1950
3936g	New	1950		Rep.	1956
3936g-1	New	1952	4169-4191	Rep.	1956
3936h	New	1950	4192	Am.	1952
	Am.	1952		Rep.	1956
3936i	New	1952	4192a	Rep.	1950
3936j	New	1954	4192b	New	1950
3936k	New	1954		Rep.	1956
3937	Am.	1950	4193-4284	Rep.	1956
	Am.	1952	4285	Am.	1954
3939	Am.	1950		Rep.	1956
	Am.	1952	4286-4329	Rep.	1956
3943d	New	1952			

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4331,			4417a	Am.	1960
§ 8	Rep.	1952	4418b	Am.	1958
4335	Am.	1952	4418b-1	New	1956
4336	Am.	1952	4419c,		
4341a	New	1952	§ 1	Am.	1961
	Rep.	1970	§ 2	Am.	1966
4344b	New	1960		Am.	1968
4346	Am.	1954	§ 3	Am.	1961
4346a	New	1960	§ 4	Am.	1966
4348a	New	1960	4419e	New	1970
4353	Am.	1952	4436	Am.	1960
4357	Am.	1954		Am.	1966
	Am.	1958	4436a-1, § 1	Am.	1958
	Am.	1960	4436a-4	New	1960
	Am.	1968	4437a,		
4358	Am.	1954	§ 3	Am.	1952
4359	Am.	1954	§ 6A(e)	Am.	1956
4365	Am.	1954	4437c-1	New	1954
4378	Rep.	1970	4437d		
4379b,			§ 5	Am.	1966
§ 3	Am.	1954	4437e	New	1958
4382	Am.	1954	§ 8a	Added	1964
	Am.	1966	4437f	New	1960
4382a	New	1954	§ 2	Am.	1966
4386c	New	1954	4440	Rep.	1960
§ 1	Am.	1956	4442	Rep.	1960
4386d	New	1954	4442b	Rep.	1954
4393b	New	1954	4442c	New	1954
4405	Am.	1964	4442c		
4412	Am.	1964	§ 2	Am.	1970
4412a	New	1960	§ 2(a)	Am.	1960
4413				Am.	1966
(4a)	New	1958	4442d	New	1970
(9)	Am.	1968	4444	Rep.	1961
(18a)	New	1958	4445,		
(29a)	New	1950	§ 3	Am.	1950
(29aa)	New	1966	§ 4	Am.	1950
§ 2	Am.	1970	4445a	New	1950
§ 3	Am.	1970	4445b	New	1970
§ 6	Am.	1970	4445c	New	1970
§ 7	Am.	1970	4447a	New	1950
§ 9A	Added	1970		Am.	1960
(29b)	New	1958	4447b	New	1960
(29bb)	New	1970		Rep.	1970
(29c), §§ 1-15	New	1968	4447c	New	1960
(31) § 1	Am.	1952	4447d	New	1964
	Am.	1968	§ 3	Added	1970
(32)	New	1954	4447e	New	1966
§ 3	Am.	1966	4447f, §§ 1, 2	New	1968
(32a), §§ 1-4	New	1968	4447g, §§ 1-4	New	1968
(33)	New	1958	4447h	New	1970
(34)	New	1970	4469	Am.	1961
(35)	New	1970	4470-4472	Rep.	1961
4413a	New	1964	4473	Am.	1952
4413a-7a	Added	1970		Rep.	1961
4413b-1	New	1950	4476-3,		
	Am.	1964	§ 3(a, b, c)	Am.	1958
4413c-1	New	1961	§ 8	Am.	1958
4413d-1	New	1966	§ 14a	New	1956
4413d-2, §§ 1-4	New	1968		Rep.	1970
4413d-3	New	1968	4476-4	New	1960
	New	1970			

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4476-5	New	1961	4477-1,		
§ 2(n)	Am.	1970	§ 5(c)	Am.	1952
§ 14	Am.	1970	§ 15(a)	Am.	1961
§ 16	Am.	1970	4477-2	New	1950
§ 22A	New	1964	§ 1	Am.	1961
§ 23	Added	1964	§ 2	Am.	1961
§ 23(1)	Am.	1970	§ 4	Am.	1961
§ 23(6)	Am.	1970	§ 6A	New	1956
§ 23(8)	Rep.	1970	4477-3	New	1968
§ 23(9)	Am.	1970	4477-4	New	1968
4476-6	New	1966		Rep.	1968
4476-7	New	1970	rule 71	Am.	1970
4476-8	New	1970	rule 72	Rep.	1970
4476a,			4477-5, §§ 1-19	New	1968
§ 1	Am.	1950		Am.	1970
	Am.	1968	4477-6	New	1970
§ 2	Am.	1950	4477-7	New	1970
	Am.	1956	4477-11	New	1960
	Am.	1960	4477-11 note	New	1970
§ 2(e)	Rep.	1958	4477-12	New	1966
§ 3	Am.	1968	4477-13	New	1970
§ 4	Am.	1950	4478a	New	1954
§ 4(c)	Am.	1956	4479	Am.	1961
§ 5	Am.	1950	4492	Am.	1954
	Am.	1960	4494c-1	New	1966
	Am.	1968	4494h	Am.	1950
§ 6	Am.	1961	4494i-1	New	1966
	Am.	1968	4494k	New	1950
§ 7	Am.	1956	4494l	New	1950
	Am.	1968	§ 4	Am.	1956
§ 9	Am.	1950	4494m	New	1950
4477,			4494n	New	1954
rule 3	Am.	1960		Am.	1956
rule 4	Am.	1960	§ 2a	Am.	1966
rule 14	Am.	1960	§ 2b	Added	1968
rule 20	Am.	1960	§ 5	Am.	1968
rule 23	Am.	1960	§ 5a	New	1960
rule 25	Am.	1960	§ 5b	Added	1964
rule 34a	Am.	1952	4494n-1	New	1960
rule 35a	Am.	1950	4494n-2	New	1970
rule 36a	Am.	1952	4494o	New	1958
rule 38a	Am.	1952	4494p	New	1958
rule 39a	Am.	1952	4494q	New	1960
	Am.	1958	§ 1	Am.	1961
rule 40a	Am.	1952	§ 2	Am.	1961
rule 43a	Am.	1952	4494q-1	New	1960
rule 47a	Am.	1952	4494q-2	New	1960
	Am.	1958	4494q-3	New	1960
rule 47b	New	1960	§ 1	Am.	
rule 50b	Added	1966	§ 2	Am.	1961
subsec. (b-1)	Added	1970	§ 3	Am.	1961
rule 50c	New	1968	4494q-3, § 4	Am.	1961
rule 51a	Am.	1952	§ 5(d)	Am.	1961
	Am.	1958	4494q-4	New	1961
	Am.	1960	§ 1	Am.	1964
rule 53a	Am.	1952	4494q-4a	New	1966
rule 54a	Am.	1950	4494q-5	New	1961
	Am.	1952		Am.	1964
	Am.	1958	§§ 3-6	Am.	1964
	Am.	1961	4494q-6	New	1961
rules 77-86	Rep.	1952	4494q-6a	New	1964
4477a	New	1952			

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4494q-7	New	1961	4518	Am.	1960
§ 1	Am.	1966	§ 1	Am.	1970
§ 5(a)	Added	1966	§ 3	Am.	1970
4494q-8	New	1964	§ 4	Am.	1970
4494q-9	New	1964	§§ 5, 6	Added	1968
§ 2	Am.	1964	4518a	Rep.	1960
§ 12	Am.	1964	4519	Am.	1970
§ 13	Am.	1964	4521	Am.	1961
4494q-10	New	1964		Am.	1970
4494q-11	New	1964	4523	Am.	1970
4494q-12	New	1964	4525	Am.	1968
4494q-13	New	1964	4526	Am.	1950
4494q-14	New	1964		Am.	1970
4494q-15	New	1964	4527	Am.	1970
4494q-16	New	1964	4527a	Added	1968
4494q-17	New	1964	4527b	Added	1968
4494q-18	New	1964	4527-1	Added	1970
4494q-19	New	1964	4528	Am.	1970
4494q-20	New	1964	4528b	New	1950
4494q-21	New	1964	4528c	New	1952
4494q-22			§ 3a	New	1958
to			§ 4(c)	Am.	1958
4494q-44	New	1966	§ 4(d)	Am.	1964
4494r	New	1964	§ 4½	Am.	1958
4494r-1, §§ 1, 2	New	1968	§ 5	Am.	1958
4494r-2	New	1970	§ 8	Am.	1958
4494r-3	New	1970	§ 9	Am.	1956
4494s	New	1966		Am.	1958
4495	Am.	1968		Am.	1968
4498a	New	1954	§ 10	Am.	1958
§ 1	Am.	1966	§ 13	Am.	1956
4499	Am.	1954	4542a	Am.	1954
4499a	New	1954	§ 3	Am.	1960
4500	Am.	1954	§ 4	Am.	1952
4501	Am.	1952	§ 7	Am.	1958
	Am.	1954	§ 8	Am.	1952
4502	Am.	1954		Am.	1960
	Am.	1964	§ 9	Am.	1952
	Am.	1970		Am.	1960
4504	Am.	1950	§ 11	Am.	1960
4506	Am.	1954	§ 12	Am.	1958
	Am.	1968		Am.	1960
4507	Rep.	1954	§ 13	Am.	1958
4508	Rep.	1954	§ 14	Am.	1952
4509	Am	1954		Am.	1960
4510	Am.	1950		Am.	1968
	Am.	1954	§ 16	Am.	1960
4512b	New	1950	§ 17	Am.	1952
§§ 4a, 4b	New	1958		Am.	1958
§ 8	Am.	1968		Am.	1960
§§ 8a, 8b	New	1958	§ 17(d) (4, 5)	Added	1964
§ 11	Am.	1958	§ 17(f)	Am.	1964
§ 14	Am.	1958	§ 19	Am.	1952
§ 14a	New	1958	§ 20	Am.	1958
4512c	New	1970	4542b	New	1958
4513	Am.	1970	4544	Am.	1961
4514	Am.	1970	4549	Am.	1952
4515	Am.	1970	4550a,		
4516	Am.	1970	par. 1	Am.	1961
4517	Am.	1970	pars. 3, 4	Am.	1961
			4551	Am.	1958

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4551a	Am.	1952	4552-5.13	New	1970
	Am.	1954	4552-5.14	New	1970
(5)	New	1956	4552-5.15	New	1970
(6)	New	1960	4552-5.16	New	1970
(7)	New	1960	4552-5.17	New	1970
4551b	Am.	1952	4552-5.18	New	1970
	Am.	1954	4552-6.01	New	1970
	Am.	1958	4552-6.02	New	1970
(8)	New	1961	4552-6.03	New	1970
	Am.	1970	4552-6.04	New	1970
4551c	Am.	1954	4553 to 4560	Rep.	1970
4551d	New	1952	4561	Am.	1952
4551e	New	1952		Rep.	1970
§ 1	Am.	1958	4562	Am.	1952
	Am.	1970	4562 to 4564	Rep.	1970
§ 3	Am.	1958	4565	Am.	1952
§ 5	Am.	1961		Rep.	1970
§ 10(g)	Am.	1958	4565-a	Am.	1952
§ 10(h)	Am.	1958		Rep.	1970
§ 15	Am.	1958	4565-b to 4565d	Rep.	1970
4551f	New	1960	4565d(1)	Am.	1958
4551g	New	1960		Rep.	1970
4552	Rep.	1970	4565e, 4565f	Rep.	1970
4552-1.01	New	1970	4565g	Am.	1958
4552-1.02	New	1970		Rep.	1970
4552-2.01	New	1970	4565h to 4566-1	Rep.	1970
4552-2.02	New	1970	4566-1.01	New	1970
4552-2.03	New	1970	4566-1.02	New	1970
4552-2.04	New	1970	4566-1.03	New	1970
4552-2.05	New	1970	4566-1.04	New	1970
4552-2.06	New	1970	4566-1.05	New	1970
4552-2.07	New	1970	4566-1.06	New	1970
4552-2.08	New	1970	4566-1.07	New	1970
4552-2.09	New	1970	4566-1.08	New	1970
4552-2.10	New	1970	4566-1.09	New	1970
4552-2.11	New	1970	4566-1.10	New	1970
4552-2.12	New	1970	4566-1.11	New	1970
4552-2.13	New	1970	4566-1.12	New	1970
4552-2.14	New	1970	4566-1.13	New	1970
4552-2.15	New	1970	4566-1.14	New	1970
4552-3.01	New	1970	4566-1.15	New	1970
4552-3.02	New	1970	4566-1.16	New	1970
4552-3.03	New	1970	4566-1.17	New	1970
4552-3.04	New	1970	4566-1.18	New	1970
4552-3.05	New	1970	4566-1.19	New	1970
4552-3.06	New	1970	4566-1.20	New	1970
4552-3.07	New	1970	4566-1.21	New	1970
4552-4.01	New	1970	4566-1.22	New	1970
4552-4.02	New	1970	4567	Am.	1952
4552-4.03	New	1970	4567a, §§ 1-3	New	1968
4552-4.04	New	1970	4569	Am.	1952
4552-5.01	New	1970	4570	Am.	1952
4552-5.02	New	1970		Am.	1964
4552-5.03	New	1970	4571	Am.	1952
4552-5.04	New	1970	4572	Rep.	1952
4552-5.05	New	1970	4575	Am.	1952
4552-5.06	New	1970	4575a	New	1968
4552-5.07	New	1970	4576a-4581	Rep.	1954
4552-5.08	New	1970	4582a	Rep.	1954
4552-5.09	New	1970	4582b	New	1954
4552-5.10	New	1970		Am.	1964
4552-5.11	New	1970	§ 3, D, 2(a)	Am.	1970
4552-5.12	New	1970			

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4584	Am.	1954	4616	Am.	1958
	Am.	1961		Rep.	1968
4590-1	New	1960	4617	Am.	1958
§ 2	Am.	1961	4617		
	Rep.	1970	to		
4590-2	New	1970	4620	Am.	1968
4590a	Rep.	1952	4617		
4590c	New	1950	to		
§ 4	Am.	1956	4620	Rep.	1970
	Am.	1960	4618	Am.	1964
§ 4a	Added	1968	4619,		
§ 5	Am.	1956	§ 6	New	1960
	Am.	1960	4621	Am.	1964
§ 7	Am.	1952		Am.	1968
§ 8	Am.	1956		Rep.	1970
4590d	New	1950	4622	Am.	1968
	Rep.	1961		Rep.	1970
§ 10	Am.	1954	4623	Am.	1958
§ 11(1)	Am.	1952		Am.	1964
§ 19a	New	1954		Rep.	1964
4590e	New	1952	4624	Am.	1964
§ 3	Am.	1970		Am.	1968
§ 3(6)	Am.	1964		Rep.	1970
	Am.	1966	4624a	New	1950
4590f	New	1961		Am.	1968
4590g	New	1964		Rep.	1970
4591	Am.	1952	4625	Am.	1968
	Am.	1958		Rep.	1970
	Am.	1968	4626	Am.	1964
	Am.	1970		Am.	1968
4591d,				Rep.	1970
§ 1a	New	1956	4627	Am.	1968
§ 1b	New	1956		Rep.	1970
§ 1c	New	1956	4628	Rep.	1970
	Am.	1958	4629	Am.	1954
	Am.	1968		Am.	1966
4591e	New	1956		Am.	1968
4594	Am.	1956		Rep.	1970
4596a	Rep.	1970	4630		
4597-4601	Rep.	1954	to		
4602	Am.	1958	4638	Rep.	1970
	Am.	1966	4631	Am.	1958
4602	Rep.	1970	4632	Am.	1956
4603, 4604	Rep.	1970	4639a	Am.	1954
4605	Am.	1960	§ 1	Am.	1961
	Am.	1966	4639a-1	New	1961
	Rep.	1970	4639b	New	1956
4606			4639c	New	1960
to			4640, 4641	Rep.	1970
4609	Rep.	1970	4646b	Am.	1964
4610	Am.	1968		Rep.	1968
	Rep.	1970	4668	Rep.	1964
4611	Rep.	1968	4679-4682a	Rep.	1952
4612	Rep.	1968	4682b	Rep.	1952
4612a	New	1950	§ 1A	Added	1950
4613			4682c-4698a	Rep.	1952
to			4698b	New	1950
4615	Am.	1968	4698b-4704	Rep.	1952
	Rep.	1970	4705	Am.	1950
4614	Am.	1958		Rep.	1952
	Am.	1964	4706-4724	Rep.	1952
(d)	Am.	1961	4725	Am.	1950
				Rep.	1952

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4726-4764b	Rep.	1952	5069-10.01		
4764c	New	1950	to		
	Rep.	1952	5069-10.05	Revised	1968
4765	Rep.	1952	5069-10.01	Am.	1970
4766	Am.	1950	5069-10.02	Am.	1970
	Rep.	1952	5069-10.03	Am.	1970
4767, 4768	Rep.	1952	5069-10.04	Am.	1970
4769	Am.	1950	5069-10.05	Am.	1970
	Am.	1952	5069-10.06	New	1970
4769½	New	1952	5069-10.07	New	1970
4769a	New	1952	5069-10.08	New	1970
4770 to 4860a-19	Rep.	1952	5069-50.01		
4860a-20	Am.	1950	to		
	Rep.	1952	5069-50.06	New	1968
4861 to 4928	Rep.	1952	5069		
4929	Am.	1950	to		
	Rep.	1952	5073	Rep.	1968
4929a	New	1950	5071	Am.	1964
	Rep.	1962	5073	Am.	1964
4930, 4931	Rep.	1952	5074a	New	1952
4932	Am.	1950		Rep.	1968
	Rep.	1952	5115	Am.	1958
4933-5012	Rep.	1952	5115a	New	1961
5012a	Am.	1950	5115b, §§ 1, 2	New	1968
	Rep.	1952	5118a	New	1956
5013-5068a	Rep.	1952		Am.	1964
5068b	Rep.	1952	5138b	New	1961
§ 7	Am.	1950	5138c, §§ 1-5	New	1968
5068c, 5068d	Rep.	1952	5139	Am.	1950
5068e	New	1950		Am.	1954
	Rep.	1952	5139A	New	1952
5068-1 to 5068-7	Rep.	1952		Am.	1958
5069	Am.	1964	5139B	New	1952
5069-1.01			5139D	New	1950
to			5139(E)	New	1950
5069-1.06	Revised	1968		Am.	1952
5069-2.01			5139E-1	New	1961
to			5139E-1		
5069-2.06	Revised	1968	Subd. (3)	Am.	1970
5069-3.01			5139E-2	New	1966
to			5139F	New	1952
5069-3.21	Revised	1968		Am.	1958
5069-3.17			5139G	New	1952
Subsecs. (9)-(14)	Added	1970		Am.	1956
5069-4.01			5139H	New	1952
to			5139H-1	New	1956
5069-4.04	Revised	1968	5139H-2	New	1956
5069-5.01			5139H-3	New	1958
to			5139H-4	New	1960
5069-5.05	Revised	1968	5139H-5	New	1961
5069-6.01			5139I	New	1954
to			5139J	New	1956
5069-6.09	Revised	1968	§ 3	Am.	1960
5069-7.01			§ 3a	New	1960
to				Am.	1968
5069-7.10	Revised	1968		Am.	1970
5069-8.01			§ 3b	New	1960
to			5139K		
5069-8.05	Revised	1968	to		
5069-9.01			5139O	New	1956
to			5139M		
5069-9.04	Revised	1968	§ 3	Am.	1970

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5139P			5142b,		
to			§ 1	Am.	1950
5139R	New	1958		Am.	1956
5139S	New	1958	§ 5	Am.	1950
§ 2	Am.	1966	§ 7	Am.	1950
5139T			§ 15	Am.	1950
to				Am.	1956
5139X	New	1958	§ 17	Am.	1950
5139Y	New	1960	5142c	New	1950
§ 3	Am.	1970	§ 5	Am.	1956
5139Z	New	1960	5142c-1	New	1950
5139AA	New	1960	§ 1	Am.	1970
§ 1	Am.	1970	5142c-2	New	1956
5139BB	New	1960	5142c-3	New	1964
5139CC	New	1960	5142c-4	New	1966
§ 1	Am.	1968	5142d	New	1950
§ 4	Am.	1968	5143c	New	1950
5139DD			§ 4	Am.	1956
to			§ 5	Am.	1956
5139FF	New	1960	5143d	New	1958
§ 2	Am.	1970	§ 9a	Am.	1970
§ 3	Am.	1970	5143e	New	1966
5139GG	New	1961	5143f, §§ 1-4	New	1968
5139HH	New	1961	5154g	New	1956
5139II	New	1961	5155	Am.	1958
§ 2	Am.	1968	5159a		
5139JJ	New	1961	§ 4	Am.	1970
5139KK	New	1961	5159c	New	1956
5139LL	New	1961	5159d	New	1970
	Rep.	1966	5160	Am.	1960
5139MM	New	1961	§ B	Am.	1970
5139NN	New	1961	5160a, §§ 1-7	New	1968
§ 2	Am.	1970	5161-5164	Rep.	1960
§ 2a	Added	1970	5165a	New	1954
5139OO			§§ 1, 2	Am.	1964
§§ 1, 2	New	1966	5167a	New	1964
§ 2A	New	1964	5172a,		
5139PP	New	1964	§ 5	Am.	1954
5139QQ				Am.	1961
to			§ 5a	Am.	1961
5139WW	New	1966	5181	Rep.	1964
5139UU			5182a, §§ 1-16	New	1968
§ 2	Am.	1970	5183	Am.	1960
5139XX			5185	Am.	1970
§§ 1-7	New	1968	5190½	New	1958
§ 4(b)	Am.	1970		Am.	1960
5139YY	New	1970	5221a-4	Rep.	1950
5139ZZ	New	1970	5221a-5	New	1950
5139AAA	New	1970	§ 9	Am.	1961
5142	Am.	1950	5221a-6	New	1950
5142a,			§§ 1-7	Am.	1970
§ 1	Am.	1950	§ 8	Am.	1964
§§ 3-5	Am.	1950		Am.	1970
§ 6	Am.	1958	§§ 9-16	Am.	1970
5142a-1	New	1956	§ 17	Am.	1961
5142a-2	New	1958		Am.	1970
§ 10	Am.	1966	§ 18	Am.	1970
§ 10a	Added	1966			

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5221b-1	Am.	1950	5221b-12		
(b)	Am.	1956	(l)	Added	1966
	Am.	1961	(m)	Added	1966
	Am.	1968	(n)	Added	1968
(c)	Am.	1958	(o)	Added	1968
(d)	Am.	1956	5221b-13(a)	Am.	1956
	Am.	1958	5221b-14		
	Am.	1961	(a)	Am.	1956
(e)	New	1961		Am.	1958
	Am.	1968		Am.	1961
5221b-1a	Rep.	1956	(e)	Am.	1956
5221b-2	Am.	1950	5221b-15		
	Am.	1956	(c)	Added	1966
(a)-(f)	Am.	1970	5221b-15a, (b)	Am.	1968
(e)	Am.	1968	(d)	Am.	1968
(f)	New	1961	5221b-17	Am.	1950
5221b-3	Am.	1950		Am.	1956
	Am.	1956		Am.	1958
(a, b)	Am.	1958	(g) (5)	Am.	1961
(a-c)	Am.	1961	(g) (5) (J)	Deleted	1966
(g)	Added	1964	g(E.F.)	Am.	1961
5221b-4	Am.	1950	(k)	Am.	1961
	Am.	1956	(n)	Am.	1968
(b)	Am.	1958	5221b-18	Rep.	1958
	Am.	1968	5221b-22a	Am.	1950
(h)	Am.	1958	5221b-22aa	New	1958
5221b-5	Am.	1950	5221c,		
	Am.	1956	§ 1	Am.	1960
	Am.	1968	§ 2	Am.	1960
(c)	Am.	1958	§ 3	Am.	1956
(c) (2A)	Am.	1961		Am.	1960
(c) (6)	Am.	1961		Am.	1966
(c) (7)	Am.	1954	§ 3a	Added	1966
(d)	Am.	1958	§ 4a	New	1964
5221b-6	Am.	1950	§ 5	Am.	1952
(c)	Am.	1956		Am.	1958
(c) (1)	Am.	1958	§ 12	Am.	1952
5221b-7(c)	Am.	1958		Am.	1958
5221b-8(c)	Am.	1956		Am.	1961
5221b-8(f)	Rep.	1958	§ 17	Am.	1961
5221b-9			§ 18	Rep.	1961
(a)	Am.	1956	5221d	New	1956
(e)	Am.	1956	5221e	New	1958
(f)	Am.	1966		Rep.	1966
(g)	Am.	1958	5221f	New	1970
(h)	Am.	1956	5236a	New	1968
5221b-9b	Am.	1956	5238a	New	1970
5221b-11	Am.	1950	5244a-3	New	1961
5221b-12			5248	Am.	1950
(a)	Am.	1956	5248c-1	New	1961
	Am.	1966	5248c-2	New	1961
	Am.	1968	5248d-1	New	1961
(b)	Am.	1956	5248g	New	1950
	Am.	1966		Am.	1966
	Am.	1968	§ 1	Am.	1956
(c)	Am.	1966	5248h, 5248i	New	1950
	Am.	1968	5254a,		
(d)	Am.	1956	§ 1	Am.	1958
(e)	Am.	1958		Am.	1960
(f)	Am.	1966	§ 2	Am.	1958
	Am.	1968			
(j)	Am.	1956			

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5282a	New	1956	5421c,		
§ 5	Am.	1970	§ 8	Am.	1954
§ 6(c)	Am.	1968		Am.	1958
5298a	Am.	1970	§ 8-A(5)	Am.	1964
5320a	New	1952	5421c-3	Am.	1964
5326	Am.	1952	§ 3	Am.	1966
5326h	New	1950	5421c-7	New	1956
5326i	New	1950	§ 1	Am.	1958
5326j	New	1952		Am.	1964
5330a,			5421c-7, § 2	Am.	1958
§ 2	Am.	1952		Am.	1964
5337-1	New	1958	§ 3	Am.	1958
5337-2	New	1960	§§ 7, 8	New	1958
5344c	Am.	1964	5421c-8	New	1958
§ 2	Am.	1966	5421c-9	New	1961
	Am.	1970	5421c-10, §§ 1-10	Added	1968
5366	Am.	1956	5421c-11	New	1970
5368b	Rep.	1950	5421c-12	New	1970
5370	Am.	1950	5421h-2	New	1961
5371	Am.	1958	5421i	Am.	1952
5380	Am.	1968	5421j-1	New	1958
	Am.	1970	5421j-2	New	1961
5382a	Rep.	1954	5421k-2	New	1958
5382b	New	1950	5421k-3	New	1961
§ 7	Am.	1952	§ 4	Am.	1966
5382b-1	New	1954	§ 5	Am.	1966
5382c	New	1952	5421m	New	1950
5382d	New	1952	§ 2	Am.	1958
§ 1	Am.	1964	§§ 2(A) to 2(C)	New	1958
§ 9	Am.	1968	§ 3	Am.	1952
§ 13a	New	1956		Am.	1958
5382d-1	New	1956		Am.	1968
5382e	New	1954	§ 6	Am.	1958
§ 1(b)	Am.	1968	§ 8	Am.	1968
5383			§ 9	Am.	1952
to				Am.	1968
5387	Rep.	1968	§ 9(a)	Am.	1958
5388			§ 9(A)	Added	1968
to			§ 10	Am.	1952
5400a	Rep.	1968		Am.	1958
5399a-5399f	Rep.	1954		Am.	1968
5401			§ 10(A)	New	1956
to			§ 11	Am.	1952
5403	Rep.	1968		Am.	1956
5414a-1	New	1956	§ 12	Am.	1958
5415b-1	New	1970		Am.	1968
5415c	New	1958	§ 13	Am.	1958
5415d	New	1960	§ 14	Am.	1952
§ 7	Am.	1964		Am.	1954
§ 8	Am.	1966	§ 15	Am.	1956
§ 9	Added	1966	§ 16	Am.	1952
§ 10	Added	1966		Am.	1956
5415d-1	New	1970		Am.	1968
5415d-2	New	1970	§ 16(A)	New	1956
5415d-3	New	1970	§ 16(B)	Added	1964
5415d-4	New	1970		Am.	1964
5415e	New	1961	§ 17	Am.	1952
5415f	New	1970		Am.	1956
5415g	New	1970		Am.	1958
5416, 5416a	Rep.	1970		Am.	1961
5421b-1	New	1956		Am.	1968

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5421m,			5452-1	Added	1966
§ 18	Am.	1952	5453	Am.	1961
	Am.	1956	5454	Am.	1961
§ 19	Am.	1956	5455	Am.	1961
	Am.	1958	5456	Am.	1961
§ 19(A)	New	1956	5457	Rep.	1961
	Am.	1958	5460	Am.	1968
	Am.	1961		Am.	1970
§ 21	Am.	1956	5461	Rep.	1961
	Am.	1958	5462	Rep.	1961
	Am.	1961	5463	Am.	1961
	Am.	1968	5465	Rep.	1961
§ 21(A)	New	1956	5467	Am.	1961
§ 23	Am.	1952	5468	Am.	1961
§ 24	Am.	1956	5469	Am.	1961
§ 25	Am.	1956	5472a	Am.	1960
§ 30	New	1952	5472d	New	1961
§ 31	New	1952	5472e, §§ 1-7	New	1968
§ 32	New	1956	5473	Am.	1958
5421n	New	1954	5476	Am.	1954
5421o	New	1956		Am.	1958
5421q	New	1970	5476a	New	1954
5421z	New	1966		Am.	1958
	Am.	1968	5476b	New	1954
§ 10A	Added	1968		Am.	1958
§ 14	Am.	1968	5476c	New	1958
5421z-1	New	1968	5476d	New	1958
5429	Am.	1961	5489		
5429a	Rep.	1961	to		
5429b	New	1950	5499	Rep.	1966
5429b-1	New	1964	5499a	New	1954
5429b-2, §§ 1, 2	New	1968	5499a-51	New	1960
5429c	New	1950		Rep.	1966
5429d	New	1952	5500	Am.	1950
5429e	New	1954	5504	Am.	1966
	Am.	1961	5506a	Am.	1954
5429f	New	1961	5506c	Rep.	1966
5433a	New	1954	§ 2	Am.	1956
5434	Am.	1954	§ 7	Am.	1956
	Am.	1968	5517	Am.	1954
5435	Am.	1961	5518	Am.	1968
5436			5519	Am.	1968
(c)	Added	1966	5526b	New	1960
(d)	Added	1966	5535	Am.	1968
5436a	New	1966	5536a	New	1970
5438d	New	1956	5539c	New	1970
5440	Rep.	1961	5541	Am.	1952
5441			5546	Am.	1964
§ 3	Am.	1970	5547-1		
5441a	Am.	1964	to		
§ 6a	Added	1966	5547-3	New	1958
5441b	New	1960	5547-4	New	1958
5441c	New	1966		Am.	1961
5441d	New	1966		Am.	1968
5442	Am.	1970	5547-5		
5442a	New	1964	to		
§ 2	Am.	1970	5547-12	New	1958
§ 3	Am.	1970	5547-12a	Added	1966
5444	Rep.	1970	5547-13		
5444a	New	1970	to		
5446a	New	1970	5547-15	New	1958
5452	Am.	1952		Rep.	1968
	Am.	1961			

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5547-16			5547-203		
to			§§ 3.01, 3.02	New	1966
5547-26	New	1958	§ 3.01	Am.	1970
5547-27	New	1958	§ 3.02	Am.	1968
	Am.	1961		Am.	1970
5547-28	New	1958	§ 3.03	Am.	1968
	Am.	1961		Am.	1970
5547-29	New	1958	§ 3.04	Am.	1970
5547-30	New	1958	§ 3.05	Am.	1970
	Am.	1961	§ 3.06	Am.	1970
5547-31			§ 3.07	Am.	1970
to			§ 3.08	Am.	1970
5547-35	New	1958	§ 3.09	Am.	1970
5547-36	Am.	1964	§ 3.12	Am.	1970
5547-37			§ 3.14	Am.	1968
to				Am.	1970
5547-48	New	1958	§ 3.15	Am.	1970
5547-49	New	1958	5547-204	Am.	1970
	Am.	1964	§§ 4.01, 4.02	New	1966
5547-50			§ 4.02	Am.	1968
to			5547a-39a to 5547a-		
5547-62	New	1958	39d	New	1964
5547-63	New	1958	5550-5554	Rep.	1958
	Am.	1966	5557-5561	Rep.	1958
5547-64			5561a, §§ 1-5	Rep.	1958
to			5561b	New	1950
5547-67	New	1958		Am.	1952
	Am.	1968		Rep.	1958
5547-68			5561b-1	New	1956
to				Rep.	1958
5547-82	New	1958	5561c	New	1954
5547-75A	Added	1970	§ 4(c)	Am.	1966
5547-83	New	1958	§ 9(c)	Am.	1968
	Am.	1960	§ 18	Am.	1958
5547-84	New	1958		Am.	1960
5547-85	New	1958	5561c-1	New	1970
5547-86	New	1958	5561d	New	1966
(c)	Added	1966	5561e	New	1968
5547-87			5561f	New	1970
to			5561g	New	1970
5547-91	New	1958	5571	Am.	1970
5547-92	New	1958	5575	Rep.	1966
	Am.	1961	5576	Rep.	1966
5547-93			5577a	New	1954
to			5577b	New	1970
5547-104	New	1958	5604-5607	Rep.	1966
5547-201			5609	Rep.	1966
§§ 1.01, 1.02	New	1966	5612-5665	Rep.	1966
§ 1.02	Am.	1970	5670-5674	Rep.	1952
5547-202			5681	Am.	1968
§§ 2.01, 2.02	New	1966	5682	Am.	1964
§ 2.01	Am.	1970		Rep.	1968
§ 2.04	Am.	1970	5683	Am.	1968
§ 2.06	Am.	1968	5685	Am.	1968
§ 2.09	Rep.	1970	5687	Am.	1968
§ 2.13	Am.	1968	5692	Am.	1954
	Am.	1970		Am.	1968
§ 2.17	Am.	1968	5695	Am.	1961
	Am.	1970	5697	Am.	1961
§ 2.20	Am.	1970	5702	Am.	1968
	Am.	1968	5728	Am.	1961
				Am.	1968

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5736d	Am.	1968	5890e	New	1970
5765	Am.	1966	5891	Rep.	1954
5766	Am.	1958	5891a	Rep.	1966
	Am.	1966	5891c	Rep.	1966
5767	Am.	1966	§§ 1-4	Am.	1952
	Rep.	1968	§ 5(a)	New	1952
5768	Am.	1966	§ 5(b)	New	1952
5769	Rep.	1966	§ 7	Am.	1952
5769a	Rep.	1966	5891A-1	New	1970
5769b	New	1950	5892	Am.	1954
	Rep.	1954	5893-5900	Rep.	1954
5769b-1	New	1954	5916	Rep.	1954
	Rep.	1966	5920	Am.	1970
5769c	New	1950	5921	Am.	1966
	Rep.	1966	5921a	Am.	1950
5770-5779	Rep.	1966		Rep.	1966
5780			5921b	New	1954
to				Am.	1970
5783	New	1964	5922a	New	1954
§ 10	Am.	1968		Am.	1970
5784	New	1964	5923a	New	1954
5785	New	1964	5923-1	New	1958
5786	New	1964		Am.	1966
§ 7	Rep.	1966	5923-101	New	1958
§ 8	Rep.	1966	§ 1(e) (1)	Am.	1966
5787	New	1964	§ 1(o)	Added	1966
§ 1(b)	Am.	1968	§ 2(a)	Am.	1966
§ 3(b)	Am.	1966	§ 3(a)	Am.	1966
§ 3(f), (g)	Am.	1968	§ 4(f)	Am.	1966
5788	New	1964		Am.	1970
5789	New	1964	§ 4(j)	Added	1966
§§ 3-6	Am.	1968	5924(a)	New	1961
5790-5798a-1	Rep.	1964	5931-1		
	Rep.	1966	to		
5798a-2	Rep.	1964	5931-13	New	1968
	Rep.	1966	5932	Rep.	1966
§ 1	Am.	1950	§ 9	Am.	1961
§ 2	Am.	1952	5933 to 5948	Rep.	1966
	Am.	1960	5949	Am.	1966
5798a-3-5844	Rep.	1964	§ 2	Am.	1970
	Rep.	1966	§ 6	Am.	1970
5845	Am.	1950	5966a, §§ 1-16	New	1968
	Am.	1958	6003b	New	1960
	Rep.	1964	6003c, §§ 1, 2	New	1968
	Rep.	1966	6005	Am.	1966
5845a	New	1958	6008,		
	Rep.	1964	§ 2(k)	Am.	1950
	Rep.	1966	§ 3	Am.	1950
5846-5890	Rep.	1964	§ 7	Am.	1950
	Rep.	1966	§ 14	Am.	1964
5890a	Rep.	1954	§ 21	Rep.	1950
	Rep.	1964	6008-1,		
	Rep.	1966	§ 5	Am.	1950
5890b	Rep.	1964	6008a,		
	Rep.	1966	§ 3(h)	Am.	1950
§ 1	Am.	1958	§ 3(i)	Am.	1950
	Am.	1960	6008a-1	New	1950
§ 5	New	1950	6008b	New	1950
5890c	Rep.	1964	§ 3	Rep.	1956
	Rep.	1966	6008c	New	1966
5890d	New	1964	6020a	Am.	1956
	Rep.	1966	6029a	New	1956
	Rep.	1966	6029b, §§ 1-11	New	1968

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6032c—2	Rep.	1966	6071c	New	1966
6036c	Added	1966	6072, 6073	Rep.	1966
6049a			6074—6077a	Rep.	1950
§ 8aa	Am.	1966	6077h—1	New	1952
§ 8aaa	Added	1966	6077h—2	New	1954
§ 11d	Am.	1966	6077h—3	New	1960
§ 11dd	Added	1966	6077i	Rep.	1950
6050,			6077j		
§ 4	New	1956	§ 5(a)	Added	1966
§ 4a	New	1956		Rep.	1968
6052a	New	1952	6077j—1	New	1961
	Rep.	1960	6077m	Rep.	1966
6053			6077m—1	New	1964
§§ 3-5	Rep.	1960	6077m—2	New	1966
§ 6	Am.	1950	6077n—1	New	1966
	Am.	1952	6077o	New	1950
	Rep.	1960		Am.	1964
§ 7	Am.	1950	§ 11	Am.	1968
	Rep.	1960	6077p	New	1950
§ 8	Am.	1950	6077q	New	1958
	Rep.	1960	6077r	New	1958
§ 9	Rep.	1960	6077s	New	1961
§ 10	Am.	1950	6077t	New	1964
	Am.	1952	6077u, §§ 1-7	New	1968
	Rep.	1960	6079b	Am.	1956
§ 11	Am.	1950		Am.	1958
	Am.	1952	6079c	New	1950
	Rep.	1960		Am.	1952
§ 12	Am.	1952	§ 3	Am.	1958
	Rep.	1960	§ 12a	New	1958
§§ 13-17	Rep.	1960	6079c—1	New	1956
§ 18	Am.	1952	6079d	New	1954
	Rep.	1960	6079d—1	New	1961
§ 19	Rep.	1960	6079d—2	New	1964
6053—1	Added	1970	6079e	New	1958
6065	Am.	1960		Am.	1960
6066	Am.	1960	6079f	New	1960
	Am.	1961	§ 2	Am.	1961
6066a			§ 6	Am.	1961
§ 1(d)	Am.	1966	§ 11	Am.	1961
§ 10(c)	Am.	1966	§ 12	Am.	1961
6066b	New	1950	§ 13	Am.	1961
6066c	New	1954	§ 15	Am.	1961
6066d	New	1960	§ 16	Am.	1961
§ 3D	Am.	1961	§ 17	Am.	1961
§ 5	Am.	1961	6079f—1	New	1961
§ 6	Am.	1961	6081e	Am.	1964
	Am.	1970	6081f	New	1966
6067a	New	1950	6081g,		
6069b	New	1960	§§ 1, 2	Am.	1961
6070e	New	1950	§ 4	Am.	1961
	Rep.	1970		Am.	1966
6070f	New	1956	§ 4a	New	1961
6070g	New	1961	6081g—1	New	1966
6070h			§ 1	Am.	1970
§§ 1-11	New	1968	§ 2	Am.	1970
§ 4	Am.	1970	§ 3	Am.	1970
§ 7	Am.	1970	§ 7(K)	Am.	1970
§ 9	Am.	1970	§ 8	Am.	1970
6071	Rep.	1966	6081g—2	New	1964
6071a	New	1964	6081i	New	1952
6071b	New	1966			

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6081j	New	1964	6166z1	Am.	1954
	Am.	1966	6184l	Am.	1950
6081r	New	1966	6196	Rep.	1954
6081s, §§ 1, 2	New	1968	6203a		
6081t, §§ 1, 2	New	1968	§ 1	Am.	1964
6110-6132	Rep.	1956	§ 11	Am.	1968
6132a	New	1956	6203b-2	New	1970
6132b	New	1961	6203c		
6138A	New	1961	§ 9	Am.	1950
6142a				Am.	1964
§ 3	Am.	1966	6203c-1	New	1956
6142b	New	1956	6203d	Am.	1956
6144	New	1954	6203d-1	New	1964
6144e	New	1960	6205	Am.	1952
§§ 1, 2	Rep.	1964	6221	Am.	1950
6144f	New	1964		Am.	1954
§ 1	Am.	1970		Am.	1958
6144g	New	1966		Am.	1970
§ 1	Am.	1968	6227a	New	1950
§ 3	Am.	1970	6228a	Am.	1954
§§ 4, 5	Am.	1968		Am.	1964
§ 7	Am.	1968		Am.	1958
6144-h	New	1969	§ 1	Am.	1950
6145	Rep.	1952	§ 1(L), (M)	Rep.	1964
	New	1958	§ 1(P.R.)	Am.	1952
§ 9	Am.	1964	§ 3	Am.	1950
§ 9a	New	1964	§ 3(B4)	Added	1966
§ 9b	Added	1966	§ 3(B), par. 1	Am.	1968
§ 12	Am.	1964		Am.	1970
6145.1	New	1964	§ 3(E)	Am.	1952
6145-2,			§ 3, E	Added	1970
§ 6	Am.	1952	§ 4(A)	Am.	1952
§ 13	Am.	1959	§ 4(E)	Am.	1961
6145-3	New	1958	§ 4, G-1	Added	1970
6145-4	New	1966	§ 4, G-2	Added	1970
§ 3	Am.	1964	§ 5	Am.	1950
§ 6(A)	Am.	1964	§ 5(A)	Am.	1956
§ 10	Am.	1964	§ 5(B)	Am.	1952
§ 11	Am.	1964	§ 5(B4)	Am.	1966
§ 13	Am.	1964	§ 5(C3)	Am.	1964
6145-5	New	1966	§ 5(D1)	Am.	1961
	Am.	1970	§ 5(D3)	Am.	1964
6145-6	New	1970	§ 5(G)	Am.	1956
6145-7	New	1970	§ 5(I)	Am.	1952
6145-8	New	1970	§ 5(J)	New	1958
6145-9	New	1970	§ 5B	Am.	1970
6146			§ 5C	Am.	1970
to			§ 5D	Am.	1970
6161	Rep.	1968	§ 5E	Am.	1970
6165a	Rep.	1964	§ 6	Am.	1950
6165b	New	1964		Am.	1970
	Rep.	1968	§ 6(A)	Am.	1964
6166a-1	New	1958	§ 7	Am.	1970
6166d	Am.	1952	§ 7(B)	Am.	1964
6166g note	New	1960	§ 7(F)	New	1960
6166g-1	New	1966	§ 8(C)	Added	1970
6166m	Am.	1952	§ 9(A)	Am.	1964
6166q	Rep.	1952	§ 9a	New	1952
6166x-2	New	1968	§ 12A	Am.	1970
6166x-3	New	1970	6228a-1	New	1954
6166y	Am.	1956			

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6228a—2	New	1956	6243c,		
	Am.	1960	§ 6	Am.	1950
6228a—3	New	1958		Am.	1954
6228a—4	New	1961		Am.	1958
	Rep.	1970	§ 6A	New	1958
6228a—5	New	1966	§ 6B	New	1958
	Am.	1970		Am.	1966
6228b	New	1950		Am.	1970
§ 2	Am.	1964	§ 6C	Added	1966
	Am.	1968	§ 6D	Added	1970
§ 2(a)	Am.	1970	§ 7	Am.	1954
§ 2B	Added	1970		Am.	1958
§ 3	Am.	1970	§ 7A	New	1954
§ 4	Am.	1952		Am.	1958
§ 6	Am.	1968		Am.	1970
§ 6A	Added	1966	§ 7B	New	1958
§ 7	Am.	1968		Am.	1966
§ 8	Am.	1956		Am.	1970
§ 8a	New	1956	§ 7C	New	1958
§ 10	Am.	1970		Am.	1966
6228c	New	1950		Am.	1970
6228c—1	New	1952	§ 7D	Added	1966
6228d	New	1950	§ 7E	Added	1968
	Am.	1952	§ 7E(a)	Am.	1970
6228e	New	1960	§ 7F	Added	1968
§ 2	Am.	1968		Am.	1970
6228f			§ 7G	Added	1966
§§ 1-10	New	1968	§ 9	Am.	1958
§ 1	Am.	1970	§ 10	Am.	1958
§ 2	Am.	1970	§ 10A	Am.	1956
§ 3	Am.	1970		Am.	1958
§ 4	Am.	1970		Am.	1964
6228g			§ 10A—1	Added	1968
§§ 1-13	New	1968	§ 10A—2	Added	1968
§ 3 subsec. 2(a)	Am.	1970	§ 10A—2(a)	Am.	1970
6243a,			§ 10B	New	1958
§ 1	Am.	1952	§ 10C	New	1960
§ 1A	Added	1968	§ 10D	Added	1964
§ 2	Am.	1968		Am.	1966
§ 3	Am.	1968	§ 10E	Added	1964
§ 6	Am.	1954		Am.	1970
§ 7	Am.	1954	§ 10E(d)	Am.	1966
§ 9	Am.	1954	§ 12	Am.	1956
§ 10	Am.	1954		Am.	1958
§ 11	Am.	1954	§ 12A	New	1958
§ 11A	Added	1970		Am.	1966
6243b,				Am.	1970
§§ 1-3	Am.	1964	§ 12B	Added	1966
§ 2	Am.	1970	§ 12B(g)	Am.	1970
§ 3	Am.	1970	§ 13A	Added	1968
§§ 6, 7	Am.	1964		Am.	1970
§ 6	Am.	1970	§ 21	Am.	1956
§§ 13, 14	Am.	1964		Am.	1958
§ 18	New	1960	§ 23	Am.	1956
	Am.	1961	§ 23A	New	1958
	Am.	1964		Am.	1964
6243e,				Am.	1968
§ 3A	New	1958	§ 23A-1	Added	1964
§ 3B	Added	1968		Am.	1966
§ 3B(a)	Am.	1970		Am.	1970
			§ 23B	New	1958
				Am.	1964
				Am.	1968

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Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
6243e,			6243g,		
§ 23C	New	1964	§ 13	Am.	1954
§ 23D	New	1964		Am.	1960
§ 25A	New	1961		Am.	1961
§ 27A	New	1958	§ 13A	New	1952
6243e-1	Rep.	1950		Am.	1961
6243e-2	New	1964	§ 14	Am.	1961
6243f,			§ 15	Am.	1961
§ 1	Am.	1952	§ 16	Am.	1952
	Am.	1960		Am.	1954
	Am.	1964		Am.	1960
§ 2	Am.	1960		Am.	1961
§ 3	Rep.	1960	§ 21	Am.	1961
§ 4	Am.	1960	§ 23a	Added	1968
	Am.	1964	6243g-1	Am.	1956
§ 5	Am.	1960		Am.	1964
§ 7	Am.	1952		Am.	1966
	Am.	1958		Am.	1968
	Am.	1960		Am.	1970
§ 8	Am.	1952	§ 9	Am.	1961
	Am.	1958	§ [9a]	New	1961
	Am.	1960	6243h	Am.	1950
§ 9	Rep.	1960	§ II(8)	Am.	1970
	Added	1968	§ II(12)	Am.	1956
§ 10	Am.	1952	§ II(14)	Am.	1970
	Am.	1960	§ II(16)	Am.	1960
§ 11	Am.	1952	§ II	Am.	1970
	Am.	1960	§ II(21)	Am.	1970
	Am.	1970	§ II(23)	Am.	1970
§ 12	Rep.	1960	§ II(24)	Am.	1970
§ 13	Am.	1960	§ II(25)	Am.	1960
§ 14	Am.	1960	§ II(26)	Am.	1960
§ 15	Am.	1960	§ IV	Am.	1956
§ 17	Am.	1956	§ IV(1)	Am.	1960
	Am.	1960	§ IV(1h)	Rep.	1966
	Am.	1964	§ IV(1i)	Am.	1966
	Am.	1969	§ IV(2a)	Am.	1960
§ 18	Am.	1970		Am.	1966
§ 19	Am.	1960	§ IV, subsec.		
§ 23	Am.	1960	2(a)-(c)	Am.	1970
§ 24	New	1960	§ V(1a)	Am.	1960
§ 25	Added	1964	§ V(2)	Am.	1970
	Am.	1968	§ V(3)	Am.	1970
	Rep.	1970	§ V(4)	Am.	1970
§ 26	Added	1968	§ V(6)	Am.	1960
§ 27	Added	1970	§ V(7)	Am.	1960
6243g	Am.	1958	§ V(7) par. (c)	Am.	1964
	Am.	1966	§ VI(8)	Am.	1964
	Am.	1968		Am.	1966
§ 3c	Rep.	1960		Rep.	1970
§ 3A	Am.	1952	§ VII	Am.	1960
§ 3A(b)	Am.	1954	§ VII(1)	Am.	1970
§ 3A(d)	New	1954	§ VII(2)	Am.	1970
§ 4(f)	New	1960	§ VII(6)	Am.	1970
§ 5(b)	Am.	1960	§ VII(7)	Am.	1970
§ 8	Am.	1970	§ VIII(6)	Am.	1964
§ 9	Rep.	1970		Am.	1970
§ 10	Am.	1960	§ XIII	New	1960
§ 11(b)	Am.	1970	§ XIV	Added	1966
§ 12	Am.	1952	§ XV	Added	1970
	Am.	1954	§ XVI	Added	1970
	Am.	1960	6243h-1	New	1950
	Am.	1961	6243h-2	New	1952

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6243i	New	1950	6573a	Am.	1950
	Rep.	1952		Am.	1956
6243j	New	1952	§ 1	Am.	1968
6244	Rep.	1968	§ 2	Am.	1968
6245	Rep.	1968	§ 3.1	New	1968
6247			§ 10	Am.	1964
to				Am.	1968
6250	Rep.	1968	§ 16	Am.	1964
6252	Rep.	1968	§ 19	Am.	1960
6252-2	New	1950		Am.	1964
6252-3	New	1950	§ 21(a)	Am.	1964
6252-3a	New	1968	§ 22	Am.	1968
6252-4	New	1952	§ 23	Am.	1964
	Rep.	1968	6602(4)	Am.	1956
6252-4a, §§ 1-6	New	1968	6605	Rep.	1968
6252-4b	New	1970	6608	Rep.	1968
6252-5	New	1952	6626	Am.	1952
6252-5a, §§ 1-3	New	1968	6626a	New	1958
6252-6	New	1952		Am.	1961
§ 4(c)	Am.	1954	6632	Am.	1968
	Am.	1970		Rep.	1970
§ 4(d)	Am.	1961	6636	Am.	1956
§ 5(g)	Am.	1954	6640	Am.	1960
6252-6a	New	1960	6644	Am.	1954
6252-7	New	1954	6644a	Added	1968
6252-8	New	1954	6647	Am.	1968
6252-8a	New	1970		Rep.	1970
6252-9	New	1958	6648		
6252-9a	New	1970	to		
6252-10	New	1960	6651	Rep.	1968
6252-10a	New	1964	6663a		
6252-11	New	1961	§ 2a	Am.	1966
6252-11a	New	1970	6669	Am.	1966
6252-12	New	1961	6673a	Am.	1954
6252-12a	New	1966	§ 1	Am.	1968
6252-13	New	1961	6673e-1	New	1958
	Am.	1966	6673e-2	New	1958
6252-14	New	1964	6674c-1	Am.	1966
6252-15	New	1966	6674m	Am.	1960
6252-16	New	1968		Am.	1964
6252-17	New	1968	6674n	Am.	1956
§ 2	Am.	1970	6674n-1	New	1952
§ 3A	Added	1970	6674n-2	New	1960
6252-18	New	1968	6674n-3	New	1964
6252-19	New	1970	6674n-4	New	1970
6252-19a	New	1970	6674q-5	Rep.	1952
6252-20	New	1970	6674s,		
6258	Am.	1954	§ 7	Am.	1960
6268	Am.	1950		Am.	1970
6377	Rep.	1966	§ 8	Rep.	1970
6378	Rep.	1966	§ 12	Am.	1968
6417	Rep.	1970	6674s-1	New	1970
6478a	New	1960	6674t	New	1952
6498	Am.	1970	6674t-1	New	1958
6519b			6674u	New	1954
§§ 1-8	New	1964	6674u-1	New	1966
6550a	Rep.	1954	6674v	New	1954
6550(a)	New	1954	§ 12a	Added	1970
6550b	Rep.	1954	6674w to 6674w-5	New	1958
6560-6573	Rep.	1954	6675a-1		
			(q)	Am.	1964
			(t)	New	1964

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6675a—2	Am.	1954	6687b,		
	Am.	1958	§ 14	Am.	1968
	Am.	1961	§ 15	Am.	1952
(c)	Am.	1964		Am.	1956
(c-1)	Added	1966		Am.	1958
(e)	Am.	1966		Am.	1960
(e-1)	New	1964		Am.	1961
(h)	New	1964		Am.	1968
6675a—3	Am.	1956	§ 15a	New	1954
	Am.	1961	§ 18	Am.	1968
(e)	Added	1966	§ 19	Am.	1952
(f)	Relettered	1966		Am.	1956
6675a—3aa	Am.	1956		Am.	1961
	Am.	1966		Am.	1968
6675a—4	Am.	1968	§ 20	Am.	1968
6675a—5	Am.	1952	§ 21	Am.	1960
	Am.	1958	§ 21(b)	Am.	1968
	Am.	1968	§ 22	Am.	1960
6675a—5a	New	1958	§ 22(a)	Am.	1966
6675a—5b	New	1960		Am.	1968
6675a—5c	Added	1966	§ 22(b)	Am.	1968
6675a—5d	New	1966	§ 22(c)	Am.	1966
6675a—6	Am.	1958	§ 22(d)	Added	1968
6675a—6a	Am.	1958	§ 22(e), (f)	Added	1970
6675a—6b	New	1960	§ 23A	Added	1970
6675a—6c	New	1964	§ 24(b)	Am.	1968
6675a—6d	New	1966	§ 24A	Added	1968
6675a—7	Am.	1958	§ 25(c)	Am.	1970
6675a—8	Am.	1958	§ 30A	Added	1968
6675a—8a	Am.	1956	§ 34	Am.	1968
	Am.	1958	§ 44A	Added	1968
	Am.	1960	6687b note	Am.	1960
6675a—8b	Am.	1950	6696a	New	1970
	Rep.	1956	6699	Am.	1968
6675a—8c	Am.	1958	6701a,		
6675a—10	Am.	1958	§ 1	Am.	1954
6675a—11	Am.	1952	§ 3	Am.	1950
	Am.	1970	6701c	Rep.	1956
6675a—12a	Am.	1952	6701c—1	New	1954
6675a—13	Am.	1952	§ 2	Am.	1956
6675a—13½	Am.	1968		Am.	1964
6686	Am.	1961	§ 4	Am.	1956
	Am.	1964	§ 5	Am.	1956
§ (b)	Am.	1970	§ 9	Am.	1964
6687b,			6701c—2	New	1954
§ 1	Am.	1966	6701c—3, §§ 1-7	New	1968
§ 3	Am.	1970	6701d,		
§ 3(4a)	New	1952	§ 2	Am.	1954
	Am.	1966	§ 2(d)	Am.	1966
§ 4	Am.	1958	§ 2A	Added	1970
	Am.	1968	§ 21	Am.	1968
§ 4	Am.	1970	§ 39 to 42	Rep.	1970
§ 4a	New	1958	§ 43A	Added	1968
§ 5	Am.	1954	§ 44	Am.	1954
§ 5(b)	Am.	1970	§ 47	Am.	1970
§ 5(c)	Am.	1968	§ 52	Am.	1970
§ 5a	New	1954	§ 61(a)	Am.	1970
§ 5B	Added	1968	§ 68(d)	Added	1966
§ 6(b)	Am.	1968	§ 69	Am.	1952
§ 10	Am.	1968	§ 71	Am.	1970
§ 11	Am.	1968	§ 73	Rep.	1970
§ 11A	Added	1968	§ 89	Am.	1968
§ 13	Am.	1968	§ 93(a)	Am.	1960

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6701d,			6701g	New	1952
§ 104	Am.	1954	§ 1	Am.	1954
§ 104(a)	Am.	1956		Am.	1956
§ 104(d)	New	1958	§ 3	Am.	1954
§ 105	Am.	1954		Am.	1956
	Am.	1964	§ 4	Am.	1954
§ 106	Am.	1950		Am.	1956
§ 106(a)	Am.	1956	6701h	New	1952
§ 106(d)	New	1956	§ 1(10)	Am.	1964
	Am.	1968	§ 2(b)	Am.	1964
§ 108A	New	1956	§ 2(d)	Added	1964
§ 108B	New	1956	§§ 4-7	Am.	1964
§ 108B(c)	Am.	1961	§ 7A	New	1964
§ 112(b)	Am.	1961	§ 8(c)	Am.	1964
§ 121	Am.	1960		Am.	1970
§ 125	Am.	1960	§§ 9-11	Am.	1964
§ 126	Am.	1956	§ 13	Am.	1964
§ 127	Am.	1956	§ 15	Am.	1964
§ 131	Am.	1954	§ 17	Am.	1964
	Am.	1960	§ 21(a, b)	Am.	1964
§ 132(3)	Am.	1961	§ 25	Am.	1964
§ 132(3a)	Added	1966	§ 28	Am.	1964
§ 134(c)	Added	1970	§ 29	Am.	1964
§ 134d	Added	1970	§ 31	Am.	1964
§ 135(c)	Am.	1970		Am.	1966
§ 136	Am.	1952	§ 32(b)	Am.	1964
§ 139	New	1952	§ 32(d)	Am.	1966
§ 139a	Am.	1960	§ 32(f)	Am.	1964
§ 139b	Added	1970	§ 32(g)	Am.	1964
§ 140	Am.	1952	§ 33	Am.	1966
	Am.	1954		Am.	1970
§ 140(a)	Am.	1968	§ 35	Am.	1970
	Am.	1970	6701i	New	1958
§ 140(b)	Am.	1968	6701j	New	1958
	Am.	1970		Rep.	1968
§ 141	Am.	1952	§ 4	Am.	1964
	Am.	1954	6701j—1, §§ 1-7	New	1968
§ 141(a)	Am.	1968	§§ 9, 10	New	1968
	Am.	1970	6701k	New	1964
§ 141(b)	Am.	1968	6701½	New	1958
	Am.	1970	6703a	New	1956
§ 141(d)	Am.	1968	6704	Am.	1954
	Am.	1970	§ 4	Am.	1966
§ 141(e)	Am.	1968	6711	Am.	1954
	Am.	1970	6716—1,		
§ 142	Am.	1952	§ 5	Am.	1958
	Am.	1954	§ 6	Am.	1958
§ 142(a)	Am.	1968		Am.	1968
	Am.	1970	§ 15	Am.	1958
§ 142(b)	Am.	1970	6717-6728	Rep.	1966
§ 148	Am.	1954	6731-6735	Rep.	1966
§§ 158-165	New	1954	6745	Am.	1952
§ 166	New	1964	6749	Rep.	1966
§ 166(a) 4	Am.	1966	6755, 6756	Rep.	1966
§ 166(a) 5b	Am.	1966	6758	Rep.	1966
§ 166(a) 5c	Am.	1966	6762	Am.	1958
§§ 167-172	New	1964	6765	Rep.	1966
6701d—1	New	1954	6767, 6768	Rep.	1966
6701d—2	New	1954	6770a	Rep.	1966
6701d—3	New	1961	6770a—2	Rep.	1966
6701e	New	1952	6770a—4	Rep.	1966
	Am.	1968			
6701f	New	1952			

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6795b,			6819a-29	New	1961
§ 1	Am.	1960	6819a-30	New	1961
6795b-1,			6819a-31	New	1964
§ 1	Am.	1956	6819a-32	New	1964
§ 2	Am.	1950	6819a-33	New	1964
§ 5a	New	1950	6819a-34	New	1964
§ 7	Am.	1950	6819a-35	New	1964
§ 7(a)	New	1950	6819a-36	New	1964
§ 7(b)	New	1950	6819a-37		
§ 8(a)	Added	1968	to		
6795c	New	1956	6819a-41	New	1966
6812b	New	1952	6819a-42	New	1970
6812c	New	1954	6820	Am.	1950
6812d	New	1966		Am.	1956
6813 note	New	1960		Am.	1968
6813b	Am.	1961	6822a	New	1960
	Am.	1964	6823	Am.	1950
	Am.	1966		Am.	1954
6819a	Rep.	1952		Rep.	1968
6819a-3	Am.	1952	6823a	New	1960
6819a-4	Rep.	1950	§ 2	Am.	1968
6819a-5	New	1950	§ 5	Am.	1968
6819a-6	New	1950	§ 6(c)	Am.	1964
	Rep.	1952		Am.	1968
	Rep.	1958	6824 note	New	1950
6819a-7	New	1958	6839e	New	1950
6819a-8	New	1958	6839f	New	1952
6819a-9	New	1952	6839g	New	1956
	Rep.	1958	6851a	New	1952
6819a-9(a)	Rep.	1956	6877-1	Am.	1961
6819a-10	New	1956	6877-2	New	1954
	Rep.	1958	6877-3	New	1970
6819a-11	New	1956	6889b	New	1950
6819a-12	New	1958	6889c	New	1952
6819a-12a	New	1960		Rep.	1961
	Am.	1964	6889d	New	1954
6819a-13	New	1958		Am.	1961
	Am.	1966	6889e	New	1956
6819a-14			6889-3	New	1952
to			6889-3A	New	1956
6819a-18	New	1958	6889-4	New	1952
6819a-19	New	1960	§ 5	Am.	1954
6819a-19a	New	1961	§ 7	Am.	1970
6819a-19b	New	1961	§ 8A	Added	1970
6819a-19c	New	1964	6889-5	New	1952
	Am.	1970	6899d	Superseded	1956
6819a-20			6899d-1	New	1956
to			6899d-2	New	1966
6819a-23	New	1960	6930	Am.	1954
6819a-23a	New	1964	6935	Am.	1956
6819a-24	New	1960	6937	Am.	1956
6819a-25	New	1960	6954	Am.	1950
6819a-25a	New	1961		Am.	1954
	Am.	1966		Am.	1956
6819a-26	New	1961		Am.	1958
§ 1	Am.	1970	6965	Am.	1960
§ 2	Am.	1970		Am.	1954
§ 3	Am.	1970	6967	Am.	1961
6819a-27	New	1961		Am.	1954
6819a-28	New	1961	7005-1	New	1958
	Am.	1964	7009	Am.	1956
				Am.	1966

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7009a	New	1960	7047m,		
7044a	New	1966	§ 1	Am.	1952
7047			§ 1½	New	1950
(24)	Am.	1952	7047n	New	1950
(40b)	Am.	1952	7047o	New	1950
(41a)	New	1950	7048a	New	1950
	Am.	1952	§ 10(a) (4)	Am.	1952
(46)	Am.	1952	7048b	New	1952
(46f)	Am.	1950		Am.	1956
7047a—2	Am.	1952	7057	Rep.	1960
7047a—3	Am.	1950	7057a,		
	Am.	1952	§ 2(1)	Am.	1952
7047a—4	Am.	1952	§ 2A	New	1950
7047a—5	Rep.	1960	7057b,		
7047a—6			§ 2a	Am.	1961
to			7057c		
7047a—15	Am.	1952	§ 2	Am.	1966
7047a—15a	New	1952	7057e	New	1950
7047a—16	Am.	1952		Rep.	1960
7047a—19	Am.	1954	7057f	New	1952
	Am.	1958	7058	Rep.	1960
(1)	Am.	1960	7059	Rep.	1960
7047a—19a	New	1954	7060	Am.	1952
	Rep.	1958	7060½	New	1950
7047a—19b	New	1954	7060a	Am.	1952
	Rep.	1958	§ 1	Am.	1956
7047b,			7060b	New	1950
§ 1	Am.	1952	7061	Rep.	1960
§ 1(1)	Am.	1956	7062	Rep.	1960
§ 1(3)	Am.	1954	7063	Am.	1954
	Am.	1956	7064	Am.	1952
§ 1½	New	1950	7064½	New	1950
§ 2(12)	Am.	1950	7064a	New	1950
§ 3-a	Rep.	1952		Am.	1952
7047c—1,			7064a—1	New	1950
§ 1(a)	Am.	1960	7065	Rep.	1960
§ 2	Am.	1950	7065b—1	Am.	1952
	Am.	1956	(a)	Am.	1958
§ 2(e)	Am.	1960	(c)	Am.	1958
§ 2a	New	1950	(g)	Am.	1958
§ 2½	New	1956	(n)	Am.	1958
§ 3	Am.	1950	(q)	New	1958
	Am.	1956	7065b—2	Am.	1952
	Am.	1960	(a)	Am.	1956
§ 3a	Am.	1960	(b)	Am.	1954
§ 30a	New	1950		Am.	1958
7047c—2	Rep.	1960	7065b—3	Am.	1952
7047d,			7065b—4	Rep.	1960
§ 3	Am.	1954	7065b—5	Am.	1958
7047f	Rep.	1960	(a)	Am.	1956
7047h—7047j	Rep.	1960	7065b—6	Rep.	1960
7047k,			7065b—7(a)	Am.	1958
§ 1	Am.	1952	7065b—8	Am.	1956
§ 3(c)	Am.	1952	7065b—9		
§ 5a	Am.	1952	to		
§ 6	Am.	1952	7065b—12	Rep.	1960
7047k—1	New	1950	7065b—13	Am.	1952
§ 2	Am.	1952		Am.	1954
7047l,			7065b—14	Am.	1952
§ 1	Am.	1952	(a)	Am.	1956
§ 1½	New	1950	(g)	Am.	1956
7047l—1	New	1956	7065b—14a	New	1956

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7065b-14b	New	1956	7084	Am.	1950
7065b-14c				Am.	1952
to				Am.	1956
7065b-17	Rep.	1960	(2)	Am.	1958
7065b-18	Am.	1952	7084b	New	1960
7065b-19			7084½	New	1950
to				Rep.	1960
7065b-21	Rep.	1960	7085	Am.	1950
7065b-22	Am.	1952		Rep.	1960
7065b-23	Rep.	1960	7086	Am.	1950
7065b-24	Rep.	1960	(1)	Am.	1956
7065b-25	Am.	1952	7087	Am.	1950
	Am.	1960		Rep.	1960
7065b-26	Am.	1952	7089	Am.	1950
7065b-27	Am.	1952	(1)	Am.	1956
7065b-28	Rep.	1960	7089a-7089h	Rep.	1950
7065b-29	Rep.	1960	7090	Am.	1950
7066	Rep.	1960		Rep.	1960
7066b(aa)	New	1956	7091	Am.	1950
7066b	Am.	1952		Am.	1956
7066b-1	Rep.	1960	7092	Am.	1950
7066c	New	1950		Am.	1956
7068	Rep.	1960	7092a	New	1950
7069	Rep.	1960		Rep.	1960
7070	Am.	1952	7093	Am.	1950
7070a	New	1950		Rep.	1960
7071	Rep.	1960	7094	Am.	1950
7072	Rep.	1954		Am.	1952
7076	Rep.	1960		Am.	1956
7078	Rep.	1960		Am.	1958
7080	Am.	1952		Am.	1960
7081	Am.	1952	7095	Am.	1950
7082	Am.	1952		Rep.	1960
7083a			7096	Am.	1952
§ 2	Am.	1958	7097	Am.	1950
§ 2(1)	Am.	1956		Rep.	1960
	Am.	1960	7098	Am.	1964
	Am.	1962	7105a	New	1956
	Am.	1966	7117-7121	Rep.	1960
§ 2(2)	Am.	1956	7122	Am.	1956
	Am.	1960		Am.	1960
	Am.	1962	7122-a	New	1958
	Am.	1966	7123-7139	Rep.	1960
§ 2(3)	Am.	1960	7141	Rep.	1960
	Am.	1962	7143	Rep.	1960
§ 2(3A)	New	1961	7144	Rep.	1960
§ 2(4)	Am.	1956	7144a	Rep.	1960
	Am.	1960	7146	Am.	1970
	Am.	1962	7147a	New	1970
	Am.	1966	7150,		
§ 2(4-a)	Am.	1950	1(a)	Added	1968
§ 2(4-b)	New	1950	7	Am.	1961
	Am.	1960		Am.	1968
	Am.	1966		Am.	1970
§ 2(4-c)	New	1956	20	New	1955
	Am.	1960	21	New	1960
§ 2(5)	Am.	1962	22	Added	1968
§ 2(6)	Am.	1960	§ 22a	Added	1970
§ 2(7)	New	1962	§ 23	Added	1970
	Am.	1968	§ 24	Added	1970
§ 2(8)	Added	1966	§ 25	Added	1970
7083a.2	New	1961	§ 26	Added	1970

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7150a	Rep.	1970	7465a	New	1954
7150b	Am.	1961	§ 5	Am.	1968
7150f	New	1964	§ 8	Am.	1960
7150g	New	1968	§ 13	Am.	1960
7151	Am.	1952	§ 14	Am.	1960
	Am.	1970		Am.	1968
7152	Am.	1966	§ 16	Am.	1958
7166 note	New	1970	§ 16(b)	Am.	1960
7172	Am.	1968	§ 17	Am.	1966
7212	Am.	1950	§ 19	Am.	1970
	Am.	1964	§ 20	Am.	1968
7228-7241	Rep.	1952	7465b, §§ 1, 2	Added	1968
7244a	New	1968	7466f	New	1950
7258a	Am.	1954	§ 2	Am.	1966
	Rep.	1970	7466g	New	1950
7258b	New	1970	7466h	New	1952
7260,			7466i	New	1954
§ 8	New	1961	§ 1 art. VII(c)	Am.	1961
7264b	Rep.	1952	§ 2	Am.	1961
7298	Am.	1952	7467	Am.	1968
	Am.	1954		Am.	1970
7298a	New	1958	7467b	New	1950
7321a	Am.	1952	7467c	New	1954
7326a	Added	1970		Am.	1968
7331	Am.	1954	7468	Am.	1970
7332	Am.	1952	7470	Am.	1954
	Am.	1961		Am.	1958
	Am.	1966	7470a	Rep.	1954
7333	Am.	1952	7470b	New	1954
7335b	New	1952	7471	Am.	1970
7336f	Am.	1952	7472d-1	New	1958
§ 1	Am.	1966	7472e	New	1956
§ 2	Am.	1956	7475	Rep.	1968
7345b	New	1952	7477	Am.	1954
§ 8	Am.	1954		Am.	1966
7345b-2	New	1956	Subsec. (1)		
7345e	New	1950	to		
7359a, §§ 1-5	New	1968	(11)	Am.	1964
7401A	Added	1968	§ 12(a)	Am.	1968
7425a-1	New	1970	Subsec. (15),		
7425b-10	Am.	1964	(16)	Am.	1964
7425b-12	Am.	1966	7477a	New	1954
7425b-14	Am.	1966	7477b	New	1966
7425b-25,			7477c	New	1970
par. L	Am.	1961	7477d	New	1970
par. M	Added	1966	7478-7487	Rep.	1954
par. N	Added	1966	7488	Rep.	1954
7425b-36	Am.	1966	7490	Rep.	1954
7425b-46			7491	Rep.	1954
Subsec. A	Am.	1970	7492	Am.	1954
7425b-48a	New	1970	7492a	New	1954
7425c	New	1952	7493	Am.	1954
7425d	New	1956	7495	Am.	1968
7426			7496		
to			to		
7447	Rep.	1968	7499	Rep.	1968
7428-1	New	1952	7499a	Rep.	1968
7428-2	New	1952	7500a	Am.	1954
7436a	New	1958		Am.	1960
7448-7465	Rep.	1954	7509	Am.	1968
			7512	Rep.	1954
			7515	Am.	1954
			7515a	New	1954

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7519a	New	1954	7621g		
	Am.	1958	§ 2a	Added	1970
7519b	New	1954	§ 3	New	1968
	Am.	1958	§ 3	Am.	1970
7531	Am.	1954	§ 4	New	1968
§§ 1, 2	Am.	1968	§ 4	Am.	1970
7531a	New	1954	§ 4a	Added	1970
7532	Am.	1968	§ 5	New	1968
7533	Am.	1968	§ 5	Am.	1970
7534	Rep.	1968	§ 6	New	1968
7537a	Am.	1961		Am.	1970
	Am.	1968	§§ 7, 8	New	1968
7537b	New	1957	§ 9	New	1968
7542a, §§ 1-14	New	1968		Am.	1970
7545	Rep.	1968	§ 10	New	1968
7546	Rep.	1968		Am.	1970
7547a	New	1970	§ 11-16	New	1968
7550a	New	1957	§ 17	New	1968
7552	Rep.	1968		Am.	1970
7553	Rep.	1968	7622b-1	New	1958
7564	Rep.	1954	7641-b	Am.	1961
7569	Rep.	1954	7652a		
7577	Rep.	1961	Subsec. 6	Added	1966
7583	Am.	1950	7652b	New	1956
7584	Rep.	1968	7656a	New	1960
7589b	New	1958	7661	Am.	1950
§ 1	Am.	1966	7718	Am.	1960
§ 9	Added	1966	7718c	New	1954
§ 10	Added	1966		Rep.	1960
§ 11	Added	1966	7723a	New	1961
§ 12	Added	1966	7807d		
§ 13	Added	1966	§ 10	Am.	1964
§ 14	Added	1966	§ 21	Am.	1966
§ 15	Added	1966	7807n	New	1957
7590	Am.	1968	7880-1 notes	New	1958
7612	Am.	1956		New	1960
	Am.	1970		New	1970
7612a	Am.	1956	7880-1a	New	1961
7612b	New	1956	7880-3c	New	1950
§§ 1-7	Am.	1970	(A5)	Am.	1956
7621a	New	1954	(A6e)	New	1956
	Rep.	1961	(A9)	Am.	1956
7621b	New	1961	(B3)	Am.	1956
§ 1(e)	Am.	1966	(B4)	Am.	1956
7621c	New	1961	(B10)	New	1956
	Rep.	1966	(B11)	New	1961
7621d	New	1961	(D4a)	Am.	1956
	Rep.	1968	(D5)	New	1956
§ 3	Am.	1966	(I)	Added	1966
§ 10(c)	Am.	1966	7880-16	Am.	1958
§ 10(d)	Added	1966	7880-19	Am.	1958
7621d-1, §§ 1-25	New	1968	7880-20a	New	1956
	Am.	1970	7880-20b	New	1970
7621d-2	New	1970	7880-21	Am.	1961
7621e	New	1966	7880-23	Am.	1958
§ 7(a)	Am.	1970	7880-37a	Added	1968
§ 14	Am.	1970	7880-38a		
§ 16	Rep.	1970	§ 1	Am.	1956
7621f	New	1966	§ 1A	Added	1966
7621g			7880-43	Am.	1958
§ 1	New	1968	7880-74a	New	1952
§ 2	New	1968	7880-75c	New	1950
§ 2	Am.	1970	7880-75d	Added	1970

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7880-76	Am.	1958
7880-76c,		
§ 01	New	1961
§ 1	Am.	1952
	Am.	1961
§ 2	Am.	1952
	Am.	1961
§ 5	Am.	1961
§ 6	Am.	1961
§ 7	Am.	1952
§ 8	Am.	1952
§ 11	Am.	1952
§ 17a	New	1952
7880-90a	Am.	1952
7880-101	Am.	1961
7880-107	Am.	1961
7880-111(c)	New	1958
7880-117	Am.	1958
7880-123a	Am.	1961
7880-126		
Subsec. (1)	Am.	1970
7880-139	Am.	1961
	Am.	1968
7880-147c1	Am.	1958
7880-147c6a	New	1958
7880-147c8	New	1952
7880-147c9	New	1956
7880-147c10	New	1958
7880-147c11	New	1966
7880-147z1	New	1952
	Rep.	1958
7880-147z2	New	1956
7880-147z3	New	1958
7880-147z4	New	1958
7880-147z5	New	1958
7880-147z6	New	1958
7893a	New	1952
7897	Am.	1961
7899a	New	1970
7922	Am.	1956
7930-4	Am.	1958
7930-5	Am.	1956
7941b	New	1952
7941c	New	1952
7987	Am.	1954
	Am.	1958
7987-1	New	1960
8028	Rep.	1968
8097 notes	New	1960
8119a	Added	1968
8120	Am.	1956
	Am.	1958
	Am.	1961
8120a	New	1950
8152a	New	1952
8161b,		
§ 7	Am.	1961
8161d	New	1950
8176b	New	1956
8176b-1	New	1958
§ 1(1)	Am.	1968
8176b-2	New	1960
8176c	New	1958

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8176d	New	1960
8197g	New	1966
	Rep.	1968
8217a	New	1954
8224	Am.	1958
8225	Am.	1952
8227a	New	1956
8235a,		
§ 3	Am.	1956
	Am.	1958
§ 4	Am.	1956
§ 9	Am.	1956
8244a	New	1956
8247a		
§ 1	Am.	1970
§ 1a	New	1970
§ 2	Am.	1970
§ 3	Am.	1970
§ 5	Am.	1970
8247b,		
§ 1(b, c)	Am.	1958
§ 7a	New	1952
§ 18a	New	1952
§ 18b	New	1952
§ 18c	New	1952
8247b-1	New	1961
§ 1	Am.	1966
8247e	New	1950
	Am.	1958
§ 2	Am.	1954
§ 3	Am.	1954
8247f	New	1956
8263a,		
§ 3a	New	1952
§ 5	Am.	1961
8263e,		
§ 18-a	New	1950
§ 41	Am.	1968
§ 66	Am.	1964
8263e, § 78	Am.	1960
§ 84	Am.	1960
8263f-1	New	1952
8263h,		
§ 3	Am.	1961
§§ 51, 52	New	1950
8263i	Am.	1954
8263j	New	1950
8263k	New	1950
8264	Am.	1964
8267	Am.	1970
8270	Am.	1964
	Am.	1970
8274	Am.	1952
	Am.	1954
	Am.	1956
	Am.	1960
	Am.	1961
	Am.	1964
	Am.	1968
	Am.	1970
8276	Am.	1966
8280-2	New	1950

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8280—3	New	1950	8280—119,		
8280—3.5	New	1960	§ 3(b)	Am.	1970
8280—4	New	1950	§ 3(e)	Am.	1958
8280—5	New	1954	§ 3(f), (g),		
8280—6	New	1954	(j), (k)	Am.	1970
8280—7	New	1956	§ 4	Rep.	1961
	Am.	1968	§ 4-a	Am.	1961
8280—8	New	1958	§ 5	Rep.	1961
8280—9	New	1958	§ 7	Rep.	1961
§ 2(c)	Am.	1966	§ 9	Am.	1961
§ 2(f)	Am.	1966	§ 10	New	1961
§ 2(i)	Added	1966		Rep.	1961
§ 3	Am.	1966		Am.	1970
§ 4	Am.	1960	§§ 11, 12	Am.	1961
	Am.	1966	§§ 13, 14	Am.	1961
	Am.	1970	§ 14-a	Am.	1961
§ 7	Am.	1966	§ 15-a	Am.	1961
§ 10-B	Am.	1961	§ 15-b	Am.	1961
	Am.	1970	§ 16	Am.	1961
§ 10-D	Am.	1960	§ 16-a	Rep.	1961
	Am.	1961	§ 17-a	New	1960
§ 11	Am.	1970	§ 18	Am.	1961
§ 12	Am.	1966	§§ 21-a, 22	Am.	1961
	Am.	1969	§ 22, 2nd par.	Am.	1970
§ 14	Am.	1961	§ 25	Am.	1961
	Am.	1966	8280—120, § 7	Am.	1968
	Am.	1970	8280—120a	New	1964
§ 15	Am.	1961	8280—120b	New	1966
	Am.	1968	8280—121, § 3	Am.	1968
	Am.	1970	8280—121, § 4	Am.	1968
§ 18	Am.	1966	8280—121, § 7	Am.	1968
§ 21	Am.	1966	8280—121, § 10b	Am.	1968
§ 21(j) to (m)	Added	1968	8280—121, §§ 10d, 10e	Am.	1968
§ 21-a	New	1964	8280—121, § 13	Am.	1968
	Am.	1966	8280—122	Am.	1966
	Rep.	1970	8280—124	Am.	1966
§ 23	Added	1966	§ 10(a)	Added	1958
§ 24	Added	1966	8280—126,		
	Am.	1968	§ 8(e)	Am.	1958
8280—9a	New	1966	8280—128	Rep.	1960
8280—9b	New	1970	8280—131	Am.	1960
8280—9c	New	1970	§ 1a	Added	1970
8280—10	New	1961	§ 11a	Added	1964
§ 1	Am.	1961	8280—135,		
§ 3	Am.	1964	§ 6	Am.	1970
8280—11	New	1961	§ 12	Am.	1958
8280—12, §§ 1-19	New	1968	8280—137,		
8280—13	New	1970	§ 28	New	1961
8280—106			8280—138		
§ 4	Am.	1970	§ 1	Am.	1964
8280—107			§ 3	Am.	1964
§ 10	Am.	1960	§ 9	Am.	1964
	Am.	1964	§ 14	Am.	1964
	Am.	1966	8280—141		
8280—107, § 10	Am.	1968	§ 1a	Added	1970
§ 10a	Added	1968	§ 3 subsec. (b)	Am.	1970
8280—119,			§ 7	Am.	1970
§ 1(h)	Am.	1961	§ 8(b)	Added	1970
§ 1(i), (j)	Added	1970	8280—146		
§ 2	Am.	1961	§ 1a	Added	1964
§ 2-a	Am.	1961	8280—147,		
§ 3	Am.	1961	§ 7(a)	New	1960

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8280-147,			8280-173,		
§ 7-a	New	1960	§ 1	Am.	1961
§ 7-b	New	1960	§ 2	Am.	1961
§ 21(b)	New	1960	§ 6	Am.	1960
8280-147a	New	1961		Am.	1961
8280-154	Am.	1958	§ 8	Am.	1961
§ 4	Am.	1970	8280-174,		
§ 5(a)	Am.	1961	§ 3	Am.	1960
§ 5(b)	Am.	1970	8280-176		
§ 11	Am.	1970	§ 1	Am.	1964
§ 13(o)	Am.	1961	8280-177,		
§ 13(p)	Am.	1961	§ 2	Am.	1961
§ 15(l)	Am.	1961	§ 3(a)	Am.	1961
8280-155			§ 3(c)	Am.	1961
§ 2	Am.	1966		Am.	1966
§ 3	Am.	1966	§ 3(d)	Am.	1961
§ 5	Am.	1966	8280-187,		
§ 6a	Added	1966	§ 1	Am.	1958
§ 14	Am.	1966		Am.	1960
§ 16	Am.	1966		Am.	1961
§ 20	Am.	1966	8280-188,		
8280-157,			§ 2a-1	New	1958
§ 2	Am.	1960	§ 5(f)	Am.	1960
§ 3	Am.	1958	§ 5	Am.	1968
8280-160,			§ 5(m) (n)	Am.	1970
§ 1	Am.	1966	§ 5a	Added	1970
§ 2	Am.	1966	§ 6	Am.	1968
§ 3	Am.	1960		Am.	1970
	Am.	1966	§ 6A	Added	1968
§ 6(d)	Am.	1958	§ 8(a)	Am.	1970
§ 6(f)	Am.	1958	§ 8(d)	Am.	1960
§ 7	Am.	1961		Am.	1970
§ 8	Am.	1966	§ 8(e)-(h)	Am.	1970
§ 13	Am.	1958	§ 8-A	New	1958
§ 15	Am.	1966	§ 8-B	Added	1966
§ 15(a)	Am.	1958	§ 8-C	Added	1966
	Am.	1960	§ 8-c	Added	1970
§ 15(e)	Am.	1958	§ 16, subsec. (a)	Am.	1968
§ 17	Am.	1966	8280-191	New	1958
§ 23	Rep.	1966	8280-192	New	1958
§ 24-A	New	1960	8280-193	New	1958
	Am.	1960	§ 2	Am.	1970
8280-161,			§ 15(a)	Am.	1970
§ 4	Rep. in part	1960	§ 25	Rep.	1970
§ 4-A	New	1960	8280-194	New	1958
8280-162,			8280-195	New	1958
§ 1	Am.	1958	8280-196	New	1958
§ 5(l)	New	1960	§ 2	Am.	1962
§ 7	Am.	1961	8280-197	New	1958
§ 12(g)	Am.	1961	8280-198	New	1958
§ 22	Rep.	1960	§ 5(L)	Added	1962
	Am.	1961	8280-198a	New	1961
§ 23	Am.	1964	8280-199	New	1958
8280-163			8280-200	New	1958
§ 2	Am.	1970	§ 2	Am.	1961
§ 3(c)	Am.	1970	§ 3	Am.	1961
§ 21	Added	1966	§ 4	Am.	1968
8280-167,			§ 5	Am.	1968
§ 2	Am.	1960	§ 6	Am.	1961
§ 3-A	New	1958	§ 7	Am.	1968
§ 12(a)	New	1958	§ 9	Am.	1961
8280-172,			8280-201	New	1958
§ 4(a)	New	1958			

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8280-202	New	1958	8280-238,		
§ 1	Am.	1966	§ 3	Am.	1961
§ 2	Am.	1966	§ 5	Am.	1966
§ 3	Am.	1966	8280-239		
§ 6	Am.	1966	to		
§ 9	Am.	1966	8280-242	New	1960
§ 14	Am.	1966		Rep.	1968
8280-203			8280-243	New	1960
to				Rep.	1964
8280-205	New	1958	§ 17	Am.	1961
8280-206	New	1958	§ 23(a)	Am.	1961
§ 2	Am.	1960	§ 27	Am.	1961
	Am.	1961	8280-244	New	1960
§ 3(b)	Am.	1961	8280-245		
§ 5(j)	Am.	1961	to		
8280-207	New	1958	8280-247	New	1962
§ 2	Am.	1966	8280-248	New	1962
8280-207a	New	1961	§ 19	Am.	1964
8280-207b	New	1961	8280-249	New	1962
8280-208	New	1958	§ 5	Am.	1968
8280-209	New	1958	8280-250	New	1962
8280-210	New	1958	8280-251	New	1962
8280-211	New	1958	§ 2-A	Added	1964
§ 2	Am.	1961	§ 2-B	Added	1964
§ 3	Am.	1961	§ 2-C	Added	1964
§ 6	Am.	1961	8280-252	New	1962
§ 9	Am.	1961	8280-253	New	1962
8280-212	New	1958	8280-253	Rep.	1962
§ 2	Am.	1968	8280-254	New	1962
§ 15(a)	New	1961		Am.	1966
8280-213	New	1958	8280-255	New	1962
§ 15(a)	New	1961	8280-256	New	1962
8280-214	New	1958	8280-257	New	1962
8280-215	New	1958	§ 17	Am.	1966
§ 2	Am.	1966	8280-258	New	1962
8280-216	New	1960	§ 8	Am.	1970
8280-217	New	1960	§ 9	Am.	1970
§ 6	Am.	1960	§ 11(a)	Am.	1970
8280-218	New	1960	8280-259	New	1962
§ 5	Am.	1968		Rep.	1968
8280-219	New	1960	8280-260		
8280-220	New	1960	to		
8280-221	New	1960	8280-264	New	1962
§ 2	Am.	1964	8280-265	New	1962
8280-222			§ 18a	Added	1964
to			§ 24	Am.	1964
8280-226	New	1960	8280-266	New	1962
8280-227	New	1960	§ 2	Am.	1970
§ 6	Rep. in part	1960	§ 3	Am.	1970
§ 6-A	New	1960	§ 6(c)	Added	1970
8280-228	New	1960	§ 8	Am.	1970
§ 4	Am.	1970	§ 9	Am.	1970
§ 14a	Added	1968	§ 10	Am.	1970
	Am.	1970	§ 11	Am.	1970
§ 16	Am.	1970	8280-267		
§ 16a	New	1961	to		
§ 16A	Added	1970	8280-269	New	1962
§ 19	Am.	1961	8280-270	New	1964
8280-229			8280-271	New	1964
to			§ 10	Am.	1968
8280-237	New	1960	8280-272	New	1964
8280-238	New	1960		Rep.	1968
§ 2	Am.	1961	8280-273	New	1964

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8280-274	Rep.	1964	8280-316	New	1966
8280-275	Rep.	1964		Rep.	1968
8280-276	New	1964	8280-316a, §§ 1-20	New	1968
8280-277	New	1964	8280-317	New	1966
8280-278	New	1964	§ 4	Am.	1968
8280-279	New	1964	8280-318	New	1966
8280-280	New	1964	8280-318a	New	1970
8280-281	New	1964	8280-319		
§ 2	Am.	1966	to		
	Am.	1970	8280-323	New	1966
§ 5	Am.	1966	8280-324	New	1966
8280-282	New	1964	§ 18	Am.	1968
8280-283	New	1964		Am.	1970
8280-284	New	1964	8280-325	New	1966
	Am.	1970	§ 18	Am.	1968
8280-285	New	1964		Am.	1970
8280-286	New	1964	8280-326	New	1966
8280-287	New	1964	§ 18	Am.	1968
8280-288	New	1964		Am.	1970
8280-288a, §§ 1-12	New	1968	8280-327		
8280-289	New	1964	to		
8280-290	New	1964	8280-330	New	1966
8280-291	New	1964	§ 18	Am.	1968
8280-292	New	1964		Am.	1970
8280-293	New	1964	8280-331	New	1966
§ 2	Am.	1966	§ 18	Am.	1968
§ 3	Am.	1966		Am.	1970
§ 5	Am.	1966	8280-332	New	1966
§ 5a	Added	1970	§ 18	Am.	1968
§ 17(a)	Added	1966		Am.	1970
§ 18	Am.	1970	8280-333	New	1966
§ 19	Am.	1966	§ 18	Am.	1968
8280-294	New	1964		Am.	1970
8280-295	New	1964	8280-334	New	1968
8280-296	New	1964	§ 18	Am.	1968
8280-297	New	1966		Am.	1970
§ 4	Am.	1968	8280-335		
§ 8(c)	Added	1968	to		
§ 9(e)	Added	1968	8280-337	New	1966
§ 21	Am.	1968	8280-338	New	1966
§ 36	Am.	1968	§ 11	Am.	1968
8280-298			§ 11(a)	Am.	1970
to			§ 12	Am.	1968
8280-304	New	1966	8280-339	New	1966
§ 18	Am.	1968	§ 5a	Added	1970
8280-305			8280-340	New	1966
to			8280-341	New	1966
8280-307	New	1966	8280-342	New	1968
§ 4	Am.	1968	8280-343	New	1968
8280-308	New	1966	8280-344	New	1968
8280-309	New	1966	8280-345	New	1968
§ 18	Am.	1968	8280-346	New	1968
8280-310	New	1966	8280-347	New	1968
8280-311	New	1966	8280-348	New	1968
§ 12a	Added	1970	8280-349	New	1968
8280-312	New	1966	8280-350	New	1968
8280-313	New	1966	8280-351	New	1968
8280-314	New	1966	8280-352	New	1968
§ 3	Am.	1968	8280-353	New	1968
§ 5	Am.	1968	8280-354	New	1968
8280-315	New	1966	8280-355	New	1968
			§ 4	Am.	1970
			§ 5	Am.	1970

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Clv.St. Art.	Effect	Vernon's Texas St.Supp.	Clv.St. Art.	Effect	Vernon's Texas St.Supp.
8280-356	New	1968	8280-416	New	1970
8280-357	New	1968	8280-417	New	1970
8280-358	New	1968	8280-418	New	1970
8280-359	New	1968	8280-419	New	1970
8280-360	New	1968	8280-420	New	1970
8280-361	New	1968	8280-421	New	1970
8280-362	New	1968	8280-422	New	1970
8280-363	New	1968	8280-423	New	1970
8280-364	New	1968	8280-424	New	1970
8280-365	New	1968	8280-425	New	1970
§ 11	Am.	1970	8280-426	New	1970
8280-366	New	1968	8280-427	New	1970
8280-367	New	1968	8280-428	New	1970
8280-368	New	1968	8280-429	New	1970
8280-369	New	1968	8280-430	New	1970
8280-370	New	1968	8280-431	New	1970
8280-371	New	1968	8280-432	New	1970
8280-372	New	1968	8280-433	New	1970
8280-373	New	1968	8280-434	New	1970
8280-374	New	1968	8280-435	New	1970
8280-375	New	1968	8280-436	New	1970
8280-376	New	1968	8280-437	New	1970
8280-377	New	1968	8280-438	New	1970
8280-378	New	1968	8280-439	New	1970
8280-379	New	1968	8280-440	New	1970
8280-380	New	1968	8280-441	New	1970
8280-381	New	1968	8280-442	New	1970
8280-382	New	1968	8280-443	New	1970
8280-383	New	1968	8280-444	New	1970
8280-384	New	1968	8280-445	New	1970
8280-385	New	1968	8280-446	New	1970
8280-386	New	1968	8280-447	New	1970
8280-387	New	1968	8280-448	New	1970
§ 2(b)	Am.	1970	8280-449	New	1970
§ 15(d)	Am.	1970	8280-450	New	1970
8280-388	New	1968	8280-451	New	1970
8280-389	New	1968	8280-452	New	1970
8280-390	New	1968	8280-453	New	1970
8280-391	New	1968	8280-454	New	1970
8280-392	New	1968	8280-455	New	1970
8280-393	New	1970	8280-456	New	1970
8280-394	New	1970	8280-457	New	1970
8280-395	New	1970	8280-458	New	1970
8280-396	New	1970	8280-459	New	1970
8280-397	New	1970	8280-460	New	1970
8280-398	New	1970	8280-461	New	1970
8280-399	New	1970	8280-462	New	1970
8280-400	New	1970	8280-463	New	1970
8280-401	New	1970	8280-464	New	1970
8280-402	New	1970	8280-465	New	1970
8280-403	New	1970	8280-466	New	1970
8280-404	New	1970	8280-467	New	1970
8280-405	New	1970	8280-468	New	1970
8280-406	New	1970	8280-469	New	1970
8280-407	New	1970	8280-470	New	1970
8280-408	New	1970	8280-471	New	1970
8280-409	New	1970	8280-472	New	1970
8280-410	New	1970	8280-473	New	1970
8280-411	New	1970	8280-474	New	1970
8280-412	New	1970	8280-475	New	1970
8280-413	New	1970	8280-476	New	1970
8280-414	New	1970	8280-476	New	1970
8280-415	New	1970	8293	Am.	1950

ARTICLES AFFECTED FROM 1949 TO 1969

Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
8306,			8309,		
§ 2	Am.	1964	§ 1	Am.	1960
§ 2a	Added	1964	§ 1a	Am.	1966
§ 3	Am.	1964		Am.	1968
§ 6	Am.	1954	§ 1b	New	1958
§ 7	Am.	1954	§ 2	Am.	1954
	Am.	1958	§ 4	Am.	1970
§ 7a	Am.	1954	8309a	Am.	1954
§ 7b	Am.	1954		Am.	1970
§ 7c	Am.	1958	8309b,		
	Am.	1970	§ 2	Am.	1950
§ 7d	Am.	1958		Am.	1958
	Am.	1960	§ 3	Am.	1958
	Am.	1970	§ 4	Am.	1950
§ 7—e	Am.	1968	§ 7	Am.	1950
§ 7—e(a)	Am.	1970		Am.	1954
§ 8	Am.	1958		Am.	1960
	Am.	1970	§ 7	Am.	1970
§ 9	Am.	1961	§ 8	Rep.	1970
	Am.	1966	§ 9	Am.	1970
§ 10	Am.	1958	§ 10	Am.	1954
	Am.	1970	§ 13	Am.	1954
§ 11	Am.	1958	§ 14	Am.	1954
	Am.	1970		Am.	1958
§ 12	Am.	1958	§ 15	Am.	1958
§ 12	Am.	1970	§ 18	Am.	1954
§ 12c—2	Am.	1958	8309c	New	1950
	Am.	1970	§ 3	Am.	1956
§ 12f	Am.	1954		Am.	1958
§ 15	Am.	1960	§ 6	Am.	1954
§ 15a	Am.	1952		Am.	1970
	Am.	1956	§ 7	Rep.	1970
§ 20	Am.	1956	§ 9	Am.	1954
§ 25	Am.	1960	§ 10	Am.	1956
§ 26(d)	Am.	1958	§ 15	Am.	1954
§ 28	New	1958	§ 17	Am.	1956
8306a	Am.	1952	8309c—1, §§ 1, 2	New	1968
	Am.	1956	8309d	New	1952
8307,			§ 7	Am.	1960
§ 3	Am.	1970		Am.	1970
§ 4	Am.	1954	§ 8	Rep.	1970
§ 5	New	1958	§ 9	Am.	1970
§ 10	Am.	1970	8309e	New	1954
8308,				Rep.	1970
§ 1A	New	1954	8309e—1	New	1966
§ 16	Am.	1954	§ 1	Am.	1968
§ 18	Rep.	1954	8309e—2	New	1970
	Added	1968	8309f	New	1958
§ 18a	Am.	1968	§ 7	Am.	1964
			8310—8324	Rep.	1954

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Business and Commerce Code
(Pages 1297 to 1302)

Bus & C.Code Sec.			Bus. & C.Code Sec.		
3.501			9.404	Am.	1970
3.601	subsec. (c)	Am. 1970	9.405	Am.	1970
9.105			9.406	Am.	1970
9.106	subsec. (a) (2)	Am. 1970	9.407		
9.203			15.40	Added	1970
9.403	subsec. (b)	Am. 1970	17.12	Am.	1970
			33.04	Am.	1970
	subsec. (e)	Am. 1970	33.09	Am.	1970

Business Corporation Act
(Pages 200 to 208)

Bus. Corp.Act Art.	Effect	Vernon's Texas St.Supp.	Bus. Corp.Act Art.	Effect	Vernon's Texas St.Supp.
1.01	New	1956	2.29	New	1956
1.02	New	1956	§ A	Am.	1968
1.02, § A(13)	Am.	1968	(C)	Am.	1961
2.01	New	1956	D	Am.	1958
2.02	New	1956	D(1)-D(3)	Am.	1961
§ C	Am.	1968	2.30	New	1956
2.03			(B)	Added	1961
to			2.31		
2.07	New	1956	to		
§ C	Am.	1968	2.44	New	1956
2.08			3.01	New	1956
to			3.02	New	1956
2.10	New	1956	§ A	Am.	1958
§ A	Am.	1970	3.03	New	1956
§ D	Am.	1970	3.04	New	1956
2.10-1	Added	1968	3.05	New	1956
2.11			§ A	Am.	1958
to			3.06	New	1956
2.17	New	1956	4.01	New	1956
§ D	Added	1968	4.02	New	1956
2.18	New	1956	§ C	Added	1968
§ A	Am.	1958	4.03	New	1956
2.19	New	1956	§ C	Added	1968
§ A	Am.	1958	4.04	New	1956
§§ E, F	New	1958	§ B	Added	1968
2.20	New	1956	4.05	New	1956
2.21	New	1956	4.06	New	1956
2.22	New	1956	4.07	New	1956
§ A	Am.	1958	§ B	Am.	1958
§ C	Am.	1958	§ C(2)	Am.	1958
§ E	Am.	1968	4.08		
2.23			to		
to			4.13	New	1956
2.28	New	1956	4.14	New	1961
			5.01	New	1956
			5.02	New	1956

ARTICLES AFFECTED FROM 1949 TO 1969

Bus. Corp. Act Art.	Effect	Vernon's Texas St. Supp.	Bus. Corp. Act Art.	Effect	Vernon's Texas St. Supp.
5.03	New	1956	7.06	New	1956
§ B	Am.	1968	§ A	Am.	1968
5.04	New	1956	7.07		
5.05	New	1956	to		
5.06	New	1956	7.12	New	1956
§ A, subsec. (7)	Rep.	1968	8.01	New	1956
5.07	New	1956	§ B	Am.	1958
§ B, subsec. (1)	Am.	1968	8.02	New	1956
5.08	New	1956	8.03	New	1956
5.09	New	1956		Am.	1964
	Am.	1958		Am.	1961
5.10	New	1956	8.04	New	1956
	Am.	1958		Rep.	1968
§ A(3)	Am.	1968	8.05		
5.11	New	1956	to		
§ A	Am.	1958	8.09	New	1956
5.12	New	1956	§ A	Am.	1970
	Am.	1968	§ D	Added	1968
5.13	New	1956		Added	1970
	Am.	1968	8.10		
5.14	Added	1966	to		
5.15	Renumbered from art. 5.14	1966	8.13	New	1956
5.16	Added	1970	8.14	New	1956
6.01	New	1956	§ A	Am.	1958
	Am.	1968	8.15	New	1956
6.02	New	1956	8.16	New	1956
	Am.	1968		Am.	1970
6.03	New	1956	8.17, 8.18	New	1956
	Am.	1968	9.01		
6.04	New	1956	to		
	Am.	1968	9.10	New	1956
6.05	New	1956		Am.	1968
	Am.	1968	9.11	New	1956
6.06	New	1956	9.12	New	1956
	Am.	1968	9.13	New	1956
6.07	New	1956	9.14	New	1956
	Am.	1968	§ A	Am.	1960
6.08			§ E	Am.	1960
to			§ F	New	1960
6.12	New	1956	9.15	New	1956
7.01	New	1956	9.16	New	1956
	Am.	1970	10.01	New	1956
7.02	New	1956		Am.	1961
§ A	Am.	1970		Am.	1968
7.03, 7.04	New	1956		Am.	1970
7.05	New	1956	§ A(13)	Am.	1958
Subsec. A(1)			11.01	New	1956
(e)	Am.	1961			

Code of Criminal Procedure—1965

(Pages 1285 to 1295)

C.C.P. Art.	Effect	Vernon's Texas St. Supp.	C.C.P. Art.	Effect	Vernon's Texas St. Supp.
1.14	Am.	1968	11.07	Am.	1968
1.15	Am.	1968	14.01	Am.	1968
2.03, subsec. (b)	Am.	1968	14.03	Am.	1968
2.07	Am.	1968	14.06	Am.	1968
2.12	Am.	1968	15.16	Am.	1968
2.24	Added	1968	15.17	Am.	1968

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C.C.P. Art.	Effect	Vernon's Texas St.Supp.	C.C.P. Art.	Effect	Vernon's Texas St.Supp.
15.26	Am.	1968	42.13, § 3	Am.	1968
17.045	Added	1970	§ 5	Am.	1968
17.11	Am.	1968	44.11	Am.	1968
18.011	Added	1970	44.23	Am.	1968
18.30	Am.	1968	45.01	Am.	1970
19.06	Am.	1968	45.031	Added	1970
19.08	Am.	1970	45.04	Am.	1968
21.08	Am.	1968	46.01, § 2	Am.	1968
19.23	Am.	1970	§ 3	Am.	1968
22.01a	Added	1968	§ 4	Am.	1968
26.05			§ 5	Am.	1968
§ 1	Am.	1970	§ 6	Am.	1968
26.05-1	Am.	1968	§ 7	Am.	1968
27.02	Am.	1968	§ 8	Am.	1968
27.14	Am.	1968	§ 9	Am.	1968
28.01, § 3	Added	1968	46.02		
35.12	Am.	1970	§ 1	Am.	1968
35.13	Am.	1968	§ 1	Am.	1970
35.16, par. (a)	Am.	1970	§ 2	Am.	1968
35.19	Am.	1970	§ 2, subsec. (d)	Am.	1968
36.09	Am.	1968	§ 3	Am.	1968
37.07	Am.	1968		Am.	1970
38.22	Am.	1968	49.01		
38.31, par. (e)	Am.	1968	§ 7	Am.	1970
38.32	Added	1970	49.03	Am.	1970
39.02	Am.	1968	49.06	Am.	1970
39.03	Am.	1968	49.25		
39.07	Am.	1968	§ 1	Am.	1970
40.09, par. 5	Am.	1968	§ 5	Am.	1970
40.09, par. 6(a)	Am.	1968	§ 6a	Added	1970
40.09, par. 7	Am.	1968	§ 12	Am.	1970
40.09, par. 12	Am.	1968	52.01	Am.	1968
42.03	Am.	1968	52.02	Am.	1968
42.12, § 6a	Added	1968	52.03	Am.	1968
§ 10	Am.	1968	52.04	Am.	1968
§ 12	Am.	1968	52.05	Am.	1968
§ 15	Am.	1968	52.09	Am.	1968
§ 16	Am.	1968	1056		
§ 18	Am.	1968	subsec. (b)	Am.	1970
§ 27	Am.	1968	1064	Am.	1968

ARTICLES AFFECTED FROM 1949 TO 1969

Education Code

(Pages 1305-1597)

The Education Code was adopted by Acts 1969, 61st Leg., ch. 889, effective September 1, 1969.

Disposition and Derivation Tables, see pages 1599 to 1614.

Election Code
(Pages 473 to 508)

Elec. Code Art.	Effect	Vernon's Texas St.Supp.	Elec. Code Art.	Effect	Vernon's Texas St.Supp.
1.01	New	1952	3.04	New	1952
1.01a	New	1964		Am.	1964
§ (a)	Am.	1968	3.05	New	1952
1.02	New	1952		Am.	1964
1.03	New	1952	3.06	New	1952
	Am.	1964		Am.	1964
	Am.	1968	3.07	New	1952
1.04	New	1952		Am.	1964
1.05	New	1952		Am.	1968
	Am.	1964	3.08	New	1952
	Am.	1968		Am.	1964
1.06	New	1952		Am.	1966
	Am.	1968		Am.	1968
1.07	New	1952	(a) (c)	Am.	1970
	Am.	1968	3.09	New	1952
1.08	New	1952	3.09a	Added	1968
	Rep.	1964	4.01,		
2.01	New	1952	4.02	New	1952
	Am.	1961	4.03	Am.	1970
	Am.	1964	4.04		
2.01a	Added	1970	to		
2.02	New	1952	4.05	New	1952
	Am.	1964	4.05	Am.	1970
(g)	Am.	1968	4.06	New	1952
2.03	New	1952	4.07	New	1952
	Am.	1966		Rep.	1964
	Am.	1968	4.08	New	1952
2.04	New	1952		Am.	1968
	Am.	1964	4.09	New	1952
	Am.	1966	4.10	New	1952
(b)	Am.	1968		Am.	1961
2.05	New	1952	4.10		
	Am.	1964	§ 2	Am.	1970
2.06	New	1952	4.11	New	1961
3.01	New	1952		Am.	1968
	Am.	1964	4.12	Added	1966
	Am.	1966		Am.	1968
	Am.	1970	5.01	New	1952
pars. (a), (b)	Am.	1968		Am.	1964
3.02	New	1952	5.02	New	1952
	Am.	1964		Am.	1964
3.03	New	1952		Am.	1966
	Am.	1964		Am.	1968
	Am.	1968	5.02a	Added	1964
	Am.	1970		Am.	1966

VERNON'S TEXAS STATUTES

Elec. Code Art.	Effect	Vernon's Texas St.Supp.	Elec. Code Art.	Effect	Vernon's Texas St.Supp.
5.03	New	1952	5.05d	Added	1968
	Am.	1957	5.06	New	1952
	Am.	1970		Am.	1960
5.04	New	1952	5.07	New	1952
	Am.	1968	5.08	New	1952
subsecs. (a) (b)	Am.	1970		Am.	1964
5.05	New	1952		Am.	1968
Subd. 1	Am.	1960	5.09	New	1952
	Am.	1964		Am.	1960
	Am.	1970		Am.	1964
Subd. 1a	Am.	1960	5.10	New	1952
	Am.	1964		Am.	1964
	Am.	1966	5.11	New	1952
Subd. 2	Am.	1960		Am.	1958
	Am.	1964		Am.	1964
	Am.	1970	5.11a—1	Added	1968
Subd. 2a	Am.	1960	5.11b—1	Added	1968
	Am.	1964	5.12	New	1952
	Am.	1966		Am.	1964
	Am.	1968	5.12a	Am.	1968
	Am.	1970	5.12b	Added	1970
5.05, subd. 2b	Added	1968	5.13	New	1952
Subd. 3	Am.	1960	5.13a		
	Am.	1964	Subsec. (1)	Am.	1970
	Am.	1968	Subsec. (2)	Am.	1970
Subd. 3a	Am.	1960	5.13b	Added	1968
	Am.	1964		Am.	1970
Subd. 3b	Am.	1960	5.14	New	1952
	Am.	1964		Am.	1960
	Am.	1970		Am.	1964
Subd. 3c	Added	1966	5.14a	Added	1966
Subd. 4	Am.	1964	5.15	New	1952
Subd. 4a	Added	1966		Am.	1964
Subd. 4b	Renumbered and		5.15a	Am.	1970
	Am. from Subd. 16	1966	5.16	New	1952
Subd. 4c	Added	1968		Am.	1964
Subd. 4d	Added	1970	5.16a	Added	1966
Subd. 4e	Added	1970	5.17	New	1952
Subd. 5	Am.	1964		Am.	1961
Subd. 6	Am.	1958	5.18	New	1952
	Am.	1960	5.18a	New	1952
	Am.	1964		Am.	1970
	Am.	1968	5.18b	Added	1968
Subd. 7	Am.	1960		Rep.	1970
	Am.	1964	5.19	New	1952
Subd. 8	Am.	1960	5.19a		
	Am.	1964	Subsec. (1)	Am.	1970
Subd. 11	Am.	1968	5.19b,		
Subd. 14	Am.	1964	to		
	Am.	1968	5.21	New	1952
Subd. 15	Added	1960	5.22	New	1952
	Am.	1964		Am.	1964
Subd. 16	Added	1960	5.22b	Added	1968
	Am.	1964	5.23	New	1952
	Renumbered		5.23a	Am.	1968
	Subd. 4b	1966	5.24	New	1952
Subd. 17	Added	1960	6.01	New	1952
	Am.	1968		Am.	1956
Subd. 18	New	1964		Am.	1960
5.05a,			6.01a	Added	1964
5.05b	Added	1968	6.02	New	1952
5.05c	Added	1968		Am.	1964
Subd. 2	Am.	1970	(f)	Am.	1968

ARTICLES AFFECTED FROM 1949 TO 1969

Elec. Code Art.	Effect	Vernon's Texas St.Supp.	Elec. Code Art.	Effect	Vernon's Texas St.Supp.
6.03	New	1952	7.15	New	1952
6.04	New	1952		Rep.	1964
	Am.	1964		Added	1968
6.05	New	1952	Subd. 5(d)	Added	1970
	Am.	1958	Subd. 10a	Added	1970
	Am.	1966	Subd. 11a	Added	1970
	Am.	1968	Subd. 19	Am.	1970
6.05a	New	1964	Subd. 20	Am.	1970
6.05b	New	1964	Subd. 22	Added	1970
6.05c	New	1964	Subd. 23	Added	1970
	Am.	1968	Subd. 24	Added	1970
6.05d	New	1964	§ 19a	Added	1970
6.05e	New	1964	7.16	New	1952
6.06	New	1952	§ 3	Added	1961
	Am.	1958	7.17	New	1952
	Am.	1964		Am.	1961
	Am.	1968	8.01	New	1952
6.06a	Added	1968		Am.	1964
6.07	New	1952	8.02	New	1952
	Am.	1956		Am.	1964
	Am.	1968		Am.	1968
Subd. 2a	Added	1970	8.03		
6.08	New	1952	to		
	Rep.	1968	8.08	New	1952
6.09	New	1952	8.09	New	1952
6.10	New	1952		Am.	1964
7.01			8.10	New	1952
to				Rep.	1964
7.05	New	1952	8.11	New	1952
7.06	New	1952	8.12	New	1952
	Am.	1964	8.13	New	1952
	Am.	1970		Am.	1964
7.07	New	1952		Am.	1958
	Am.	1968		Am.	1964
7.08	New	1952	8.13a	New	1964
7.09	New	1952	8.14	New	1952
7.10	New	1952	8.15	New	1952
	Am.	1964		Am.	1964
7.14	New	1952	8.16	New	1952
§§ 2, 3	Am.	1964	8.17	New	1952
§ 5	Am.	1964	8.18	New	1952
§ 7	Am.	1964		Am.	1964
§ 7a	New	1958		Am.	1970
	Am.	1964	8.19	New	1952
§ 7b	New	1960		Am.	1964
§ 8	Am.	1964		Am.	1968
	Am.	1970	8.19a	Added	1970
§ 8a	New	1964	8.20	New	1952
§ 10	Am.	1964	8.21	New	1952
§ 10a	Added	1956	8.22	New	1952
§§ 12, 13	Am.	1964		Am.	1964
§ 14	Am.	1968		Am.	1968
§ 15	Am.	1958	Par. (b)	Am.	1970
§ 16a	New	1960	8.23	New	1952
§ 17	Am.	1964		Am.	1964
§ 18	Am.	1964		Am.	1968
	Am.	1968	8.24	New	1952
§ 19	Am.	1964	8.25	New	1952
§ 20	Am.	1961	§ 5	Rep.	1964
	Am.	1964	8.26	New	1952
§ 22	Rep.	1964	8.27	New	1952
§§ 24, 25	Am.	1964		Am.	1968
			8.28	New	1952

VERNON'S TEXAS STATUTES

Elec. Code Art.	Effect	Vernon's Texas St.Supp.	Elec. Code Art.	Effect	Vernon's Texas St.Supp.
8.29	New	1952	11.03	New	1952
	Am.	1964	11.04	New	1952
8.29a	New	1964		Am.	1964
8.29b	New	1964	11.05	New	1952
8.30	New	1952	11.06	New	1952
	Am.	1964	12.01	New	1952
8.31	New	1952	12.02	New	1952
	Am.	1964		Am.	1958
8.32	New	1952	Pars. 3, 4	Am.	1964
	Rep.	1964	12.03	New	1952
	Am.	1968	13.01	New	1952
	Am.	1970	13.01a	New	1960
8.33	New	1952		Am.	1968
	Am.	1964	Par. (2)	Am.	1964
8.34	New	1952	13.02	New	1952
8.35	New	1952	13.03	New	1952
8.36	New	1952		Am.	1960
	Am.	1964	13.04	New	1952
8.37	New	1952		Am.	1968
	Am.	1968	13.04A	New	1956
	Am.	1970		Am.	1966
8.38	New	1952		Rep.	1968
	Am.	1964	13.04b	Added	1968
8.39	New	1952		Rep.	1968
8.40	New	1952	13.05	New	1952
	Am.	1970		Rep.	1964
8.41	New	1952	13.06	New	1952
	Am.	1964		Am.	1968
	Am.	1968	13.07	New	1952
	Rep.	1968	13.07a	New	1964
8.42	New	1952		Am.	1968
	Am.	1964	13.08	New	1952
8.43	New	1952		Am.	1956
	Am.	1968		Am.	1960
8.44	New	1952		Am.	1964
	Rep.	1964		Am.	1968
8.45	New	1952	13.08a	New	1958
8.46	New	1952		Am.	1964
9.01				Am.	1970
to			13.08a-1	Added	1968
9.19	New	1952	13.08b	New	1964
9.20	New	1952		Am.	1968
	Am.	1964	13.08c	New	1964
	Am.	1966		Rep.	1968
9.21			13.09	New	1952
to				Am.	1958
9.28	New	1952		Am.	1964
9.29	New	1952		Am.	1968
9.30			13.10	New	1952
to				Rep.	1964
9.38	New	1952	13.11	New	1952
9.38a	Added	1968	13.11a	New	1964
Subd. 10(a)	Am.	1970	13.12	New	1952
10.01				Am.	1960
to				Am.	1964
10.03	New	1952	(2)	Am.	1968
11.01	New	1952		Am.	1970
11.01a	New	1964	(2a)	Added	1968
	Am.	1968		Am.	1970
11.02	New	1952	(2b)-(2d)	Added	1970
	Am.	1964	(3)	Am.	1968

ARTICLES AFFECTED FROM 1949 TO 1969

Elec. Code Art.	Effect	Vernon's Texas St.Supp.	Elec. Code Art.	Effect	Vernon's Texas St.Supp.
13.12a	New	1964	13.35	New	1952
(1)	Am.	1968		Am.	1960
(2) (iii)	Am.	1968	13.36	New	1952
(8)	Added	1968		Am.	1960
13.13	New	1952		Rep.	1964
	Am.	1964	13.37	New	1952
13.14	New	1952	13.38	New	1952
	Am.	1960		Am.	1964
13.15	New	1952	13.39	New	1952
	Am.	1956		Am.	1968
	Am.	1964	13.40	New	1952
	Am.	1970		Rep.	1968
(b)	Am.	1961	13.41	New	1952
13.16	New	1952		Am.	1968
	Am.	1970	13.42	New	1952
13.17	New	1952	13.43	New	1952
	Am.	1960	13.43a	New	1958
	Am.	1968		Am.	1964
13.18	New	1952	13.44	New	1952
	Am.	1964	13.45	New	1952
	Am.	1970		Am.	1960
13.18a	New	1964		Am.	1964
	Am.	1968		Am.	1968
13.18b	Added	1966		Am.	1968
	Am.	1968	Subd. 2	Am.	1970
13.19	New	1952	13.45a	Added	1968
13.20	New	1952	13.46	New	1952
13.21	New	1952		Am.	1960
	Am.	1964		Am.	1964
13.22	New	1952	13.47	New	1952
13.23	New	1952		Am.	1960
	Am.	1964		Am.	1964
	Am.	1968		Am.	1968
13.24	New	1952	13.47a	New	1961
	Am.	1960	§ 4	Am.	1968
	Am.	1964	13.48	New	1952
	Am.	1968		Am.	1964
13.25	New	1952	13.49	New	1952
	Am.	1964	13.50	New	1952
13.26	New	1952		Am.	1964
13.26a	Added	1964	13.51	New	1952
	Am.	1968		Am.	1964
13.27	New	1952	13.52	New	1952
	Am.	1960		Am.	1964
	Am.	1964	13.53	New	1952
	Am.	1968		Am.	1964
13.28	New	1952	13.54	New	1952
	Rep.	1964	13.55	New	1952
13.29	New	1952	13.56	New	1952
13.30	New	1952		Am.	1964
(3)	Am.	1968		Am.	1968
13.31	New	1952		Am.	1968
13.32	New	1952	(b)	Am.	1968
13.33	New	1952	(c)	Am.	1968
	Am.	1964	(e)	Am.	1968
13.34	New	1952	13.57	New	1952
	Am.	1964		Am.	1970
	Am.	1958	13.58	New	1952
	Am.	1960		Am.	1960
	Am.	1964		Am.	1968
	Am.	1968	13.59	New	1952
Subsec. (c)	Am.	1970	14.01	New	1952
13.34a	Added	1964		Am.	1964

VERNON'S TEXAS STATUTES

Elec. Code Art.	Effect	Vernon's Texas St.Supp.	Code Elec. Art.	Effect	Texas Vernon's St.Supp.
14.02			14.08		
to			(g)	Reenacted	1968
14.06	New	1952	(h)	Am.	1968
	Reenacted	1968	(k)	Added	1968
14.07	New	1952	14.09	New	1952
	Am.	1964	14.10	New	1952
14.08	New	1952		Am.	1964
	Am.	1956	(b)	Am.	1968
(b)	Am.	1968	14.11	New	1952
Par. (f)	Am.	1964	14.12	New	1952
(f)	Am.	1970			

Family Code

(Pages 1675 to 1701)

The Family Code, Title I, was adopted by Acts 1969, 61st Leg., ch. 888, effective January 1, 1970.

Insurance Code

(Pages 678 to 704)

Ins. Code Art.	Effect	Vernon's Texas St.Supp.	Ins. Code Art.	Effect	Vernon's Texas St.Supp.
1.01	New	1952	1.11		
1.02	New	1952	to		
	Am.	1956	1.13	New	1952
	Am.	1958	1.14	New	1952
1.03	New	1952		Am.	1956
	Am.	1956	§ 1	Am.	1960
	Am.	1958	1.14—1	Added	1968
1.04	New	1952	§ 12A	Added	1970
	Am.	1956	1.14—2	Added	1968
	Am.	1958	§ 2(a)	Am.	1970
(e)	Rep.	1961	1.15	New	1952
1.04 note	Am.	1961		Am.	1956
1.05	New	1952		Am.	1968
	Am.	1958	1.16	New	1962
(b)	Am.	1961		Am.	1956
1.06	New	1952	1.17	New	1952
	Am.	1958		Am.	1956
1.07	New	1952	1.18	New	1952
	Am.	1958		Am.	1956
1.08	New	1952	1.19	New	1952
	Am.	1956		Am.	1956
	Am.	1958	1.20		
1.09	New	1952	to		
	Am.	1958	1.25	New	1952
1.09—1	New	1958	1.26	New	1964
1.09—2	New	1958		Am.	1968
1.09—3	New	1958	2.01	New	1952
	Am.	1961		Am.	1956
1.10	New	1952	2.02	New	1952
(4)	Am.	1960		Am.	1956
(5)	Am.	1956	2.03	New	1952
(17)	New	1960		Am.	1956
§ 17(c), (d), (e)	Added	1968	2.03—1	New	1956
			2.04	New	1952
				Am.	1956

ARTICLES AFFECTED FROM 1949 TO 1969

Ins. Code Art.	Effect	Vernon's Texas St.Supp.	Ins. Code Art.	Effect	Vernon's Texas St.Supp.
2.05	New	1952	3.12	New	1952
	Am.	1956		Am.	1958
2.06	New	1952	3.13	New	1952
2.07	New	1952	3.14	New	1952
§ 1	Am.	1958	3.15	New	1952
	Am.	1961		Am.	1958
§ 5	Am.	1961		Am.	1968
§ 6	Am.	1956	3.16	New	1952
§ 7	Added	1968		Am.	1958
2.08	New	1952		Am.	1961
	Am.	1956	3.17	New	1952
	Am.	1960		Am.	1961
	Am.	1961	3.18	New	1952
2.09	New	1952		Am.	1961
2.10	New	1952	3.19	New	1952
	Am.	1956		Rep.	1961
	Am.	1961	3.20	New	1952
(3)	Am.	1960	3.21	New	1952
2.11	New	1952	3.22	New	1952
	Am.	1961		Am.	1956
	Am.	1966	3.23		
2.12	New	1952	to		
2.13	New	1952	3.27	New	1952
2.14	New	1952	3.28	New	1952
	Am.	1960		Am.	1960
2.15				Am.	1964
to			3.29	New	1952
2.17	New	1952	3.30	New	1952
2.18	New	1952		Am.	1956
	Am.	1956		Rep.	1964
2.19	New	1952	3.31	New	1952
2.20	New	1952	3.32	New	1952
	New	1956		Am.	1956
2.21	New	1952	3.33	New	1952
	New	1956		Rep.	1964
3.01	New	1952	3.34	New	1952
	Am.	1961		Am.	1954
§ 10	Am.	1964		Am.	1960
3.02	New	1952		Am.	1961
	Am.	1956	(as amended by		
3.02a	New	1956	ch. 168, § 1)	Rep.	1961
	Am.	1961	3.35	New	1952
3.03	New	1952		Rep.	1964
	Rep.	1956	3.36	New	1952
3.04	New	1952	3.37	New	1952
	Am.	1956		Rep.	1964
	Am.	1958	3.38	New	1952
	Am.	1966	3.39	New	1952
§ 1(3)	Am.	1960		Am.	1961
3.05	New	1952	(1)	Am.	1960
	Am.	1968	(2)	Am.	1960
3.06	New	1952	(6)	Am.	1960
	Am.	1956	(9)	Am.	1956
3.07			(10)	New	1960
to			Part I,		
3.09	New	1952	Par. A.4	Am.	1966
3.10	New	1952	Part I,		
	Am.	1961	Par. A.5	Am.	1966
3.11	New	1952	Part I,		
	Am.	1956	Par. A.6	Am.	1966
	Am.	1964	Part I,		
			Par. A.7	Am.	1966

VERNON'S TEXAS STATUTES

Ins. Code Art.	Effect	Vernon's Texas St.Supp.	Ins. Code Art.	Effect	Vernon's Texas St.Supp.
3.39			3.50,		
Part I,			§ 1(6) (d)	Am.	1968
Par. A.8	Am.	1966	§ 1(8)	Added	1970
Part I,			§ 2	Am.	1970
Par. A.10	Am.	1966	§ 3	Am.	1964
Part I,			§§ 4, 5	Rep.	1964
Par. A.11	Am.	1966	3.50-1	Added	1966
Part I,			3.51	New	1952
Par. A.15	Am.	1966	§ 1	Am.	1961
Par. 15A	Am.	1968	§ 1(a)	Am.	1968
	Am.	1970		Am.	1970
Part I, Par. C. 3	Am.	1964	§ 1(b)	Am.	1968
	Am.	1966	3.51-1	New	1964
Part I, Subd. C. 4	Added	1970	§ 2(c)	Am.	1964
Part II, Par. A. 8	Am.	1964	§ 2(e-g)	Am.	1964
Part II,			3.51-2	Added	1968
Par. B.1	Am.	1966	3.51-3	New	1968
Part III	Added	1966	3.52	New	1952
3.39a	New	1961	3.53	New	1952
				Am.	1964
3.40	New	1952	3.54		
	Am.	1956	to		
	Am.	1960	3.59	New	1952
	Am.	1961	3.60	New	1952
	Am.	1970		Am.	1956
(5)	Am.	1961	3.61	New	1952
3.40-1	New	1968	3.62	New	1952
3.41	New	1952	3.62-1	New	1958
3.42	New	1952		Am.	1961
	Am.	1958	3.63		
3.43	New	1965	to		
	Rep.	1958	3.68	New	1952
3.44	New	1965	3.69	New	1956
§ 3	Am.	1964	3.70-1	New	1956
§ 7	Am.	1960	3.70-2	New	1956
	Am.	1964	(A)	Am.	1966
§ 8	Am.	1964	(B)	Added	1968
§ 12	Am.	1964	3.70-3		
3.44a	New	1964	to		
3.45	New	1952	3.70-7	New	1956
3.46	New	1952	3.70-3		
	Am.	1964	Subsec. (A) (2)	Am.	1970
3.47			3.70-8	New	1956
to				Am.	1968
3.49	New	1952	3.70-9	New	1956
3.49-1	New	1954	3.70-10	New	1956
3.49-2	New	1960	3.71	New	1964
3.49-3	New	1968	§ 1	Am.	1966
3.50	New	1952	3.72	Added	1968
	Am.	1958	4.01	New	1952
§ 1	Am.	1966		Am.	1958
§ 1(1) (d)	Am.	1956		Am.	1970
	Am.	1960	4.02		
	Am.	1968	to		
§ 1(3)	Am.	1954	4.06	New	1952
	Am.	1956	4.07	New	1952
	Am.	1961		Am.	1966
	Am.	1970	4.08	New	1964
§ 1(3) (b)	Am.	1968	4.09	Added	1966
§ 1(4)	Am.	1956	5.01	New	1952
	Am.	1960		Am.	1954
§ 1(5) (d)	Am.	1968	5.02	New	1952
§ 1(5.6)	New	1961	5.03	New	1952

ARTICLES AFFECTED FROM 1949 TO 1969

Ins. Code Art.	Effect	Vernon's Texas St.Supp.	Ins. Code Art.	Effect	Vernon's Texas St.Supp.
5.04	New	1952	6.05	New	1952
	Am.	1954		Am.	1956
5.05	New	1952	6.06	New	1952
	Am.	1954		Am.	1956
5.06	New	1952	6.07	New	1952
5.06—1	Added	1968		Am.	1956
5.06—2	Added	1970	6.08	New	1952
5.07	New	1952		Am.	1956
5.08	New	1952		Am.	1961
5.09	New	1952	6.09	New	1952
	Am.	1954		Rep.	1964
5.10	New	1952	6.10	New	1952
5.11	New	1952		Rep.	1964
	Am.	1954	6.11	New	1952
5.12	New	1952	6.12	New	1952
5.13	New	1952		Am.	1966
	Am.	1956	§ 6	Am.	1960
5.14			6.13		
to			to		
5.25	New	1952	6.16	New	1952
5.25—2	Added	1968	§ 3	Am.	1968
5.26	New	1952	7.01	New	1952
	Am.	1956		Rep.	1958
5.27				Added	1960
to			7.02	New	1952
5.49	New	1952		Rep.	1958
5.50	New	1952	7.03	New	1952
	Am.	1956		Rep.	1958
5.51			7.04	New	1952
to				Rep.	1958
5.53	New	1952	7.05	New	1952
5.54	New	1952		Rep.	1958
	Am.	1956	7.06	New	1952
5.55	New	1965		Rep.	1958
	Am.	1954	7.07	New	1952
5.56	New	1952		Rep.	1958
5.57	New	1952	7.08	New	1952
5.58	New	1952		Rep.	1958
	Am.	1954	7.09	New	1952
5.59	New	1952		Rep.	1958
5.60	New	1952	7.10	New	1952
	Am.	1954		Rep.	1958
5.61			7.11	New	1952
to				Rep.	1958
5.64	New	1952	7.12	New	1952
5.65	New	1952		Rep.	1958
	Am.	1954	7.13	New	1952
5.66				Rep.	1958
to			7.14	New	1952
5.75	New	1952		Rep.	1958
5.76	New	1954	7.15	New	1952
	New	1956		Rep.	1958
5.77			7.16	New	1952
to				Rep.	1958
5.79	New	1954	7.17	New	1952
6.01	New	1952		Rep.	1958
	Am.	1960	7.18	New	1952
6.02	New	1952		Rep.	1958
	Am.	1960	7.19—1	New	1960
6.03	New	1952	7.20—1	New	1970
6.04	New	1952	8.01		
	Am.	1956	to		
			8.04	New	1952

VERNON'S TEXAS STATUTES

Ins. Code Art.	Effect	Vernon's Texas St.Supp.	Ins. Code Art.	Effect	Vernon's Texas St.Supp.
8.05	New	1952	10.05	New	1952
	Am.	1956		Am.	1960
8.06	New	1952	10.06	New	1952
8.07	New	1952	10.07	New	1952
	Am.	1966	10.08	New	1952
8.08	New	1952		Am.	1956
8.09	New	1952	10.09		
8.10	New	1952	to		
	Am.	1956	10.17	New	1952
8.11			10.18	New	1952
to				Am.	1960
8.13	New	1952	10.19	New	1952
8.14	New	1952		Am.	1966
	Am.	1960	10.20		
8.15			to		
to			10.39	New	1952
8.17	New	1952	10.40	New	1952
8.18	New	1952	§ 3	Am.	1956
	Am.	1956	11.01	New	1952
	Am.	1961		Am.	1956
8.19	New	1952	11.02	New	1952
	Am.	1961		Am.	1954
8.20				Am.	1956
to			11.03	New	1952
8.24	New	1952	11.04	New	1952
Subsec. (j)	Added	1970		Am.	1966
9.01			11.05	New	1952
to			11.06	New	1952
9.47	New	1968	11.07	New	1952
9.01	New	1952	11.08	New	1952
	Am.	1956	11.09	New	1952
9.01a	New	1958		Am.	1960
9.01-1	New	1961		Rep.	1964
9.02	New	1952	11.10	New	1952
	Am.	1956		Am.	1954
9.03	New	1952		Am.	1956
	Am.	1956	11.11	New	1952
9.04	New	1952		Am.	1956
9.05	New	1952	11.12	New	1952
9.06	New	1952		Am.	1954
	Am.	1956		Am.	1956
9.07	New	1952	11.13		
	Am.	1956	to		
9.08	New	1952	11.16	New	1952
9.09	New	1952	11.17	New	1952
	Am.	1958		Am.	1954
9.10	New	1952		Am.	1956
9.11	New	1952	11.18	New	1952
	Am.	1956	11.19	New	1952
	Am.	1960		Am.	1956
9.12				Am.	1964
to				Am.	1968
9.24	New	1952	11.20	Added	1968
9.25	New	1952	11.21	Added	1968
	Am.	1956	12.01	New	1952
	Am.	1964	12.02	New	1952
9.26	New	1952	12.03	New	1952
9.27	New	1952		Am.	1968
10.01			12.04		
to			to		
10.04	New	1952	12.18	New	1952

ARTICLES AFFECTED FROM 1949 TO 1969

Ins. Code Art.	Effect	Vernon's Texas St.Supp.	Ins. Code Art.	Effect	Vernon's Texas St.Supp.
13.01			16.11	New	1952
to				Am.	1954
13.09	New	1952	16.12		
to			to		
14.14	New	1952	16.28	New	1952
14.14a	New	1964	17.01	New	1952
14.15	New	1952	17.02	New	1952
	Am.	1966		Am.	1956
14.16	New	1952	17.03	New	1952
14.17	New	1952		Am.	1956
	Am.	1960	17.04	New	1952
14.18			17.05	New	1952
to				Am.	1954
14.22	New	1952	17.06	New	1952
14.23	New	1952		Am.	1954
	Am.	1961		Am.	1956
	Am.	1966	17.07	New	1952
14.24	New	1952	17.08	New	1952
14.25	New	1952	17.09	New	1952
	Am.	1966		Am.	1956
14.26			17.10	New	1952
to			17.11	New	1952
14.32	New	1952		Am.	1954
14.33	New	1952		Am.	1956
	Am.	1966	17.12		
14.34			to		
to			17.15	New	1952
14.61	New	1952	17.16	New	1952
§ 1(c)	Am.	1956		Am.	1954
14.62	New	1952		Am.	1956
14.63	New	1956	17.17	New	1952
15.01				Am.	1954
to			17.18		
15.03	New	1952	to		
15.04	New	1952	17.21	New	1952
	Am.	1956	17.22	New	1952
15.05	New	1952		Am.	1956
15.06	New	1952		Am.	1968
	Am.	1956	17.23	New	1952
15.07	New	1952	17.24	New	1952
15.08	New	1952	17.25	New	1952
	Am.	1956	§ 1	Am.	1956
15.09	New	1952	§ 4	Am.	1954
15.10	New	1952	§ 5	Am.	1956
15.11	New	1952	§ 7	Am.	1954
	Am.	1956		Rep.	1956
15.12			§ 9	Am.	1954
to				Am.	1956
15.20	New	1952	§ 20	Am.	1956
16.01	New	1952	§ 22	New	1954
§ 2	Am.	1956		Rep.	1956
16.02			18.01		
to			to		
16.05	New	1952	18.03	New	1952
16.06	New	1952	18.04	New	1952
	Am.	1954		Am.	1956
	Am.	1956	18.05	New	1952
16.07	New	1952		Am.	1956
	Am.	1954	18.06	New	1952
16.08			18.07	New	1952
to				Am.	1956
16.10	New	1952			

VERNON'S TEXAS STATUTES

Ins. Code Art.	Effect	Vernon's Texas St.Supp.	Ins. Code Art.	Effect	Vernon's Texas St.Supp.
18.08	New	1952	21.07-1	New	1956
18.09	New	1952	§ 1(b)	Am.	1970
	Am.	1956	§ 8	Am.	1960
18.10	New	1952	§ 9	Am.	1960
18.11	New	1952	§ 9(e)	Am.	1968
	Am.	1956	§ 10(b) (4)	Added	1970
18.12			21.07-2	New	1956
to			§ 4a	Added	1970
18.22	New	1952	§ 5	Am.	1970
18.23	New	1952	21.07-3, §§ 1-21	New	1968
	Am.	1956	21.08	New	1952
18.24	New	1952	21.09	New	1952
19.01	New	1952		Am.	1964
19.02	New	1952	21.10	New	1952
	Am.	1960	21.11	New	1952
19.03	New	1952		Am.	1956
	Am.	1956	21.12	New	1952
19.04	New	1952	21.13	New	1952
19.05	New	1952	21.14	New	1952
19.06	New	1952	§ 3	Am.	1970
	Am.	1956	§ 3a	New	1964
19.07			§ 4	Am.	1970
to			§ 5	Am.	1970
19.09	New	1952	§ 8	Am.	1960
19.10	New	1952	§ 12	Am.	1960
	Am.	1956	§ 24	Am.	1970
	Am.	1960	21.15		
19.11	New	1952	to		
	Am.	1956	21.20	New	1952
19.12	New	1952	21.21	New	1952
	Am.	1956		Am.	1958
20.01			§ 13	Added	1970
to			21.21-1	New	1961
20.09	New	1952	21.22		
20.10	New	1952	to		
	Am.	1960	21.24	New	1952
20.11	New	1952	21.25	New	1952
20.12	New	1952		Am.	1961
	Am.	1960	21.26	New	1952
20.13				Am.	1960
to				Am.	1961
20.15	New	1952	21.27	New	1952
20.16	New	1952	21.28	New	1952
	Am.	1960		Am.	1956
20.17	New	1952	§ 8A	New	1964
20.18	New	1952	§§ 8(e)-8(h)	Am.	1961
20.19	New	1952	§ 12A	Added	1966
	Am.	1960	21.28-A, §§ 1-12	Added	1968
20.20	New	1952	21.28B	Added	1968
20.21	New	1952	21.29		
21.01			to		
to			21.31	New	1952
21.06	New	1952	21.32	New	1952
21.07	New	1952		Am.	1960
§ 2	Am.	1960	21.33		
§ 3	Am.	1960	to		
§ 6	Am.	1956	21.37	New	1952
§ 7	Am.	1960	21.38	New	1952
	Am.	1970		Rep.	1968
			§ 2	Am.	1958
			§§ 5-7	Am.	1958

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Ins. Code Art.	Effect	Vernon's Texas St.Supp.	Ins. Code Art.	Effect	Vernon's Texas St.Supp.
21.39	New	1952	22.01		
	Am.	1956	to		
21.40			22.05	New	1961
to				Am.	1968
21.42	New	1952	22.06		
21.43	New	1952	to		
	Am.	1960	22.14	New	1961
	Am.	1964	22.13		
21.44	New	1956	§ 1	Am.	1970
21.45	New	1956	§ 2	Am.	1970
21.46	New	1958	22.15	New	1961
21.47	New	1958	§ 9	Am.	1966
	Am.	1961	22.16	New	1961
21.48	New	1958	22.17	New	1961
	Rep.	1961	22.18	New	1961
	Added	1966	§ 1	Am.	1968
21.48A	Added	1966	22.19	New	1961
§ 2	Am.	1970	22.20	New	1961
§ 3	Am.	1970	22.21	New	1961
			22.22	Added	1966

Texas Non-Profit Corporation Act

Formerly §§ 1.01 to 11.01. Now Civil Statutes 1396—1.01 to 1396—1101.

Penal Code (Pages 1191 to 1284)

P.C. Art.	Effect	Vernon's Texas St.Supp.	P.C. Art.	Effect	Vernon's Texas St.Supp.
30	Am.	1968	213		
34	Am.	1958	Par. (d)	Am.	1964
36	Am.	1970	214	Rep.	1964
82	Rep.	1968	217	Am.	1964
97	Rep.	1970	224	Rep.	1964
101a	Rep.	1952	225	Am.	1964
105	Am.	1956	240	Am.	1964
107a, 107b	Rep.	1966		Am.	1968
131c—1,			244	Am.	1964
§ 26a	New	1950	250	Am.	1964
140	Rep.	1966	251	Rep.	1964
147a to 147d	Rep.	1970	252	Rep.	1960
147b—1	New	1964	259	Am.	1964
147b—1	Rep.	1970		Am.	1968
147b—2	New	1964	262—269	Rep.	1960
147b—2	Rep.	1970	270		
150, 151	Rep.	1968	to		
157a	New	1956	280	Rep.	1968
	Rep.	1968	285	Am.	1964
158	Am.	1958	286a	New	1961
159	Am.	1958		Am.	1964
160—a	New	1950	§ 4a	Rep.	1968
160—b	New	1950	288	Rep.	1970
179—183	Rep.	1958	289		
183—1	New	1958	to		
183—2	New	1958	292	Rep.	1970
200a	New	1964	292a	New	1970
200a—2	Rep.	1964	293		
211	Rep.	1964	to		
212	Am.	1964	293b	Rep.	1970

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P.C. Art.	Effect	Vernon's Texas St.Supp.	P.C. Art.	Effect	Vernon's Texas St.Supp.
294	Rep.	1970	527a	Am.	1956
294a	Rep.	1970		Rep.	1968
295	Rep.	1970	527b	Am.	1956
295a	New	1970		Rep.	1970
295b	New	1970	532, 533	Rep.	1966
296	Am.	1954	534	Am.	1950
	Rep.	1970	534a	New	1950
297	Am.	1964		Am.	1954
	Am.	1966	534b	New	1970
298	Rep.	1970	535b	New	1950
299	Rep.	1970	§ 2	Am.	1956
300	Rep.	1970	535c	New	1950
301	Rep.	1970	§ 2	Am.	1956
301b,			535d	New	1950
301c	Rep.	1970	§ 3	Am.	1956
301d	Am.	1950	567b	Am.	1952
	Rep.	1970		Am.	1964
302	Am.	1961	§ 1a	New	1958
306	Am.	1961	§ 2	Am.	1966
341	Am.	1970	§ 4(a)	Am.	1966
353b	New	1950	570b	Added	1970
	Am.	1966	576b		
353c	New	1958	§ 1a	Added	1970
353d	New	1966	590a	Rep.	1952
404	Rep.	1970	599	Rep.	1964
405	Added	1966	600	Rep.	1964
	Rep.	1968	602	Am.	1960
406	Rep.	1970	602—A	New	1960
424	Rep.	1970	614	Am.	1960
427a	Rep.	1958		Am.	1966
430a	Rep.	1950	614—2	Am.	1961
432	Am.	1950	614—11	Am.	1970
	Am.	1952	630	Am.	1966
438c	Am.	1952	642a	New	1952
438d	New	1952	642b	New	1952
466a, §§ 1, 2	New	1968	642c	New	1952
472a	New	1970	653	Rep.	1964
474	Am.	1950	666—3a	Am.	1950
	Am.	1970	(7)	Am.	1960
476	Am.	1966	666—4		
480	Am.	1952	subsec. b-1	Added	1970
480a	Am.	1966	par. (c) (1)	Am.	1970
	Am.	1970	666—5b	Added	1970
482a	New	1970	666—7d	Added	1970
483	Am.	1952	666—8	Am.	1958
	Am.	1958	666—11	Am.	1950
489	Am.	1961	666—12	Am.	1950
489c	New	1950		Am.	1968
	Am.	1970	666—12a		
§ 1	Am.	1958	subsec. (5)	Am.	1970
489d	New	1970	666—12b	Added	1970
492	Rep.	1970	666—13	Am.	1950
493	Rep.	1970	666—15	Am.	1950
495	Am.	1970		Am.	1952
496, 497	Rep.	1970	(1)	Am.	1968
513	Am.	1970	(1a)	Am.	1961
514	Am.	1970	(7)	Am.	1961
519	Am.	1960	(7a)	New	1961
526	Rep.	1970	(7b)	New	1964
527	Am.	1956	(13)	Am.	1958
	Am.	1958	(17)	Am.	1956
	Am.	1961	(21)	Added	1970
	Am.	1970			

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P.C. Art.	Effect	Vernon's Texas St.Supp.	P.C. Art.	Effect	Vernon's Texas St.Supp.
666-15a1	Am.	1950	666-39	Am.	1954
666-15(e)	New	1961	666-40	Am.	1954
subsec. 1(c)	Am.	1970	666-41a	Am.	1950
subsec. 6a	Added	1970	666-41b	Added	1970
subsec. 6b	Added	1970	666-42	Am.	1950
subsec. 7	Am.	1970		Am.	1970
subsec. 7a	Am.	1970	666-44	Rep.	1950
subsec. 12	Am.	1970	666-45		
subsec. 13	Added	1970	(d)	Am.	1960
666-15(f)	Added	1970	666-49a	New	1950
666-16	Am.	1970	666-50	New	1950
666-17	Am.	1950	666-51a	New	1950
(1)	Am.	1952	666-52	New	1950
	Am.	1954		Am.	1954
(2)	Am.	1952	666-53		
(3) (g)	New	1956	to		
(5)	Am.	1970	666-56	New	1950
(6)	Rep.	1970	666-57	New	1961
(14) (a)	Am.	1956		Am.	1968
	Am.	1970	667-2a	New	1958
(14) (b)	Added	1966		Am.	1970
	Am.	1970	667-3	Am.	1950
(14) (c)	Added	1966	(a)	Am.	1960
	Am.	1970	(a-1)	Am.	1961
14(d)-(f)	Added	1970		Am.	1970
(15)	Am.	1952	(b)	Am.	1960
(22)	Am.	1954	(c)	Am.	1960
666-17b	Added	1970	(e-1)	Added	1970
666-18	Am.	1968	(e-2)	Added	1970
	Am.	1970	(k)	New	1961
666-21	Am.	1952	667-5	Am.	1950
	Am.	1960		Am.	1954
666-21a	Am.	1950	(1)	Am.	1961
	Am.	1952	667-5A	Rep.	1950
666-21 $\frac{1}{8}$	Added	1970		New	1961
666-21 $\frac{1}{4}$	New	1956	667-5B	New	1961
666-21 $\frac{1}{3}$	New	1952	667-5C	Added	1970
666-21 $\frac{1}{2}$	New	1950	667-5D	Added	1970
666-23a			667-5E	Added	1970
(4)	Am.	1958	667-5F	Added	1970
666-25	Am.	1968	667-6	Am.	1958
	Am.	1970	667-7	Am.	1954
666-25b	New	1956	667-9	Am.	1954
	Rep.	1970	667-10	Am.	1970
666-26	Am.	1970	667-10, (b)	Rep.	1968
666-27 $\frac{1}{2}$	New	1952	667-10 $\frac{1}{2}$	Am.	1958
666-30	Am.	1950	667-13	Rep.	1970
	Am.	1970	667-17	Am.	1950
666-31	Am.	1970	667-19	Am.	1950
666-32	Am.	1954		Am.	1954
	Am.	1956	(11)	Rep.	1970
	Am.	1964	667-19		
	Am.	1968	(14)	Rep.	1970
666-32 $\frac{1}{2}$	Added	1968	(23)	Rep.	1968
666-33	Am.	1954	667-19B	Am.	1950
	Am.	1968		Am.	1954
666-35	Am.	1968	667-19C	New	1952
666-36	Am.	1954	667-19D	New	1954
666-36 $\frac{1}{2}$	New	1950	667-19E	Added	1970
	Rep.	1968	667-20	Am.	1950
666-37	Am.	1954	667-22	Am.	1970
	Am.	1964			
	Am.	1968			

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P.C. Art.	Effect	Vernon's Texas St.Supp.	P.C. Art.	Effect	Vernon's Texas St.Supp.
667-23	Am.	1950	726c	New	1952
	Am.	1952		Rep.	1960
	Am.	1956	§ 2(g)	Am.	1956
667-23 ¹ / ₈	New	1960	§ 3(2) (b)	Am.	1956
667-23 ¹ / ₄	New	1950	§ 3(2) (d)	Rep.	1956
	Am.	1954	§ 6	Am.	1956
667-23 ¹ / ₂	Am.	1954	§ 13	Am.	1956
667-23a	New	1950	726d	New	1960
667-24a	Am.	1950	§ 2	Am.	1970
subsec. 2	Am.	1970	§ 2(a)	Am.	1966
667-24 ¹ / ₄	New	1952		Am.	1968
667-25	Am.	1954	§ 3	Am.	1970
667-28	New	1950	§ 3(d)	Am.	1968
	Am.	1961	§ 6	Am.	1970
667-29			§ 14	Am.	1970
to			§ 15	Am.	1968
667-31	New	1950		Am.	1970
667-32	New	1954	§ 15A	Added	1970
667-33	Added	1968	728	Am.	1968
696a			734a,		
§ 1(a, b)	Am.	1958	§§ 3-5	Am.	1968
§ 2	Am.	1964	§ 9	Am.	1961
698b	Rep.	1961	§ 14	Am.	1968
698c	Added	1970	§ 20	Am.	1952
698d	Added	1970		Am.	1961
700b			§ 20a	New	1952
§ 2	Am.	1952	§ 21	Am.	1968
701b	Rep.	1954	§ 22	Am.	1968
705b-1	Am.	1952	§ 22-A	Am.	1958
705c	Rep.	1956		Rep.	1968
§ 3a	Added	1952	§ 24	Am.	1968
705d	New	1956	§ 26	Am.	1952
706-708	Rep.	1961	§ 27	Am.	1961
709	Am.	1952	§ 27a	Added	1968
	Rep.	1961	734b	Am.	1954
712	Am.	1956	§ 4	Am.	1970
717	Rep.	1961	§ 4(a)	Am.	1966
719a, § 4(b)	Am.	1968	§ 13(f)	Added	1966
719e	New	1950	§ 19	Am.	1964
725b	Am.	1956	735	Am.	1952
	Am.	1964	735		
§ 1	Am.	1954	to		
§ 4	Rep.	1954	738a	Rep.	1970
§ 5	Am.	1954	740	Am.	1950
§ 9	Am.	1954	741	Am.	1950
§ 18a	New	1954		Am.	1954
§ 23	Am.	1954	742-a to 742-c	New	1950
	Am.	1970	743	Am.	1954
§ 23(1)	Am.	1961	744-a	New	1950
§ 23(2)	Am.	1958	744-b	New	1950
§ 24a	Rep.	1954	747	Am.	1954
725c	New	1954	751a	New	1961
§ 1	Am.	1961	752c,		
§§ 3, 4	Am.	1956	§ 4	Am.	1950
725d	New	1956		Am.	1952
726	Rep.	1958	753	Am.	1952
726-1	New	1958		Am.	1954
726-2	New	1958		Am.	1958
726b	New	1950		Am.	1970
	Rep.	1960	(8)	New	1961
§ 2	Am.	1956	754	Am.	1954

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P.C. Art.	Effect	Vernon's Texas St.Supp.	P.C. Art.	Effect	Vernon's Texas St.Supp.
754a	Am.	1952	827b,		
(2)	Am.	1954	§ 2A	New	1950
(5)	New	1956		Am.	1954
(6)	New	1960		Am.	1958
(7)	New	1960		Am.	1966
754b	New	1950	§ 3	Am.	1958
	Am.	1952	827c-1	New	1964
754c	New	1960	827e-1	New	1958
759-762a	Rep.	1954	§ 2	Rep.	1970
776	Rep.	1968	§ 3	Rep.	1970
777	Rep.	1968	827g	New	1964
778	Am.	1952	828		
778a	Am.	1952	to		
779	Am.	1952	830	Rep.	1966
782b	New	1960	834	Rep.	1960
782c	New	1964	835, 835a	Rep.	1966
782d	New	1964	861b	New	1958
799a	New	1966	872	Am.	1961
802	Am.	1954	872f	New	1950
802a-1	New	1956	874	Am.	1970
802b	Am.	1952	875	Am.	1968
802d	New	1952		Rep.	1970
802e	New	1958	879f-6	New	1952
§ 1a	Added	1968	879g-2a	Am.	1950
802f	New	1970		Am.	1960
821	Am.	1970	879g-4	New	1960
821a	New	1960	879h-1	New	1960
827a,			879h-1 note	Am.	1961
§ 2	Am.	1950	879h-2		
§ 3(a)	Am.	1954	to		
	Am.	1956	879h-5	New	1960
§ 3(c)	Am.	1950	879h-6	New	1966
	Am.	1954	880	Am.	1950
	Am.	1956		Am.	1954
	Am.	1966	§ 1	Am.	1958
	Am.	1970	880a	Am.	1961
§ 5	Am.	1952		New	1958
	Am.	1960		Am.	1961
§ 5c	New	1958	880b	New	1958
§ 5½	New	1952	880c	New	1960
	Am.	1960	881b,		
§ 6	Am.	1952	§ 1	Am.	1961
	Am.	1954	882a	New	1954
§ 7(a)	Rep.	1966	888	Am.	1958
§ 8	Am.	1952		Am.	1968
	Am.	1956	892	Am.	1964
	Am.	1961		Am.	1966
	Rep.	1964		Am.	1968
827a-1	New	1952	893	Am.	1954
	Rep.	1960		Rep.	1968
827a-2	New	1954	895a	New	1950
	Am.	1956	895b	New	1952
827a-3	New	1956	§ 2	Am.	1954
	Am.	1966	895c	New	1958
§ 1	Am.	1968	§ 6	Am.	1961
§ 3	Added	1968	§ 8	Am.	1966
827a-4	New	1960	895d	New	1968
827a-5	New	1964	896	Am.	1964
827a-6			897a	Added	1970
§§ 1-7	New	1964	901	Am.	1961

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P.C. Art.	Effect	Vernon's Texas St.Supp.	P.C. Art.	Effect	Vernon's Texas St.Supp.
908	Am.	1954	978f-3	New	1952
	Am.	1956	978f-3a	New	1964
	Am.	1960	978f-3b	New	1964
(g)	Am.	1964	978f-3c	New	1968
912	Am.	1952	978f-3d		
913	Am.	1970	§ 1	New	1968
923b	Rep.	1958	§ 2	Am.	1970
923f-1	New	1961	§§ 3, 4	New	1968
923ll-1	Am.	1950	978f-4	New	1954
923m	Am.	1958	978f-5	New	1956
§ 1	Am.	1964	§ 8	Am.	1970
§ 4	Am.	1960	978f-5a	New	1968
	Am.	1966	978f-5b	New	1970
923x	New	1961	978f-5c	New	1970
924a	New	1956	978f-6	New	1960
	Am.	1968	978f-7	New	1966
	Am.	1970	978f-8, §§ 1, 2	New	1968
931a, §§ 1-3	New	1968	978h, § 2	Am.	1956
933a	Rep.	1964	978i	Rep.	1968
934a,			978j-1		
§ 3(1)	Am.	1964	§ 1	New	1968
	Am.	1968		Am.	1970
§ 3(2), (2a)	Am.	1968	§ 2	New	1968
§ 3, subs. 5			§ 3	New	1968
(a, b)	Rep.	1960	§ 3 subsec. (c) (d)	Am.	1970
934b-1	Rep.	1950	§§ 4-12	New	1968
934b-2	New	1950	§ 13	New	1968
§ 2	Am.	1964	§ 13 subsec. b	Am.	1970
	Am.	1968	§ 14	New	1968
§ 3	Am.	1964	§ 15	New	1968
934b-3	New	1964		Am.	1970
934b-4, §§ 1-3	New	1968	§§ 17, 18	New	1968
934b-5, §§ 1-3	New	1968	978j-2	New	1970
934c	New	1952	978j-3	New	1970
§ 5	Am.	1960	978k		
937b	New	1966	§ 9	Am.	1964
941b	New	1950	§ 11a	New	1958
	Am.	1961	978k-1	New	1958
941-2	New	1960	978l-2,		
§ 1	Am.	1960	§ 4	Am.	1964
941-3	New	1970		Am.	1968
952na-4	New	1960		Rep.	1968
§ 5	Rep.	1966	§ 6	Rep.	1968
§ 8	Rep.	1966	§ 9	Rep.	1968
952na-5	New	1966	§ 11	Rep.	1968
952na-6	New	1966	§§ 16, 17	Rep.	1960
952l-7	Am.	1950		Rep.	1968
952l-11,			§ 19	Am.	1960
§ 1(3)	Rep.	1960		Rep.	1968
§ 1(5)	Rep.	1960	978l-2		
§ 1c	New	1950	to		
	Am.	1958	978l-4	Rep.	1968
952l-12	New	1964	978l-5	New	1950
§ 1	Am.	1968	§ 4	Am.	1952
	Am.	1970	978l-6	New	1950
§ 2	Am.	1968	978l-7	New	1961
954	Am.	1961		Rep.	1968
955a-2, §§ 1, 2	New	1968	978l-8	New	1964
955a-3, §§ 1, 2	New	1968		Am.	1970
965	Rep.	1966	§ 1	Am.	1968
972	Rep.	1966			
978d-1	New	1964			
978e-1	New	1964			

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P.C. Art.	Effect	Vernon's Texas St.Supp.	P.C. Art.	Effect	Vernon's Texas St.Supp.
978n-1	New	1950	1137n	New	1960
§ 1	Am.	1960	1137o	New	1964
	Am.	1961	1137p	New	1966
	Rep.	1968		Rep.	1968
§ 7	Am.	1960	1137q, §§ 1-5	New	1968
	Rep.	1968	1145	Am.	1966
§ 15	Am.	1968	1146a	New	1950
978n-1	Rep.	1968	1147	Am.	1950
978o	New	1954		Am.	1956
994	Rep.	1970	1148	Am.	1950
995	Reenacted	1970	1152		
1018			to		
to			1155	Rep.	1970
1025	Rep.	1968	1160,		
1034	Am.	1966	§ 1	Am.	1961
1037, § E	Am.	1968	1160a	New	1970
1037, § J	Added	1968	1167a	New	1966
1037, § K	Added	1968	1176a	New	1966
1042b			1260a	New	1950
§ 3	Am.	1954	1318	Am.	1964
§ 4	Am.	1966	1321a	New	1952
1054	Am.	1964	1321b	New	1952
1057b	Am.	1968		Am.	1968
1058	Am.	1964	1325	Am.	1966
1058			1333A	New	1950
to			1334	Am.	1961
1060	Rep.	1968	1334a	New	1961
1063			1341	Am.	1960
to			1344-1346	Rep.	1952
1065	Rep.	1968	1350	Am.	1952
1066a	Rep.	1968	subd. 1	Am.	1958
1083a	Am.	1952	1350a	New	1968
	Rep.*	1956	1351a,		
1106			§ 1-b	New	1954
(b)	Am.	1956	1362	Rep.	1970
(c)	New	1952	1370	Am.	1950
1106a	Am.	1961	1370a	Am.	1960
1111a	Rep.	1960	1377	Am.	1950
1111d	Rep.	1960		Rep.	1960
§ 2	Am.	1952	1377b	New	1960
§ 4	Am.	1952	§ 4	Am.	1964
§ 5	Am.	1952	1378a,		
§ 5½	New	1950	§§ 11-13	Am.	1952
§ 7a	New	1954	1379	Am.	1954
1111m	New	1956		Am.	1961
1112a	Rep.	1954		New	1970
1113			1379a	Am.	1968
to			1389	Am.	1952
1115	Rep.	1968	1398	Am.	1952
1126	Rep.	1968	1402a	New	1956
1129a	Rep.	1964	1402b	New	1964
1130	Rep.	1968	1404b	New	1952
1134-1136	Rep.	1964		Am.	1956
1136a-1 to			1407a, §§ 1-3	New	1968
1136a-9	Rep.	1964	1429	Am.	1964
1137b-1	New	1964	1435a	New	1958
1137e-1	New	1961	1436-1,		
1137l			§ 1	Am.	1960
to			§ 2b	New	1960
1137l-6	Rep.	1968	§ 2c	New	1960
1137l-10, §§ 1-6	New	1968	§§ 7-9	Am.	1952
1137m	New	1956	§ 24	Am.	1966
	Rep.	1960	§ 30(a)	New	1956
			§ 30	Am.	1968

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P.C. Art.	Effect	Vernon's Texas St.Supp.	P.C. Art.	Effect	Vernon's Texas St.Supp.
1436-1,			1546a		
§ 35	Am.	1966	§ 2	Added	1966
§ 49(e)	Am.	1960	1550	Am.	1966
§ 52	Rep.	1968	1551	Am.	1964
§ 57	Am.	1952		Am.	1966
§ 57a	New	1956	1553a	Added	1968
1436-2	New	1961	1554	Rep.	1968
1436b			1554a	New	1960
§ 3	Am.	1964		Rep.	1968
	Am.	1968	1555b	New	1960
§ 3(a)	Am.	1964	§§ 1-4	Am.	1964
	Am.	1968	§ 5	New	1964
§ 3(b)	Am.	1964	1555c	New	1970
1436c	New	1952	1557	Rep.	1968
1436d	New	1954	1558	Rep.	1968
1436e	New	1960	1577	Am.	1964
	Am.	1966	1578a	Am.	1964
1436f	New	1961	1578b	New	1964
1436g, §§ 1-4	New	1968	1583	Rep.	1960
1442c	New	1961	(6)	Rep.	1956
1456a	New	1956	1583-1,		
§ 1	Am.	1961	§ 3a	New	1952
§ [5]	New	1961	§ 6	Am.	1956
1477	Am.	1952		Am.	1960
1489	Am.	1954	§ 6A	New	1960
1492	Am.	1954	§ 6B	New	1960
1493	Am.	1954	§ 7	Am.	1952
1505a	New	1960	1583-2	Am.	1950
1505b	New	1964	§ 1	Am.	1952
1516	Rep.	1968		Am.	1954
1522	Am.	1964	§ 1	Am.	1970
1525a,			§ 1-a	Rep.	1952
§ 22	Am.	1968	1583-3	New	1970
§ 23	Am.	1968	1593a	Rep.	1950
1525b,			1612	Am.	1970
§ 1(a)	New	1964	1621b,		
§ 9	Am.	1961	§ 1	Am.	1968
§ 10	Am.	1961	§ 2	Am.	1968
§ 11	Am.	1961	1632		
§ 13	Am.	1961	to		
§ 22	Am.	1960	1644	Rep.	1968
§ 22a	New	1954	1648a	New	1958
	Am.	1960	§ 1	Am.	1961
	Am.	1966	§§ 3, 4	Am.	1961
§ 22a(7a)	Added	1970	§§ 5, 6	Am.	1961
§ 22b	New	1954	§ 8	Am.	1961
§ 23A	New	1960	1659	Rep.	1968
1525b-1	New	1960	1660	Rep.	1968
1525b-2	New	1960	1661.1	Rep.	1968
1525b-3	New	1961	1674		
1525c			to		
§ 8	Am.	1970	1683	Rep.	1968
§ 21	Am.	1968	1690b,		
1525g	New	1961	(d)	Am.	1956
§ 4	Am.	1968	(j)	Am.	1956
1526-1532	Rep.	1954	(k)	Am.	1956
1538	Am.	1960	1690e	New	1961
1545	Am.	1960	1690f	New	1968
				Am.	1970

ARTICLES AFFECTED FROM 1949 TO 1969

P.C. Art.	Effect	Vernon's Texas St.Supp.	P.C. Art.	Effect	Vernon's Texas St.Supp.
1693	Am.	1954	1722a	New	1960
1700	New	1954		Am.	1966
1700a-3	Am.	1964	§§ 1, 2	Am.	1968
1709			§ 2(7)	Am.	1970
to			§ 2a	Added	1970
1711	Rep.	1961	§ 3	Am.	1968
1712	Am.	1950	§ 4(f)	Am.	1960
	Rep.	1961	§ 15	Am.	1964
1713			§ 15(a)	Am.	1961
to			§ 19(c)	Am.	1970
1715	Rep.	1961	§ 26(c)	Am.	1970
1716	Rep.	1961	§ 28	Am.	1968
(1)	Am.	1952	§ 28	Am.	1970
1717			1723	New	1952
to			1723a	New	1964
1720	Rep.	1961	1724	New	1958
1721	New	1950		Am.	1968
1721A	New	1956	1725	New	1958
1722	New	1952	§ 5, par. D	Am.	1964

Probate Code

(Pages 901 to 914)

Prob. Code Sec.	Effect	Vernon's Texas St.Supp.	Prob. Code Sec.	Effect	Vernon's Texas St.Supp.
1	New	1956	58a	New	1961
2	New	1956	59	New	1956
3	New	1956		Am.	1961
(d)	Am.	1961		Am.	1970
3(e) to (g)	Am.	1970	60	New	1956
3, subd. l	Am.	1970		Am.	1970
(aa)	Am.	1958	61 to 71	New	1956
4 to 6	New	1956	72	New	1956
7	New	1956		Am.	1960
	Am.	1970	73		
8 to 32	New	1956	to		
33	New	1956	77	New	1956
	Am.	1958	78	New	1956
34 to 36	New	1956	(c)	Am.	1958
37	New	1956	78	Am.	1970
	Am.	1970	79		
38 to 40	New	1956	to		
41	New	1956	88	New	1956
subsec. (c)	Am.	1970	subsec. (b)	Am.	1970
42 to 45	New	1956	89	New	1956
46	New	1956		Am.	1961
	Am.	1961	90 to 96	New	1956
	Am.	1970	97	New	1956
47	New	1956		Am.	1970
(b)	Am.	1966	98	New	1956
(e)	Am.	1966		Am.	1970
48 to 51	New	1956	99	New	1956
52	New	1956		Am.	1970
	Am.	1970	100	New	1956
53 to 56	New	1956	101	New	1956
57	New	1956		Am.	1970
	Am.	1968	102, 103	New	1956
58	New	1956			

VERNON'S TEXAS STATUTES

Prob. Code Sec.	Effect	Vernon's Texas St.Supp.	Prob. Code Sec.	Effect	Vernon's Texas St.Supp.
104	New	1956	201	New	1956
	Am.	1970		Am.	1958
105	New	1956	202	New	1956
	Am.	1970		Am.	1958
105a	Added	1961	203		
106	New	1956	to		
107	New	1956	218	New	1956
	Am.	1970	219	New	1956
108	New	1956		Rep.	1958
109	New	1956	220	New	1956
(a)	Am.	1966		Am.	1970
110			221	New	1956
to			222	New	1956
123	New	1956		Am.	1970
124	New	1956	223	New	1956
	Am.	1958		Am.	1970
125			224		
to			to		
136	New	1956	226	New	1956
137	New	1956	227	New	1956
(c)	Am.	1970		Am.	1970
(d)	Am.	1958	228	New	1956
138				Am.	1958
to			229		
143	New	1956	to		
144	New	1956	235	New	1956
(a)	Am.	1970	236	New	1956
(b)	Am.	1970		Am.	1964
(d)	Added	1958	237		
145	New	1956	to		
	Am.	1958	240	New	1956
146	New	1956	241	New	1956
	Am.	1958		Am.	1958
147			242		
to			to		
156	New	1956	248	New	1956
157	New	1956		Am.	1968
	Am.	1958	249	New	1956
158				Am.	1968
to			250	New	1956
164	New	1956		Am.	1968
165	New	1956	251	New	1956
	Am.	1966	252	New	1956
166			253	New	1956
to				Am.	1958
180	New	1956	254	New	1956
181	New	1956		Rep.	1968
	Am.	1968	255	New	1956
	Am.	1970	256	New	1956
182, 183	New	1956		Am.	1968
184	New	1956	257		
	Am.	1970	to		
185			320	New	1956
to			320A	Added	1968
192	New	1956	321		
193	New	1956	to		
	Am.	1958	340	New	1956
194	New	1956	341	New	1956
	Am.	1958		Am.	1970
195					
to					
200	New	1956			

ARTICLES AFFECTED FROM 1949 TO 1969

Prob. Code Sec.	Effect	Vernon's Texas St.Supp.	Prob. Code Sec.	Effect	Vernon's Texas St.Supp.
342			390	New	1956
to				Am.	1960
347	New	1956	(b)	Am.	1966
348	New	1956	(c)	Am.	1966
(a)	Am.	1960	391		
349			to		
to			398	New	1956
366	New	1956	398A	Added	1970
367	New	1956	399	New	1956
(c) 7	Am.	1958		Am.	1958
	Am.	1961	400	New	1956
(c) (7a)	New	1961		Am.	1958
(c) (8)	New	1961	401	New	1956
368	New	1956		Am.	1958
(b)	Am.	1958	402		
369	New	1956	to		
(a) (2)	Am.	1961	404	New	1956
370	New	1956	404A	New	1964
	Am.	1958	405	New	1956
371			406	New	1956
to			407	New	1956
388	New	1956		Am.	1960
389	New	1956	408		
(g)	Added	1961	to		
389a	Added	1970	435	New	1956

Taxation—General (Pages 944 to 1036)

Taxation— General Art.	Effect	Vernon's Texas St.Supp.	Taxation— General Art.	Effect	Vernon's Texas St.Supp.
1.01			1.13	New	1961
to				Am.	1968
1.03	New	1960	1.14	Added	1968
1.031	Added	1968	(c)	Am.	1970
(1)	Am.	1970	1.15	Added	1970
1.032	Added	1966	2.01	New	1960
1.033	Added	1970		Am.	1964
1.04	New	1960	3.01	New	1960
(3)	Rep.	1968		Am.	1970
1.045	Added	1968	3.02	New	1960
1.05	New	1960	3.03	New	1960
1.06	New	1960	(1)	Am.	1961
1.07	New	1960	(3)	Am.	1961
	Am.	1961	(4)	Am.	1961
(1)	Am.	1970	3.04		
(2)	Am.	1970	to		
1.07A	New	1961	3.07	New	1960
	Am.	1970	3.08	New	1960
1.07B	New	1961		Am.	1961
	Am.	1970	3.09	New	1960
1.08			3.10	New	1960
to			3.11	New	1961
1.10	New	1960	4.01	New	1960
1.11	New	1960		Am.	1964
	Am.	1966	4.02	New	1960
1.11A	Added	1968		Am.	1964
(1)	Am.	1970	4.03	New	1960
1.12	New	1961	(7)	Am.	1961
			(10)	Am.	1961

VERNON'S TEXAS STATUTES

Taxation— General	Effect	Vernon's Texas St.Supp.	Taxation— General	Effect	Vernon's Texas St.Supp.
Art.			Art.		
4.04	New	1960	7.16		
4.05	New	1960	to		
4.06	New	1960	7.20	New	1960
	Am.	1961	7.21	New	1960
4.07				Am.	1966
to			7.22	New	1960
4.14	New	1960	7.23	New	1960
5.01	New	1960	(1)	Am.	1966
	Am.	1964	(2)	Rep.	1966
5.02	New	1960	§ 1	Am.	1968
5.03	New	1960	7.24		
	Am.	1961	to		
6.01	New	1960	7.41	New	1960
	Am.	1964	8.01	New	1960
6.02	New	1960	(q)	Added	1968
	Am.	1964	8.02	New	1960
6.03	New	1960	(c)	Am.	1968
	Am.	1964	8.03	New	1960
6.04	New	1960		Am.	1961
	Am.	1964	8.04		
6.05	New	1960	to		
	Am.	1964	8.31	New	1960
6.06	New	1960	9.01	New	1960
	Am.	1964	(1)	Am.	1968
6.07	New	1960	(2)	Am.	1968
	Am.	1964	9.02	New	1960
6.08	New	1960	(2)	Am.	1964
	Am.	1964	(6)	Added	1968
6.09	New	1960	(7)	Added	1968
	Rep.	1964	9.03	New	1960
	Added	1966	(3)	Am.	1961
6.10	New	1960	(4)	Am.	1968
	Rep.	1964	(5)	Added	1961
6.11	New	1960	(6)	Added	1968
	Rep.	1964	9.04	New	1960
6.12	New	1960	9.05	New	1960
	Rep.	1964	9.06	New	1960
7.01	New	1960	(3)	Added	1968
(1)	Am.	1970	(4)	Added	1968
(8)	Am.	1970	(5)	Added	1968
(13)	Am.	1966	9.07		
(15)	Am.	1966	to		
7.02	New	1960	9.12	New	1960
(3)	Added	1961	9.13	New	1960
7.03			(5)	Am.	1961
to			(6)	Am.	1961
7.05	New	1960	(6a)	Added	1961
7.06	New	1960		Am.	1966
	Am.	1966	(6A)	Added	1968
(1)	Am.	1970	(8)	Am.	1968
7.07	New	1956	(13)	Am.	1961
7.08	New	1956		Am.	1966
(9)	Am.	1970	(14)	Am.	1961
7.09	New	1956		Am.	1966
	Am.	1966	9.14		
7.10	New	1960	to		
7.11	Am.	1968	9.23	New	1968
to				Am.	1968
7.14	New	1960	9.24	New	1960
7.15	New	1960	9.25	New	1960
	Am.	1961		Am.	1961
			9.26	New	1960

ARTICLES AFFECTED FROM 1949 TO 1969

Taxation— General	Effect	Vernon's Texas St.Supp.	Taxation— General	Effect	Vernon's Texas St.Supp.
Art.			Art.		
9.27	New	1960	10.24	New	1960
10.01	New	1960		Am.	1970
	Am.	1970	10.25	New	1960
10.02	New	1960		Am.	1970
	Am.	1966	10.51	New	1970
	Am.	1970	10.52	New	1970
10.03	New	1960	10.53	New	1970
	Am.	1970	10.54	New	1970
(3)	Am.	1966	10.55	New	1970
(6)	Am.	1966	10.56	New	1970
	Am.	1968	10.57	New	1970
10.04	New	1960	10.58	New	1970
	Am.	1970	10.59	New	1970
10.05	New	1960	10.60	New	1970
	Am.	1970	10.61	New	1970
(2)	Am.	1966	10.62	New	1970
10.06	New	1960	10.63	New	1970
	Am.	1966	10.64	New	1970
	Am.	1970	10.65	New	1970
10.07	New	1960	10.66	New	1970
	Am.	1968	10.67	New	1970
	Am.	1970	10.68	New	1970
10.08	New	1960	10.69	New	1970
	Am.	1968	10.70	New	1970
	Am.	1970	10.71	New	1970
10.09	New	1960	10.72	New	1970
	Am.	1968	10.73	New	1970
	Am.	1970	10.74	New	1970
10.10	New	1960	10.75	New	1970
	Am.	1970	11.01		
10.11	New	1960	to		
	Am.	1970	11.10	New	1960
(1)	Am.	1966	11.11	New	1960
10.12	New	1960		Am.	1961
	Am.	1970	12.01	New	1960
(2)	Am.	1966		Am.	1961
10.13	New	1960	(1)	Am.	1968
	Am.	1970		Am.	1970
(5a)	Added	1966	12.011	Added	1970
10.14	New	1960	12.02	New	1960
	Am.	1970		Am.	1961
(1)	Am.	1968		Am.	1970
10.15	New	1960	12.03	New	1960
	Am.	1970		Am.	1961
10.16	New	1960		Am.	1966
	Am.	1970		Am.	1968
10.17	New	1960		Am.	1970
	Am.	1970	12.04	New	1960
10.18	New	1960		Am.	1970
	Am.	1970	12.05	New	1960
(1)	Am.	1966	12.06	New	1960
10.19	New	1960		Am.	1970
	Am.	1970	12.065	Added	1970
10.20	New	1960	12.07	New	1960
	Am.	1970		Am.	1970
10.21	New	1960	12.08	New	1960
	Am.	1968		Am.	1961
10.21	Am.	1970		Am.	1970
10.22	New	1960	12.09	New	1960
	Am.	1970		Am.	1961
10.23	New	1960		Am.	1970
	Am.	1970			

VERNON'S TEXAS STATUTES

Taxation— General Art.	Effect	Vernon's Texas St.Supp.	Taxation— General Art.	Effect	Vernon's Texas St.Supp.
12.10	New	1960	14.11	New	1960
	Am.	1961		Am.	1966
	Am.	1970	14.12	New	1960
12.11	New	1960		Am.	1966
12.12	New	1960	14.13	New	1960
	Am.	1970		Am.	1966
12.13	New	1960	14.14	New	1960
	Am.	1970		Am.	1966
12.14	New	1960	A	Am.	1968
	Am.	1961	14.15	New	1960
	Am.	1970		Am.	1966
12.15	New	1960	14.16	New	1960
	Am.	1961		Am.	1966
	Am.	1970	14.17	New	1960
12.16	New	1960		Am.	1966
12.17	New	1960	14.18	New	1960
	Am.	1966		Am.	1966
	Am.	1970		Am.	1968
12.18	New	1960	14.19	New	1960
12.19	New	1960		Am.	1966
(1)	Am.	1970		Am.	1968
(3)	Am.	1961	14.20	New	1960
	Am.	1970		Am.	1966
12.20	New	1960	14.21	New	1960
	Am.	1970		Am.	1966
12.21	New	1960	14.22	New	1960
	Am.	1961		Am.	1966
	Am.	1964	14.22	Am.	1970
	Am.	1970	14.23	New	1960
12.211	Added	1970		Rep.	1966
12.22	New	1960	14.24	New	1960
13.01	New	1960		Rep.	1966
13.02	New	1960	14.25	New	1960
	Am.	1961			1966
	Am.	1970	14.26	New	1960
13.03	New	1960		Rep.	1966
	Am.	1961	14.27	New	1960
13.04				Rep.	1966
to			14.28	New	1964
13.07	New	1960		Rep.	1966
13.08	New	1960	15.01	New	1960
	Am.	1961		Rep.	1966
13.13	Am.	1970	15.02	New	1960
13.17, §§ 1-27	Added	1970		Rep.	1966
13.17, § 1a	Added	1970	15.03	New	1960
14.00A	Added	1966		Rep.	1966
14.01	New	1960	15.04	New	1960
14.015	Added	1966		Rep.	1966
	Am.	1968	15.05	New	1960
14.02				Rep.	1966
to			15.06	New	1960
14.05	New	1960		Rep.	1966
14.06	New	1960	15.07	New	1960
	Am.	1964		Rep.	1966
	Am.	1966	15.08	New	1960
14.07	New	1960		Rep.	1966
	Am.	1966	15.09	New	1960
14.08				Rep.	1966
to			15.10	New	1960
14.10	New	1960		Rep.	1966

ARTICLES AFFECTED FROM 1949 TO 1969

Taxation— General	Effect	Vernon's Texas St.Supp.	Taxation— General	Effect	Vernon's Texas St.Supp.
Art.			Art.		
15.11	New	1960	20.01		
	Rep.	1966	(K) (1)	Am.	1970
15.12	New	1960	(L)	Am.	1970
	Rep.	1966	(M)	Am.	1970
15.13	New	1960	(R)	Am.	1970
	Rep.	1966	(S)	Am.	1970
15.14	New	1960	(T)	Am.	1970
	Rep.	1966	(U)	Am.	1970
15.15	New	1960	(W) (X)	Added	1970
	Rep.	1966	20.02	New	1960
15.16	New	1960		Am.	1961
	Rep.	1966		Am.	1964
16.01	New	1960		Am.	1970
	Am.	1964	20.021		
16.02			(A)	Am.	1970
to			(B) (1)	Am.	1970
16.09	New	1960	(F)	Am.	1970
16.10	Added	1966	(G)	Am.	1970
16.01			(H) (1)	Am.	1970
to			(I)	Am.	1970
16.10	Rep.	1968	(J)	Am.	1970
17.01			(M)	Am.	1970
to			20.03	New	1960
17.03	New	1960		Am.	1961
17.04	New	1960		Am.	1964
	Am.	1961		Am.	1970
17.05	New	1960	20.031	Added	1970
(a)	Am.	1961	20.04	New	1960
(c)	Am.	1961		Am.	1961
	Am.	1964		Am.	1964
17.06				Am.	1970
to			(o) (3)	Am.	1968
17.10	New	1960	(W)	Added	1968
17.11	New	1964	(X)	Added	1968
18.01	New	1960	20.05	New	1960
18.02	New	1960		Am.	1961
18.03	New	1960		Am.	1964
	Am.	1961	(B)	Am.	1970
18.04	New	1960	(C)	Am.	1968
19.01	New	1960	(C) (2)	Am.	1970
Subd. (2)	Am.	1962	(D)	Am.	1970
(4)	Rep.	1968	(I) (2)	Am.	1970
Subds. (5), (6)	Rep.	1964	(J)	Am.	1970
(7) (b)	Am.	1968	(K)	Am.	1970
(8)	Rep.	1968	20.06	New	1960
Subd. (10)	New	1964		Am.	1961
	Am.	1968		Am.	1964
	Am.	1970	(C)	Am.	1970
19.02	New	1960	(D) (2)	Am.	1970
(3)	Am.	1961	(E) (1)	Am.	1970
(5)	Am.	1961	20.07	New	1960
19.03	New	1960		Am.	1961
19.04	New	1960		Am.	1964
20.01	New	1960	20.08	New	1960
	Am.	1961		Am.	1961
	Am.	1964		Am.	1964
(A)	Am.	1970	20.09	New	1960
(D)	Am.	1970		Am.	1961
(F)	Am.	1970		Am.	1964
(G)	Am.	1970	20.10	New	1960
(I)	Am.	1970		Am.	1961
(J) (1)	Am.	1970		Am.	1964

VERNON'S TEXAS STATUTES

Taxation— General Art.	Effect	Vernon's Texas St.Supp.	Taxation— General Art.	Effect	Vernon's Texas St.Supp.
20.11	New	1960	20.17	New	1960
	Am.	1961		Am.	1961
	Am.	1964		Am.	1964
(C)	Am.	1970	20.18		
(D)	Am.	1970	to		
(F)	Am.	1970	20.20	New	1960
20.12	New	1960	21.01	New	1960
	Am.	1961	21.02	New	1960
	Am.	1964	(3)	Am.	1970
(B)	Am.	1970	21.03	New	1960
20.13	New	1960	21.04	New	1960
	Am.	1961	(1)	Am.	1961
	Am.	1964	22.01		
20.14	New	1960	to		
	Am.	1961	22.09	New	1960
	Am.	1964	23.01		
20.15	New	1960	to		
	Am.	1961	23.06	New	1960
	Am.	1964	23.07	New	1961
20.16	New	1960			
	Am.	1961			
	Am.	1964			

Uniform Commercial Code

The Uniform Commercial Code, §§ 1—101 to 10—105, enacted by Laws 1965, 59th Leg., Vol. 2, p. 1, ch. 721, was repealed by Laws 1967, 60th Leg., Vol. 2, p. 2343, ch. 785 which enacted the Business and Commerce Code. The Uniform Commercial Code now appears as Title 1, §§ 1.101 to 9.507, of the Business and Commerce Code.

JUDGES AND OFFICERS

SUPREME COURT

ROBERT W. CALVERT, CHIEF JUSTICE
CLYDE E. SMITH, ASSOCIATE JUSTICE ZOLLIE STEAKLEY, ASSOCIATE JUSTICE
RUEL C. WALKER, ASSOCIATE JUSTICE JACK POPE, ASSOCIATE JUSTICE
JOE R. GREENHILL, ASSOCIATE JUSTICE TOM REAVLEY, ASSOCIATE JUSTICE
ROBERT W. HAMILTON, ASSOCIATE JUSTICE SEARS MCGEE, ASSOCIATE JUSTICE
GARSON R. JACKSON, CLERK
H. L. CLAMP, DEPUTY CLERK

COURT OF CRIMINAL APPEALS

KENNETH K. WOODLEY, PRESIDING JUDGE
W. A. MORRISON, JUDGE JOHN F. ONION, Jr., JUDGE
ERNEST BELCHER, JUDGE
LEON DOUGLAS, JUDGE
GLENN HAYNES, CLERK

COURTS OF CIVIL APPEALS

First District—Houston

SPURGEON BELL, CHIEF JUSTICE
TOM F. COLEMAN, ASSOCIATE JUSTICE PHIL PEDEN, ASSOCIATE JUSTICE
ROLA HAMM, CLERK

Second District—Fort Worth

FRANK A. MASSEY, CHIEF JUSTICE
JACK M. LANGDON, ASSOCIATE JUSTICE HARRIS J. BREWSTER, ASSOCIATE JUSTICE
LIDA SWANSON, CLERK

Third District—Austin

JOHN C. PHILLIPS, CHIEF JUSTICE
ROBERT G. HUGHES, ASSOCIATE JUSTICE TRUEMAN E. O'QUINN, ASSOCIATE JUSTICE
MRS. MAURICE WOODLAND, CLERK

Fourth District—San Antonio

CHARLES W. BARROW, CHIEF JUSTICE
CARLOS C. CADENA, ASSOCIATE JUSTICE FRED V. KLINGEMAN, ASSOCIATE JUSTICE
ROBERT L. COOK, CLERK

Fifth District—Dallas

DICK DIXON, CHIEF JUSTICE
CLAUDE WILLIAMS, ASSOCIATE JUSTICE HAROLD A. BATEMAN, ASSOCIATE JUSTICE
ED. BUFORD, CLERK
MRS. LORA ROBERTS, DEPUTY CLERK

CV

JUDGES AND OFFICERS

COURTS OF CIVIL APPEALS—Cont'd.

Sixth District—Texarkana

T. C. CHADICK, CHIEF JUSTICE
WILLIAM J. FANNING, ASSOCIATE JUSTICE MATT DAVIS, ASSOCIATE JUSTICE
LOUISE GILMER, CLERK

Seventh District—Amarillo

JAMES G. DENTON, CHIEF JUSTICE
ERNEST O. NORTHCUTT, ASSOCIATE JUSTICE
JAMES A. JOY, ASSOCIATE JUSTICE
ELMO PAYNE, CLERK

Eighth District—El Paso

ALAN R. FRASER, CHIEF JUSTICE
STEPHEN F. PRESLAR, ASSOCIATE JUSTICE WILLIAM E. WARD, ASSOCIATE JUSTICE
J. W. FLORENCE, CLERK

Ninth District—Beaumont

JAMES F. PARKER, Sr., CHIEF JUSTICE
HOMER E. STEPHENSON, ASSOCIATE JUSTICE QUENTIN KEITH, ASSOCIATE JUSTICE
ELIZABETH LE BLANC, CLERK

Tenth District—Waco

FRANK G. McDONALD, CHIEF JUSTICE
FRANK M. WILSON, ASSOCIATE JUSTICE VIC HALL, ASSOCIATE JUSTICE
ROBERT IVY GAGE, CLERK

Eleventh District—Eastland

CLYDE GRISSOM, CHIEF JUSTICE
CECIL C. COLLINGS, ASSOCIATE JUSTICE ESCO WALTER, ASSOCIATE JUSTICE
HOMER SMITH, CLERK

Twelfth District—Tyler

OTIS T. DUNAGAN, CHIEF JUSTICE
JAMES H. MOORE, ASSOCIATE JUSTICE CONNALLY McKAY, ASSOCIATE JUSTICE
THOMAS E. WALL, CLERK

Thirteenth District—Corpus Christi

HOWARD P. GREEN, CHIEF JUSTICE
T. GILBERT SHARPE, ASSOCIATE JUSTICE PAUL W. NYE, ASSOCIATE JUSTICE
MRS. MARGARET M. BLACKMON, CLERK
WAGGONER CARR, ATTORNEY GENERAL

Fourteenth District—Houston

BERT H. TUNKS, CHIEF JUSTICE
JOHN M. BARRON, ASSOCIATE JUSTICE SAM D. JOHNSON, ASSOCIATE JUSTICE
RICHARD E. TISDALE, CLERK

**OFFICIALS
OF
THE STATE OF TEXAS**

PRESTON SMITH ----- Governor ----- Lubbock
BEN BARNES ----- Lieutenant Governor ----- Austin
CRAWFORD C.
MARTIN ----- Attorney General ----- Hillsboro
MARTIN DIES, JR. ----- Secretary of State ----- Lufkin
JESSE JAMES ----- State Treasurer ----- Austin
JOHN C. WHITE ----- Commissioner of Agriculture ----- Wichita Falls
JERRY SADLER ----- Commissioner of General Land Office ----- Palestine
ROBERT S. CALVERT -- State Comptroller ----- Austin
JAMES M. FAULKNER -- Banking Commissioner ----- Austin
GEORGE W. McNIEL --- State Auditor ----- Austin

SENATE

PRESIDENT ----- Ben Barnes
 PRESIDENT PRO TEMPORE ----- Don Kennard
 SECRETARY OF THE SENATE ----- Charles A. Schnabel
 PARLIAMENTARIAN ----- Frank W. Elliott, Jr.
 JOURNAL CLERK ----- Mrs. Minnie Meier
 CALENDAR CLERK ----- Mrs. Arlene Morse
 SERGEANT AT ARMS ----- Jeff Davis
 CHAPLAIN ----- Rev. W. H. Townsend
 DOORKEEPER ----- Charles Jones
 ENGROSSING AND ENROLLING CLERK ----- Miss Essie McGinnis
 MAILING CLERK ----- Mrs. John Draper

Dist.	No.	Name	Address	City
	1	Aikin, A. M., Jr.	1140 19th N. W.,	Paris 75460
	27	Bates, Jim	1524 South 14th,	Edinburg 78539
	26	Bernal, Joe J.	2055 W. Summit Ave.,	San Antonio 78201
	19	Berry, V. E. (Red)	856 Gembler,	San Antonio 78219
	28	Blanchard, H. J. (Doc)	4504 17th Street,	Lubbock 79416
	20	Bridges, Ronald W.	4601 Coventry,	Corpus Christi 78415
	7	Brooks, Chet	1603 Blackburn,	Pasadena 77502
	29	Christie, Joe	6800 West Side Rd.,	El Paso 79932
	6	Cole, Criss	6131 Hurst,	Houston 77008
	21	Connally, Wayne	Route 3, Box 120,	Floresville 78114
	22	Creighton, Tom	805 N. W. 11th St.,	Mineral Wells 76067
	15	Grover, Henry	1507 Kipling,	Houston 77006
	9	Hall, Ralph	Cain-Hall Bank Bldg.,	Rockwall 75087
	4	Harrington, D. Roy	4720 Twin City Highway,	Port Arthur 77640
	8	Harris, O. H. (Ike)	2702 Oxford Terrace,	Dallas 75205
	31	Hazlewood, Grady	Route 2, Box 224,	Canyon 79015
	14	Herring, Charles	3105 Bowman,	Austin 78703
	30	Hightower, Jack	2719 Mansard,	Vernon 76384
	11	Jordan, Barbara	4910 Campbell,	Houston 77020
	10	Kennard, Don	3715 Potomac,	Fort Worth 76107

SENATE

Dist. No.	Name	Address	City
23	Mauzy, Oscar	1338 Acapulco,	Dallas 75232
16	McKool, Mike	10554 Wyatt St.,	Dallas 75218
5	Moore, William T. (Bill)	1204 Sul Ross,	Bryan 77801
18	Patman, William N. (Bill)	Drawer A, Ganado	77962
24	Ratliff, David	Box 1123,	Stamford 79553
17	Schwartz, A. R.	10 South Shore Drive,	Galveston 77550
25	Snelson, W. E. (Pete)	2406 Shell,	Midland 79701
2	Strong, Jack	1912 Franklin,	Longview 75601
13	Watson, Murray, Jr.	308 Texas Ave.,	Mart 76664
3	Wilson, Charles	1000 Crooked Creek,	Lufkin 75901
12	Word, J. P.	122 W. Lane,	Meridian 76665

HOUSE OF REPRESENTATIVES

SPEAKER ----- G. F. (Gus) Mutscher
 EXECUTIVE ADMINISTRATIVE AIDE ----- Rush McGinty
 PARLIAMENTARIAN ----- Robert E. Johnson
 CHIEF CLERK ----- Mrs. Dorothy Hallman
 READING CLERK ----- Clay Kistler
 ENROLLING AND ENGROSSING CLERK ----- Mrs. Orea K. Guffin
 VOTING MACHINE OPERATOR ----- C. H. Petri, Jr.
 JOURNAL CLERK ----- Miss Gussie H. Evans
 CALENDAR CLERK ----- Mrs. Adele L. Jacobs
 SERGEANT AT ARMS ----- Walter Schaeffer
 CHAPLAIN ----- Rev. Clinton Kersey

Dist.

No.	Name	Address	City
79	Abraham, Malouf	906 Conklin Ave.,	Canadian 79014
7	Adams, Don	601 Forest St.,	Jasper 75951
23-3	Allen, Joe	5315 Bayway Dr.,	Baytown 77520
13	Allen, John	1003 E. Birdsong,	Longview 75601
60-2	Allred, Dave	1608 Hayes St.,	Wichita Falls 76309
39-2	Angly, Maurice, Jr.	4301 Balcones Dr.,	Austin 78731
22-5	Archer, W. R.	3127 Avalon Pl.,	Houston 77019
39-4	Armstrong, Bob	4507 Edgemont Dr.,	Austin 78731
33-2	Atwell, Ben	Box 261,	Hutchins 75141
47-3	Atwood, A. C. (Bud)	1305 S. 14th St.,	Edinburg 78539
66	Baker, George	309 N. Texas St.,	Fort Stockton 79735
12	Bass, Bill	Route 2,	Ben Wheeler 75754
24-1	Bass, Tom	3437 N. Parkwood Dr.,	Houston 77021
31	Beckham, Vernon	618 West Chestnut St.,	Denison 75020
37	Bigham, John R.	3001 Oakdale St.,	Temple 76501
67-2	Blaine, John E.	4855 Vista Del Monte,	El Paso 79922
33-13	Blanton, Jack	1501 Francis St.,	Carrollton 75006
33-1	Braecklein, William	3616 Lexington St.,	Dallas 75205
23-4	Braun, Rex	303 Kings Court,	Houston 77015
24-6	Bray, Jamie	601 Brook Lane,	Pasadena 77502
4	Burgess, Steve	Route 1, Box 98,	Nacogdoches 75961
52-4	Burnett, Robert M. (Bob)	2516 White Oak Lane,	Arlington 76010

HOUSE OF REPRESENTATIVES

Dist. No.	Name	Address	City
19	Caldwell, Neil	1810 Meadowview,	Alvin 77511
62-2	Calhoun, Frank W.	2101 Crescent Dr.,	Abilene 79604
48	Carrillo, Oscar, Sr.	P. O. Box 356,	Benavides 78341
39-3	Cavness, Don	8611 Honeysuckle Terrace,	Austin 78759
75	Christian, Tom	Route 2,	Claude 79019
33-12	Clark, James, Jr.	5342 Wateka Dr.,	Dallas 75209
24-4	Clark, Jim	7502 Almeda Genoa Rd.,	Houston 77034
72	Clayton, Bill	P. O. Box 38,	Springlake 79082
77	Cobb, L. Dean	109 Amherst St.,	Dumas 79029
25	Cole, James	2511 Ridgemont St.,	Greenville 75401
43	Cory, R. H. (Dick)	2601 Bon Aire,	Victoria 77901
70	Craddick, Tom	1508 W. Missouri,	Midland 79701
23-5	Cruz, Lauro	7124 Schley St.,	Houston 77017
22-4	Cummings, Russell	1810 Portsmouth,	Houston 77006
6	Daniel, Price, Jr.	1011 Farm Road,	Liberty 77575
22-3	Davis, Cletus A.	14231 Carolcrest,	Houston 77024
39-1	Davis, Harold	413 Honeycomb Ridge,	Austin 78746
63	Dickson, Temple	907 Josephine,	Sweetwater 79556
65	Doran, Hilary, Jr.	2 Edna St.,	Del Rio 78840
57-5	Dramberger, A. L.	216 Lorita Dr.,	San Antonio 78214
22-6	Earthman, Jim	5936 Deerwood St.,	Houston 77027
57-7	Evans, David	250 Quentin Dr.,	San Antonio 78201
45-1	Farenthold, Frances (Mrs.)	625 S. Broadway,	Corpus Christi 78401
57-3	Finck, W. H. (Bill)	530 Geneseo Rd.,	San Antonio 78209
61	Finnell, Charles	P. O. Box 468,	Holliday 76366
52-7	Finney, David	2800 N. W. 30th St.,	Fort Worth 76106
57-9	Floyd, Guy	11103 Ballet Dr.,	San Antonio 78216
46-3	Garcia, J. A., Jr.	P. O. Box 573,	Raymondville 78580
33-15	Golman, Joe H.	6530 Newport St.,	Dallas 75230
23-6	Graves, Curtis M.	5417 Troost Apt. No. 1,	Houston 77026
45-4	Hale, L. De Witt	226 Lorraine Dr.,	Corpus Christi 78411
5	Hannah, John H.	202 Scarbrough St.,	Lufkin 75901
56	Harding, Forrest A.	621 N. Madison St.,	San Angelo 76901
21-1	Harris, Ed J.	18 Cedar Lawn S.,	Galveston 77550
26	Hawkins, Jack R.	501 East Cobb St.,	Groesbeck 76642
33-10	Hawn, Joe	8922 Rockledge St.,	Dallas 75217
8	Haynes, Clyde, Jr.	P. O. Box 1235,	Vidor 77730
15	Head, Fred	958 N. Marshall St.,	Henderson 75652
80	Heatly, W. S. "Bill"	Drawer 1,	Paducah 79248
32	Hendricks, Bob	1706 N. Waddill,	McKinney 75069

HOUSE OF REPRESENTATIVES

Dist.	No.	Name	Address	City
	11	Hinson, George T. (S)	P. O. Box 387,	Mineola 75773
	57-6	Holland, Lamoine	2814 Old Moss Rd.,	San Antonio 78217
	51	Holmes, Tom	607 Crestview,	Granbury 76048
	33-5	Holmes, Zan, Jr.	8418 Bunche,	Dallas 75231
	49	Howard, D. C. ¹	132 West Leona,	Uvalde 78801
	1	Howard, Ed	4007 Potomac Circle,	Texarkana 75501
	20	Hubenak, Joe A.	Rt. 1, Box 244,	Rosharon 77583
	52-8	Hull, Cordell	2322 Roosevelt St.,	Fort Worth 76106
	57-1	Johnson, Jake	Route 7, Box 219,	San Antonio 78206
	76-1	Jones, Delwin L.	2129-54th St.,	Lubbock 79412
	22-7	Jones, Edmund E.	5019 Forest Nook Ct.,	Houston 77018
	62-1	Jones, Grant	1509 Woodridge St.,	Abilene 79605
	28	Jungmichel, Charles	712 Rosenberg St.,	LaGrange 78945
	9-1	Kilpatrick, Rufus U.	260 E. Circuit Dr.,	Beaumont 77706
	74-1	Knapp, Walter, Jr.	621 West 8th St.,	Amarillo 79101
	57-8	Kothmann, Glenn	4610 Seabreeze Dr.,	San Antonio 78220
	27	Kubiak, Dan	2004 Murray St.,	Rockdale 76567
	22-2	Lee, W. E. (Will)	1903 Olympia St.,	Houston 77019
	24-2	Lemmon, Ray	11101 Elbeck St.,	Houston 77035
	59	Ligarde, Honore	3600 Bartlett St.,	Laredo 78040
	57-10	Lombardino, Frank	619 Freiling Dr.,	San Antonio 78213
	47-1	Longoria, Raul	P. O. Box 182,	Edinburg 78539
	17	Lovell, James L.	133 S. Grace St.,	Crockett 75835
	76-3	McAlister, R. B.	3416-42nd St.,	Lubbock 79413
	47-2	McDonald, Felix	348 Austin Blvd.,	Edinburg 78539
	33-8	McKissack, Dick	3307 Darbyshire Dr.,	Dallas 75229
	52-1	McLaughlin, Jack	2020 Montclair St.,	Fort Worth 76103
	34	Moore, Aubry L.	P. O. Box 345,	Hillsboro 76645
	33-7	Moore, Griffith	3838 N. Versailles St.,	Dallas 75209
	35-2	Moore, Tom, Jr.	5229 Lake Charles,	Waco 76710
	67-3	Moreno, Paul C.	3201 Catnip St.,	El Paso 79925
	74-2	Moyer, Hudson	6021 Gainsborough St.,	Amarillo 79106
	67-4	Muniz, Raul	9923 Fenway Dr.,	El Paso 79925
	46-1	Murray, Menton J.	1022 E. Pierce St.,	Harlingen 78550
	53	Musgrove, Burke	P. O. Box 970,	Breckenridge 76024
	29	Mutscher, G. F. (Gus)	307 N. Ross St.,	Brenham 77833
	64	Nabers, Lynn	3506 Durham St.,	Brownwood 76801
	21-2	Neugent, Dean	Route 2, Box 144,	Dickinson 77539
	42	Newman, J. T.	305 First St.,	Cuero 77954
	23-1	Nichols, R. C. (Nick)	7517 Crofton St.,	Houston 77016
	67-5	Niland, Tom	1601 N. Stanton St.,	El Paso 79902
	57-4	Nowlin, James	66 Brees Ave.,	San Antonio 78209

¹ Deceased.

HOUSE OF REPRESENTATIVES

Dist. No.	Name	Address	City
55	Nugent, James E.	1223 Virginia Dr.,	Kerrville 78028
22-1	Ogg, Jack C.	761 Kuhlman Rd.,	Houston 77024
33-14	Orr, Fred	309 Woodhaven Dr.,	DeSoto 75115
9-3	Parker, Carl A.	3549 6th St.,	Port Arthur 77640
50	Parker, Walter E.	Woodland Hills Dr.,	Denton 76201
38	Patterson, Charles	1400 Fairgrounds,	Taylor 76574
73	Pendleton, R. G. (Randy) ¹	P. O. Box 2097,	Andrews 79714
68	Pickens, Ace	2422 Idlewood Pl.,	Odessa 79760
58	Pickett, W. S. (Bill)	511 E. Mayfield,	Karnes City 78118
49	Poerner, John H. ²	2602 Ave. K,	Hondo 78861
18	Presnal, Bill	Route 1, Box 74,	Bryan 77801
16	Price, Rayford	321 Thomas Road,	Palestine 75801
33-6	Ratcliff, Joe	5200 Maple Ave.,	Dallas 75235
3	Ray, C. L., Jr.	701 Slone Dr.,	Marshall 75670
33-4	Reed, Dick	4034 Shelley Blvd.,	Dallas 75211
71	Rosson, Renal B.	2510 31st St.,	Snyder 79549
45-3	Salem, Joe	350 Cape Hatteras,	Corpus Christi 78412
36	Salter, Robert (Bob)	113 N. 31st St.,	Gatesville 76528
46-2	Sanchez, Henry	152 E. Levee St.,	Brownsville 78520
67-1	Santiesteban, H. Tati	3217 Killarney Rd.,	El Paso 79925
40	Schulle, Gerhardt, Jr.		Kyle 78640
33-11	Semos, Chris Victor	3620 West Davis St.,	Dallas 75211
52-2	Shannon, Joe, Jr.	306 Union Bank Bldg.,	Fort Worth 76102
52-5	Shannon, Tommy	3542 Ada St.,	Fort Worth 76105
52-3	Sherman, W. C. (Bud)	5004 Stadium Dr.,	Fort Worth 76133
73	Short, E. L. ³	Box 1338,	Tahoka 79373
69	Slack, Richard C.	1709 Jefferson St.,	Pecos 79772
2	Slider, James L.	P. O. Box 187,	Naples 75568
9-4	Smith, Will L.	644-C Street,	Beaumont 77703
10	Solomon, Neal	P. O. Box 517,	Mount Vernon 75457
60-1	Stewart, Vernon	3607 Sheridan Dr.,	Wichita Falls 76302
33-9	Stroud, J. W.	5507 McCommas Blvd.,	Dallas 75206
24-5	Swanson, Bill T.	10823 Chimney Rock,	Houston 77035
76-2	Tarbox, Elmer L.	4613 11th St.,	Lubbock 79416
35-1	Thomas, Bob L.	719 N. 57th St.,	Waco 76710
41	Traeger, John	503 S. Austin,	Seguin 78155
45-2	Truan, Carlos	3821 Marion St.,	Corpus Christi 78415
30	Uher, D. R. (Tom)	West Columbia Highway,	Bay City 77414
57-2	Vale, R. L. "Bob"	358 Springwood Lane,	San Antonio 78216
24-3	Vance, Arthur	1814 Harding St.,	Pasadena 77502
54	Ward, J. E.	P. O. Box 458,	Glen Rose 76043

¹ Resigned.

² Elected Feb. 22, 1969.

³ Served in 61st Legislature, First and Second Called Sessions.

HOUSE OF REPRESENTATIVES

Dist.	No.	Name	Address	City
	78	Wayne, Ralph	2304 West 5th St.,	Plainview 79072
	9-2	Weldon, J. D.	3412 8th St.,	Port Arthur 77640
	44	Wieting, Leroy J.	P. O. Box 546,	Portland 78374
	23-2	Williams, Lindon	13902 Wood Forrest,	Houston 77015
	14	Williamson, Billy H.	1216 West 3rd St.,	Tyler 75701
	52-6	Willis, Doyle	3316 Browning Court,	Fort Worth 76111
	33-3	Wright, John	801 British St.,	Grand Prairie 75050

CONSTITUTION OF THE STATE OF TEXAS

ADOPTED AMENDMENTS

ARTICLE III

LEGISLATIVE DEPARTMENT

Sec.

- 50b-1. Additional student loans [New].
52e. Dallas County bond issues for roads
and turnpikes [New].
64. Consolidation of governmental offices
and functions in El Paso and Tar-
rant Counties [New].

§ 18. Ineligibility for other offices; interest in contracts

Section 18. No Senator or Representative shall, during the term for which he was elected, be eligible to (1) any civil office of profit under this State which shall have been created, or the emoluments of which may have been increased, during such term, or (2) any office or place, the appointment to which may be made, in whole or in part, by either branch of the Legislature; provided, however, the fact that the term of office of Senators and Representatives does not end precisely on the last day of December but extends a few days into January of the succeeding year shall be considered as de minimis, and the ineligibility herein created shall terminate on the last day in December of the last full calendar year of the term for which he was elected. No member of either House shall vote for any other member for any office whatever, which may be filled by a vote of the Legislature, except in such cases as are in this Constitution provided, nor shall any member of the Legislature be interested, either directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the term for which he was elected.

As amended Nov. 5, 1968.

Amendment adopted in 1968 was proposed by H.J.R. No. 22, Acts 1967, 60th Leg., p. 2988.

§ 42. Repealed. Aug. 5, 1969

Repeal of this section was proposed by H.J.R. No. 3, Acts 1969, 61st Leg., p. 3230, and was approved by voters at election held Aug. 5, 1969.

§ 46. Repealed. Aug. 5, 1969

Repeal of this section was proposed by H.J.R. No. 3, Acts 1969, 61st Leg., p. 3230, and was approved by voters at election held Aug. 5, 1969.

§ 48. Repealed. Aug. 5, 1969

Repeal of this section was proposed by H.J.R. No. 3, Acts 1969, 61st Leg., p. 3230, and was approved by voters at election held Aug. 5, 1969.

CONSTITUTION—ADOPTED AMENDMENTS

§ 48a. Fund for retirement, disability and death benefits for employees of public schools, colleges and universities

Section 48a. In addition to the powers given the Legislature under Section 48, Article III, it shall have the right to levy taxes to establish a fund to provide retirement, disability and death benefits for persons employed in the public schools, colleges and universities supported wholly or partly by the state; provided that the amount contributed by the state to such fund each year shall be equal to the aggregate amount required by law to be paid into the fund by such employees, and shall not exceed at any time six per centum (6%) of the compensation paid each such person by the state and/or school districts; and provided that no person shall be eligible for retirement who has not rendered ten (10) years of creditable service in such employment, and in no case shall any person retire before either attaining the age fifty-five (55) or completing thirty (30) years of creditable service, but shall be entitled to refund of moneys paid into the fund.

Moneys coming into such fund shall be managed and invested as provided in Section 48b of Section III of the Constitution of Texas; provided a sufficient sum shall be kept on hand to meet payments as they become due each year under such retirement plan, as may be provided by law; and provided that the recipients of such retirement fund shall not be eligible for any other state pension retirement funds or direct aid from the State of Texas, unless such other state pension or retirement fund, contributed by the state, is released to the State of Texas as a condition to receiving such other pension aid; providing, however, that this Section shall not amend, alter, or repeal Section 63 of Article 16 of the Constitution of Texas as adopted November, 1954, or any enabling legislation passed pursuant thereto.

As amended Nov. 6, 1956; Nov. 5, 1968.

Amendment adopted in 1968 was proposed by S.J.R. No. 4, Acts 1967, 60th Leg., p. 2967.

§ 50b-1. Additional student loans

Sec. 50b-1. (a) The Legislature may provide that the Coordinating Board, Texas College and University System, or its successor or successors, shall have authority to provide for, issue and sell general obligation bonds of the State of Texas in an amount not to exceed Two Hundred Million Dollars (\$200,000,000) in addition to those heretofore authorized to be issued pursuant to Section 50b of the Constitution. The bonds authorized herein shall be executed in such form, upon such terms and be in such denomination as may be prescribed by law and shall bear interest, and be issued in such installments as shall be prescribed by the Board provided that the maximum net effective interest rate to be borne by such bonds may be fixed by law.

(b) The moneys received from the sale of such bonds shall be deposited to the credit of the Texas Opportunity Plan Fund created by Section 50b of the Constitution and shall otherwise be handled as provided in Section 50b of the Constitution and the laws enacted pursuant thereto.

(c) The said bonds shall be general obligations of the state and shall be payable in the same manner and from the same sources as bonds heretofore authorized pursuant to Section 50b.

(d) All bonds issued hereunder shall, after approval by the Attorney General, registration by the Comptroller of Public Accounts of the State of Texas, and delivery to the purchasers, be incontestable and shall constitute general obligations of the State of Texas under this Constitution.

CONSTITUTION—ADOPTED AMENDMENTS

(e) Should the Legislature enact enabling laws in anticipation of the adoption of this Amendment such acts shall not be void because of their anticipatory nature.

Adopted Aug. 5, 1969.

Amendment adopted in 1969 was proposed by H.J.R. No. 50, Acts 1969, 61st Leg., p. 3239.

§ 51. Grants of public money prohibited; exceptions

Sec. 51. The Legislature shall have no power to make any grant or authorize the making of any grant of public moneys to any individual, association of individuals, municipal or other corporations whatsoever; provided, however, the Legislature may grant aid to indigent and disabled Confederate soldiers and sailors under such regulations and limitations as may be deemed by the Legislature as expedient, and to their widows in indigent circumstances under such regulations and limitations as may be deemed by the Legislature as expedient; provided that the provisions of this Section shall not be construed so as to prevent the grant of aid in cases of public calamity.

As amended Nov. 5, 1968.

Amendment adopted in 1968 was proposed by S.J.R. No. 32, Acts 1967, 60th Leg., p. 2972.

§ 51-a. Assistance grants and medical care for needy aged, disabled and blind persons, and needy children; federal funds; supplemental appropriations

Section 51-a. The Legislature shall have the power, by General Laws, to provide, subject to limitations herein contained, and such other limitations, restrictions and regulations as may by the Legislature be deemed expedient, for assistance grants to and/or medical care for, and for rehabilitation and any other services included in the federal laws as they now read or as they may hereafter be amended, providing matching funds to help such families and individuals attain or retain capability for independence or self-care, and for the payment of assistance grants to and/or medical care for, and for rehabilitation and other services to or on behalf of:

(1) Needy aged persons who are citizens of the United States or non-citizens who shall have resided within the boundaries of the United States for at least twenty-five (25) years;

(2) Needy individuals who are totally and permanently disabled by reason of a mental or physical handicap or a combination of physical and mental handicaps;

(3) Needy blind persons;

(4) Needy dependent children and the caretakers of such children.

The Legislature may prescribe such other eligibility requirements for participation in these programs as it deems appropriate.

The Legislature shall have authority to enact appropriate legislation which will enable the State of Texas to cooperate with the Government of the United States in providing assistance to and/or medical care on behalf of needy persons, in providing rehabilitation and any other services included in the federal laws making matching funds available to help such families and individuals attain or retain capability for independence or self-care, to accept and expend funds from the Government of the United States for such purposes in accordance with the laws of the United States as they now are or as they may hereafter be amended, and to make appropriations out of state funds for such purposes; provided that the maximum amount paid out of state funds to or on behalf of any needy

CONSTITUTION—ADOPTED AMENDMENTS

person shall not exceed the amount that is matchable out of federal funds; provided that the total amount of such assistance payments only out of state funds on behalf of such individuals shall not exceed the amount of Eighty Million Dollars (\$80,000,000) during any fiscal year.

Supplementing legislative appropriations for assistance payments authorized by this Section, the following sums are allocated out of the Omnibus Tax Clearance Fund and are appropriated to the State Department of Public Welfare for the period beginning September 1, 1969 and ending August 31, 1971: Three Million, Six Hundred Thousand Dollars (\$3,600,000) for Old Age Assistance, Two Million, Five Hundred Thousand Dollars (\$2,500,000) for Aid to the Permanently and Totally Disabled, and Twenty-Three Million, Nine Hundred Thousand Dollars (\$23,900,000) for Aid to Families with Dependent Children. Such allocations and appropriations shall be made available on the basis of equal monthly installments and otherwise shall be subject to the provisions of currently existing laws making allocations and appropriations for these purposes.

Provided further, that if the limitations and restrictions herein contained are found to be in conflict with the provisions of appropriate federal statutes, as they now are or as they may be amended to the extent that federal matching money is not available to the state for these purposes, then and in that event the Legislature is specifically authorized and empowered to prescribe such limitations and restrictions and enact such laws as may be necessary in order that such federal matching money will be available for assistance and/or medical care for or on behalf of needy persons.

Nothing in this Section shall be construed to amend, modify or repeal Section 31 of Article XVI of this Constitution; provided further, however, that such medical care, services or assistance shall also include the employment of objective or subjective means, without the use of drugs, for the purpose of ascertaining and measuring the powers of vision of the human eye, and fitting lenses or prisms to correct or remedy any defect or abnormal condition of vision. Nothing herein shall be construed to permit optometrists to treat the eyes for any defect whatsoever in any manner nor to administer nor to prescribe any drug or physical treatment whatsoever, unless such optometrist is a regularly licensed physician or surgeon under the laws of this state.

As amended Nov. 5, 1957; Nov. 6, 1962; Nov. 9, 1963; Nov. 2, 1965; Aug. 5, 1969.

Amendment adopted in 1969 was proposed by S.J.R. No. 8, Acts 1969, 61st Leg., p. 3224.

§ 51-b. State Building Commission; State Building Fund

Proposed amendment of this section by H.J.R. No. 15, see page CXXIX.

§ 51-d. Payment of assistance to survivors of law enforcement officers

Sec. 51-d. The Legislature shall have the power, by general law, to provide for the payment of assistance by the State of Texas to the surviving spouse and minor children of officers, employees, and agents, including members of organized volunteer fire departments and members of organized police reserve or auxiliary units with authority to make an arrest, of the state or of any city, county, district, or other political subdivision who, because of the hazardous nature of their duties, suffer death in the course of the performance of those official duties. Should the Legislature enact any enabling laws in anticipation of this amend-

CONSTITUTION—ADOPTED AMENDMENTS

ment, no such law shall be void by reason of its anticipatory nature. Adopted Nov. 8, 1966; as amended Aug. 5, 1969.

Amendment adopted in 1969 was proposed by H.J.R. No. 4, Acts 1969, 61st Leg., p. 3230.

§ 52. Counties, cities, towns or other political corporations or subdivisions; lending credit; grants

Proposed amendment of this section by H.J.R. No. 28, see page CXXIX.

§ 52e. Dallas County bond issues for roads and turnpikes

Sec. 52e. Bonds to be issued by Dallas County under Section 52 of Article III of this Constitution for the construction, maintenance and operation of macadamized, graveled or paved roads and turnpikes, or in aid thereof, may, without the necessity of further or amendatory legislation, be issued upon a vote of a majority of the resident property taxpayers voting thereon who are qualified electors of said county, and bonds heretofore or hereafter issued under Subsections (a) and (b) of said Section 52 shall not be included in determining the debt limit prescribed in said Section. Adopted Nov. 5, 1968.

Amendment adopted in 1968 was proposed by S.J.R. No. 37, Acts 1967, 60th Leg., p. 2973.

§ 64. Consolidation of governmental offices and functions in El Paso and Tarrant Counties

Sec. 64. (a) The Legislature may by statute provide for consolidation of governmental offices and functions of government of any one or more political subdivisions comprising or located within El Paso or Tarrant Counties. Any such statute shall require an election to be held within the political subdivisions affected thereby with approval by a majority of the voters in each of these subdivisions, under such terms and conditions as the Legislature may require.

(b) The county government, or any political subdivision(s) comprising or located therein, may contract one with another for the performance of governmental functions required or authorized by this Constitution or the Laws of this State, under such terms and conditions as the Legislature may prescribe. No person acting under a contract made pursuant to this Subsection (b) shall be deemed to hold more than one office of honor, trust or profit or more than one civil office of emolument. The term "governmental functions," as it relates to counties, includes all duties, activities and operations of statewide importance in which the county acts for the State, as well as of local importance, whether required or authorized by this Constitution or the Laws of this State.

Adopted Nov. 5, 1968.

Amendment adopted in 1968 was proposed by H.J.R. No. 60, Acts 1967, 60th Leg., p. 2993.

Proposed amendment of this section by H.J.R. No. 22, see page CXXX.

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ARTICLE V

JUDICIAL DEPARTMENT

§ 1-a. Retirement and compensation of justices and judges; state judicial qualifications commission

Proposed amendment of this section by H.J.R. No. 30, see page CXXX.

ARTICLE VII

EDUCATION

THE PUBLIC FREE SCHOOLS

§ 3a. Repealed. Aug. 5, 1969

Repeal of this section was proposed by H.J.R. No. 3, Acts 1969, 61st Leg., p. 3230, and was approved by voters at election held Aug. 5, 1969.

§ 7. Repealed. Aug. 5, 1969

Repeal of this section was proposed by H.J.R. No. 3, Acts 1969, 61st Leg., p. 3230, and was approved by voters at election held Aug. 5, 1969.

UNIVERSITY

§ 11a. Investment of Permanent University Fund

Sec. 11a. In addition to the bonds enumerated in Section 11 of Article VII of the Constitution of the State of Texas, the Board of Regents of The University of Texas may invest the Permanent University Fund in securities, bonds or other obligations issued, insured, or guaranteed in any manner by the United States Government, or any of its agencies, and in such bonds, debentures, or obligations, and preferred and common stocks issued by corporations, associations, or other institutions as the Board of Regents of The University of Texas System may deem to be proper investments for said funds; provided, however, that not more than one per cent (1%) of said fund shall be invested in the securities of any one (1) corporation, nor shall more than five per cent (5%) of the voting stock of any one (1) corporation be owned; provided, further, that stocks eligible for purchase shall be restricted to stocks of companies incorporated within the United States which have paid dividends for five (5) consecutive years or longer immediately prior to the date of purchase and which, except for bank stocks and insurance stocks, are listed upon an exchange registered with the Securities and Exchange Commission or its successors.

In making each and all of such investments said Board of Regents shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital.

The interest, dividends and other income accruing from the investments of the Permanent University Fund, except the portion thereof which is appropriated by the operation of Section 18 of Article VII for the payment of principal and interest on bonds or notes issued thereunder, shall be subject to appropriation by the Legislature to accomplish the purposes declared in Section 10 of Article VII of this Constitution.

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This amendment shall be self-enacting, and shall become effective upon its adoption, provided, however, that the Legislature shall provide by law for full disclosure of all details concerning the investments in corporate stocks and bonds and other investments authorized herein. Adopted Nov. 6, 1956; as amended Nov. 5, 1968.

Amendment adopted in 1968 was proposed by H.J.R. No. 20, Acts 1967, 60th Leg., p. 2987.

ARTICLE VIII

TAXATION AND REVENUE

Sec.

1-e. Abolition of ad valorem property taxes [New].

§ 1-d. Assessment of lands designated for agricultural use

Proposed amendment of this section by S.J.R. No. 15, see page CXXXII.

§ 1-e. Abolition of ad valorem property taxes

Sec. 1-e.

1. From and after December 31, 1978, no State ad valorem taxes shall be levied upon any property within this State for State purposes except the tax levied by Article VII, Section 17, for certain institutions of higher learning.

2. The State ad valorem tax authorized by Article VII, Section 3, of this Constitution shall be imposed at the following rates on each One Hundred Dollars (\$100.00) valuation for the years 1968 through 1974: On January 1, 1968, Thirty-five Cents (35¢); on January 1, 1969, Thirty Cents (30¢); on January 1, 1970, Twenty-five Cents (25¢); on January 1, 1971, Twenty Cents (20¢); on January 1, 1972, Fifteen Cents (15¢); on January 1, 1973, Ten Cents (10¢); on January 1, 1974, Five Cents (5¢); and thereafter no such tax for school purposes shall be levied and collected. An amount sufficient to provide free text books for the use of children attending the public free schools of this State shall be set aside from any revenues deposited in the Available School Fund, provided, however, that should such funds be insufficient, the deficit may be met by appropriation from the general funds of the State.

3. The State ad valorem tax of Two Cents (2¢) on the One Hundred Dollars valuation levied by Article VII, Section 17, of this Constitution shall not be levied after December 31, 1976. At any time prior to December 31, 1976, the Legislature may establish a trust fund solely for the benefit of the widows of Confederate veterans and such Texas Rangers and their widows as are eligible for retirement or disability pensions under the provisions of Article XVI, Section 66, of this Constitution, and after such fund is established the ad valorem tax levied by Article VII, Section 17, shall not thereafter be levied.

4. Unless otherwise provided by the Legislature, after December 31, 1976 all delinquent State ad valorem taxes together with penalties and interest thereon, less lawful costs of collection, shall be used to secure bonds issued for permanent improvements at institutions of higher learning, as authorized by Article VII, Section 17, of this Constitution.

5. The fees paid by the State for both assessing and collecting State ad valorem taxes shall not exceed two per cent (2%) of the State taxes collected. This subsection shall be self-executing.

Adopted Nov. 5, 1968.

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§ 12. Repealed. Aug. 5, 1969

Repeal of this section was proposed by H.J.R. No. 3, Acts 1969, 61st Leg., p. 3230, and was approved by voters at election held Aug. 5, 1969.

ARTICLE IX

COUNTIES

HOME RULE CHARTERS

§ 3. Repealed. Aug. 5, 1969

Repeal of this section was proposed by H.J.R. No. 3, Acts 1969, 61st Leg., p. 3230, and was approved by voters at election held Aug. 5, 1969.

ARTICLE X

RAILROADS

§ 1. Repealed. Aug. 5, 1969

Repeal of this section was proposed by H.J.R. No. 3, Acts 1969, 61st Leg., p. 3230, and was approved by voters at election held Aug. 5, 1969.

§§ 3 to 9. Repealed. Aug. 5, 1969

Repeal of these sections was proposed by H.J.R. No. 3, Acts 1969, 61st Leg., p. 3230, and was approved by voters at election held Aug. 5, 1969.

ARTICLE XI

MUNICIPAL CORPORATIONS

§ 10. Repealed. Aug. 5, 1969

Repeal of this section was proposed by H.J.R. No. 3, Acts 1969, 61st Leg., p. 3230, and was approved by voters at election held Aug. 5, 1969.

ARTICLE XII

PRIVATE CORPORATIONS

§§ 3 to 5. Repealed. Aug. 5, 1969

Repeal of these sections was proposed by H.J.R. No. 3, Acts 1969, 61st Leg., p. 3230, and was approved by voters at election held Aug. 5, 1969.

§ 7. Repealed. Aug. 5, 1969

Repeal of this section was proposed by H.J.R. No. 3, Acts 1969, 61st Leg., p. 3230, and was approved by voters at election held Aug. 5, 1969.

ARTICLE XIII

SPANISH AND MEXICAN LAND TITLES

§§ 1 to 7. Repealed. Aug. 5, 1969

Repeal of these sections was proposed by H.J.R. No. 3, Acts 1969, 61st Leg., p. 3230, and was approved by voters at election held Aug. 5, 1969.

CONSTITUTION—ADOPTED AMENDMENTS

ARTICLE XIV

PUBLIC LANDS AND LAND OFFICE

§§ 2 to 8. Repealed. Aug. 5, 1969

Repeal of these sections was proposed by H.J.R. No. 3, Acts 1969, 61st Leg., p. 3230, and was approved by voters at election held Aug. 5, 1969.

ARTICLE XVI

GENERAL PROVISIONS

§ 3. Repealed. Aug. 5, 1969

Repeal of this section was proposed by H.J.R. No. 3, Acts 1969, 61st Leg., p. 3230, and was approved by voters at election held Aug. 5, 1969.

§ 4. Repealed. Aug. 5, 1969

Repeal of this section was proposed by H.J.R. No. 3, Acts 1969, 61st Leg., p. 3230, and was approved by voters at election held Aug. 5, 1969.

§ 7. Repealed. Aug. 5, 1969

Repeal of this section was proposed by H.J.R. No. 3, Acts 1969, 61st Leg., p. 3230, and was approved by voters at election held Aug. 5, 1969.

§ 13. Repealed. Aug. 5, 1969

Repeal of this sections was proposed by H.J.R. No. 3, Acts 1969, 61st Leg., p. 3230, and was approved by voters at election held Aug. 5, 1969.

§ 20. Intoxicating liquors; open saloon; regulation; local option

Proposed amendment of this section by S.J.R. No. 10, see page CXXXII.

§ 29. Repealed. Aug. 5, 1969

Repeal of this section was proposed by H.J.R. No. 3, Acts 1969, 61st Leg., p. 3230, and was approved by voters at election held Aug. 5, 1969.

§ 32. Repealed. Aug. 5, 1969

Repeal of this section was proposed by H.J.R. No. 3, Acts 1969, 61st Leg., p. 3230, and was approved by voters at election held Aug. 5, 1969.

§§ 34 to 36. Repealed. Aug. 5, 1969

Repeal of these sections was proposed by H.J.R. No. 3, Acts 1969, 61st Leg., p. 3230, and was approved by voters at election held Aug. 5, 1969.

§ 38. Repealed. Aug. 5, 1969

Repeal of this section was proposed by H.J.R. No. 3, Acts 1969, 61st Leg., p. 3230, and was approved by voters at election held Aug. 5, 1969.

§ 42. Repealed. Aug. 5, 1969

Repeal of this section was proposed by H.J.R. No. 3, Acts 1969, 61st Leg., p. 3230, and was approved by voters at election held Aug. 5, 1969.

§ 45. Repealed. Aug. 5, 1969

Repeal of this section was proposed by H.J.R. No. 3, Acts 1969, 61st Leg., p. 3230, and was approved by voters at election held Aug. 5, 1969.

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§ 46. Repealed. Aug. 5, 1969

Repeal of this section was proposed by H.J.R. No. 3, Acts 1969, 61st Leg., p. 3230, and was approved by voters at election held Aug. 5, 1969.

§ 51. Amount and value of homestead; uses

Proposed amendment of this section by S.J.R. No. 32, see page CXXXII.

§ 54. Repealed. Aug. 5, 1969

Repeal of this section was proposed by H.J.R. No. 3, Acts 1969, 61st Leg., p. 3230, and was approved by voters at election held Aug. 5, 1969.

§ 55. Repealed. Aug. 5, 1969

Repeal of this section was proposed by H.J.R. No. 3, Acts 1969, 61st Leg., p. 3230, and was approved by voters at election held Aug. 5, 1969.

§ 57. Repealed. Aug. 5, 1969

Repeal of this section was proposed by H.J.R. No. 3, Acts 1969, 61st Leg., p. 3230, and was approved by voters at election held Aug. 5, 1969.

§ 58. Repealed. Aug. 5, 1969

Repeal of this section was proposed by H.J.R. No. 3, Acts 1969, 61st Leg., p. 3230, and was approved by voters at election held Aug. 5, 1969.

§ 60. Repealed. Aug. 5, 1969

Repeal of this section was proposed by H.J.R. No. 3, Acts 1969, 61st Leg., p. 3230, and was approved by voters at election held Aug. 5, 1969.

§ 62. State and county retirement, disability and death compensation funds

Sec. 62. (a) The Legislature shall have the authority to levy taxes to provide a State Retirement, Disability and Death Compensation Fund for the officers and employees of the state, and may make such reasonable inclusions, exclusions, or classifications of officers and employees of this state as it deems advisable. The Legislature may also include officers and employees of judicial districts of the state who are or have been compensated in whole or in part directly or indirectly by the state, and may make such other reasonable inclusions, exclusions, or classification of officers and employees of judicial districts of this state as it deems advisable. Persons participating in a retirement system created pursuant to Section 1-a of Article V of this Constitution shall not be eligible to participate in the Fund authorized in this subsection; and persons participating in a retirement system created pursuant to Section 48-a of Article III of this Constitution shall not be eligible to participate in the Fund authorized in this subsection except as permitted by Section 63 of Article XVI of this Constitution. Provided, however, any officer or employee of a county as provided for in Article XVI, Section 62, Subsection (b) of this Constitution, shall not be eligible to participate in the Fund authorized in this subsection, except as otherwise provided herein. The amount contributed by the state to such Fund shall equal the amount paid for the same purpose from the income of each such person, and shall not exceed at any time six per centum (6%) of the compensation paid to each such person by the state.

There is hereby created as an agency of the State of Texas the Employees Retirement System of Texas, the rights of membership in which, the retirement privileges and benefits thereunder, and the management and operations of which shall be governed by the provisions herein con-

CONSTITUTION—ADOPTED AMENDMENTS

tained and by present or hereafter enacted Acts of the Legislature not inconsistent herewith. The general administration and responsibility for the proper operation of said system are hereby vested in a State Board of Trustees, to be known as the State Board of Trustees of the Employees Retirement System of Texas, which Board shall be constituted and shall serve as may now or hereafter be provided by the Legislature. Said Board shall exercise such powers as are herein provided together with such other powers and duties not inconsistent herewith as may be prescribed by the Legislature. All moneys from whatever source coming into the Fund and all other securities, moneys, and assets of the Employees Retirement System of Texas shall be administered by said Board and said Board shall be the trustees thereof. The Treasurer of the State of Texas shall be custodian of said moneys and securities. Said Board is hereby authorized and empowered to acquire, hold, manage, purchase, sell, assign, trade, transfer, and dispose of any securities, evidence of debt, and other investments in which said securities, moneys, and assets have been or may hereafter be invested by said Board. Said Board is hereby authorized and empowered to invest and reinvest any of said moneys, securities, and assets, as well as the proceeds of any of such investments, in bonds, notes, or other evidences of indebtedness issued, or assumed or guaranteed in whole or in part, by the United States or any agency of the United States, or by the State of Texas, or by any county, city, school district, municipal corporation, or other political subdivision of the State of Texas, both general and special obligations; or in home office facilities to be used in administering the Employees Retirement System including land, equipment, and office building; or in such corporation bonds, notes, other evidences of indebtedness, and corporation stocks, including common and preferred stocks, of any corporation created or existing under the laws of the United States or of any of the states of the United States, as said Board may deem to be proper investments; provided that in making each and all of such investments said Board shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as probable safety of their capital; and further provided, that a sufficient sum shall be kept on hand to meet payments as they become due each year under such retirement plan, as may now or hereafter be provided by law. Unless investments authorized herein are hereafter further restricted by an Act of the Legislature, no more than one per cent (1%) of the book value of the total assets of the Employees Retirement System shall be invested in the stock of any one (1) corporation, nor shall more than five per cent (5%) of the voting stock of any one (1) corporation be owned; and provided further, that stocks eligible for purchase shall be restricted to stocks of companies incorporated within the United States which have paid cash dividends for ten (10) consecutive years or longer immediately prior to the date of purchase and which, except for bank stocks and insurance stocks, are listed upon an exchange registered with the Securities and Exchange Commission or its successors; and provided further, that not less than twenty-five per cent (25%) at any one time of the book value of investments of said Fund shall be invested in Government and Municipal Securities as enumerated above. This Amendment shall be self-enacting and shall become effective immediately upon its adoption without any enabling legislation.

As amended Nov. 4, 1958; Nov. 5, 1968.

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Amendment adopted in 1968 was proposed
by S.J.R. No. 39, Acts 1967, 60th Leg., p.
2974.

PROPOSED AMENDMENTS

ARTICLE III

LEGISLATIVE DEPARTMENT

§ 51-b. State Building Commission; State Building Fund

(a) The State Building Commission is created and succeeds to the powers and duties heretofore vested in the agency of the same name by this Constitution and to the powers and duties the Legislature has vested or may vest in the Commission. Its membership shall consist of three Texas citizens appointed by the Governor with the advice and consent of the Senate. The term of each member shall be six years except in the first appointments to the Commission the Governor shall appoint one member for two years, one for four years, one for six years, and thereafter one member biennially. The Governor shall biennially designate one member as Chairman. Vacancies in the Commission shall be filled by appointment by the Governor for the unexpired term. The provisions of this paragraph shall be self-enacting.

* * * * *

Proposed by House Joint Resolution No. 15, Acts 1969, 61st Leg., p. 3235. For submission to the people Nov. 3, 1970.

§ 52. Counties, cities, towns or other political corporations or subdivisions; lending credit; grants; bonds; taxes

Section 52. (a) Except as otherwise provided by this section, the Legislature shall have no power to authorize any county, city, town or other political corporation or subdivision of the State to lend its credit or to grant public money or thing of value in aid of, or to any individual, association or corporation whatsoever, or to become a stockholder in such corporation, association or company.

(b) Under Legislative provision, any county, any political subdivision of a county, any number of adjoining counties, or any political subdivision of the State, or any defined district now or hereafter to be described and defined within the State of Texas, and which may or may not include, towns, villages or municipal corporations, upon a vote of two-thirds majority of the resident property taxpayers voting thereon who are qualified electors of such district or territory to be affected thereby, in addition to all other debts, may issue bonds or otherwise lend its credit in any amount not to exceed one-fourth of the assessed valuation of the real property of such district or territory, except that the total bonded indebtedness of any city or town shall never exceed the limits imposed by other provisions of this Constitution, and levy and collect taxes to pay the interest thereon and provide a sinking fund for the redemption thereof, as the Legislature may authorize, and in such manner as it may authorize the same, for the following purposes to wit:

(1) The improvement of rivers, creeks, and streams to prevent overflows, and to permit of navigation thereof, or irrigation thereof, or in aid of such purposes.

(2) The construction and maintenance of pools, lakes, reservoirs, dams, canals and waterways for the purposes of irrigation, drainage or navigation, or in aid thereof.

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(3) The construction, maintenance and operation of macadamized, graveled or paved roads and turnpikes, or in aid thereof.

(c) Notwithstanding the provisions of Subsection (b) of this Section, bonds may be issued by any county in an amount not to exceed one-fourth of the assessed valuation of the real property in the county, for the construction, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes, or in aid thereof, upon a vote of a majority of the resident property taxpayers voting thereon who are qualified electors of the county, and without the necessity of further or amendatory legislation. The county may levy and collect taxes to pay the interest on the bonds as it becomes due and to provide a sinking fund for redemption of the bonds.

Proposed by House Joint Resolution No. 28, Acts 1969, 61st Leg., p. 3236. For submission to the people Nov. 3, 1970.

§ 64. Consolidation of governmental offices and functions of political subdivisions in any county

Sec. 64. (a) The Legislature may by special statute provide for consolidation of governmental offices and functions of government of any one or more political subdivisions comprising or located within any county. Any such statute shall require an election to be held within the political subdivisions affected thereby with approval by a majority of the voters in each of these subdivisions, under such terms and conditions as the Legislature may require.

* * * * *

Proposed by House Joint Resolution No. 22, Acts 1969, 61st Leg., p. 3235. For submission to the people Nov. 3, 1970.

ARTICLE V

JUDICIAL DEPARTMENT

§ 1-a. Retirement, censure, removal and compensation of justices and judges; state judicial qualifications commission; procedure

* * * * *

(5) The Commission may hold its meetings, hearings and other proceedings at such times and places as it shall determine but shall meet at Austin at least once each year. It shall annually select one of its members as Chairman. A quorum shall consist of five (5) members. Proceedings shall be by majority vote of those present, except that recommendations for retirement, censure, or removal of any person holding an office named in Paragraph A of Subsection (6) of this Section shall be by affirmative vote of at least five (5) members.

(6) A. Any Justice or Judge of the Appellate Courts and District and Criminal District Courts, any County Judge, and any Judge of a County Court at Law, a Court of Domestic Relations, a Juvenile Court, a Probate Court, or a Corporation or Municipal Court, and any Justice of the Peace, and any Judge or presiding officer of any special court created by the Legislature as provided in Section 1, Article V, of this Constitution, may, subject to the other provisions hereof, be removed from office for willful or persistent conduct, which is clearly inconsistent with the proper performance of his said duties or casts public discredit upon the judiciary or administration of justice; or any person holding such office may be censured, in lieu of removal from office, under procedures provided for by the Legislature.

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B. Any person holding an office named in Paragraph A of this subsection who is eligible for retirement benefits under the laws of this state providing for judicial retirement may be involuntarily retired, and any person holding an office named in that paragraph who is not eligible for retirement benefits under such laws may be removed from office, for disability seriously interfering with the performance of his duties, which is, or is likely to become, permanent in nature.

(7) The Commission shall keep itself informed as fully as may be of circumstances relating to the misconduct or disability of particular persons holding an office named in Paragraph A of Subsection (6) of this Section, receive complaints or reports, formal or informal, from any source in this behalf and make such preliminary investigations as it may determine. Its orders for the attendance or testimony of witnesses or for the production of documents at any hearing or investigation shall be enforceable by contempt proceedings in the District Court.

(8) After such investigation as it deems necessary, the Commission may in its discretion issue a private reprimand, or if the Commission determines that the situation merits such action, it may order a hearing to be held before it concerning the removal, or retirement of a person holding an office named in Paragraph A of Subsection (6) of this Section, or it may in its discretion request the Supreme Court to appoint an active or retired District Judge or Justice of a Court of Civil Appeals as a Master to hear and take evidence in any such matter, and to report thereon to the Commission. If, after hearing, or after considering the record and report of a Master, the Commission finds good cause therefor, it shall issue an order of public censure or it shall recommend to the Supreme Court the removal, or retirement, as the case may be, of the person in question holding an office named in Paragraph A of Subsection (6) of this Section and shall thereupon file with the Clerk of the Supreme Court the entire record before the Commission.

(9) The Supreme Court shall review the record of the proceedings on the law and facts and in its discretion may, for good cause shown, permit the introduction of additional evidence and shall order public censure, retirement or removal, as it finds just and proper, or wholly reject the recommendation. Upon an order for involuntary retirement for disability or an order for removal, the office in question shall become vacant. The rights of an incumbent so retired to retirement benefits shall be the same as if his retirement had been voluntary.

* * * * *

(11) The Supreme Court shall by rule provide for the procedure before the Commission, Masters and the Supreme Court. Such rule shall afford to any person holding an office named in Paragraph A of Subsection (6) of this Section, against whom a proceeding is instituted to cause his retirement or removal, due process of law for the procedure before the Commission, Masters and the Supreme Court in the same manner that any person whose property rights are in jeopardy in an adjudicatory proceeding is entitled to due process of law, regardless of whether or not the interest of the person holding an office named in Paragraph A of Subsection (6) of this Section in remaining in active status is considered to be a right or a privilege. Due process shall include the right to notice, counsel, hearing, confrontation of his accusers, and all such other incidents of due process as are ordinarily available in proceedings whether or not misfeasance is charged, upon proof of which a penalty may be imposed.

(12) No person holding an office named in Paragraph A of Subsection (6) of this Section shall sit as a member of the Commission or Supreme Court in any proceeding involving his own retirement or removal.

CONSTITUTION—PROPOSED AMENDMENTS

(13) This Section 1-a is alternative to and cumulative of, the methods of removal of persons holding an office named in Paragraph A of Subsection (6) of this Section provided elsewhere in this Constitution.

Proposed by House Joint Resolution No. 30, Acts 1969, 61st Leg., p. 3237. For submission to the people Nov. 3, 1970.

ARTICLE VIII

TAXATION AND REVENUE

§ 1-d. Assessment of ranch, farm and forest lands; uniform method

Sec. 1-d. The Legislature shall have the power to provide by law for the establishment of a uniform method of assessment of ranch, farm and forest lands, which shall be based upon the capability of such lands to support the raising of livestock and/or to produce farm and forest crops rather than upon the value of such lands and the crop growing thereon.

Proposed by Senate Joint Resolution No. 15, Acts 1969, 61st Leg., p. 3227. For submission to the people Nov. 3, 1970.

ARTICLE XVI

GENERAL PROVISIONS

§ 20. Alcoholic beverages; mixed beverage law; regulation; local option

(a) The Legislature shall have the power to enact a Mixed Beverage Law regulating the sale of mixed alcoholic beverages on a local option election basis. The Legislature shall also have the power to regulate the manufacture, sale, possession and transportation of intoxicating liquors, including the power to establish a State Monopoly on the sale of distilled liquors.

Should the Legislature enact any enabling laws in anticipation of this amendment, no such law shall be void by reason of its anticipatory nature.

* * * * *

Proposed by Senate Joint Resolution No. 10, Acts 1969, 61st Leg., p. 3227. For submission to the people Nov. 3, 1970.

§ 51. Amount and value of homestead; uses

Sec. 51. The homestead, not in a town or city, shall consist of not more than two hundred acres of land, which may be in one or more parcels, with the improvements thereon; the homestead in a city, town or village, shall consist of lot, or lots, not to exceed in value Ten Thousand Dollars, at the time of their designation as the homestead, without reference to the value of any improvements thereon; provided, that the same shall be used for the purposes of a home, or as a place to exercise the calling or business of the head of a family; provided also, that any temporary renting of the homestead shall not change the character of the same, when no other homestead has been acquired.

Proposed by Senate Joint Resolution No. 32, Acts 1969, 61st Leg., p. 3229. For submission to the people Nov. 3, 1970.

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VERNON'S
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OF THE
STATE OF TEXAS

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1c. Governor's Committee on Human Relations [New].

MISCELLANEOUS

Art.

29c—1. Unsolicited goods; gift to recipient [New].

Art. 1c. Governor's Committee on Human Relations

Section 1. There is hereby created an agency of the State of Texas to be known as the Governor's Committee on Human Relations, which shall consist of fifty citizens of the State of Texas, to be appointed by the Governor. They shall be persons who have demonstrated their interest in the promotion and attainment of ideals of dignity and equality of opportunity for all members of society, and they shall be chosen so as to represent the various geographical sections and the various ethnic, racial and religious groups of the state. No person shall be ineligible for appointment because of his holding a public office or employment. Duties performed by members of the Committee are of an advisory nature, and membership shall not be deemed to constitute the holding of a public office.

Sec. 2. The terms of members initially appointed shall begin on September 1, 1969, and shall expire on February 1, 1971, and the succeeding term shall begin on September 1, 1969, and shall expire on February 1, 1973.

The Committee shall come into existence on September 1, 1969, and shall cease to exist on February 1, 1973, unless extended by the Legislature.

Sec. 3. Recognizing that the improvement of human relations between and among the various ethnic and racial groups of the state and nation is a matter of the highest importance and priority, the Legislature is creating this Committee upon the request of the Governor, as an official governmental agency to recommend programs of action designed and intended to promote and obtain a better understanding and relationship between the various groups. The Committee is charged with the duty of gathering and assembling suggestions for and information pertinent to the attainment of this goal from all practicable sources, both private and public, including individuals, groups, organizations, and other governmental agencies. In carrying out its duties and responsibilities, the Committee may conduct hearings and interviews at such places as it deems desirable, either through individual members or subcommittees or through members of its administrative staff, and it may also employ all other available means for gathering these materials.

The Committee shall report the results of its studies and make recommendations to the Governor at such times as it determines or as re-

requested by the Governor. It shall also make a report to the Governor and to each member of the Legislature not later than November 1 of the years 1970 and 1972, on any recommendations involving legislative action.

Sec. 4. Members of the Committee shall serve without compensation, but each shall receive reimbursement for travel expense when on official business of the Committee, in accordance with the rules and regulations applicable to state employees which are in effect for the period in which the travel occurs. The payment shall be made out of the appropriation made to the Governor's Office for general operating expenses.

Sec. 5. The Governor shall designate the Chairman of the Committee and shall call the first meeting of the Committee, at which meeting the members shall elect a Vice-Chairman and a Secretary from among their number. After the first meeting, the Committee shall meet at the call of the Chairman or the Governor, on the date and at the place designated in each call. The Committee may adopt procedural rules governing the conduct of its meetings and other affairs.

Sec. 6. The Committee shall appoint an Executive Director and shall fix his salary. The Executive Director shall employ or contract for the professional, technical and clerical staff necessary to accomplish the goals of this Act, and is authorized to make such other expenditures as are necessary for that purpose, within the budgetary limits fixed by the Committee.

Operating expenses of the Committee, other than traveling expenses of its members, shall be paid from money appropriated for that purpose in the general appropriation act. The Committee shall adopt an annual budget, which may be amended from time to time, allocating funds for the various expenditures to be incurred.

The Board of Control shall provide suitable quarters for the Committee and its staff in the City of Austin. The Secretary of State shall cooperate with the Committee in furnishing technical and clerical staff and services when necessary.

Sec. 7. Every state agency, department and institution and every state, county and municipal officer is directed to provide such information as may be requested by the Committee, and to assist the Committee in accomplishing its objectives.

Sec. 8. The Committee may accept gifts and grants of money from any individual, group, association, corporation, or the Federal Government. Such funds as are received shall be deposited in the State Treasury and are hereby appropriated to be expended in accordance with the specific purpose for which given and under such conditions as may be imposed by the donor or as may be provided by law.

Acts 1969, 61st Leg., p. 1495, ch. 446, eff. Sept. 1, 1969.

Title of Act:

An Act creating a temporary state agency to be known as the Governor's Committee on Human Relations, and defining its membership and duration; defining its purpose, duties, and powers, and its relationship with other agencies and officers of the state; providing for payment of travel expenses of members; providing for an administrative staff and for payment of

the operating expenses of the Committee and its staff; authorizing the Committee to accept gifts and grants of money and to expend funds so received; making other provisions relative to the organization and functioning of the Committee; and declaring an imperative public necessity for suspension of the Constitutional Rule on the reading of bills. Acts 1969, 61st Leg., p. 1495, ch. 446.

MISCELLANEOUS

Art. 29c—1. Unsolicited goods; gift to recipient

Unless otherwise agreed, where unsolicited goods are delivered to a person, he has a right to refuse to accept delivery of the goods and is not bound to return such goods to the sender. Goods received due to a bona fide mistake are to be returned, but the burden of proof of the

For Annotations and Historical Notes, see V.A.T.S.

error shall be upon the sender. If such unsolicited goods are either addressed to or intended for the recipient, they shall be deemed a gift to the recipient, who may use them or dispose of them in any manner without any obligation to the sender. Provided, however, the provisions of this Act shall not apply to goods substituted for goods ordered or solicited by the recipient.

Acts 1969, 61st Leg., p. 2044, ch. 700, § 1, eff. Sept. 1, 1969.

Title of Act:

An Act providing that anyone receiving anything unordered in the mail except goods received due to a bona fide mistake may consider it a free gift; burden of proof to be on sender; exempting goods substituted for goods ordered or solicited by the recipient; and declaring an emergency. Acts 1969, 61st Leg., p. 2044, ch. 700.

TITLE 3—ADOPTION

Art. 46a. Proceedings for adoption, hearing and rights of adopted child

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Time for hearing petition

Sec. 4. Upon the filing of a petition for adoption the court shall appoint a time and place for hearing such petition not less than forty (40) days after the mailing of the certified copy of the petition to the Executive Director of the State Department of Public Welfare, as provided in Section 1b and not exceeding sixty (60) days after such mailing. On or before the day set for hearing, the court may, for good cause shown, change the time of the hearing to any day after the day on which the report of the investigation is presented to the court, not to exceed sixty (60) days, and to a day not less than five (5) days after the State Department of Public Welfare is notified, in the manner provided in Section 1b, that the day of the hearing has been changed.

Amended by Acts 1969, 61st Leg., p. 599, ch. 204, § 1, emerg. eff. May 14, 1969.

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TITLE 3A—AERONAUTICS

AERONAUTICS COMMISSION AND DIRECTOR
OF AERONAUTICS

Art. 46c—1. Definitions

When used in this Act, unless expressly stated otherwise:

(a) The term "person" means any individual, firm, partnership, corporation, association, joint stock association or body politic; and includes any trustee, receiver, assignee, agent or authorized representative thereof.

(b) The term "aircraft" means any contrivance now known or hereafter invented which is intended, used or designed for flight in the air.

(c) The term "certificate" means a certificate of public convenience and necessity issued under this Act.

(d) The term "commission" means the Texas Aeronautics Commission.

(e) The term "air carrier" means every person owning, controlling, operating or managing any aircraft as a common carrier in the transportation of persons or property for compensation or hire which conducts all or part of its operation in the State of Texas; providing that the term "air carrier" as used in this Act shall not include, and this Act shall not apply to, air carriers operating within the State of Texas pursuant to the provisions of a certificate of public convenience and necessity issued by the Civil Aeronautics Board under the Federal Aviation Act of 1958, as now or hereafter amended.

(f) The term "aeronautics" means the art and science of flight of aircraft of all types; aviation; the operation, navigation, maintenance, construction of aircraft and all component parts thereof and includes air navigation aids, such as lighting, markings, radio, ground to aircraft, aircraft to ground, aircraft to aircraft, and related communication navigation and piloting and air crew facilities and also includes airports and airstrips and the design, construction, repair or maintenance of all or any part thereof and improvements thereto and the dissemination of information and instruction pertaining to all of the foregoing.

Amended by Acts 1969, 61st Leg., p. 1394, ch. 424, § 1, eff. Sept. 1, 1969.

Art. 46c—2. Declaration

It is hereby declared that the purpose of this Act is to further the public interest and aeronautical progress by providing for the protection, promotion, and development of aeronautics; by cooperating in effecting a uniformity of the laws relating to the development of aeronautics in the several states; by revising existing statutes relative to the development and regulation of aeronautics so as to grant to a state agency such powers and impose upon it such duties that the state may properly perform its functions relative to aeronautics and effectively exercise its jurisdiction over persons and property within such jurisdiction, may assist in the promotion of a state-wide system of airports, may cooperate with and assist the political subdivisions of this state in order that those engaged in aeronautics of every character may so engage with the least possible restrictions consistent with the safety and the rights of other person or persons; and by providing for cooperation with the federal authorities in the development of a national system of civil aviation and for coordination of the aeronautical activities of those authorities and the authorities of this state by assisting in accomplishing the purposes of federal legislation and eliminating costly and unnecessary duplication of functions properly in the province of the federal agencies.

Amended by Acts 1969, 61st Leg., p. 1394, ch. 424, § 1, eff. Sept. 1, 1969.

For Annotations and Historical Notes, see V.A.T.S.

Art. 46c—3. Aeronautics Commission, Organization, Membership

(a) The Texas Aeronautics Commission, created in 1945, shall consist of six Commissioners to be appointed by the Governor and confirmed by the Senate. The terms of the Commissioners shall be for a period of six years. Such terms shall begin on the first day of an odd numbered year and end on the last day of an even numbered year. The present Commissioners shall continue in office for a term as designated by the Governor at the time of their appointment. The Governor shall appoint successors for the present Commissioners (who may be reappointed) at the expiration of their present terms. Any member appointed to fill a vacancy occurring prior to the expiration of the term to which his predecessor was appointed shall be appointed to only the remainder of such term. Each member shall serve until the appointment and qualification of his successor. Each member shall be reimbursed for actual and necessary expenses incurred by him in the performance of his duties. Each member may be paid the sum of \$10 per diem, or part thereof, spent in attending to his duties as Commissioner, but no member shall receive more than the sum of \$600 in any one year as per diem.

(b) To qualify for appointment to the Commission by the Governor, an appointee must have the following minimum qualifications in addition to those set out herein:

(1) Bona fide continuous residence in the state for the 10 years immediately previous.

(2) Ten years of successful experience in business, professional or governmental activities.

Amended by Acts 1969, 61st Leg., p. 1394, ch. 424, § 1, eff. Sept. 1, 1969.

Art. 46c—4. Organization, Meetings, Reports

The Commission shall adopt a seal, and make such rules and regulations for its administration, not inconsistent with this Act, as hereby amended, as in its judgment it may deem advisable or necessary, and may from time to time amend such rules and regulations. It shall elect from among its members a chairman, a vice chairman, and a secretary, to serve for one year and annually thereafter shall elect such officers all to serve until their successors are appointed and qualified. It shall fix the date and place for its regular meetings. Four members shall constitute a quorum, and except as hereafter provided, no action shall be taken by less than a majority of the Commission members present. Special meetings may be called as provided by its rules and regulations. All regular and special Commission meetings shall be open to the public. Not later than December 1 each year, it shall report in writing to the governor detailed and itemized statements of all revenues and of all expenditures made by or in behalf of the Commission, and shall furnish such other information as it may deem necessary or useful or which may be requested by the Governor. The fiscal year of the Commission shall conform to the fiscal year of the state.

Amended by Acts 1969, 61st Leg., p. 1394, ch. 424, § 1, eff. Sept. 1, 1969.

Art. 46c—5. Office and Expense—Employees

Suitable offices and office equipment shall be provided by the state for the Commission in the City of Austin, and it may maintain temporary offices in any other place in the state that it may designate and may incur the necessary expense for office furniture, stationery, printing, incidental expenses, and other expenses necessary for the enforcement of this Act and the general promotion of aeronautics within the state. Regular meetings shall be held at its offices at Austin, but, whenever the convenience of the public or of the parties may be promoted, or delay or expense may be prevented, it may hold hearings or proceedings at any other place designated by it. The Commission may employ such clerical and

other employees and assistants as it may deem necessary for the proper transaction of its business and shall fix their salaries. Provided that the Commission shall not make any obligations or expend any state moneys unless and until an appropriation by the Legislature is made therefor. Amended by Acts 1969, 61st Leg., p. 1394, ch. 424, § 1, eff. Sept. 1, 1969.

Art. 46c—6. Commission Powers and Duties

Subdivision 1. General. The Commission, and its Director acting under its authority, is empowered and directed to encourage, foster, and assist in the development of aeronautics in this state and to encourage, aid, and assist in the establishment of airports and airstrips and air navigational facilities in this state, and, as to lands, or portions thereof, or navigational aids or facilities donated or given to the state, or to the Texas Aeronautics Commission to be held by it in trust for the state, the Texas Aeronautics Commission may control, administer, and have jurisdiction thereover, and may lease the same on the terms hereafter provided. The Commission and its Director may cooperate with and assist the United States, municipalities or other governmental subdivisions of this state, or persons engaged in aeronautics or in the development of aeronautics, and may endeavor to coordinate the aeronautical activities of such others, and, municipalities and governmental subdivisions are authorized to cooperate with the Commission in the development of aeronautics and aeronautical navigational facilities or aids in this state.

Subdivision 2. Authority to Contract. The Commission may enter into contracts which it deems necessary or advisable in conformity with and in the execution of the powers granted it by this Act, as amended. However, except as to moneys received by gift, the Commission shall have no power to enter into any contract or agreement binding on the State of Texas for the payment of any moneys which have not been authorized by appropriation of the Legislature from the general revenues or from the Texas Aeronautics Commission Fund. All contracts entered into by the Commission shall be submitted to the attorney general for the approval as to form. The Commission shall not enter into any contract binding the State of Texas in excess of the power granted in this Act.

Subdivision 3. Air Carriers. (a) The Commission is hereby granted and vested with the right, power and authority to promulgate and administer economic and safety rules and regulations over air carriers. The Commission shall be vested with broad discretion in promulgating such rules and regulations. Without limiting the right, power and authority of the Commission, to the extent necessary to enable it to perform its functions, it may approve or disapprove the maximum or minimum or maximum and minimum rates, fares and charges of each air carrier, require filing of such reports and other data of air carriers as the Commission may deem necessary, approve or disapprove the schedules of the air carriers, and adopt a program, rules and regulations necessary to effectuate its duties hereunder.

(b) No air carrier shall operate as such, after this Act goes into effect, without having first obtained from the Commission a certificate of public convenience and necessity pursuant to a determination by the Commission that its proposed service is in the interest of public convenience and necessity; provided, however, that all operating rights and privileges granted to any air carrier by the Commission prior to the passage of this Act shall continue in effect, authorizing the same service under the same terms and conditions as previously granted by the Commission. Upon notice and hearing, certificates of public convenience and necessity shall be subject to revocation or suspension for violation of the Commission's regulations, the provisions of this Act or the regulations or laws of the United States or any authorized agency or board thereof. Any such certificate so revoked or suspended may be reinstated upon order of the Commission on its own motion or upon application of the air carrier,

For Annotations and Historical Notes, see V.A.T.S.

when the Commission finds reinstatement to be in the public interest. In determining the existence of a public convenience and necessity for a proposed air service, the Commission shall consider the encouragement and development of an intrastate air transportation system properly adapted to the present and future needs of the State of Texas, and in addition shall consider the financial responsibility of the air carrier, its proposed routes and rates or charges, the effect, if any, upon existing air carriers and CAB certificated carriers, and any other factors similarly related to public convenience and necessity. Nothing in this Act affects any litigation pending on the effective date of this Act.

(c) No application for a certificate shall be received and filed by the Commission unless the same shall be in writing under oath in original and six copies filed with the Director of the Commission and contain the following information:

(1) The name and address of the applicant and the names and addresses of its officers, if any, and full information concerning the financial condition and physical properties of the applicant.

(2) The complete route or routes over which the applicant desires to operate, together with the description of each aircraft which the applicant intends to use.

(3) A proposed schedule of service and a schedule of rates to be charged between the several points or localities to be served.

(4) It shall be accompanied by plats or maps showing the route or routes over which the applicant desires to operate, on which plats or maps shall be delineated the line or lines of any existing air carrier or airlines, whether or not subject to this Act, serving such territory, and shall point out the need for additional air transportation facilities.

(5) Such other information, exhibits and other data in regard to the application as may be required by duly promulgated rules and regulations of the Commission.

(6) Every application filed with the Commission for a certificate shall be accompanied by a filing fee in the sum of \$50, which fee shall be in addition to any other fees and taxes and shall be retained by the Commission, whether the application is approved or not, to defray operating expenses.

Copies of such application shall be transmitted contemporaneously to the Civil Aeronautics Board, the Federal Aviation Administration and to any air carrier or CAB certificated carrier, which serves, or is authorized to serve, over the routes proposed to be served by the applicant, or any portion thereof. Upon receipt of such application in proper form, the Commission shall set a date for public hearing which may be conducted by the Commission, or at its discretion, by the Director, or any staff member of the Commission.

Any other provision of this Act notwithstanding, carriers certificated by the Civil Aeronautics Board pursuant to the Federal Aviation Act of 1958, as now or hereafter amended,¹ together with any other interested party shall be afforded the right to appear and present evidence and arguments at such hearings on all issues involved in any such hearing held under the provisions of this Act. The final determination of such application shall be made by the Commission by written order setting forth its findings and served upon the parties in such manner as the Commission shall specify, and such application may be granted or denied, in whole, or in part; provided, however, any service not specifically authorized shall be deemed specifically denied.

(d) Any certificate held, owned or obtained by any air carrier operating under the provisions of this Act may be sold, assigned, leased, transferred or inherited; provided, however, that any proposed sale, lease, assignment or transfer shall be first presented in writing to the Commission for its approval or disapproval and after public notice and public hearing the Commission may disapprove such proposed sale, assignment,

lease or transfer if it is found and determined by the Commission that such proposed sale, assignment, lease or transfer is not in good faith or that the proposed purchaser, assignee, lessee or transferee is not in good faith or that the proposed purchaser, assignee, lessee or transferee is not able or capable of continuing the operation of the equipment proposed to be sold, assigned, leased, or transferred in such manner as to render the services demanded by the public convenience and necessity on and along a designated route, or that the proposed sale, assignment, lease or transfer is not in the best public interest. The Commission in approving or disapproving any sale, assignment, lease or transfer of any certificate may take into consideration all the requirements and qualifications of a regular applicant required in this Act and apply the same as necessary qualifications of any proposed purchaser, assignee, lessee or transferee. Every application filed with the Commission for an order approving the lease, sale or transfer of any certificate of convenience and necessity shall be accompanied by a filing fee in the sum of \$25, which fee shall be in addition to any other fees and taxes and shall be retained by the Commission whether the lease, sale, or transfer of the certificate is approved or not.

(e) If any air carrier or other party in interest be adversely affected by any decision, rate, charge, order, rule, act or regulation adopted by the Commission, that party, after failing to get relief from the Commission, may file a petition setting forth its particular objections to the action of the Commission in the District Court of Travis County, Texas, against the Commission as defendant. This action shall have precedence over all other causes on the docket of a different nature. All decisions, rates, charges, orders, rules, acts or regulations adopted or approved by the Commission shall be sustained in the District Court unless there is no substantial evidence to support them. The appeal shall be tried de novo as an appeal from Justice Court to the County Court. The District Court shall not be bound thereby, but, upon motion of any party to the proceedings, the record of the proceedings made before the Commission of the proceedings under review may be admissible in the District Court. Appeals from any final judgment of the District Court may be taken by any party to the cause in the manner provided for in civil actions generally, but no appeal bond shall be required of the Commission.

(f) Every officer, agent, servant or employee of any corporation and every other person who violates or fails to comply with or procures, aids or abets in the violation of any provision of this Act or who violates or fails to obey, observe or comply with any lawful order, decision, rule or regulation, direction, demand or requirement of the Commission shall be subject to and shall pay a penalty not exceeding \$100 for each and every day of such violation. The penalty shall be recovered in any court of competent jurisdiction in the county in which the violation occurs. Suit for the penalty or penalties shall be instituted and conducted by the Attorney General of the State of Texas, or by the county or district attorney in the county in which the violation occurs in the name of the State of Texas. Upon violation of any provision of this Act, or upon the violation of any rule, regulation, order or decree of the Commission promulgated under the terms of this Act, any district court of any county where such violation occurs shall have the power to restrain and enjoin the person, firm or corporation so offending from further violating the provisions of this Act or from further violating any of the rules, regulations, orders, and decrees of the Commission. Such injunctive relief may be granted upon the application of the Commission, the attorney general or any district or county attorney. No bond shall be required when such injunctive relief is sought upon the application of the Commission, attorney general or any district or county attorney. Such relief may be granted in suits for penalties as provided in this section, but suit for penalties shall not be a condition precedent to the injunctive relief provided hereby.

For Annotations and Historical Notes, see V.A.T.S.

Subdivision 4. Cooperation with the United States. The Commission shall work with the agencies of the United States in enforcing the statutes, directives, rules and regulations of the United States. It is authorized to report to the appropriate federal agencies and agencies of other states all proceedings instituted charging violations of this Act or of federal statutes. It is authorized to receive reports of penalties and other data from agencies of the United States and other states, and when necessary, to enter into agreements, approved by the Attorney General of Texas as to form, with the United States and the agencies of other states governing the delivery, receipt, exchange and use of reports and data. The commission may make such reports, with or without request therefor, to any officer of the state or of a municipality authorized by the commission or by the United States to enforce the aeronautics laws, but such reports shall not constitute evidence of any violation nor shall the same be received as evidence by any court.

Subdivision 5. Aircraft Operation. Aircraft shall be operated in and over the state in a safe manner. Operation shall be deemed safe if conducted in compliance with the United States laws and regulations governing air traffic and aeronautical operation, now in existence or hereafter enacted.

Subdivision 6. Airports and Navigation Aids, Gifts, Leases. (a) To develop aeronautics for the common good, benefit, and safety of the citizens of Texas, and to provide for catastrophe, disaster, or state or national emergency, the state, or the Texas Aeronautics Commission on behalf of the state, is granted the right, under its police power, to accept gifts or donations of all or any parts of lands on, adjacent to, or utilizable as, airports or airstrips, or utilizable as a navigational aid, in the judgment of the Texas Aeronautics Commission, from the United States or any agency thereof or from any governmental, municipal, or other political subdivision of this state, or from any other person, firm, association, group, or corporation. The same shall be administered by the Texas Aeronautics Commission and shall be and remain under its control and jurisdiction. The Texas Aeronautics Commission is hereby granted the right to utilize such portion of the Texas Aeronautics Commission Fund, or other moneys appropriated to it by the Legislature, to construct improvements, facilities or navigational aids thereon as the commission shall deem advisable or necessary. The commission is granted the right to rent or lease such lands and improvements to any governmental or municipal agency or subdivision, or to any other person, firm, association, group, or corporation, provided any such lease so executed by the commission shall be for a term not to exceed 20 years, and provided further, the Texas Aeronautics Commission shall determine, after investigation, and reduce its findings to writing in a book or books to be maintained in the office of the Texas Aeronautics Commission for that purpose: (1) that the lease is desirable or essential for the purpose above stated; (2) that the lessee is financially responsible; and (3) that the amount of monthly or periodic rental payments shall be sufficient to amortize the amount it has expended thereon for improvements within the term of the lease. Any such lease, before the same shall become effective, shall be submitted to, and approved by, the attorney general as to form. Any such lease shall provide that the lessee shall maintain the land, premises and improvements placed thereon by the Texas Aeronautics Commission in accordance with the standards prescribed by the Texas Aeronautics Commission and shall contain a provision that the lease shall immediately terminate and that the lessee shall surrender the premises to the Texas Aeronautics Commission without liability, and without court action, in the event of violation of any of the provisions of the lease, or any rule, regulation or order of the Texas Aeronautics Commission pertaining thereto; and provided further, the Texas Aeronautics Commission shall have the right to utilize the same, or any part thereof, for itself or others, without

liability or cost, in time of national or state disaster, emergency, or catastrophe, as determined by either the Governor of Texas or the Texas Aeronautics Commission.

(b) Independently and additionally, the Commission shall be authorized to accept any grant, payment, or gift of moneys, funds or property made to it by any person, individual, firm, association, corporation, municipality, county, or other political subdivision of the state, or from the United States, or any department or agency thereof, as to which the donor has prescribed a particular use for one or more aeronautical purposes. The Commission shall utilize any such grant of property in accordance with the terms of the grant, and as to any such payment, or gift of funds or moneys, the Commission shall (1) deposit the same in any one or more state or national banks approved by the State Depository Board as a depository of the public funds of Texas, and shall (2) utilize such moneys for the purpose or purposes prescribed by the donor. A record shall be maintained in the Commission's offices of such properties and funds. Such funds shall be expended only upon general or special order of the Commission, and all checks shall be signed by the Director and countersigned by the Chairman of the Commission, or some other Commissioner designated by a majority of the Commission to so countersign. Reports of any such expenditures shall be made at the end of each fiscal year to the Comptroller of Public Accounts of the State of Texas.

Subdivision 7. Investigations, Hearings (General). The Commission shall have the power to conduct and hold investigations, inquiries, and hearings concerning matters covered by the provisions of this Act and the rules, regulations and orders of the Commission, unless specifically provided otherwise herein. Hearings shall be open to the public. Each member of the Commission, the Director and every officer or employee of the Commission, designated by it to hold an inquiry, investigation or hearing, shall have the power to administer oaths, certify to all official acts, issue subpoenas, and order the attendance and testimony of witnesses and the production of papers, books and documents. Each subpoenaed witness who shall appear at a designated place outside the county of his residence shall receive for his attendance Five Dollars per day and six cents per mile traveled by the nearest practicable route in going to and returning from the place so designated, which shall be ordered paid, on the presentation of proper vouchers, sworn to by such witness and approved by the Commission or Chairman thereof, provided, no witness shall be entitled to any witness fees or mileage who is directly or indirectly interested or involved in the investigation or hearing on account of which he is summoned. Any witness entitled to be paid shall be paid out of any funds so appropriated by the Legislature, or out of the Texas Aeronautics Commission Fund. In the case of the failure of any person to comply with any subpoena or order issued under the authority of this section, the Commission shall notify the attorney general who may bring suit in the name of the state in any district court of Travis County, Texas. The court, if it determines such noncompliance was not justified, shall thereupon order such person to comply with the requirements of the subpoena or order, and failure to obey the order of the court may be punished by the court as a contempt thereof.

Subdivision 8. Education, Publications. The Commission may organize and administer a program of aeronautical education in the schools and colleges of the state and for the general public and may prepare and conduct flight clinics for airmen. The Commission may issue such aeronautical publications as may be required in the public interest.

Subdivision 9. Technical Services. In the interest of public safety and welfare, the Commission may, insofar as is reasonably possible, make available its engineering and technical services, with or without charge, to any municipality or person desiring them in connection with the plan-

For Annotations and Historical Notes, see V.A.T.S.

ning, acquisition, construction, improvement, maintenance or operation of airports, air navigation facilities or other aeronautical activities.

Subdivision 10. Grants or Loans. When in the discretion of the Commission the public interest will best be served, and the governmental function of the state or its political subdivisions relative to aeronautics will best be discharged, it may grant or loan funds, appropriated to it for that purpose by the Legislature, to any state agency with a governing board that is authorized to operate airports, and to any incorporated city, town or village in this state for the establishment, construction, reconstruction, enlargement or repair of airports, airstrips or air navigational facilities. Provided that any such funds must be expended by the city, town or village for the purpose provided herein and in conformity with the laws of this state and with the rules and regulations which the Commission is hereby authorized to promulgate.

Prior to approving any loan or grant under this Act the Commission shall hold a public hearing at which all interested parties shall have an opportunity to be heard. No such loan shall be made without a majority vote of the entire Commission in favor thereof and no such grant shall be made without a two-thirds vote of the entire Commission in favor thereof. In determining whether or not a grant or loan shall be made, the Commission shall consider the following:

(1) The need for an airport or facility or improvement of existing facility in the locality in the light of existing airports or facilities in the area and in light of the overall needs of the state, and

(2) The financial needs of the community with priority given to areas of greatest need.

(3) Loans shall be made in lieu of grants whenever feasible. Prior to approving any loan or grant the Commission shall require that:

(1) The airport or facility remain in the control of the political subdivision or political subdivisions involved for at least 20 years, and

(2) The political subdivision disclose the source of all funds for the project and its ability to finance and operate the project, and

(3) All loans shall bear interest at the rate of at least three percent per annum and have a term of not longer than 20 years, and

(4) At least fifty percent of the total project cost be provided from sources other than the State of Texas, and

(5) The project be adequately planned.

Amended by Acts 1969, 61st Leg., p. 1394, ch. 424, § 1, eff. Sept. 1, 1969.

1 49 U.S.C.A. § 1301 et seq.

Art. 46c—7. Director of Aeronautics

Subdivision 1. Appointment, Compensation. A Director of Aeronautics shall be appointed by the Commission. He shall receive such compensation as may be provided in the biennial department appropriation bill and shall be reimbursed for all traveling and other expenses incurred by him in the discharge of his official duties.

Subdivision 2. Powers and Duties. The Director shall be the executive officer of the Commission and under its supervision shall administer the provisions of this Act (and the rules, regulations, and orders established thereunder), and all other laws of the state relative to aeronautics. He shall attend all meetings of the Commission, but shall not have the power to vote. At the direction of the Commission he shall, together with the Chairman of the Commission, execute all contracts entered into by the Commission which are legally authorized and for which funds are provided by this Act, as amended, or in any appropriation Act.

Amended by Acts 1969, 61st Leg., p. 1394, ch. 424, § 1, eff. Sept. 1, 1969.

Art. 46c—8. Hearings, Judicial Review, and Court Aid

The Commission is authorized to enforce the provisions of this Act, by revocation or suspension of any lease or permit; in the event of violation of this Act, the Commission shall notify the attorney general thereof, who is authorized to enforce the same by bringing a suit in any of the district courts of the county of the residence of the defendant in such action, and any such court may enforce the same by injunction or other appropriate legal process.

Amended by Acts 1969, 61st Leg., p. 1394, ch. 424, § 1, eff. Sept. 1, 1969.

TITLE 4—AGRICULTURE AND HORTICULTURE

CHAPTER ONE—COMMISSIONER OF AGRICULTURE

Art. 55c. Financing programs to encourage production, marketing and use of agricultural commodities; referendum; exemptions; political activity; budget approval

Statement of policy

Section 1. It is declared to be in the interest of the public welfare of the State of Texas that the producers of any agricultural commodity be permitted and encouraged to develop, carry out, and participate in programs of research, disease and insect control, education, and promotion, designed to encourage the production, marketing, and use of such agricultural commodity. It is the purpose of this Act to provide the authorization and to prescribe the necessary procedures, whereby the producers of any agricultural commodity grown in this state may finance programs to achieve the purposes herein expressed.

Sec. 1 amended by Acts 1969, 61st Leg., p. 2395, ch. 806, § 1, emerg. eff. June 14, 1969.

Definitions

Sec. 2. In this Act, unless the context requires a different definition,

(1) "agricultural commodity" means any agricultural, horticultural, viticultural, or vegetable product, bees and honey, planting seeds, livestock and livestock product, or poultry and poultry product, produced in this state, either in its natural state or as processed by the producer;

(2) "commissioner" means the Commissioner of Agriculture of the State of Texas;

(3) "board" means the commodity producers board for a particular agricultural commodity;

(4) "processor" means any person within this state who is the first purchaser of any agricultural commodity for commercial purposes, any person in this state who processes planting seeds, or any person within this state who is the mortgagee of any agricultural commodity, provided the mortgage did not cover the commodity in its state as a growing crop and provided the mortgage was executed at a time when the commodity was ready for marketing;

(5) "producer" means any person within this state engaged in the business of producing, or causing to be produced for commercial purposes, any agricultural commodity;

(6) "person" means any individual, firm, corporation, association, or any other business unit.

Sec. 2 amended by Acts 1969, 61st Leg., p. 2395, ch. 806, § 1, emerg. eff. June 14, 1969.

Sec. 2A. Rice, flax, broiler-fryers, and cattle are exempt from all provisions of this Act. The original referendum and subsequent biennial board elections may provide exemptions for producers within the boundaries of the assessment district, provided such exemptions are included in full written form on the election ballot and are approved by two-thirds or more of those voting in the election.

Sec. 2A added by Acts 1969, 61st Leg., p. 2395, ch. 806, § 2, emerg. eff. June 14, 1969.

Petition for certification by producer organization

Sec. 3. (a) Any non-profit organization, authorized under the laws of the State of Texas, representing the producers of a particular agricultural commodity, may petition the commissioner of agriculture for certification as the duly delegated and authorized organization of such producers, for the purpose of conducting a referendum either on an area or statewide basis, on the proposition of whether or not the producers of such agricultural commodity shall levy an assessment upon themselves to finance programs of research, disease and insect control, education, and promotion, designed to encourage the production, marketing, and use of such commodity.

(b) If the petition proposes a commodity producers board to represent a portion of the state, the petition must describe the boundaries of the area to be included. The petition must also propose either a 6, 9, 12, or 15-member board.

Sec. 3 amended by Acts 1969, 61st Leg., p. 2395, ch. 806, § 1, emerg. eff. June 14, 1969.

* * * * *

Authority of certified organization

Sec. 5. (a) Upon being certified by the commissioner, the organization is fully authorized to hold and conduct on the part of the producers of the agricultural commodity, within the boundaries set forth in the petition, a referendum on the proposition of whether or not such producers shall levy an assessment upon themselves, not to exceed a rate specified on the ballot, for the purposes stated in this Act.

(b) The certified organization is further authorized to hold and conduct, at the same time as the referendum, an election of members to a commodity producers board for the particular commodity, which shall have the responsibility of formulating and administering programs for the purposes stated in this Act.

Sec. 5 amended by Acts 1969, 61st Leg., p. 2395, ch. 806, § 1, emerg. eff. June 14, 1969.

Notice of referendum and election; distribution of ballots

Sec. 6. (a) At least 60 days before the date set for the referendum and election, the certified organization shall give public notice, as hereinafter provided, of the date, hours, and polling places for voting in the referendum and election; the estimated amount and basis of the assessment proposed to be collected; and a description of the manner in which the assessment, if authorized, shall be collected and the proceeds administered and utilized.

(b) The above notice shall be given by publication thereof in a newspaper or newspapers published and distributed within the boundaries set forth in the petition, for not less than once a week for three consecutive weeks. In addition, direct written notice shall be given to each county agent in any county within the boundaries set forth in the petition.

(c) The certified organization shall prepare and distribute in advance of the referendum and election all necessary ballots.

Sec. 6 amended by Acts 1969, 61st Leg., p. 2395, ch. 806, § 1, emerg. eff. June 14, 1969.

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Basis of referendum and election; eligibility of voters; expenses

Sec. 8. (a) Any referendum and election conducted under the provisions of this Act may be held either on an area or statewide basis, as determined by the certified organization in its petition to the commissioner of agriculture, and if approved by him at the public hearing herein provided for.

(b) All producers of the particular agricultural commodity, within the area defined in the call for the referendum and election, including owners of farms on which such commodity is produced, and their tenants and sharecroppers, are eligible to vote in the referendum and election if such producer would be required under the referendum to pay the assessment proposed.

(c) All expenses incurred in connection with the referendum and election shall be borne by the certified organization, but the organization may be reimbursed for actual and necessary expenses out of funds received and deposited in the treasury of the commodity producers board for such commodity, in the event the assessment is levied and subsequently collected.

Sec. 8 amended by Acts 1969, 61st Leg., p. 2395, ch. 806, § 1, emerg. eff. June 14, 1969.

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Powers and duties of board

Sec. 14. A commodity producers board for any particular agricultural commodity has the following powers and duties:

(1) to employ necessary personnel, fix the amount and manner of their compensation, and incur other expenses that are necessary and proper to enable the board to effectively carry out the purposes of this Act;

(2) to promulgate and adopt reasonable rules and regulations, not inconsistent with the purposes of this Act;

(3) to keep minutes of its meetings, and other books and records which will clearly reflect all of the acts and transactions of the board, and to keep these records open to examination by any producer participant during normal business hours;

(4) to set the rate of the assessment which shall, however, in no instance exceed the maximum amount established in the election authorizing the assessment or at subsequent elections establishing a maximum rate;

(5) to act jointly and in cooperation with others, or separately, for the purpose of developing, carrying out, and participating in programs of research, disease and insect control, education, and promotion, designed to encourage the production, marketing, and use of the commodity upon which the assessment is levied; and

(6) to submit to the commissioner, within 30 days after the end of each fiscal year of the board, a report itemizing all income and expenditures and describing the activities of the board during the fiscal year.
 Sec. 14 amended by Acts 1969, 61st Leg., p. 2395, ch. 806, § 1, emerg. eff. June 14, 1969.

Political activity

Sec. 14A. No funds assessed and collected under this Act shall be expended for use directly or indirectly to promote or oppose the election of any candidate for public office or influence legislation. Any member of any commodity producers board who wilfully spends or assists in spending any money in violation of this section, or who participates in a regular, special, or called meeting or session of the board in which money is authorized or directed to be expended in violation of this

section, without causing or attempting to cause his dissent to be entered in the record or minutes of the board, is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000.

Sec. 14A added by Acts 1969, 61st Leg., p. 2395, ch. 806, § 2, emerg. eff. June 14, 1969.

Collection of assessment; refund

Sec. 15. (a) The levying of an assessment which has been authorized by referendum vote shall be made and collected as provided in this section.

(b) The board shall determine the commodity process point at which collection of the assessment shall be made, except that when the producer and processor are the same legal entity the processor shall collect the assessment at the time of processing, also, except that when a producer retains ownership after processing, the processor shall collect the assessment at time of processing and the secretary-treasurer of the board shall notify all such processors at that point of process, by registered or certified mail, that on and after the date specified in the letter, the processor, when making any purchase of the commodity or advancing any funds therefor, shall collect the assessment from the producer by deducting the amount thereof from the purchase price or funds advanced at that process point.

(c) The amount of the assessment collected shall be clearly shown on the sales invoice or other document evidencing the transaction, and a copy of such receipt shall be furnished the producer by the processor.

(d) The processor collecting the assessment shall remit such funds monthly, not later than the 10th day of the month following that in which they were collected, to the secretary-treasurer of the commodity producers board for such commodity, unless otherwise provided in the original referendum which authorized creation of the assessment district.

(e) The secretary-treasurer shall deposit all money received by the board under this Act, including assessments, donations from individuals, concerns, or corporations, and grants from state or other governmental agencies, in a bank selected by the board. The money shall be expended for the purposes specified in this Act.

(f) Any producer who has paid such assessment may, if he desires to do so, obtain a refund of the amount paid, if application for a refund is made within 60 days after the date of payment. Such application shall be in writing on a form designed and furnished for such purpose by the commodity producers board. The application shall be filed with the secretary-treasurer of the board, accompanied by proof of the payment of the assessment, and it is the duty of the secretary-treasurer to promptly pay the refund to the producer not later than the 10th day of the month following the month in which the application and proof of payment is received.

Sec. 15 amended by Acts 1969, 61st Leg., p. 2395, ch. 806, § 1, emerg. eff. June 14, 1969.

Increase of assessment

Sec. 15A. The board may at any biennial board election submit a proposition to increase the rate of assessment. If two-thirds or more of those voting in the election vote in favor of the proposition, or if those voting in favor of the proposition produced at least 50 percent of the volume of production of the commodity during the last preceding calendar year or relevant production period, then the new assessment shall be in force.

Sec. 15A added by Acts 1969, 61st Leg., p. 2395, ch. 806, § 2, emerg. eff. June 14, 1969.

Budget approval

Sec. 15B. The Board of any producer of agricultural commodity shall prepare a budget in advance of the expenditure of any funds which shall be filed with the Commissioner of Agriculture. The Commissioner of Agriculture shall review the budget and shall approve or reject the budget. Once approval of the budget is obtained, then the funds may be expended. All funds are subject to audit by the State Auditor.
 Sec. 15B added by Acts 1969, 61st Leg., p. 2395, ch. 806, § 2, emerg. eff. June 14, 1969.

CHAPTER TWO—STATE SEED AND PLANT BOARD

Art.

64a. Protection of varietal quality of cotton [New].

Art. 64a. Protection of varietal quality of cotton

Section 1. The purpose of this article is to encourage the development of superior cotton varieties through the investment of private and corporate funds, to improve the quality of cotton planting seed, and to reduce the sale of varietally impure cotton planting seed in this state.

Sec. 2. In this article,

(1) "person" means an individual, an association of individuals, a partnership, or a corporation; and

(2) "board" means the State Seed and Plant Board of the State of Texas.

Sec. 3. Under the provisions of this Chapter and Chapter 93, Acts of the 41st Legislature, 1st Called Session, 1929 (Article 67a, Vernon's Texas Civil Statutes), the board shall promulgate rules and regulations governing the registration and certification of newly developed cotton varieties.

Sec. 4. If a new variety of cotton is registered or certified by the board, no person may use the name given the new variety by its developer to sell non-certified cotton seed for a period of 17 years from the date the new variety is registered or certified by the board.

Sec. 5. A person who violates Section 4 of this article is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$1,000.

Sec. 6. (a) This article does not require a developer of a new variety of cotton to register, or have certified his new variety; and a developer after 10 days notice to the board, may withdraw from the operation of this article a variety that he has registered or had certified.

(b) This article does not prohibit a developer of a new cotton variety of cotton from entering into contracts with seedsmen and farmers for the production and/or sale of seed of the new variety.

(c) This article does not in any manner alter the farmer exemption in the present seed laws of Texas.

(d) At any time when a critical situation exists because rain, hail, drouth, insects, or any other natural elements beyond the originator's control, have reduced the supply of planting seed of varieties covered under this Act, the board may hold proper public hearings to gather information on the supply, demand, and quality of seed available; and if in its judgment an emergency exists, the board may allow non-certified seed, grown from state certified seed, of the variety, or varieties, in which a shortage exists, to be sold by variety name for that crop year only. For the protection of the purchaser, the board shall require bona fide grower affidavits to establish varietal status for all non-certified seed sold by variety name during such an emergency.

Sec. 7. This Act is not applicable to seeds which were marketed, certified, or registered before the effective date of this Act. Added by Acts 1969, 61st Leg., p. 147, ch. 50, § 1, eff. Sept. 1, 1969.

CHAPTER FOUR—AGRICULTURAL SEEDS

Art. 93b. Texas Seed Law

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Definitions

Sec. 2.

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(e) Hybrids. The Commissioner of Agriculture shall prescribe, amend, adopt and publish after public hearing following due public notice, rules and regulations defining a 'hybrid' to more nearly conform with that definition acceptable for use in interstate commerce, or to utilize scientific developments, and to prescribe, amend, adopt and publish after public hearing following due public notice such rules and regulations as may be necessary to make effective such definition. Hybrid designations shall be treated as variety names.

Sec. 2(e) amended by Acts 1969, 61st Leg., p. 575, ch. 195, § 1, eff. Sept. 1, 1969.

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Label requirements

Sec. 3. Each container of agricultural or vegetable seed which is sold, offered for sale, or exposed for sale, within this state for sowing purposes shall bear thereon or have attached thereto in a conspicuous place a plainly written or printed label or tag in the English language, giving the following information:

(a) For Agricultural Seeds.

(1) The name of the kind or the kind and variety for each agricultural seed component present in excess of 5 percent of the whole and the percentage by weight of each: Provided, that if the variety of those kinds generally labeled as to variety as designated in the rules and regulations is not stated, the label shall show the name of the kind and the words, "Variety Not Stated." Hybrids shall be labeled as hybrids.

(2) Lot number or other lot identification.

(3) Origin, if known, of all agricultural seeds. If the origin is unknown, that fact shall be so stated.

(4) Percentage by weight of all weed seeds.

(5) Primary and secondary noxious weed seeds will be shown at rate per pound.

(A) All determinations of noxious weed seeds are subject to tolerances and methods of determination prescribed in the rules and regulations under this Act.

(6) Percentage by weight of agricultural seeds other than those required to be named on the label.

(7) Percentage by weight of inert matter.

(8) For each named agricultural seed (a) percentage of germination, exclusive of hard seed, (b) percentage of hard seed, if present, and (c) the calendar month and year the test was completed to determine such percentages. Following (a) and (b) the additional statement 'total germination and hard seed' may be stated as such, if desired.

(9) Name and address of the person who labeled said seed, or who sells, offers, or exposes said seed for sale within this state.

(10) All fescue, certified or noncertified, must have shown on the tag that the seed contains rye grass, if any, and the amount given in

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percentage. If no rye grass is found in the sample, the tag shall state "None Found."

(11) Net Weight.

(b) For Vegetable Seed:

(1) Each bag or container of vegetable seed weighing one pound or more must have written on the container or attached a label showing the following information:

(A) Name and address of the person who labeled said seed.

(B) Kind and variety of seed.

(C) Percentage purity.

(D) Germination.

(E) Date of Test, and

(F) If present, name and number of noxious weed seeds per pound.

Sec. 3 amended by Acts 1969, 61st Leg., p. 575, ch. 195, § 2, eff. Sept. 1, 1969.

Prohibitions

Sec. 4. (a) It is unlawful for any person to sell, offer for sale, expose for sale or to transport for sale any agricultural and vegetable seeds within this state:

(1) Unless the test to determine the percentage of germination required by Section 3 shall have been completed within a nine month period, exclusive of the calendar month in which the test was completed, immediately prior to sale, exposure for sale, or offering for sale or transportation; except that the Commissioner of Agriculture may prescribe, amend, adopt and publish after public hearing following due public notice rules and regulations to designate a longer period for any kind of agricultural or vegetable seed which is packaged in such container materials and under such other conditions prescribed by the Commissioner of Agriculture as he finds will, during such longer period, maintain the viability of said seed under ordinary conditions of handling.

(2) Not labeled in accordance with the provisions of this Act, or having a false or misleading labeling.

(3) Pertaining to which there has been a false or misleading advertisement.

(4) Any agricultural seeds containing primary noxious weed seeds subject to tolerances and methods of determination prescribed in the rules and regulations under this Act.

(b) It shall be unlawful for any person within this state:

(1) To detach, alter, deface, or destroy any label provided for in this Act or the rules and regulations made and promulgated thereunder, or to alter or substitute seed in a manner that may defeat the purposes of this Act.

(2) To disseminate any false or misleading advertisement concerning agricultural or vegetable seed in any manner or by any means.

(3) To hinder or obstruct in any way any authorized person in the performance of his duties under this Act.

(4) To fail to comply with a "stop-sale" order.

(5) To use the word "type" in any labeling in connection with the name of any agricultural seed variety.

Sec. 4 amended by Acts 1969, 61st Leg., p. 575, ch. 195, § 3, eff. Sept. 1, 1969.

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Duties and authority of the Commissioner of Agriculture

Sec. 6.

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(b) Further, for the purpose of carrying out the provisions of this Act, the Commissioner of Agriculture individually or through his authorized agents is authorized:

(1) To enter upon any public or private premises during regular business hours in order to have access to seeds and the records from personnel authorized by management connected therewith subject to the Act and the rules and regulations thereunder, and any truck or other conveyer by land, water, or air at any time when the conveyer is accessible, for the same purpose.

(2) To issue and enforce a written or printed "stop-sale" order to the owner or custodian of any lot of agricultural or vegetable seed which the Commissioner of Agriculture has reason to believe is in violation of any of the provisions of this Act which shall prohibit further sale of such seed until such officer has evidence that the law has been complied with. Provided, that in respect to seeds which have been denied sale as provided in this paragraph, the owner or custodian of such seeds shall have the right to appeal from such order to a court of competent jurisdiction where the seeds are found, praying for a judgment as to the justification of said order and for the discharge of such seed from the order prohibiting the sale in accordance with the findings of the court; and provided further, that the provisions of this paragraph shall not be construed as limiting the right of the enforcement officer to proceed as authorized by other sections of this Act.

(3) To establish and maintain or make provision for seed testing facilities, to employ qualified persons, and to incur such expenses as may be necessary to comply with these provisions.

(4) To make or provide for making purity and germination tests of seeds for farmers and dealers on request; to prescribe rules and regulations governing such testing; and may fix and collect charges for the tests made.

(5) To cooperate with the United States Department of Agriculture in seed law enforcement.

Sec. 6(b) amended by Acts 1969, 61st Leg., p. 575, ch. 195, § 4, eff. Sept. 1, 1969.

Inspection fee; payment procedure; records; reports; rules and regulations; failure to comply; cancellation of permit

Sec. 7. (a) For the purpose of administering the Texas Seed Act, any person who sells, offers for sale or otherwise distributes for sale any agricultural seed within this state for planting purposes shall pay to the Commissioner of Agriculture an inspection fee. Said inspection fee shall be deposited in the State Treasury by the Commissioner, and placed by the State Treasurer in the special Department of Agriculture Fund.

(b) The procedure for paying for inspection fee on agricultural seed shall be either by the use of the Tax Tag (which shall be known as the Texas Tested Seed Label) or by means of the reporting system but shall not be by means of both such procedures, and shall in addition to such rules and regulations which the Commissioner of Agriculture is herewith authorized to issue, be in compliance with all the provisions of this Act.

(c) When the inspection fee is to be paid by use of the Tax Tag (Texas Tested Seed Label) the person who distributes, sells, offers for sale or exposes for sale agricultural seed shall purchase said Texas Tested Seed Label from the Commissioner of Agriculture at a cost of not to exceed two cents (2¢) for each one hundred pounds or fraction

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thereof and shall attach said tag to each container of seed sold, offered for sale or otherwise distributed for sale for planting purposes within this state. The Commissioner of Agriculture is hereby empowered to promulgate rules and regulations prescribing the form of said tags, and the manner to show the analysis information required in Section 3 of this Act.

(d) When the inspection fee is paid by means of the reporting system, said fee shall be four cents (4¢) for each 100 pounds of agricultural seed offered for sale, exposed for sale, or otherwise distributed for sale for planting purposes within this state. The Commissioner of Agriculture is authorized at his discretion and under such rules and regulations as he may promulgate, to prescribe and furnish such forms and to require the filing of such reports and shall issue permits bearing a number assigned by the Commissioner on application therefor to any person who sells, offers for sale, exposes or otherwise distributes for sale any agricultural seed. The inspection fee shall be due on the total pounds of first sales or distribution by the originating permittee, except that in cases where a Texas seedsman purchases or receives agricultural seed for planting purposes from a seedsman located outside the State of Texas, the inspection fee may be paid by either seedsman, but final responsibility rests with the Texas seedsman. In cases where a Texas seedsman under the reporting system purchases or receives agricultural seed from another Texas seedsman also using the reporting system, the fee may be paid by either seedsman, provided an agreement in writing specifying this option is on file with each seedsman. In such cases the invoice covering such transaction shall indicate which seedsman is responsible for reporting and paying the inspection fees. In addition to all other provisions of this Act, each person who is issued a permit to sell, offer for sale or otherwise distribute agricultural seed and pay the inspection fee in accordance with the reporting system shall:

(1) Maintain and furnish such records as the Commissioner of Agriculture may require to reflect accurately the total pounds of agricultural seed handled and the portion of such pounds that is sold, offered for sale or distributed for sale as planting seed and subject to the inspection fee of four cents (4¢) per 100 pounds. The Commissioner of Agriculture or his duly authorized agents shall have permission to examine the records of the permittee during normal working hours.

(2) File with the Commissioner of Agriculture within thirty days after the close of each quarter year ending the last day of November, February, May and August, sworn reports covering the total pounds of all first sales of agricultural seeds sold during the preceding quarter. A penalty of ten per cent (10%) of any inspection fee which is not paid within the time allowed shall be added to the inspection fee.

(3) When located outside of the State of Texas and when distributing agricultural seed in the State of Texas, shall maintain in the State of Texas the records and information required by Section 7(d) of this Act or pay all costs incurred in the auditing of records at a location outside of the state. The Commissioner of Agriculture is authorized and directed to revoke the permit of any person who fails to comply with this requirement. Itemized statements of costs incurred in any such audits shall be furnished the permittee by the Commissioner promptly on completion of any such audit, and he must pay the same within thirty (30) days from the date of the statement.

(4) Affix to each container of agricultural seed sold, offered for sale, or otherwise distributed and to the invoice of each lot of agricultural seed sold, offered for sale, or otherwise distributed in bulk, a plainly printed or written statement giving the information required in Section 3 of this Act.

Any failure of a permittee to observe these regulations, file required reports, or pay fees required shall be grounds for cancellation of the permit.

(e) Any person who sells, offers for sale, exposes for sale or otherwise distributes seed in bulk must use the reporting system and all labeling information required in Section 3 of this Act must be shown on the invoice or such person must furnish to the purchaser one (1) Texas Tested Seed Label with the analysis information required in Section (3) printed thereon for each one hundred (100) pounds and/or fraction thereof sold.

(f) In no case shall the inspection fee be paid more than once on any quantity of seed either by the Tax Tag or reporting system, except that the inspection fee must be paid once during the first and once during any subsequent germination period as required in Section 4(a) (1) of this Act, that said seed remains offered or exposed for sale. For any seed on which the germination test has expired, payment of the inspection fee is the responsibility of the custodian of said seed.

(g) The Commissioner of Agriculture is authorized to prescribe, amend, adopt, and publish after public hearing following due public notice, such rules and regulations as are necessary to carry out and make effective the provisions of this section.

Sec. 7 amended by Acts 1969, 61st Leg., p. 575, ch. 195, § 5, eff. Sept. 1, 1969.

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CHAPTER SEVEN A—PLANT DISEASES AND PESTS

Art.135b—4. Sale, use and transportation of herbicides

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DEFINITIONS

Sec. 2. For the purposes of this Act:

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(f) The term "Dealer" means any person who sells, wholesales, distributes, offers or exposes for sale, exchanges, barter or gives away within or into this state any herbicides in containers of a net capacity of more than sixteen (16) fluid ounces, except any container with a net capacity of more than sixteen (16) fluid ounces and not to exceed one (1) gallon but with a concentration of herbicides not to exceed ten per cent (10%) by volume and with a label bearing the statement "for lawn use only."

Sec. 2(f) amended by Acts 1969, 61st Leg., p. 687, ch. 233, § 1, eff. May 21, 1969.

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Application of act to certain counties

Sec. 17. (a) The provisions of this Act relating to applicers and custom applicers shall not be effective at this time in any county in this state, except Dawson County, north and northwest of the southernmost boundaries of Andrews, Martin, Howard, Mitchell, Nolan, Taylor, Callahan, and Eastland Counties, and the easternmost boundary line of a portion of Eastland County, and the counties of Stephens and Young; and the southernmost boundary and the easternmost boundary of Clay County, it being the intention of the Legislature that all of the counties named, except Dawson County, shall be exempted from the provisions of this Act, as herein provided, and all counties of Texas, except Dawson County, north and west of said named counties shall also be exempted from the provisions of this Act; because it is found to be a fact that there is now no crop or vegetation of value susceptible to damage in this area. It is further provided that the following named counties shall be exempt from the provisions of this Act relating to applicers and custom applicers: Coleman, Runnels, Coke, Tom Green, Sterling, Glasscock,

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Reagan, Upton, Irion, Crane, Sutton, Schleicher, Crockett, Val Verde, Presidio, Pecos, Jeff Davis, Brewster, Terrell, Edwards, Mills, Lampasas, Burnet, Llano, Gillespie, Kerr, Bandera, Kinney, Uvalde, Zavala, Real, Kimble, Mason, Menard, McCulloch, Montague, San Saba, Concho, Brooks, Cameron, Dimmit, Duval, McMullen, Nueces, Starr, Webb, Frio, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kleberg, La Salle, Willacy, Zapata, Maverick, and Panola. The provisions of this Act relating to appliers, custom appliers and dealers shall not be effective in Caldwell County or Gonzales County. However, the provisions of this Act relating to dealers apply to every other county in the state.

Sec. 17(a) amended by Acts 1969, 61st Leg., p. 1573, ch. 478, § 1, emerg. eff. June 10, 1969.

Amendment of Subsection (a) by Acts 1969, 61st Leg., p. 2546, ch. 849, § 1, see Subsection (a) post.

Sec. 17. (a) The provisions of this Act relating to appliers and custom appliers shall not be effective at this time in any county in this state north and northwest of the southernmost boundaries of Andrews, Martin, Howard, Mitchell, Nolan, Taylor, Callahan, and Eastland Counties, and the easternmost boundary line of a portion of Eastland County, and the counties of Stephens and Young; and the southernmost boundary and the easternmost boundary of Clay County, it being the intention of the Legislature that all of the counties named shall be exempted from the provisions of this Act, as herein provided, and all counties of Texas north and west of said named counties shall also be exempted from the provisions of this Act; because it is found to be a fact that there is now no crop or vegetation of value susceptible to damage in this area. It is further provided that the following named counties shall be exempt from the provisions of this Act relating to appliers and custom appliers: Coleman, Runnels, Coke, Tom Green, Sterling, Glasscock, Reagan, Upton, Irion, Crane, Sutton, Schleicher, Crockett, Val Verde, Presidio, Pecos, Jeff Davis, Brewster, Terrell, Edwards, Mills, Lampasas, Burnet, Llano, Gillespie, Kerr, Bandera, Kinney, Uvalde, Zavala, Real, Kimble, Mason, Menard, McCulloch, Montague, San Saba, Concho, Brooks, Cameron, Dimmit, Duval, McMullen, Nueces, Starr, Webb, Frio, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kleberg, La Salle, Willacy, Zapata, Maverick, and Panola. The provisions of this Act relating to appliers, custom appliers and dealers shall not be effective in Caldwell County or Gonzales County; however, the provisions of this Act relating to dealers apply to every other county in the state.

Sec. 17(a) amended by Acts 1969, 61st Leg., p. 2546, ch. 849, § 1, emerg. eff. June 18, 1969.

Amendment of Subsection (a) by Acts 1969, 61st Leg., p. 1573, ch. 478, § 1, see Subsection (a) ante.

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Acts 1969, 61st Leg., p. 1573, ch. 478, and Acts 1969, 61st Leg., p. 2546, ch. 849, amending section 17(a) of this article, each provided in section 2:

"This Act shall not affect the status of any county which has been exempted from

or included under the provisions of Article 135b—4, Vernon's Texas Civil Statutes, if the exempt or included status has been declared by a lawful order of the commissioners court of such county."

CHAPTER NINE—SOIL AND WATER CONSERVATION AND PRESERVATION

Art. 165a—4. State Soil and Water Conservation

* * * * *

Supervisor; change of name

Sec. 3a. The name "Supervisor," when used in this Chapter to describe a member of the governing body of a Soil and Water Conservation District, is changed to "Director."

Sec. 3a added by Acts 1969, 61st Leg., p. 247, ch. 94, § 1, eff. Sept. 1, 1969.

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CHAPTER TEN—MILK PRODUCERS AND DISTRIBUTORS

Art. 165—3a. Texas Equal Health Standard Milk Sanitation Act of 1961

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Grade "A" milk products imported into State

Sec. 3A. The provisions of this Act shall also apply to Grade "A" raw milk products for pasteurization and to Grade "A" pasteurized milk products with the exception of Grade "A" dry milk products produced or processed outside the State of Texas at a point beyond the limits of routine inspection and supervision of the health authority of a Texas municipality or county for shipment into Texas.

Sec. 3A added by Acts 1969, 61st Leg., p. 1142, ch. 368, § 1, eff. Sept. 1, 1969.

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CHAPTER ELEVEN—COTTON

Art. 165—4a. Agricultural agencies to stress increased use and outlet of products; cotton research committee

Section 1. By this Act it is expressly declared that the policy of all the various agricultural agencies of the State of Texas shall be shaped so that the subject of the increased use and outlet for farm products, especially cotton, wool, mohair, oilseed products and other textile products, shall be stressed as much as the production of said products; and all of the various State Agricultural Agencies, Departments, and State Educational Institutions are hereby directed to take full and sufficient consideration of the policy herein established, and that the activities of the various agencies and institutions mentioned above be revamped, where same has not already been done, so as to conform with the provisions of this Act.

Sec. 2. A Cotton Research Committee, composed of the Chancellor or Successor of the Texas Agricultural and Mechanical College System and the Chancellor or Successor of The University of Texas, the President of the Texas Technological College, and the President of Texas Women's University, is hereby created and established to cause surveys, research and investigations to be made relating to the utilization of the cotton fiber, cottonseed, wool, mohair, oilseed products, other textile products, and other products of the cotton plant, with authority to contract with any and all State and Federal Agricultural Agencies and Departments of the state, and all State Educational Institutions and State Agencies to

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perform any such services for said Committee and for the use of their respective available facilities, as it may deem proper, and to compensate such Agencies, Departments and Institutions, to be paid from money appropriated by the Legislature for the purposes of this Act, which appropriations of moneys for research of cotton, wool, mohair, oilseed products and other products of the cotton plant or other textile products are hereby authorized; grants and gifts from the United States or private sources may be accepted for such purposes, and shall be subject only to limitations contained in such grants or gifts.

Sec. 3. It is the intent of the Legislature that present funds appropriated to the Cotton Research Committee shall be expended for research on cotton and oilseed products. The Legislature may, however, appropriate additional funds and the Cotton Research Committee may spend these funds for research on wool, mohair, or other textile products. Secs. 1, 2 amended by Acts 1969, 61st Leg., p. 1218, ch. 387, §§ 1, 2, emerg. eff. May 29, 1969; Sec. 3 added by Acts 1969, 61st Leg., p. 1218, ch. 387, § 3, emerg. eff. May 29, 1969.

CHAPTER FIFTEEN—CHICKEN EGGS

Art. 165—8. Handling and sale of chicken eggs

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Standards of quality

Sec. 3. (a) The standards of quality, the grades and the standards of size as determined by weighing shall be the same as the standards and grades promulgated by the United States Department of Agriculture for shell eggs, and such lower grades and sizes as the Egg Marketing Advisory Board shall promulgate.

(b) All eggs which are offered for sale to consumers shall be graded according to consumer grades and weight classes and classified, except as otherwise provided in Section 11.

(c) All eggs which are offered for sale at wholesale shall be graded according to wholesale grades and weight classes and classified, except as otherwise provided in Section 11.

Sec. 3 amended by Acts 1969, 61st Leg., p. 2346, ch. 795, § 1, eff. Sept. 1, 1969.

Classification of eggs

Sec. 4. All eggs sold or offered for sale in this state shall be classified into one or more, as applicable, of the two following classifications in accordance with the requirements of such classification:

(a) "Texas Eggs" means eggs which have been produced in Texas.

(b) "Shipped Eggs" means eggs which have been produced in a state in the United States other than Texas or outside the Continental United States and shipped into the state for the purpose of resale within the state.

Sec. 4 amended by Acts 1969, 61st Leg., p. 2346, ch. 795, § 2, eff. Sept. 1, 1969.

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Grading by local and outstate licensees; outstate inspections by commissioner; reimbursement of expenses; reciprocal agreements; use of prefix "U. S."

Sec. 8. All grades and sizes claimed for eggs sold in the state shall be established by inspection by a person duly licensed hereunder having a place of business within this state at which such inspections are made or by a person licensed hereunder and qualified to do business in this state

who makes such inspections at a designated location outside the state. Where such inspections are made at a location outside the state by a licensee hereunder, such location and records relating to eggs graded pursuant to such Texas license shall be subject to inspection by the commissioner or his deputies at such times and intervals as the commissioner may deem necessary for the proper administration of the provisions herein; the expenses for such travel shall be reimbursed to the commissioner by the licensee within ten (10) days from the date of receipt of an invoice therefor. The actual and necessary expenses chargeable to a licensee for each inspection of an out-of-state location shall not exceed Fifty Dollars (\$50.00) per day for food, lodging and local transportation, plus the cost of the least expensive available space round trip air fare from Austin, Texas, to the location to be inspected. The commissioner shall schedule all feasible inspections within an area on each inspection trip, and the expenses shall be divided amongst such licensees inspected on an equitable basis. These expenses are in addition to all other fees hereunder and failure of licensee to pay such expenses as herein required shall act to automatically cancel the outstanding license of such person and shall be grounds for denial of a license to any person in anywise connected with a person whose license has been cancelled; provided, however, the commissioner is hereby empowered to make reciprocal agreements with the several states providing for the inspections herein required; and it shall be unlawful to use the prefix "U.S." on grades and weight classes of shell eggs unless the egg grading is under official United States Department of Agriculture supervision.

Sec. 8 amended by Acts 1969, 61st Leg., p. 2346, ch. 795, § 3, eff. Sept. 1, 1969.

Containers for eggs; requirements

Sec. 9. All containers in which eggs for human consumption are offered for sale to food purveyors or consumers must:

- (a) be labeled according to size and grade in distinctly legible bold-face type not less than one-fourth (¼) inch in height;
- (b) not be deceptively labeled, advertised, or invoiced;
- (c) state the address and license number of the licensee which established the grade and size of said eggs and the city and state where actually packed in 12 point bold-face type in accordance with such regulations as the commissioner shall prescribe;
- (d) not be advertised in a manner which indicates price without also indicating the full, correct and unabbreviated designation of size and grade of eggs therein;

(e) be labeled showing the classification thereof except for shipped eggs which shall meet the requirements therefor as hereinafter set out:

(1) Texas eggs shall be so labeled that such classification is evident and shall be in accordance with such rules as the commissioner may prescribe. Eggs not produced in Texas shall not be labeled or advertised in any manner to infer that they were produced in Texas.

(2) Shipped eggs coming into Texas in cartons ready for retail sale shall be not less than Grade A as established by a Texas licensee. Shipped eggs coming into Texas loose packed shall be inspected and graded by a Texas licensee at his place of business in Texas before being sold at retail. All shipped eggs coming into Texas shall move under refrigeration in accordance with such rules regulating these movements as shall be prescribed by the commissioner.

In the case of eggs offered for sale uncartoned, a sign showing all of the above information must be clearly displayed attached to the container. This sign must be distinctly legible in letters at least one inch high; provided, however, nothing herein shall be construed so as to prevent a retailer of less than 120 dozen (1440) eggs per week from selling ungraded eggs when such eggs are clearly and distinctly labeled ungraded.

Sec. 9 amended by Acts 1969, 61st Leg., p. 2346, ch. 795, § 4, eff. Sept. 1, 1969.

* * * * *

Inspection fees

Sec. 16-A. In addition to the license fees hereunder the licensee which first establishes the grade, size and classification of eggs sold or offered for sale in this state shall collect on their first sale of such eggs in this State an inspection fee of three (\$.03) cents per case (thirty (30) dozen eggs) and all licensed processors in this state shall pay an inspection fee of three (\$.03) cents per case (thirty (30) dozen eggs) upon their first use or change in form in eggs processed by them, such fees shall be remitted by all such licensees monthly in accordance with rules and regulations as promulgated by the commissioner, and all sums so collected shall be placed by him in the general revenue fund of the State of Texas. Sec. 16-A added by Acts 1969, 61st Leg., p. 2346, ch. 795, § 5, eff. Sept. 1, 1969.

TITLE 8—APPORTIONMENT

REPRESENTATIVE DISTRICTS

Art.

195a—1. Representative districts 35 and 36
[New].

Art.

195a—2. Representative districts 19 and 20
[New].

199a. Judicial Districts Act of 1969 [New].

REPRESENTATIVE DISTRICTS

Art. 195a. Representative Districts

Repealers

Acts 1969, 61st Leg., p. 2128, ch. 733, changing the composition of state representative districts 35 and 36, provided in section 2 that article 195a is repealed to the extent of any conflict with this Act. See article 195a—1.

Acts 1969, 61st Leg., p. 2403, ch. 808, changing the composition of state representative districts 19 and 20, provided in section 4 that article 195a is repealed to the extent of any conflict with this Act. See article 195a—2.

Art. 195a—1. Representative districts 35 and 36

Section 1. State representative district 35 is composed of that part of McLennan County included in the following:

BEGINNING at the point where Tradinghouse Creek intersects the common boundary of McLennan and Limestone counties;

THEN southwest along Tradinghouse Creek to its intersection with Tehuacana Creek;

THEN south and southwest along Tehuacana Creek to the Brazos River;

THEN northwest along the Brazos River to the southeastern city limits of Waco;

THEN generally south and west along the city limits of Waco to a point where the city limit line intersects the east or northeast line of Estates Drive;

THEN northwest along the east or northeast line of Estates Drive to where Estates Drive intersects the south line of present Lake Waco;

THEN east, northeast, and southeast along the present south line of Lake Waco to where Lake Waco intersects the center line of State Highway 6;

THEN southeast along the center line of State Highway 6 to the center line of Fish Pond Road;

THEN northeast and east along the center line of Fish Pond Road to the center line of Ridgewood Drive;

THEN northwest, northeast, and southeast along the center line of Ridgewood Drive to the center line of North Valley Mills Drive;

THEN southeast along the center line of North Valley Mills Drive to the center line of Bishop Drive;

THEN northeast along the center line of Bishop Drive to the center line of Lake Air Drive;

THEN southeast along the center line of Lake Air Drive to the center line of Cobbs Drive;

THEN northeast along the center line of Cobbs Drive to the center line of North 42nd Street;

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THEN north along the center line of North 42nd Street to the center line of Hillcrest Drive;

THEN east along the center line of Hillcrest Drive to the center line of Cobbs Branch;

THEN northeast down Cobbs Branch and Landon Branch to a point where the north line of the Stanton Brown 81.3 Acre Tract would intersect if extended;

THEN in a northeasterly, southeasterly, northeasterly, southeasterly, and northeasterly direction along the north and west boundaries of said Stanton Brown 81.3 Acre Tract to an intersection with the south line of Wenz Heights, same being the northeast corner of said Stanton Brown 81.3 Acre Tract;

THEN southeast along a line to the center line of McArthur Drive and southeast along the center line of McArthur Drive to the center line of Herring Avenue;

THEN northeast along the center line of Herring Avenue to the center line of North 24th Street;

THEN northwest along the center line of North 24th Street to a point where same, if extended, would intersect the north line of Ford and T. A. Egbert 6 Acre Tract;

THEN along a line which the north line of the Mrs. Virginia Gregory 140 Acre Tract on the John Tucker Survey would make through the C. L. Sligh Tract, if extended, and along said line as extended in a northeasterly direction to a point where the same intersects the North Bosque River;

THEN east along the North Bosque River to its intersection with the Brazos River;

THEN northeast and generally northwest along the Brazos River to the McLennan County line;

THEN east and south along the McLennan County line to Tradinghouse Creek, the point of beginning.

Place 1

Place 2

Sec. 2. Section 1, Chapter 351, Acts of the 59th Legislature, Regular Session, 1965, as amended by Section 1, Chapter 531, Acts of the 60th Legislature, Regular Session, 1967 (Article 195a, Vernon's Texas Civil Statutes), is repealed to the extent of any conflict with this Act.

Sec. 3. This Act shall become effective for the elections, primary and general, for representatives from districts 35 and 36 to the 62nd Legislature, and continues in effect thereafter for succeeding Legislatures. However, this Act does not affect the membership, personnel or districts of the 61st Legislature. In case a vacancy occurs in the office of representative of the 61st Legislature from district 35 or 36 by death, resignation, or otherwise, and a special election to fill that vacancy becomes necessary, that election shall be held in the district as it was constituted before the effective date of this Act.

Acts 1969, 61st Leg., p. 2128, ch. 733, eff. Sept. 1, 1969.

Title of Act: and declaring an emergency. Acts 1969,
An Act relating to the composition of 61st Leg., p. 2128, ch. 733.
state representative districts 35 and 36;

Art. 195a—2. Representative districts 19 and 20

Section 1. As used in this Act, voting precincts are those precincts as they existed on the date of the general election in 1968.

Sec. 2. State representative district 19 is composed of that part of Brazoria County contained in the following voting precincts: 1, 3, 4, 5, 6, 7, 8, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, and 25.

Sec. 3. State representative district 20 is composed of Fort Bend County and that part of Brazoria County not included in representative district 19 as provided by this Act.

Sec. 4. Section 1, Chapter 351, Acts of the 59th Legislature, Regular Session, 1965, as amended by Section 1, Chapter 531, Acts of the 60th Legislature, Regular Session, 1967 (Article 195a, Vernon's Texas Civil Statutes), is repealed to the extent of any conflict with this Act.

Sec. 5. This Act shall become effective for the elections, primary and general, for representatives from districts 19 and 20 to the 62nd Legislature, and continues in effect thereafter for succeeding Legislatures. However, this Act does not affect the membership, personnel or districts of the 61st Legislature. In case a vacancy occurs in the office of representative of the 61st Legislature from district 19 or 20 by death, resignation, or otherwise, and a special election to fill that vacancy becomes necessary, that election shall be held in the district as it was constituted before the effective date of this Act.

Acts 1969, 61st Leg., p. 2403, ch. 808, eff. Sept. 1, 1969.

Title of Act:

An Act relating to the composition of and declaring an emergency. Acts 1969, state representative districts 19 and 20; 61st Leg., p. 2403, ch. 808.

JUDICIAL DISTRICTS

Judicial Districts Act of 1969, see art. 199a.

Art. 199. [30] [22] [17] Judicial Districts

2. — Cherokee and Nacogdoches

The 2nd Judicial District is composed of the Counties of Cherokee and Nacogdoches.

The District Court of the 2nd Judicial District shall have two terms in each county each year, which shall begin on the first Mondays of March and September in Nacogdoches County and of February and August in Cherokee County. Each term shall continue until the date for the beginning of the next term.

The judge may, in his discretion, hold as many sessions of court in any term of the court as is deemed by him proper and expedient for the dispatch of business.

Subd. 2 amended by Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 23, § 5.005, emerg. eff. Sept. 19, 1969.

Angelina County, see, now, 159th district, art. 199a, sec. 3.005.

District attorney of Angelina County, creation of office, see art. 322b—1.

5. — Bowie and Cass

(1) The 5th Judicial District of Texas shall be composed of the Counties of Bowie and Cass, and the terms of the District Court within the Counties shall be as follows:

(a) In Bowie County on the first Monday in January, April, July, and October, and each term shall continue until the beginning of the next succeeding term.

(b) In Cass County on the first Monday in February, May, August, and November, and each term shall continue until the beginning of the next succeeding term.

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The Judge of the Court may hold as many sessions in any term of the Court in any County as is deemed by him proper and expedient for the dispatch of business.

(2) During each term of said Court in Bowie County, Texas, the Court may sit at any time in Texarkana, Texas, to try, hear and determine any civil and criminal nonjury case, and may hear and determine motions, arguments and such other nonjury civil and criminal matters as may come before the Court; provided further, that nothing herein shall be construed to deprive the Court of jurisdiction to try nonjury civil and criminal cases and hear and determine motions, arguments and such other nonjury civil and criminal matters at the County Seat at Boston, Texas.

(3) The Clerk of the District Court in each of said Counties and his successors in office shall be the Clerk of the 5th District Court in said Counties and shall perform all duties pertaining to the Clerkship of said Court; provided that the District Clerk of Bowie County or his deputy shall wait upon said Court when sitting at Texarkana, Texas, and shall be permitted to transfer all necessary books, minutes and records to Texarkana, Texas, while the Court is in session there; and likewise to transfer all necessary books, minutes, records and papers from Texarkana, Texas, to Boston, Texas, at the end of each session in Texarkana, Texas.

(4) The sheriff of Bowie County or his deputy shall be in attendance upon the Court while sitting at Texarkana, Texas, and perform such duties as he may be directed to perform, either as required by law or under the order of the Court.

(5) All processes issued, bonds and recognizances made, and all grand and petit jurors drawn before this Act takes effect shall be valid and returnable to the next succeeding term of the District Court of the several Counties as herein fixed respectively as though issued and served for such terms and courts returnable to and drawn for the same.

(6) The Commissioners Court of Bowie County is hereby authorized to provide necessary and suitable quarters for the said Court while sitting at Texarkana, Texas. In its discretion said Commissioners Court of Bowie County is further authorized to make such agreements or agreement with the City of Texarkana, Texas, whereby said City will provide necessary and suitable quarters in Texarkana, Texas, for holding said terms of Court at that place.

(7) The District Court of the 5th Judicial District in Bowie and Cass Counties shall exercise general jurisdiction over civil and criminal matters as is now or may hereafter be conferred by law. Said 5th Judicial District Court shall also have concurrent jurisdiction in Bowie County with the 102nd Judicial District Court, and all causes of action of a civil or criminal nature pending in either Court in said County shall, at the adjournment of each term of said Court in which the same is pending, be transferred by operation of law to the other Court; and said Courts, and Judges thereof, either in term time or vacation, may transfer any civil or criminal cause pending in their respective Court to the other District Court in said Bowie County by an order entered upon the minutes of their respective Court.

(8) The Judge and all District Officers of the 5th Judicial District as heretofore constituted, shall be the Judge and District Officers of the 5th Judicial District as constituted and reorganized by this Section during the terms for which they were elected.

Subd. 5 amended by Acts 1969, 61st Leg., p. 1115, ch. 363, § 1 emerg. eff. May 27, 1969.

8. — Hopkins, Delta and Rains

Delta County: On the first Monday in January and may continue three weeks; and on the second Monday in June and may continue until the business is disposed of.

Hopkins County: On the fourth Monday in January and may continue five weeks; on the fifteenth Monday after the fourth Monday in January and may continue up to and including the last Saturday preceding the second Monday in June; and on the fourth Monday in August and may continue six weeks.

Provided, however, that in the County of Hopkins the Judge of the District Court shall not impanel the Grand Jury for the term of Court commencing on the fifteenth Monday after the fourth Monday in January unless in his judgment there exists an imperative necessity for a Grand Jury, and further provided that preference shall be given to the trial of civil cases in said term of Court.

Rains County: On the thirteenth Monday after the fourth Monday in January and may continue two weeks; and on the fourteenth Monday after the fourth Monday in August and may continue until the business is disposed of.

The District Courts of the Eighth and Sixty-second Judicial Districts in the County of Delta shall have concurrent jurisdiction with each other in said county, throughout the limits thereof, of all matters, civil and criminal, of which jurisdiction is given to the District Courts by the Constitution and Laws of the State; provided that the Judge of the Sixty-second Judicial District shall never impanel the Grand Jury in said Court in the Counties of Lamar and Delta, unless in his judgment he thinks it necessary. Either of the Judges of the District Courts of the County of Delta may, in their discretion, either in termtime or vacation, transfer any case or cases of a civil or criminal nature that may at any time be pending in his Court, to the other District Court in said Delta County, by order or orders entered upon the minutes of the Court making such transfer; and, when such transfer or transfers are made, and when so entered upon the docket, the Judge of said Court shall try and dispose of said case or cases in the same manner as if such cases were originally filed in said Court. The clerk of the District Courts of Delta County as heretofore constituted, and his successor in office, shall be the clerk of both the Eighth and Sixty-second District Courts in Delta County.

Subd. 8 amended by Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 23, § 5.009, emerg. eff. Sept. 19, 1969.

Hunt County, see, now, 196th district, art. 199a, sec. 3.023.

19, 54, 74, 170. — McLennan

Text effective Jan. 1, 1971.

Section 1. The District Courts of the 19th, 54th, 74th, and 170th Districts shall have concurrent jurisdiction throughout the limits of McLennan County in all civil and criminal cases and proceedings of which district courts are given jurisdiction by the constitution and laws of the state.

Sec. 2. The judges of said courts may exchange districts whenever they deem it expedient, and a judge of either of said courts may sit in any one of the courts, either upon the request of the regular judge thereof or in case of his absence or inability to act.

Sec. 3. Any one of the judges of said courts may in his discretion, either in termtime or vacation, transfer any cause or causes, civil or criminal, that may at any time be pending in either of said courts over which

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he may be presiding, to any other of said courts, by order or orders entered upon the minutes of his said court; and where such transfer is made, the clerk of said courts shall enter such cause upon the docket of the court to which such transfer is made, and when so entered upon the docket, the judge of said court to which such cause has been transferred, shall try and dispose of said cause in the same manner as if such cause had been filed in said court.

Sec. 4. The terms of said district courts shall be held therein each year as follows: The terms of the 19th District Court shall begin on the second Monday in January, March, May, July, September and November of each year, and each of said terms shall continue until and including the Sunday next preceding the date for the beginning of the next succeeding term.

The terms of the 54th District Court shall begin on the first Monday in January, March, May, July, September and November of each year, and each of said terms shall continue until and including the Sunday next preceding the date for the beginning of the next succeeding term.

The terms of the 74th District Court shall begin on the second Monday in February, April, June, August, October and December of each year, and each of said terms shall continue until and including the Sunday next preceding the date for the beginning of the next succeeding term.

The terms of the 170th District Court shall begin on the second Monday in February, April, June, August, October and December of each year, and each of said terms shall continue until and including the Sunday next preceding the date for the beginning of the next succeeding term.

Amended by Acts 1969, 61st Leg., p. 2005, ch. 684, § 1, eff. Jan. 1, 1971.

For provisions effective until Jan. 1, 1971, see subdivision 19 Vernon's Texas Statutes 1948, Volume 1.

McLennan County, see, also, 170th district.

22. — Hayes, Caldwell and Comal

Section 1. The 22nd Judicial District shall be composed of the counties of Hayes, Caldwell, and Comal, and the terms of the district court are hereby designated and shall be held there in each year as follows:

In the County of Hayes on the first Mondays in February and September.

In the County of Caldwell on the first Mondays in March and October.

In the County of Comal on the first Mondays in May and December.

Sec. 2. Each term of court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

Acts 1969, 61st Leg., p. 2435, ch. 815, emerg. eff. June 14, 1969.

Section 3 of the Act of 1969 provided: "Upon the effective date of this Act, all cases, proceedings, and matters then pending on the docket of the district court of the 22nd Judicial District in Austin and Fayette counties shall be deemed as pending in the 155th District Court of said counties, and the district clerks of Austin and Fayette counties shall make record transfers to effect this purpose. All writs and processes issued and all bonds and recognizances made in cases transferred

shall be valid and returnable to the court to which transferred as if originally issued there."

Title of Act:

An Act reestablishing the jurisdiction of the 22nd Judicial District of Texas eliminating overlapping jurisdiction with the 155th Judicial District in Austin and Fayette counties; and declaring an emergency. Acts 1969, 61st Leg., p. 2435, ch. 815.

37, 45, 57, 73, 131, 144, 150, 166, 175, 186. — Bexar

* * * * *

(B) Bexar County shall constitute the 37th, 45th, 57th, 73rd, 131st, 144th, 150th, 166th, 175th, and 186th Judicial Districts of Texas. Each of the ten (10) district courts shall have and exercise civil and criminal jurisdiction in Bexar County. The district courts of Bexar County shall have and exercise, in addition to the jurisdiction now conferred or to be conferred by law on district courts, concurrent jurisdiction coextensive with the limits of Bexar County in all actions, proceedings, matters and causes, both civil and criminal, of which district courts of general jurisdiction are given jurisdiction by the Constitution and laws of the State of Texas.

Subsec. B amended by Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 6, § 3, eff. Oct. 1, 1969.

(E) The 144th, 175th, and 186th District Courts of Bexar County shall hold six (6) terms of court each year for the trial of causes and the disposition of business coming before those courts, one term beginning the first Monday in January; one the first Monday in March; one the first Monday in May; one the first Monday in July; one the first Monday in September; one the first Monday in November; each term to last for two (2) months. Each term shall continue until the business is disposed of.

Subsec. (E) amended by Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 6, § 4, eff. Oct. 1, 1969.

(G) All indictments shall be returned to the 144th, 175th, and 186th District Courts of Bexar County. The district clerk shall docket successively on the dockets of the district courts of the 37th, 45th, 57th, 73rd, 131st, 150th, and 166th Judicial Districts all civil cases, actions, causes, petitions, applications, or other proceedings so that the first case or proceeding filed on or after the effective date of this Act and every eighth case or proceeding thereafter shall be docketed in the 37th Judicial District; and the second case or proceeding filed and every eighth case or proceeding thereafter filed shall be docketed in the 45th Judicial District; and the third case or proceeding filed and every eighth case or proceeding thereafter filed shall be docketed in the 57th Judicial District; and the fourth case or proceeding and every eighth case or proceeding thereafter filed shall be docketed in the 73rd Judicial District; and the fifth case or proceeding and every eighth case or proceeding thereafter filed shall be docketed in the 131st Judicial District; and the sixth case or proceeding and every eighth case or proceeding thereafter filed shall be docketed in the 150th Judicial District; and the seventh case or proceeding and every eighth case or proceeding thereafter filed shall be docketed in the 166th Judicial District; and so on seriatim; and in this manner all cases or proceedings filed to be docketed in and divided equally among the 37th, 45th, 57th, 73rd, 131st, 150th, and 166th District Courts, one-seventh in each court.

Subsec. (G) amended by Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 6, § 5, eff. Oct. 1, 1969.

(H) The district judges of Bexar County shall, on or before the first day of January and the first day of July of each year, or at such other times as may be determined by a majority of the district judges, elect one of the district judges to serve as presiding judge of the Bexar County District Courts for a period of time to be set by the judges. The presiding judge of the Bexar County District Judges shall, from time to time as occasion may require in order to adjust the business and dockets of the courts, transfer, or cause to be transferred, causes from any of the courts to any other of the courts in order that the business of the courts will be continually equalized and distributed among them to the end that each judge will at all times be provided with cases or proceedings

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to try or otherwise consider and that the trial of a cause will not be delayed because of the disqualification of the judge in whose court it is pending. When a case is transferred, proper order shall be entered upon the minutes of the court as evidence of the transfer. It is the intention of this section that the 144th, 175th, and 186th District Courts give preference to criminal cases, matters, or proceedings, while the other district courts give preference to civil cases, matters, or proceedings. For that purpose the 144th, 175th, and 186th District Courts constitute the criminal district courts of Bexar County, while the other district courts constitute the civil district courts of Bexar County. Each judge shall sign the minutes of each term of his court within thirty (30) days after the end of the term and shall also sign the minutes at the end of each volume of the minutes, and each judge sitting in a court shall sign the minutes of the proceedings that were had before him.

Subsec. (H) amended by Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 6, § 6, eff. Oct. 1, 1969.

(K) Each judge of the said District Courts of Bexar County, Texas, may take a vacation at any time during the calendar year, during which time the terms of court of which he is judge shall remain open and the judge of any other district court may hold such court during the vacation of the judge thereof. During the period of such vacation, it shall not be lawful for a special judge of such court to be elected by the practicing lawyers of such court because of the absence of the judge on his vacation, unless no judge of the said district courts is in the county. The judges of the said district courts shall by agreement among themselves take their vacations alternately so that there shall be at all times at least six (6) of the said judges in the county at all times of the year.

Subsec. (K) amended by Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 6, § 7, eff. Oct. 1, 1969.

(M) The sheriff of Bexar County, as hereinafter provided, either in person or by deputy, shall attend the several district courts as required by law, or when required by the judges, and the sheriff and constables of the several counties of this state, when executing process out of the district courts of Bexar County, shall receive fees as provided by law for executing process issued out of the district courts. The sheriff of Bexar County shall appoint one deputy to serve as bailiff for each of the district courts; except that the sheriff of Bexar County shall appoint two deputies to serve as bailiffs for each the 144th, the 175th, and the 186th District Courts, each of which courts must give preference to the trial of criminal cases, matters, or proceedings. The persons appointed as deputies must be acceptable to the judge of the court to which they are appointed and the appointments for each court must be approved and confirmed in writing by the judge before the appointments become effective. The appointed deputy sheriffs shall, before assuming their duties, take the oath of office prescribed by the Constitution of the State of Texas; and the sheriff of Bexar County is authorized to require the deputies to furnish bonds in an amount, and conditioned and payable, as may be prescribed by the sheriff or provided by law. The deputies shall act in the name of their principal, and they may perform all official acts as may be lawfully performed by the sheriff of Bexar County in person. The deputies shall, from and after their appointments, qualification, and confirmation, as hereinabove provided, continue as deputies at the pleasure of the judge of the court to which they were appointed; and should any of the judges, for any reason, not further desire the services of the deputies appointed to his court, the sheriff of Bexar County shall, upon the request of the judge, appoint another deputy for that court, the appointment to be made in the same manner hereinabove provided. The deputies shall attend all sessions of the district court to which they

are appointed and also shall perform and render services in and for the court, and for the judge, as are usually performed and rendered by sheriffs and deputies in and about the several district courts of this state, and including the serving of any and all processes, subpoenas, warrants, and writs of any and all kinds and nature in both civil and criminal cases, matters, and proceedings; and the deputies shall also perform and render any and all other services that may from time to time be assigned to them or to any of them by the judges of the courts. The deputies have, possess, and enjoy the same rights, powers, authority, and privileges that the sheriffs and their deputies throughout this state may now or hereafter possess and enjoy. The deputies may act for each other, and they shall act for each other when required to do so by any of the judges or by the sheriff; but the deputies acting for each other are not entitled to receive, nor may they receive, any additional compensation. The sheriff of Bexar County shall, in the event of a vacancy caused by any reason, immediately appoint another deputy for the court in which the vacancy occurred, the appointment to be subject to the written approval and confirmation of the judge of that court. The judge of each court shall fix the salary to be paid the deputies for his court, in any sum not less than Three Thousand Nine Hundred Dollars (\$3,900) annually. The annual salaries to be paid to the deputies, when fixed by the judges as herein provided, shall be paid to them either monthly or twice monthly out of a fund of Bexar County as provided by law for the payment of salaries of the several deputies of the sheriff of Bexar County, and the payment of the salaries shall be made in the manner provided by law. Provided that nothing herein shall be construed as preventing the sheriff of Bexar County from assigning additional deputies to any of the district courts when circumstances require, or when requested to do so by the judge of any of the district courts. Provided that nothing contained in Section 4 of this Act is intended to change the duties of the sheriff of Bexar County except as herein specifically and expressly stated.

Subsec. (M) amended by Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 6, § 8, eff. Oct. 1, 1969.

(N) The clerk of the district courts of Bexar County shall be the clerk of the 37th, 45th, 57th, 73rd, 131st, 144th, 150th, 166th, 175th, and 186th District Courts and shall be compensated as provided by law. The district clerk shall appoint one deputy for each of the district courts; provided that the persons appointed must be acceptable to the judges of the courts, and the appointment for each court must be confirmed in writing by the judge before it becomes effective. The appointed deputy clerks shall, before assuming their duties, take the oath of office prescribed by the Constitution of the State of Texas; and the district clerk of Bexar County is authorized to require the deputies to furnish bonds in an amount, and conditioned and payable, as may be prescribed by the district clerk or provided by law. The deputy district clerks shall act in the name of their principal, and they may perform all official acts as may be lawfully performed by the district clerk in person; and each deputy shall attend all sessions of the court to which he was appointed, and perform the services in and for the court that are usually performed by the district clerk and deputies in the several district courts of this state; and the deputies shall also perform any and all other services that may from time to time be assigned them by the judges of the courts. The deputies may act for each other in any matter pertaining to the clerical business of the courts, and they shall act for each other when requested to do so by the judges or by the district clerk; but the deputies acting for each other are not entitled to receive, nor may they receive, any additional compensation. The deputies shall, from and after their appointments, confirmations, and qualifications, as herein provided, continue as deputies at the pleasure of the judges; and should any of the

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judges, for any reason, not further desire the services of the deputy appointed to his court, the district clerk of Bexar County shall, upon request of the judge, appoint another deputy for that court, the appointment to be made in the manner hereinabove provided. In the event of a vacancy, caused by any reason, the district clerk shall immediately appoint another deputy for the court in which the vacancy occurred, the appointment to be subject to the written approval and confirmation of the judge of that court. The respective judges of the district courts of Bexar County shall determine and fix the salary of the deputy district clerk appointed for each district court in an amount not less than Four Thousand Four Hundred Dollars (\$4,400) annually. The annual salaries to be paid to the deputy district clerks shall be paid either in equal monthly or twice monthly installments out of such fund of Bexar County, Texas, as provided by law for the payment of the salaries of the several deputies of the district clerk of Bexar County, Texas, and such payment of said salaries shall be made in the manner provided by law. Provided that nothing herein shall be construed as preventing the district court of Bexar County from assigning additional deputies to any of the courts when circumstances require, or when requested to do so by the judge of any of the courts. Provided that nothing contained in Section 4 of this Act is intended to change the duties and powers that heretofore have been and are now being exercised by the district clerk of Bexar County except as herein specifically and expressly stated.

Subsec. (N) amended by Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 6, § 9, eff. Oct. 1, 1969.

(O) The criminal district attorney of Bexar County shall be the district attorney of the 37th, 45th, 57th, 73rd, 131st, 144th, 150th, 166th, 175th, and 186th District Courts and shall be compensated as provided by law.

Subsec. (O) amended by Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 6, § 10, eff. Oct. 1, 1969.

(Q) The judges of the 144th, 175th, and 186th District Courts shall alternately appoint grand jury commissioners and empanel grand juries; and further, they may appoint grand jury bailiffs, not to exceed five (5). Each judge may appoint one bailiff, and if needed may jointly appoint the fifth bailiff. The bailiffs are subject to removal at the will of the judges who appointed them.

Subsec. (Q) amended by Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 6, § 11, eff. Oct. 1, 1969.

47. — Randall, Potter and Armstrong

Section 1. The 47th Judicial District shall be composed of the Counties of Randall, Potter, and Armstrong.

Sec. 2. The 47th District Court shall have and exercise all jurisdiction now or hereafter prescribed by the Constitution and laws of this state for district courts.

Sec. 3. The jurisdiction of the 47th District Court shall be concurrent in Randall County with the 181st District Court. The jurisdiction of the 47th District Court shall be concurrent in Potter County with the 108th and 181st District Courts.

Sec. 4. The terms of the 47th District Court shall be as follows:

(a) In the County of Randall, on the first Monday in January; on the sixteenth Monday after the first Monday in January; and on the eighth Monday after the first Monday in August.

(b) In the County of Potter, on the fourth Monday in January; on the fifteenth Monday after the fourth Monday in January; on the first Monday in August; and on the fourteenth Monday after the first Monday in August.

(c) In the County of Armstrong, on the tenth Monday after the fourth Monday in January; and on the eleventh Monday after the first Monday in August.

Each term of court in each county may continue until the date herein fixed for the beginning of the next succeeding term therein. The judge, may in his discretion, hold as many sessions of court in any term of the court in any county as is deemed by him proper and expedient for the dispatch of business.

Sec. 5. (a) The judge of the 47th District Court may transfer cases to the docket of any district court which has jurisdiction over the case with the approval of the judge of the court to which the case is transferred. The judge of the 47th District Court may sit for the judge of any other district court without transferring the case on the dockets.

(b) All process and writs issued out of the district court from which any transfer is made shall be returnable to the court to which the transfer is made. All bonds executed and recognizances entered into in any district court from which any transfer is made shall bind the parties for their appearance or to fulfill the obligations of such bonds and recognizances at the terms of the court to which the transfer is made as the terms are fixed by this Act.

Sec. 6. The district clerk of Potter County shall act as the district clerk for the 47th District Court in Potter County; and the district clerk of Randall County shall act as the district clerk for the 47th District Court in Randall County; and the district clerk of Armstrong County shall act as the district clerk for the 47th District Court in Armstrong County.

Sec. 7. The sheriff of Potter County shall perform for the 47th District Court in connection with all of its cases in Potter County, all of the duties in connection with the court as provided by law for sheriffs to perform in connection with district courts. The sheriff of Randall County shall perform for the 47th District Court in connection with all its Randall County cases, the duties in connection with the court as provided by law for sheriffs to perform in connection with district courts. The sheriff of Armstrong County shall perform for the 47th District Court in connection with all its Armstrong County cases, the duties in connection with the court as provided by law for sheriffs to perform in connection with district courts.

Sec. 8. The judge of the 47th District Court shall appoint an official shorthand reporter for the court who shall be well-skilled in his profession. The reporter shall be a sworn officer of the court and shall be compensated as provided by law.

Sec. 9. The 47th District Court may hear and determine, in whichever county in the district is convenient for the court, all preliminary or interlocutory matters in which a jury may not be demanded, in any case pending in any county in the district, regardless of whether the cases were filed in the county in which the hearing is held. The District Court for the 47th Judicial District of Texas, may, unless there is some objection filed by a party to the suit, hear, in any county in the district which is convenient for the court, any non-jury case (including but not limited to divorces, adoptions, default judgments, and matters where there has been citation by publication) pending in any county in the district, regardless of whether the cases were filed in the county in which the hearing is held.

Amended by Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 23, § 5.007, emerg. eff. Sept. 19, 1969.

Acts 1927, 40th Leg., p. 10, ch. 7, Acts 1933, 43rd Leg., p. 873, ch. 248, and Acts 1941, 47th Leg., p. 743, ch. 464, amending provisions of 47th judicial district, were repealed by Acts 1969, 61st Leg., 2nd C.S., p. 94, ch. 23, § 5.011, set out under article 199a.

District attorney for 47th district, supplemental salary, and appointment and compensation of assistants, etc., see art. 326k—36a.

For Annotations and Historical Notes, see V.A.T.S.

49. Dimmit, Webb and Zapata

Section 1. The 49th Judicial District is composed of the counties of Dimmit, Webb, and Zapata.

Sec. 2. The 49th District Court shall have and exercise all jurisdiction now or hereafter prescribed by the Constitution and laws of this state for district courts.

Sec. 3. The terms of the 49th District Court shall be:

In the County of Dimmit on the first Mondays in February and September and on the second Monday in May.

In the County of Zapata on the fourth Mondays in February, May, and September.

In the County of Webb on the third Mondays in March, June, and October.

Each term of court in each county may continue until the date fixed for the beginning of the next succeeding term. The judge of the court, in his discretion, may hold as many sessions of court in any term of the court in any county as is deemed by him proper and expedient for the dispatch of business.

Subd. 49 amended by Acts 1969, 61st Leg., p. 697, ch. 239, § 1, eff. Sept. 1, 1969.

Jim Hogg County, see, now, 229th district.

62. — Lamar, Delta, Franklin and Hopkins

Section 1. (a) The Sixty-second Judicial District of Texas shall be composed of the Counties of Lamar, Delta, Franklin, and Hopkins.

(b) There shall be two (2) terms of each District Court in each County of the district each year, one beginning on the first Monday in January and continuing until the convening of the next regular term, and the other beginning on the first Monday in July and continuing until the convening of the next regular term.

(c) In any of the above-named Counties in which there are two (2) or more District Courts, such District Courts shall have concurrent jurisdiction with each other in said Counties throughout the limits thereof, of all matters, civil or criminal of which jurisdiction is given to the District Court by the Constitution and Laws of this State.

(d) The judge of said Court in his discretion may hold as many sessions of Court in any term of the Court in any County as is deemed by him proper and expedient for the dispatch of business.

(e) In any of the above said Counties in which there are two (2) or more District Courts, the judges of such Courts may, in their discretion, either in termtime or in vacation, on motion of any party or on agreement of the parties, or on their own motion, transfer any case, or proceeding, civil or criminal, on their dockets to the docket of one of the other said District Courts; and the judges of said Courts may, in their discretion, exchange benches or districts from time to time; and whenever a judge of one of said Courts is disqualified, he shall transfer the case, or proceeding, from his Court to one of the other Courts, and any of said judges may in his own courtroom try and determine any case or proceeding pending in either of the other Courts, without having the case transferred or may sit in any of the other said Courts and there hear and determine any case, or proceeding, there pending, and each judgment and order shall be entered in the minutes of the Court in which the case is pending, and two (2) or more judges may try different cases in the same Court at the same time and each may occupy his own courtroom or the room of any other Court. In case of absence, sickness or disqualification of any of said judges, any other of said judges may

hold Court for him. Any of said judges may hear any part of any case or proceeding pending in any of said Courts and determine the same or may hear or determine any question in any case or proceeding and any other of said judges may complete the hearing and render judgment in the same. Any of said judges may hear and determine demurrers, motions, petitions for injunction, application for appointment of receivers, interventions, pleas of privilege, pleas in abatement and all dilatory pleas, motions for new trials and all preliminary matters, questions and proceedings and may enter judgment or order thereon in the Court in which the case or proceeding is pending, without having the same transferred to the Court of the judge acting and the judge in whose Court the same is pending may thereafter proceed to hear, complete and determine the same or other matter or any part thereof and render final judgment thereon. Any of the judges of said Courts may issue restraining orders and injunctions returnable to any of the other judges of Courts.

The specific matters mentioned in this Section shall not be construed as any limitation on the powers of such judges when acting for any other judge by exchange of benches or otherwise.

(f) The judge of the Sixty-second Judicial District shall never impanel the grand jury in said court in the Counties of Lamar, Delta, Franklin, and Hopkins, unless in his judgment he thinks it necessary.

(g) The district clerk and the sheriff of each County shall perform all the duties and functions relative to all District Courts of their County as is required by law for the District Court thereof.

Sec. 2. The District Courts of the Sixth and Sixty-second Judicial Districts in Lamar County shall have concurrent jurisdiction with each other in said County throughout the limits thereof, of all matters, civil and criminal, of which jurisdiction is given to the District Court by the Constitution and Laws of the State; and the District Courts of the Sixth and Sixty-second Judicial Districts in Delta County shall have concurrent jurisdiction with each other in said County throughout the limits thereof, of all matters, civil and criminal, of which jurisdiction is given to the District Court by the Constitution and Laws of the State; and the Seventy-sixth and Sixty-second Judicial District Courts in Franklin County shall have concurrent jurisdiction with each other in said County throughout the limits thereof of all matters, civil and criminal of which jurisdiction is given to the District Court by the Constitution and Laws of the State.

Sec. 3. The judge of said Court in his discretion may hold as many sessions of Court in any term of the Court in any county as is deemed by him proper and expedient for the dispatch of business.

Sec. 4. Either of the Judges of the District Court of Lamar County, may, in his discretion, either in termtime or vacation, transfer any case or cases, civil or criminal, that may at any time be pending in his Court, to the other District Court in said County of Lamar, by or for orders entered upon the minutes of the Court making such transfer; and, where such transfer or transfers are made, the Clerk of said Court shall enter such case or cases upon the dockets of said Court to which such transfer or transfers are made, and, when so entered upon the docket, the Judge of said Court shall try and dispose of said cases in the same manner as if such cases were originally filed in said Court. Either of the Judges of the District Court of Delta County may, in his discretion, either in termtime or vacation, transfer any case or cases, civil or criminal, that may at any time be pending in his Court, to the other District Court in said County of Delta, by order or orders entered upon the minutes of the Court making such transfer; and where such transfer or transfers are made, the Clerk of said Court shall enter such case or cases upon the dockets of the Court to which such transfer or transfers are made, and,

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when so entered upon the docket, the Judge of said Court shall try and dispose of said cases in the same manner as if such cases were originally filed in said Court. Either of the Judges of the District Court of Franklin County may, in his discretion, either in termtime or vacation, transfer any case or cases, civil or criminal, that may at any time be pending in his Court, to the other District Court in said County of Franklin, by order or orders entered upon the minutes of the Court making such transfer; and, where such transfer or transfers are made, and when so entered upon the docket, the Judge of said Court shall try and dispose of said cases in the same manner as if such cases were originally filed in said Court.

Sec. 5. All processes, writs issued out of, and bonds and recognizances entered into, and all grand and petit jurors drawn and selected before this Act shall take effect shall be valid and returnable to the next succeeding term of the District Court in and for the several Counties, as herein fixed, as though issued and served for such terms, and returnable to and drawn for the same, and all such processes, writs, bonds and recognizances taken before or issued by the Courts and officers of the various Counties affected by this Act shall be as valid as though no change had been made in the length of the terms or the time of the holding thereof of the District Court in the Counties affected by this Act.

Sec. 6. The Clerk of the District Court of Delta County shall be the Clerk of both the Eighth and Sixty-second District Courts in said county. The clerk of the District Court of Lamar County, as heretofore constituted, and his successors in office shall be the Clerk of both the Sixth and Sixty-second District Courts in said County respectively. The clerk of the District Court of Franklin County, as heretofore constituted, and his successors in office shall be the clerk of both the Seventy-sixth and Sixty-second District Courts in said county, respectively. Amended by Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 23, § 5.010, emerg. eff. Sept. 19, 1969.

Hunt County, see, now, 196th district,
art. 199a, sec. 3.023.

71. — Harrison

The 71st Judicial District shall be composed of the County of Harrison, and the terms of the District Court are hereby designated and shall be held therein each year as follows: On the first Monday in January, March, May, July, September, and November of each year and each term of the court shall continue in session until and including the Saturday before the next succeeding term begins or until all business is disposed of.

Subd. 71, amended by Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 23, § 5.001, emerg. eff. Sept. 19, 1969.

Gregg County, see, now, 188th district,
art. 199a, sec. 3.015.

76. — Titus, Franklin, Camp, Morris, and Marion

Marion County, see, also, 115th district.

79. Jim Wells and Brooks

Section 1. The 79th Judicial District shall be composed of the counties of Jim Wells and Brooks.

Sec. 2. The 79th District Court shall have and exercise all jurisdiction now or hereafter prescribed by the Constitution and laws of this state for district courts.

Sec. 3. The terms of the 79th District Court shall be:

In the County of Brooks, beginning at 10 a. m. on the first Monday in February and at 10 a. m. on the first Monday in September and may continue in session until 10 a. m. of the Monday for convening the next regular term of such court in Brooks County.

In the County of Jim Wells, beginning at 10 a. m. on the first Monday in March and at 10 a. m. on the first Monday in October and may continue in session until 10 a. m. of the Monday for convening the next regular term of such court in Jim Wells County.

The judge of said court in his discretion may hold as many sessions of court in any term of the court in any county as is deemed by him proper and expedient for the dispatch of business.

Subd. 79 amended by Acts 1969, 61st Leg., p. 697, ch. 239, § 2, eff. Sept. 1, 1969.

Duval and Starr Counties, see, now, 229th district.

102. — Bowie and Red River

(1) The 102nd Judicial District of Texas shall be composed of the Counties of Bowie and Red River, Texas, and the terms of District Court in each of the Counties shall be as follows:

(a) In Bowie County on the first Monday in January, April, July, and October, and each term shall continue until the beginning of the next succeeding term.

(b) In Red River County on the first Monday in February, May, August, and November, and each term shall continue until the beginning of the next succeeding term.

The Judge of the Court may hold as many sessions in any term of Court in any county as is deemed by him proper and expedient for the dispatch of business.

(2) During each term of the Court in Bowie County, the Court may sit at any time in Texarkana, Texas, to try, hear and determine any civil and criminal nonjury case, and may hear and determine motions, arguments and such other nonjury civil and criminal matters as may come before the Court; provided further, that nothing herein shall be construed to deprive the Court of jurisdiction to try nonjury civil and criminal cases and hear and determine motions, arguments and such other nonjury civil and criminal matters at the county seat at Boston, Texas.

(3) The Clerk of the District Court in each of said Counties and his successors in office shall be the Clerk of the 102nd Judicial District Court in said Counties and shall perform all duties pertaining to the Clerkship of said Court; provided that the District Clerk of Bowie County or his deputy shall wait upon said Court when sitting at Texarkana, Texas, and shall be permitted to transfer all necessary books, minutes, records and papers to Texarkana, Texas, while the Court is in session there; and likewise to transfer all necessary books, minutes, records and papers from Texarkana, Texas, to Boston, Texas, at the end of each session in Texarkana, Texas.

(4) The Sheriff of Bowie County or his deputy shall be in attendance upon the Court while sitting at Texarkana, Texas, and perform such duties as he may be directed to perform, either as required by law or under the order of the Court.

(5) The 102nd Judicial District Court when sitting at Texarkana, Texas, as herein authorized, shall be authorized to use the facilities in Texarkana, Texas, furnished and provided for the use of the 5th Judicial District Court while sitting there.

(6) The District Court of the 102nd Judicial District in Bowie and Red River Counties shall exercise general jurisdiction over civil and criminal matters as is now or may hereafter be conferred by law.

(7) Said 102nd District Court shall also have concurrent jurisdiction in Bowie County with the 5th Judicial District Court, and all causes of action of a civil nature pending in either Court in said County shall, at

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the end of each term of such Court in which the same is pending, be transferred by operation of law to the other Court except where the next succeeding term of the 5th District Court will convene before the next term of the 102nd District Court in said County; and said Courts, and the judges thereof, either in termtime or vacation, may transfer any civil or criminal cause pending in their respective Courts to the other District Court in said County by an order entered upon the minutes of their respective Courts.

(8) All processes issued, bonds and recognizances made, and all grand and petit jurors drawn before this Act takes effect shall be valid and returnable to the next succeeding terms of the District Courts of the several Counties as herein fixed respectively as though issued and served for such terms and Courts and returnable to and drawn for the same.

(9) The Judge and all District Officers of the 102nd Judicial District as heretofore constituted shall be the Judge and District Officers of the 102nd Judicial District as constituted and reorganized by this Section during the terms for which they each respectively were elected.

Subd. 102 amended by Acts 1969, 61st Leg., p. 1116, ch. 363, § 2, emerg. eff. May 27, 1969.

108. — Potter

Section 1. The 108th Judicial District is composed of the County of Potter.

Sec. 2. The 108th District Court shall have and exercise all jurisdiction now or hereafter prescribed by the Constitution and laws of this state for district courts.

Sec. 3. The jurisdiction of the 108th District Court shall be concurrent in Potter County with the 47th and 181st District Courts for the 47th and 181st Judicial Districts.

Sec. 4. The terms of the 108th District Court shall begin on the first Mondays in January, May, and September of each year. Each term of said court may continue until the date herein fixed for the beginning of the next succeeding term thereof. The judge of said court may, in his discretion, hold as many sessions of said court as is deemed by him proper and expedient for the dispatch of business.

Sec. 5. (a) The judge of the 108th District Court may transfer cases to the docket of any district court which has jurisdiction over the case with the approval of the judge of the court to which the case is transferred. The judge of the 108th District Court may sit for the judge of any other district court without transferring the case on the dockets.

(b) All process and writs issued out of the district court from which any transfer is made shall be returnable to the court to which the transfer is made. All bonds executed and recognizances entered into in any district court from which any transfer is made shall bind the parties for their appearance or to fulfill the obligations of such bonds and recognizances at the terms of the courts to which the transfer is made as the terms are fixed by this Act.

Sec. 6. The district clerk of Potter County shall act as the district clerk for the 108th Judicial District Court in Potter County.

Sec. 7. The district attorney of the 47th Judicial District shall act as the district attorney for the 108th Judicial District.

Sec. 8. The sheriff of Potter County shall perform for the 108th District Court in connection with all of its cases in Potter County, all of the duties in connection with the court as provided by law for sheriffs to perform in connection with district courts.

Sec. 9. The judge of the 108th District Court shall appoint an official shorthand reporter for the court who shall be well-skilled in

his profession. The reporter shall be a sworn officer of the court and shall be compensated as provided by law."

Added by Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 23, § 5.008, emerg. eff. Sept. 19, 1969.

Former provisions of 108th judicial district were repealed by Acts 1969, 61st Leg., 2nd C.S., p. 94, ch. 23, § 5.011, set out under article 199a.

115. Upshur, Wood and Marion Counties

(a) The 115th District Court of Texas shall be composed of Upshur, Wood, and Marion Counties, and the terms of the Court shall be held as follows:

In the County of Upshur on the first Mondays in January and June of each year, and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of said Court in Upshur County.

In the County of Wood on the first Mondays in February and July, and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of said Court in Wood County.

In the County of Marion on the first Mondays in March and September, and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of said Court in Marion County.

The Judge of the 115th District Court in his discretion may hold as many sessions of Court in any term of the Court in any County as is deemed by him proper and expedient for the dispatch of business.

(b) The jurisdiction of the 115th District Court is concurrent with the jurisdiction of the 76th District Court in Marion County, and with the 114th District Court in Wood County. The Judges of the 114th and 115th District Courts in Wood County may transfer on their dockets any case to be tried in Wood County with the consent of the Court to which transferred, and each may sit in the other Court to hear cases without transferring the case. The Judges of the 115th and 76th District Courts in Marion County may transfer on their dockets any case to be tried in Marion County with the consent of the court to which transferred, and each may sit in the other court to hear cases without transferring the case. All writs and processes issued and bonds and recognizances made in cases transferred are returnable to the court to which transferred, as if originally issued there.

(c) The officers serving the 76th District Court in Marion County shall serve in the same manner the 115th Judicial District Court in Marion County.

Amended by Acts 1969, 61st Leg., p. 519, ch. 181, § 4, emerg. eff. May 9, 1969.

Marion County, see, also, 76th district.

119. — Runnels and Tom Green

(a) The One Hundred and Nineteenth Judicial District of Texas shall be composed of Runnels and Tom Green Counties; the terms of the District Court shall be held therein each year as follows:

In the County of Runnels on the first Mondays in March and October.

In the County of Tom Green on the first Mondays in April and November.

Each term of court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

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(b) The judge of said court in his discretion may hold as many sessions of court in any term of the court in any county as is deemed by him proper and expedient for the dispatch of business.

(c) All processes issued, bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Courts of the several counties as herein fixed as though issued and served for such terms and returnable to and drawn from the same.

(d) It is further provided that if any court in any county of said district shall be in session at the time this Act takes effect such court or courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but thereafter all courts in said district shall conform to the requirements of this Act.

Amended by Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 23, § 5.003, emerg. eff. Oct. 19, 1969.

124. — Gregg

* * * * *

Sec. 17. The District Clerk of Gregg County, Texas, duly elected and now acting as such, shall be the District Clerk of the said One Hundred Twenty-fourth Judicial District. He shall receive such salary as is now or may be hereafter prescribed for District Clerks of the State of Texas. Subd. 124, § 17, amended by Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 23, § 5.002, emerg. eff. Sept. 19, 1969.

* * * * *

Sec. 19. The Criminal District Attorney for the One Hundred Twenty-fourth Judicial District of Texas shall have and exercise all such powers, duties and privileges as are now by law conferred, or which may hereafter be conferred, upon District and County Attorneys, and shall represent the State of Texas in all Criminal cases under examination or prosecution in the One Hundred Twenty-fourth Judicial District and in the County Court, Justice Court and all Municipal Courts of Gregg County, Texas, where the defendant is charged with violating a state law, and shall be entitled to collect the fees provided by law for representing the State of Texas in Municipal Courts, which fees are the same as the fees for representing the state in Justice Courts.

Subd. 124, § 19, amended by Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 23, § 5.002, emerg. eff. Sept. 19, 1969.

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141. — Tarrant. See Article 199a, Sec. 3.002

145. — Cherokee and Nacogdoches

Section 1. The 145th Judicial District is composed of Cherokee and Nacogdoches Counties.

Subd. 145, sec. 1 amended by Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 23, § 5.006, emerg. eff. Sept. 19, 1969.

* * * * *

Sec. 3. The District Court of the 145 Judicial District shall have two terms in each county each year, which shall begin on the first Mondays of March and September in Cherokee County and of February and August in Nacogdoches County. Each term shall continue until the date for the beginning of the next term.

The Judge may, in his discretion, hold as many sessions of court in any term of the court as is deemed by him proper and expedient for the dispatch of business.

Subd. 145, sec. 3 amended by Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 23, § 5.006, emerg. eff. Sept. 19, 1969.

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Sec. 5. The said two (2) District Courts of Cherokee and Nacogdoches Counties shall have jurisdiction over all matters, both civil and criminal, of which jurisdiction is given or shall be given by the constitution and laws of Texas to District Courts; and said two (2) District Courts shall have concurrent civil and criminal jurisdiction of all matters, civil and criminal, of which jurisdiction is given to the District Court by the constitution and laws of the State of Texas.

Subd. 145, sec. 5 amended by Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 23, § 5.006, emerg. eff. Sept. 19, 1969.

* * * * *

Sec. 8. The Clerk of the District Court of both of the Counties of Cherokee and Nacogdoches, and his successors in office, shall be the Clerk of the District Court of the 145th Judicial District in his county, and shall perform all duties pertaining to the clerkship of each of said courts.

Subd. 145, sec. 8 amended by Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 23, § 5.006, emerg. eff. Sept. 19, 1969.

Sec. 9. There shall be one (1) general docket for the Second District and the 145th Judicial District in both of the Counties of Cherokee and Nacogdoches. All suits and other proceedings instituted in any county in the district of which the District Court has jurisdiction shall be addressed to the District Court of the county in which the suit or other proceeding is instituted. The Judge of either the District Court of the Second District or the 145th Judicial District may hear and dispose of any suit or other proceeding on the general docket of the District Court of the county in which the suit or other proceeding is instituted, without the necessity of transferring the suit or other proceeding from one court to another. Every judgment and order shall be entered in the minutes of the District Court of the county in which the proceedings are pending, and the Clerk of the District Court of the county shall keep one (1) set of minutes in which shall be recorded all the judgments and orders of the Second District Court and the 145th Judicial District. All citations and other process issued by the District Clerk and all notices, restraining orders and other process authorized to be issued by the Judge of the Second District Court or the 145th Judicial District shall be returnable to the District Court of the county in which such suit or other proceeding is pending, without reference to the designation of the District Court, and on the return of such process, a hearing or trial shall be presided over by the Judge of either the Second District Court or the 145th Judicial District.

Subd. 145, sec. 9 amended by Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 23, § 5.006, emerg. eff. Sept. 19, 1969.

* * * * *

Angelina County, see, now, 159th district, art. 199a, sec. 3.005.

- 148. — Nueces. See Article 199a, Sec. 3.001
- 149. — Brazoria. See Article 199a, Sec. 3.027
- 158. — Denton. See Article 199a, Sec. 3.004
- 159. — Angelina. See Article 199a, Sec. 3.005
- 168. — El Paso. See Article 199a, Sec. 3.006
- 169. — Bell. See Article 199a, Sec. 3.003

For Annotations and Historical Notes, see V.A.T.S.

170. — McLennan

Section 1. [See 19th District].

Sec. 2. The 170th Judicial District and the 170th District Court are established for McLennan County. The judge of the 170th District Court shall receive the same amount of salary and supplemental compensation as the other district judges of McLennan County.

Sec. 3. The sheriff, district clerk, and criminal district attorney of McLennan County shall serve in their respective capacities for the 170th District Court. The criminal district attorney of McLennan County may employ four investigators or assistants in addition to those now provided by law.

Sec. 4. The first judge of the 170th District Court shall be elected in the general election of 1970. This Section takes effect January 1, 1970, and the remainder of this bill takes effect January 1, 1971.

Acts 1969, 61st Leg., p. 2006, ch. 684, §§ 2-4.

McLennan County, see, also, 19th district.

172. — Jefferson. See Article 199a, Sec. 3.007

173. — Anderson, Henderson and Houston. See Article 199a, Sec. 3.008

181. — Potter and Randall. See Article 199a, Sec. 3.009

182. — Harris. See Article 199a, Sec. 3.010

183. — Harris. See Article 199a, Sec. 3.011

184. — Harris. See Article 199a, Sec. 3.012

185. — Harris. See Article 199a, Sec. 3.013

186. — Bexar

Section 1. The 186th Judicial District, coextensive with the limits of Bexar County, is created effective, October 1, 1969. The court of the district is the 186th District Court of Bexar County.

Sec. 2. (a) The governor shall appoint as judge of the 186th District Court a person qualified to serve as district judge under the Constitution and laws of this state. The judge appointed holds office until the next general election and until his successor is duly elected and has qualified.

(b) The judge appointed and his successors are entitled to the same compensation and allowances, paid by the state and county, as the other district judges in Bexar County.

Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 23, emerg. eff. Sept. 19, 1969.

Title of Act:

An Act creating the 186th Judicial District and the 186th District Court of Bexar County and providing for the court's jurisdiction, terms, personnel, administration, and practice; amending Subsections (B), (E), (G), (H), (K), (M), (N), (O), and (Q), Section 4, Chapter 507, Acts of the 58th Legislature, 1963; and declaring an emergency. Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 6.

Acts 1969, 61st Leg., 2nd Leg., p. —, ch. 6, which created this district and amended various provisions appearing under 37th district related to judicial districts and district courts of Bexar County, provided in section 12 that this Act is effective Oct. 1, 1969.

Bexar County, see, also, 37th, 131st, 144th, 150th and 166th districts [this article], and 187th district [art. 199a, sec. 3.014].

187. — Bexar. See Article 199a, Sec. 3.014

188. — Gregg. See Article 199a, Sec. 3.015

189. — Harris. See Article 199a, Sec. 3.016

190. — Harris. See Article 199a, Sec. 3.017

191. — Dallas. See Article 199a, Sec. 3.018

192. — Dallas. See Article 199a, Sec. 3.019
193. — Dallas. See Article 199a, Sec. 3.020
194. — Dallas. See Article 199a, Sec. 3.021
195. — Dallas. See Article 199a, Sec. 3.022
196. — Hunt. See Article 199a, Sec. 3.023
197. — Cameron and Willacy. See Article 199a, Sec. 3.024
198. — Kerr, Bandera, Kendall, Menard, Concho, Kimble and McCulloch. See Article 199a, Sec. 3.026

229. Duval, Jim Hogg and Starr

Section 1. The 229th Judicial District shall be composed of the counties of Duval, Starr, and Jim Hogg.

Sec. 2. The 229th District Court shall have and exercise all jurisdiction now or hereafter prescribed by the Constitution and laws of this state for district courts.

Sec. 3. The terms of the 229th District Court shall be:

(a) In the County of Duval, beginning on the first Monday in February and the first Monday in August of each year, and each term of the court shall continue until the beginning of the next term.

(b) In the County of Starr, beginning on the first Monday in April and the first Monday in October of each year, and each term of the court shall continue until the beginning of the next term.

(c) In the County of Jim Hogg, beginning on the first Monday in June and the first Monday in December of each year, and each term of the court shall continue until the beginning of the next term.

The judge of the 229th District Court, in his discretion, may hold as many sessions of court in any term of the court in any county as is deemed by him proper and expedient for the dispatch of business.

Sec. 4. The District Clerk and Sheriff of Duval, Starr, and Jim Hogg counties shall serve the 229th District Court. The judge of the 229th District Court shall appoint an official shorthand reporter for the court. The reporter shall be a sworn officer of the court and shall be compensated as provided by law.

Sec. 5. Upon the effective date of this Act, the Governor shall appoint a judge of the 229th District Court who shall have qualifications required of judges of district courts in this state and who shall hold office until the next general election and until his successor is sworn. The judge of the 229th District Court shall receive the compensation provided by law for district judges.

Subd. 229 added by Acts 1969, 61st Leg., p. 697, ch. 239, § 3, eff. Sept. 1, 1969.

Acts 1969, 61st Leg., p. 697, ch. 239, §§ 1-3, reorganizing the 49th and 79th judicial districts, and establishing this judicial district, provided in sections 4, 5 and 7:

"Sec. 4. On the effective date of this Act, the judges of the 49th and 79th District Courts shall transfer cases on their dockets arising within the jurisdiction of the 229th District Court to the docket of the 229th District Court. All writs and processes issued in any case transferred from one court to another shall be return-

able to the court to which the case is transferred as if originally issued there. All bonds executed and recognizances entered into in any court from which any transfer is made shall bind the parties for their appearance or to fulfill the obligations of the bonds and recognizances at the terms of the court to which the transfer is made.

"Sec. 5. All grand and petit juries drawn and selected under existing laws for Duval, Starr, and Jim Hogg counties shall be con-

For Annotations and Historical Notes, see V.A.T.S.

sidered lawfully drawn and selected for the next ensuing term of the 229th District Court.

Court reporter for 229th district, see art. 199a, § 5.012.

"Sec. 7. This Act takes effect September 1, 1969."

District attorney for 229th district, see art. 326k—61a.

Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 23, consisting of sections 1.001 to 7.003 which appear under Article 199a, creates and modifies various judicial districts affecting the provisions of Article 199.

Art. 199a. Judicial Districts Act of 1969

SUBCHAPTER A. ORGANIZATION AND PURPOSE

Short title

Section 1.001. This Act may be cited as the Judicial Districts Act of 1969.

Scope of act

Sec. 1.002. Except as otherwise indicated by the context, this Act applies only to judicial districts created by this Act or by amendments of this Act.

Subchapters

Sec. 1.003. (a) The provisions of Subchapter B of this Act are general and apply to all district courts created by this Act and those later created by amendment of Subchapter C of this Act except expressly provided by this Act or an amendatory Act.

(b) The provisions of Subchapter C of this Act create specific judicial districts and define their territorial composition, and may contain specific provisions applicable to each court.

(c) The provisions of Subchapter D of this Act are concerned with specific judicial districts and the office of district attorney for those districts.

(d) The provisions of Subchapter E of this Act amend prior law to conform legislation to the new pattern of judicial districts drawn by this Act.

(e) The provisions of Subchapter F of this Act are transitional provisions applicable to each court created by this Act or by amendment of this Act except as expressly provided by this Act or an amendatory Act.

Amendments

Sec. 1.004. This Act is so designed that the Legislature may later add districts or change the composition of a district or the jurisdiction of a court by adding or amending sections of Subchapter C without repeating the provisions of Subchapter B or Subchapter F.

SUBCHAPTER B. GENERAL PROVISIONS

Terms of court

Sec. 2.001. Each district court holds in each county within its jurisdiction continuous terms which commence on the first Monday in January and on the first Monday in July of each year. Each term of court continues until the next succeeding term begins.

Transfer of cases; exchange of benches

Sec. 2.002. (a) In any county in which there are two or more district courts, the judges of such courts may, in their discretion, either in term-time or in vacation, on motion of any party or on agreement of the parties, or on their own motion, transfer any case or proceeding, civil or criminal, on their dockets to the docket of one of the other said district courts; and the judges of the courts may, in their discretion, exchange benches or districts from time to time.

(b) Whenever a judge of one of the courts is disqualified, he shall transfer the case or proceeding from his court to one of the other courts, and any of the judges may in his own courtroom try and determine any case or proceeding pending in either of the other courts without having the case transferred, or may sit in any of the other courts and there hear and determine any case or proceeding there pending. Each judgment and order shall be entered in the minutes of the court in which the case is pending, and two or more judges may try different cases in the same court at the same time and each may occupy his own courtroom or the room of any other court.

(c) In case of absence, sickness, or disqualification of any of the judges, any other of the judges may hold court for him. Any of the judges may hear any part of any case or proceeding pending in any of the courts and determine the same or may hear or determine any question in any case or proceeding and any other of the judges may complete the hearing and render judgment in the same. Any of the judges may hear and determine motions, petitions for injunction, applications for appointment of receivers, interventions, pleas of privilege, pleas in abatement, and all dilatory pleas, motions for new trials, and all preliminary matters, questions and proceedings, and may enter judgment or order thereon in the court in which the case or proceeding is pending without having the same transferred to the court of the judge acting; and the judge in whose court the same is pending may thereafter proceed to hear, complete, and determine the same or other matter or any part thereof and render final judgment thereon. Any of the judges of the courts may issue restraining orders and injunctions returnable to any of the other courts.

(d) The specific matters mentioned in this section shall not be construed as any limitation on the powers of such judges when acting for any other judge by exchange of benches or otherwise.

Filing and docketing cases

Sec. 2.003. In a county in which there are two or more district courts, the judges of the courts may make such rules governing the filing and numbering of cases, the assignment thereof for trial, and the distribution of the work of such courts as in their discretion is deemed necessary or desirable for the orderly dispatch of the business of the courts.

Process, writs, etc.

Sec. 2.004. (a) When a case is transferred from one court to another, all process and writs issued from the transferring court are returnable to the court to which the case is transferred as if originally issued by that court.

(b) The obligees in all bonds and recognizances taken in and for a court from which a case is transferred, and all witnesses summoned to appear in a district court from which a case is transferred, are required to appear before the district court to which the case is transferred as if originally issued by that court.

Governor to appoint district judges

Sec. 2.005. The district judge of each new district created by this Act shall be appointed by the governor in the manner prescribed by the constitution and laws of the State of Texas and shall serve in such capacity until the next succeeding general election and until his successor has been duly elected and has qualified.

Juvenile boards and supplemental compensation

Sec. 2.006. The district judge of any new district created by this Act shall sit as a member of the juvenile board in any county within his district in which a juvenile board exists. The judge shall receive the same amount as supplemental compensation for his services on the board as is received by other judges on the board. The judge shall receive the same amount in other supplemental compensation from the county as is received by other district judges in that county.

Court officers

Sec. 2.007. The district attorney (or county attorney or criminal district attorney), the sheriff, the district clerk, the bailiffs, and other officers serving the other district court or courts of the county shall serve in their respective capacities for the court created by this Act.

Court reporter

Sec. 2.008. The district judge shall appoint an official shorthand reporter for the court who shall have the qualifications and receive the compensation prescribed by law. If other district courts have jurisdiction in the county, the official shorthand reporter is entitled to the compensation prescribed by law for the official shorthand reporters of the other district courts.

Jurisdiction

Sec. 2.009. Each court created in Subchapter C, has the jurisdiction provided by the constitution and the general laws of this state for district courts.

Special district courts

Sec. 2.010. Each court created in Subchapter C which is directed to give preference to specific matters or types of cases shall participate in all matters relating to juries, grand juries, indictments, and docketing of cases in the same manner as the existing district court or courts which are similarly directed within that county.

SUBCHAPTER C. CREATION OF DISTRICTS

148. — Nueces

Sec. 3.001. (a) The 148th Judicial District, composed of the County of Nueces, is hereby created.

(b) The 148th District Court shall give first preference to family law matters and second preference to criminal cases.

141. — Tarrant

Sec. 3.002. The 141st Judicial District, composed of the County of Tarrant, is hereby created.

169. — Bell

Sec. 3.003. The 169th Judicial District, composed of the County of Bell, is hereby created.

158. — Denton

Sec. 3.004. The 158th Judicial District, composed of the County of Denton, is hereby created.

159. — Angelina

Sec. 3.005. (a) The 159th Judicial District, composed of the County of Angelina, is hereby created.

(b) The judges of the 2nd and 145th District Courts in office on the effective date of this Act shall continue in office for the terms for which they were elected.

168. — El Paso

Sec. 3.006. The 168th Judicial District, composed of the County of El Paso, is hereby created.

172. — Jefferson

Sec. 3.007. The 172nd Judicial District, composed of the County of Jefferson, is hereby created.

173. — Anderson, Henderson and Houston

Sec. 3.008. The 173rd Judicial District, composed of the Counties of Anderson, Henderson, and Houston, is hereby created.

181. — Potter and Randall

Sec. 3.009. (a) The 181st Judicial District, composed of the Counties of Potter and Randall, is hereby created.

(b) The 181st District Court may hear and determine, in whichever county in that district is convenient for the court, all preliminary or interlocutory matters in which a jury may not be demanded, in any case pending in any county in said district, regardless of whether the cases were filed in the county in which the hearing is held. The 181st District Court may, unless there is some objection filed by a party to the suit, hear, in any county in said district which is convenient for said court, any non-jury case (including but not limited to divorces, adoptions, default judgments and matters where there has been citation by publication) pending in any county in said district, regardless of whether the cases were filed in the county in which the hearing is held.

182. — Harris

Sec. 3.010. (a) The 182nd Judicial District, composed of the County of Harris, is hereby created.

(b) The 182nd District Court shall give preference to criminal cases.

183. — Harris

Sec. 3.011. (a) The 183rd Judicial District, composed of the County of Harris, is hereby created.

(b) The 183rd District Court shall give preference to criminal cases.

184. — Harris

Sec. 3.012. (a) The 184th Judicial District, composed of the County of Harris, is hereby created.

(b) The 184th District Court shall give preference to criminal cases.

185. — Harris

Sec. 3.013. (a) The 185th Judicial District, composed of the County of Harris, is hereby created.

(b) The 185th District Court shall give preference to criminal cases.

For Annotations and Historical Notes, see V.A.T.S.

187. — Bexar

Sec. 3.014. (a) The 187th Judicial District, composed of the County of Bexar, is hereby created.

(b) The 187th District Court shall give preference to criminal cases.

188. — Gregg

Sec. 3.015. (a) The 188th Judicial District, composed of the County of Gregg, is hereby created.

(b) All cases and proceedings pending on the effective date of this Act in the 71st District Court in Gregg County shall be transferred in equal numbers to the 124th and 188th District Courts. All process and writs issued from the 71st District Court sitting in Gregg County and made returnable to the 71st District Court sitting in Gregg County are hereby made returnable to the 124th or 188th District Court, as the case may be. The obligees in all bonds and recognizances taken in and for the 71st District Court sitting in Gregg County, and all witnesses summoned to appear before the 71st District Court in Gregg County, are required to appear before the 124th or 188th District Court as directed by the 124th or 188th District Court but not at a time earlier than originally required.

(c) The judge of the 71st District Court is continued in office until the expiration of the term to which he was elected and until his successor is elected and has qualified.

189. — Harris

Sec. 3.016. The 189th Judicial District, composed of the County of Harris, is hereby created.

190. — Harris

Sec. 3.017. The 190th Judicial District, composed of the County of Harris, is hereby created.

191. — Dallas

Sec. 3.018. The 191st Judicial District, composed of the County of Dallas, is hereby created.

192. — Dallas

Sec. 3.019. The 192nd Judicial District, composed of the County of Dallas, is hereby created.

193. — Dallas

Sec. 3.020. The 193rd Judicial District, composed of the County of Dallas, is hereby created.

194. — Dallas

Sec. 3.021. (a) The 194th Judicial District, composed of the County of Dallas, is hereby created.

(b) The 194th District Court shall give preference to criminal cases.

195. — Dallas

Sec. 3.022. (a) The 195th Judicial District, composed of the County of Dallas, is hereby created.

(b) The 195th District Court shall give preference to criminal cases.

196. — Hunt

Sec. 3.023. The 196th Judicial District, composed of the County of Hunt, is hereby created.

197. — Cameron and Willacy

Sec. 3.024. (a) The 197th Judicial District, composed of the Counties of Cameron and Willacy, is hereby created.

(b) The 197th District Court shall give preference to criminal cases.

Tarrant; Criminal Judicial District No. 4

Sec. 3.025. [See Article 1926-45 for text].

198. — Kerr, Bandera, Kendall, Menard, Concho, Kimble and McCulloch

Sec. 3.026. (a) The 198th Judicial District, composed of the Counties of Kerr, Bandera, Kendall, Menard, Concho, Kimble, and McCulloch, is hereby created.

(b) The judge of the 198th District Court shall have the right to select jury commissioners and empanel grand juries in each county. The judge of the 198th District Court may alternate the drawing of grand juries with the judge of any other district court in each county within his district and may order grand and petit juries to be drawn for any term of his court as in his judgment is necessary, by an order entered in the minutes of the court. Indictments within each county may be returned to either court within that county.

149. — Brazoria

Sec. 3.027. The 149th Judicial District, composed of the County of Brazoria, is hereby created.

SUBCHAPTER D. DISTRICT ATTORNEYS**196th Judicial District**

Sec. 4.001. (a) The office of district attorney for the 196th Judicial District is created.

(b) The district attorney with the approval of the Commissioners Court of Hunt County may appoint such assistants, investigators, and secretarial help as are necessary to carry out the duties of his office. Each assistant, investigator, and secretary shall receive a salary fixed by the district attorney, subject to the approval of the commissioners court.

(c) The district attorney may receive additional compensation from Hunt County in an amount to be set by the commissioners court so that his total salary including his compensation from the state does not exceed \$11,000 per year.

198th Judicial District

Sec. 4.002. (a) The office of the district attorney for the 198th Judicial District is created.

(b) The district attorney shall represent the state in all matters pending before the 198th District Court. The district attorney of the 198th Judicial District and the district attorneys of the other judicial districts within his district shall assist each other in the conduct of their duties.

2nd Judicial District

Sec. 4.003. The district attorney for the 2nd Judicial District in office on the effective date of this Act shall continue in office for the term for which he was elected.

159th Judicial District

Sec. 4.004. (a) The office of district attorney for the 159th Judicial District is created.

For Annotations and Historical Notes, see V.A.T.S.

(b) The district attorney shall perform within the 159th Judicial District all the duties imposed and have all the authority conferred on district attorneys by the general laws of this state.

(c) The district attorney shall receive from the state as salary an amount as provided in the General Appropriations Act. The commissioners court shall supplement any salary paid by the state in an amount required to make his total salary not less than \$12,500 a year, nor more than \$16,000 a year. The salary paid by the county shall be paid from the officers salary fund of the county in 12 equal monthly installments.

(d) (1) The district attorney of the 159th Judicial District for the purpose of conducting the affairs of that office may appoint an assistant district attorney to be paid an annual salary approved by the commissioners court of not less than \$5,000, nor more than \$8,000. In order to conduct the affairs of his office, the district attorney may appoint investigators, court reporters, stenographers, secretaries, and other employees he deems adequate and necessary, subject to the approval of the commissioners court. All persons appointed under this section are entitled to be paid out of county funds the salaries, other compensation, and reimbursements approved by the district attorney and the commissioners court of Angelina County.

(2) The assistant district attorney of the 159th Judicial District and investigators, when appointed, shall take the constitutional oath of office, and the assistant district attorney shall exercise the powers and perform the duties conferred and imposed by law upon the district attorney, under the supervision and direction of the district attorney of the 159th Judicial District.

SUBCHAPTER E. CONFORMING AMENDMENTS AND REPEALS

Sec. 5.001. Subdivision 71, Article 199, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows: [See Article 199, 71st District, for text].

Sec. 5.002. Sections 17 and 19, Chapter 23, Acts of the 42nd Legislature, 1st Called Session, 1931, as amended (Subdivision 124, Article 199, Vernon's Texas Civil Statutes), are amended to read as follows: [See Article 199, 124th District, for text].

Sec. 5.003. Section 5, Chapter 367, Acts of the 42nd Legislature, Regular Session, 1931, as last amended by Section 2, Chapter 319, Acts of the 48th Legislature, 1943 (Subdivision 119, Article 199, Vernon's Texas Civil Statutes), is amended to read as follows: [See Article 199, 119th District, for text].

Sec. 5.004. Chapter 649, Acts of the 59th Legislature, Regular Session, 1965 (Article 326e—1¹ Vernon's Texas Civil Statutes), is amended to read as follows: [See Article 326l—1 for text].

¹ Should read "326l—1."

Sec. 5.005. Subdivision 2, Article 199, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 69, Acts of the 48th Legislature, 1943, is amended to read as follows: [See Article 199, 2nd District, for text].

Sec. 5.006. Sections 1, 3, 5, 8, and 9, Chapter 492, Acts of the 54th Legislature, 1955 (Subdivision 145, Article 199, Vernon's Texas Civil Statutes), are amended to read as follows: [See Article 199, 145th District, for text].

Sec. 5.007. Subdivision 47, Article 199, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows: [See Article 199, 47th District, for text].

Sec. 5.008. Article 199, Revised Civil Statutes of Texas, 1925, is amended by adding Subdivision 108 to read as follows: [See Article 199, 108th District, for text].

Sec. 5.009. Subdivision 8, Article 199, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 4, page 154, General Laws, Acts of the 46th Legislature, Regular Session, 1939, is amended to read as follows: [See Article 199, 8th District, for text].

Sec. 5.010. Subdivision 62, Article 199, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows: [See Article 199, 62nd District, for text].

Repealers

Sec. 5.011. The following laws are repealed: Chapter 7, Acts of the 40th Legislature, Regular Session, 1927¹; Chapter 248, Acts of the 43rd Legislature, Regular Session, 1933²; Chapter 464, Acts of the 47th Legislature, Regular Session, 1941²; Chapter 42, Acts of the 43rd Legislature, 2nd Called Session, 1934³; Chapter 211, Acts of the 48th Legislature, 1943³; and Chapter 744, Acts of the 61st Legislature, Regular Session, 1969.

¹ Article 199, subds. 47 and 108.

² Article 199, subd. 47.

³ Article 199, subd. 108.

Court reporter of 229th judicial district

Sec. 5.012. The official shorthand reporter of the 229th Judicial District of Texas shall receive a salary of not more than \$11,500 a year, in addition to the compensation for transcription fees as provided by law. The salary shall be paid monthly upon approval of the judge of the 229th Judicial District Court, and shall be paid by the commissioners court of each of the counties comprising the 229th Judicial District of Texas. The salary shall be payable out of the general fund, officers salary fund, the jury fund, or any fund available for that purpose.

SUBCHAPTER F. TRANSITIONAL PROVISIONS

Appointment of initial officials

Sec. 6.001. When a judicial district is created by this Act or by amendment to this Act, the Governor shall appoint a qualified person to the office of district judge, who shall serve until the next succeeding general election and until his successor is elected and has qualified; and if the office of district attorney for a judicial district is created by this Act or by amendment to this Act, the Governor shall appoint a qualified person to the office of district attorney, who shall serve until the next succeeding general election in a presidential election year and until his successor is elected and has qualified.

Grand and petit jurors

Sec. 6.002. All grand and petit jurors selected in a county before the creation of a district court under this Act are considered to be lawfully selected for the district court created for the county by this Act.

Cases transferred

Sec. 6.003. Except as otherwise provided by this Act, when this Act is effective to transfer a county from one judicial district to another, or to create a new judicial district within a county and remove the county from one or more existing judicial districts, all cases and proceedings pending in the district courts of that county are transferred by operation of law to the new judicial district or the judicial district to which the county is transferred. The judges of the district courts affected shall sign the proper orders in connection with the transfer.

Process and writs remain valid

Sec. 6.004. (a) When this Act is effective to transfer any county to a different judicial district, or to create a new judicial district within a

For Annotations and Historical Notes, see V.A.T.S.

county and remove the county from one or more existing judicial districts, or to prescribe a different time or place for the court to hold terms of court, all process and writs issued from that court before the effective date of this Act and made returnable to the court as constituted at the time of issuance are returnable to the district court for that county as the court is constituted under this Act at such times as that court directs but not at a time earlier than originally returnable. The writs and process are as legal and valid as if they had been made returnable to the court as constituted under this Act.

(b) All grand and petit jurors lawfully selected in a county before the effective date of this Act are lawfully selected for the district court for that county as constituted under this Act.

(c) The obligees in all appearance bonds and recognizances taken in and for a district court of a county before the effective date of this Act, as well as all witnesses summoned to appear before that district court under laws existing before the effective date of this Act, are required to appear at the district court for that county as constituted under this Act at such time as that court directs but not at a time earlier than originally required.

SUBCHAPTER G. MISCELLANEOUS PROVISIONS

Severability

Sec. 7.001. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision of application, and to this end the provisions of this Act are declared to be severable.

Sec. 7.002. All laws and parts of laws in conflict herewith are hereby modified or repealed to the extent of such conflict; and in any or all cases of such conflict, the provisions of this Act shall prevail.

Appropriation

Sec. 7.003. There is hereby appropriated from the General Revenue Fund, for the fiscal biennium ending August 31, 1971, for the payment of salaries and travel expenses of judges and district attorneys whose offices are created by this Act, the sum of \$1,222,000, or so much thereof as is necessary for these purposes.

Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 6, eff. Oct. 1, 1969.

Title of Act:

An Act creating new judicial districts and making necessary provisions for terms of court, transfer of cases, exchange of benches, matters of administration, appointment of initial judges, juvenile boards and supplemental compensation, court officers, court reporters, and jurisdiction; creating the office of district attorney for certain judicial districts and making necessary related provisions; amending certain laws and repealing certain laws to conform to this Act; prescribing the salary of certain court reporters; making necessary transitional provisions; providing for severability; repealing laws in conflict; providing an appropriation; and declaring an emergency.

Acts 1969, 61st Leg., 2nd C.S., p. 94, ch. 23.

Counties included in other judicial districts, Anderson County, see, also, art. 199, 3rd and 87th districts.

Bandera County, see, also, art. 199, 2nd 38th district.

Bell County, see, also, art. 199, 27th district.

Bexar County, see, also, art. 199, 37th, 131st, 144th, 150th, 166th and 186th districts.

Brazoria County, see, also, art. 199, 23rd and 130th districts.

Cameron County, see, also, art. 199, 103rd, 107th and 138th districts.

Dallas County, see, also, art. 199, 14th, 101st, 116th, 160th and 162nd districts.

Denton County, see, also, art. 199, 16th district.

El Paso County, see, also, art. 199, 34th, 120th and 171st districts.

Gregg County, see, also, art. 199, 124th district.

Harris County, see, also, art. 199, 11th, 80th, 164th, 174th and 176th to 180th districts.

Henderson County, see, also, art. 199, 3rd district.

Houston County, see, also, art. 199, 3rd district.

Jefferson County, see, also, art. 199, 58th and 136th districts.

- Kendall County, see, also, art. 199, 2nd 38th district.
- Kerr County, see, also, art. 199, 2nd 38th district.
- Kimble County, see, also, art. 199, 2nd 38th district.
- McCulloch County, see, also, art. 199, 35th district.
- Menard County, see, also, art. 199, 33rd district.
- Nueces County, see, also, art. 199, 28th, 94th, 105th and 117th districts.
- Potter County, see, also, art. 199, 47th and 108th districts.
- Randall County, see, also, art. 199, 47th district.
- Tarrant County, see, also, art. 199, 17th and 153rd districts.
- Willacy County, see, also, art. 199, 103rd, 107th and 138th districts.
- Criminal district courts, see art. 1926—1 et seq.
- District attorneys, see art. 321 et seq.
- Judicial districts,
 - Generally, see art. 199.
 - Constitutional provisions, see Const. art. 5, §§ 7, 14.

ADMINISTRATIVE JUDICIAL DISTRICTS

Art. 200a. Administrative Judicial Districts

Numbers and composition

Section 1. The State of Texas is hereby divided into nine (9) Administrative Judicial Districts, which districts shall be numbered and composed of Counties as follows:

First—Bowie, Red River, Lamar, Fannin, Grayson, Collin, Hunt, Delta, Hopkins, Franklin, Titus, Morris, Camp, Cass, Marion, Harrison, Gregg, Upshur, Wood, Rains, Kaufman, Van Zandt, Dallas, Ellis, Henderson, Anderson, Houston, Cherokee, Nacogdoches, Angelina, Pamola, Shelby, Smith, Rusk.

Second—San Augustine, Sabine, Jasper, Newton, Orange, Jefferson, Tyler, Hardin, Liberty, Chambers, Galveston, Harris, Brazoria, Matagorda, Wharton, Fort Bend, Waller, Montgomery, San Jacinto, Polk, Walker, Trinity, Grimes, Madison, Leon, Brazos, Freestone, Limestone, Burleson, Washington, Bastrop, Robertson, Lee.

Third—Johnson, Somervell, Bosque, Hill, Navarro, McLennan, Falls, Milam, Williamson, Travis, Austin, Fayette, Caldwell, Comal, Hays, Colorado, Lavaca, Gonzales, Guadalupe, Blanco, Burnet, San Saba, Llano, Mason, Menard, Bell, Lampasas, Mills, Coryell, Hamilton, Comanche.

Fourth—Jackson, Calhoun, Aransas, Refugio, San Patricio, Bee, Live Oak, McMullen, Goliad, Victoria, DeWitt, Karnes, Wilson, Atascosa, Frio, LaSalle, Dimmit, Webb, Zapata, Jim Hogg, Bexar.

Fifth—Nueces, Kleberg, Kenedy, Jim Wells, Duval, Brooks, Starr, Hidalgo, Willacy, Cameron.

Sixth—Maverick, Kinney, Edwards, Val Verde, Terrell, Kerr, Kendall, Bandera, Gillespie, Kimble, Real, Medina, Uvalde, Zavala, Sutton, Crockett, Pecos, Brewster, Jeff Davis, Presidio, Culberson, Hudspeth, El Paso, Upton, Reagan.

Seventh—Lynn, Garza, Gaines, Dawson, Andrews, Martin, Loving, Winkler, Ector, Midland, Glasscock, Reeves, Ward, Crane, Sterling, Coke, Irion, Tom Green, Schleicher, Borden, Scurry, Howard, Mitchell, Nolan, Taylor, Callahan, Shackelford, Throckmorton, Haskell, Jones, Fisher, Stonewall, Kent, Runnels, Coleman, Brown, McCulloch, Concho.

Eighth—Cooke, Denton, Montague, Clay, Wichita, Archer, Jack, Wise, Young, Stephens, Eastland, Erath, Hood, Palo Pinto, Parker, Tarrant.

“Ninth—Wilbarger, Baylor, Knox, King, Dickens, Motley, Cottle, Crosby, Lubbock, Hockley, Cochran, Bailey, Lamb, Hale, Floyd, Castro, Swisher, Briscoe, Parmer, Deaf Smith, Oldham, Hartley, Dallam, Sherman, Moore, Potter, Randall, Armstrong, Hansford, Ochiltree, Lipscomb, Hutchinson, Roberts, Hemphill, Carson, Gray, Wheeler, Donley, Collingsworth, Hall, Childress, Hardeman, Foard, Yoakum, Terry.

Sec. 1 amended by Acts 1969, 61st Leg., p. 159, ch. 58, § 1, emerg. eff. April 3, 1969.

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For Annotations and Historical Notes, see V.A.T.S.

**Compensation for performing duties as presiding judge of
administrative judicial districts**

Sec. 11.

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(b) In addition to and cumulative of all other compensation, expenses, and perquisites authorized by law and this Act, the Presiding Judge of any Administrative Judicial District in Texas which has forty or more district courts therein, when such Presiding Judge is a retired district judge, shall receive not less than \$5,000.00 nor more than \$15,000.00 per annum as compensation for performing duties as the Presiding Judge of such Administrative Judicial District. Biennially the Council of Judges of such Administrative Judicial District shall fix the amount of such compensation by a majority vote of the judges. Each county comprising such Administrative Judicial District shall pay out of the officers salary fund or the general fund of the county the amount of salary apportioned to it as herein provided. The aforesaid salary, or compensation, and all other expenses incidental thereto, shall be paid annually by the said counties in such Administrative Judicial District to the Presiding Judge of such Administrative Judicial District, and by said judge placed in an Administrative Fund, from which fund said salary, and other expenses incidental thereto, shall be paid. Said salary shall be paid in twelve equal monthly payments. Said salary shall be apportioned according to the assessed property valuation of each judicial district comprising such Administrative Judicial District and after so apportioned the amount apportioned shall be apportioned to each county comprising the judicial district according to the assessed property valuation of the county.

Sec. 11(b) added by Acts 1969, 61st Leg., p. 1984, ch. 674, § 1, emerg. eff. June 12, 1969.

TITLE 10A—ARCHITECTS

Art. 249c. Regulation of practice of landscape architecture [New].

Art. 249d. Construction contracts; indemnification of architects or engineers; covenants [New].

Article 249a. Regulation of practice of architecture

* * * * *

Fees, disposition of; salaries and expenses; Architects' Registration Fund

Sec. 4.

* * * * *

(b). The secretary-treasurer of the Board shall receive such monthly compensation for his services as shall be determined by the Legislature, exclusive of allowable expenses of office. The other members of the Board shall each receive as compensation for their services, in addition to their necessary expenses, such sum as shall be determined by the Legislature for each and every day actually spent by them in attending the business of the Board, going to, attending, and returning from regular and special meetings of said Board, in conducting examinations of applicants for registration certificates as provided for by this Act, and in prosecuting violations of this Act. To aid the Board in performing its duties, the Board shall maintain an office in Austin, Travis County, Texas, and is hereby authorized to employ a secretary who shall also make and file a surety bond in a like amount and in the same manner as required of the secretary-treasurer member of the Board. Said board shall also employ such clerks and other employees as may be needed to assist the secretary in performing his duties and in carrying out the purposes of the laws of Texas pertaining to architects. The Board shall compensate all such employees and pay all of the Board's expenses from the Architects Registration Fund in the amounts and as provided by the Legislature of Texas. At the end of each fiscal year, there shall be transferred from the Architects Registration Fund to the General Fund of the State of Texas, ten percent of the gross income as full compensation for all governmental services rendered the Texas Board of Architectural Examiners.

Sec. 4(b) amended by Acts 1969, 61st Leg., p. 2377, ch. 802, § 1, emerg. eff. June 14, 1969.

Quorum; meetings; rules and regulations; enforcement remedies

Sec. 5.

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(b). The Board shall adopt rules and regulations for the examination and registration of applicants to practice architecture in accordance with the provisions of this Act, and may amend, modify, and repeal such rules and regulations from time to time. All rules and regulations before adoption or change by the Board must be submitted to and approved in writing by the Attorney General before same shall become effective, and notice must be given by the Board at least ten days in advance of any meeting called to consider the adoption of any rule or regulation or change or repeal thereof; such notice as herein provided shall be accomplished by mailing same to each reputable school of architecture within this State, and by publication at least once in a daily newspaper published in and having general circulation in the State of Texas. The notice shall state the date, time and place of the meeting, and shall contain a summary statement of the rules and regulations to be considered by the Board. The Texas Board of Architectural Examiners is hereby empowered and authorized to enforce such rules and regulations, and the provisions of the statutes of this state pertaining to the practice of architecture, by applying to

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a court of competent jurisdiction in the county of the residence of the defendant for relief by injunction, restraining order, or such other relief as may be available from such court, in order to enjoin or restrain a person, firm, corporation, partnership or any other group or combination of persons from the commission of any act which is contrary to or in violation of such rules, regulations or statutes. The remedy provided by this section shall be in addition to any other remedy provided by law.

Sec. 5(b) amended by Acts 1969, 61st Leg., p. 2377, ch. 802, § 1, emerg. eff. June 14, 1969.

Meetings; examinations; fee; certificate of architecture; exemptions

Sec. 6.

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(a). It shall be the duty of the Texas Board of Architectural Examiners to hold meetings at last twice yearly at such times and places as the Board may in its discretion determine for the purpose of transacting its business and to examine all applicants for license to practice architecture in this State; and the Board shall report to each applicant within a reasonable time after such examination whether or not such applicant passed or failed such examination. Each person applying for examination shall pay to the Board a uniform fee to be fixed by the Board, but which shall not exceed Fifty Dollars (\$50.00), and shall be granted a certificate to practice architecture in this State upon his having passed the examination given by the Board on such subjects and procedures pertaining to architecture as the Board in its discretion may require. The original certificate herein provided for shall be valid for the balance of the current registration year and must be renewed each year thereafter in the manner and time provided by law.

Sec. 6(a) amended by Acts 1969, 61st Leg., p. 2377, ch. 802, § 3, emerg. eff. June 14, 1969.

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Qualifications of applicants for registration

Sec. 7.

(a). An applicant for examination for registration as an architect in this State shall be a person of good moral character, not less than 21 years of age, and shall present a diploma from and be a graduate of a recognized university or college of architecture approved by the Board, and shall also present evidence acceptable to the Board of such applicant's having had satisfactory experience in architecture, in the office or offices of one or more legally practicing architects, as prescribed in the rules and regulations adopted by the Board.

Sec. 7(a) amended by Acts 1969, 61st Leg., p. 2377, ch. 802, § 4, emerg. eff. June 14, 1969.

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(c). Provided, however, the Board may accept for examination, an applicant, although not a graduate as above required, who possesses all of the other qualifications and furnishes evidence acceptable to the Board of his having completed not less than eight years satisfactory experience in architecture in the office or offices of one or more legally practicing architects, or any combination of architectural schooling and experience totaling eight years.

Sec. 7(c) amended by Acts 1969, 61st Leg., p. 2377, ch. 802, § 5, emerg. eff. June 14, 1969.

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Seal; restricted use; penalty

Sec. 9. Every registered architect shall obtain and keep a seal, such as is authorized, prescribed, and approved by the Texas Board of Architectural Examiners, with which he or she shall stamp or impress all drawings or specifications issued from his or her office for use in this State. The design of the seal shall be the same as that to be used by the Texas Board of Architectural Examiners, except that it shall bear the words "Registered Architect, State of Texas" instead of "Texas Board of Architectural Examiners." No person, firm, partnership, corporation or any other group or combination of persons shall use or attempt to use such prescribed seal, or any similar seal, or replica thereof unless duly registered under the provisions of this Act. No architect duly registered under this Act shall authorize or permit the use of his seal by any such unregistered person, firm, corporation, partnership or any other group or combination of persons, and a violation hereof shall be grounds for cancellation of the registration certificate of any such offending architect. Sec. 9 amended by Acts 1969, 61st Leg., p. 2377, ch. 802, § 6, emerg. eff. June 14, 1969.

Practicing architecture; defined; requirements; exceptions

Sec. 10.

(a). 1. "Practice of Architecture" shall mean any service or creative work, either public or private, applying the art and science of developing design concepts, planning for functional relationships and intended uses, and establishing the form, appearance, aesthetics, and construction details, for any building or buildings, or environs, to be constructed, enlarged or altered, the proper application of which requires architectural education, training and experience. "Practice architecture" or "practicing architecture" shall mean performing or doing, or offering or attempting to do or perform any service, work, act or thing within the scope of the practice of architecture.

2. Notwithstanding any other provision of this Act or any rule or regulation of the Board of Architectural Examiners, nothing in this Act or any such rule or regulation, heretofore or hereafter adopted, shall be construed or given effect in any manner whatsoever so as to prevent, limit or restrict any professional engineer licensed under the laws of this State from performing any act, service or work within the definition of the practice of professional engineering as defined by the Texas Engineering Practice Act.

3. Nothing in this Act shall be construed as curtailing draftsmen, clerks of the works, superintendents and other employees of registered architects or engineers, under provisions of this Act from acting under the instructions, control or supervision of such architect or engineer employers.

4. The following persons shall be exempt from the provisions of this Act, provided that such persons are not represented or held out to the public as duly licensed and registered by the Board to engage in the practice of architecture.

(a) Any regular full time employee of a private corporation or other private business entity who is engaged solely and exclusively in performing services for such corporation and/or its affiliates; provided such employee's services are on, or in connection with, property owned or leased by such private corporation and/or its affiliates or other private business entity, or in which such private corporation and/or its affiliates or other business entity has an interest, estate or possessory right, or whose services affect exclusively the property, products, or interests of such private corporation and/or its affiliates or other private business entity. This exemption includes the use of job titles and personnel classifications

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by such persons not in connection with any offer of architectural services to the public, providing that no name, title, or words are used which tend to convey the impression that an unlicensed person is offering architectural services to the public.

(b) Any regular full time employee of a privately owned public utility or cooperative utility and/or affiliates who is engaged solely and exclusively in performing services for such utility and/or its affiliates. This exemption includes the use of job titles and personnel classifications by such persons not in connection with any offer of architectural services to the public, providing that no name, title, or words are used which tend to convey the impression that an unlicensed person is offering architectural services to the public.

5. Nothing in this Act shall be construed to prohibit the use of the title "Landscape Architect" by qualified persons or to limit the practice of landscape architecture.

6. Any person, firm or corporation who for a fee or other direct compensation therefor, shall engage in the practice of architecture in this State as defined herein, shall be required to comply with the provisions of this Act; and no person, firm or corporation shall engage in or conduct the practice of architecture as aforesaid in this State unless a registration certificate or certificates therefor have been duly issued to such person, the members of such firm, or corporation, as provided for by this Act, and no firm, partnership or corporation shall engage in, conduct or perform the practice of architecture as aforesaid within this State except by and through persons to whom registration certificates have been duly issued, and which certificates are in full effect. Provided, however, nothing contained herein shall be construed to change or modify the purpose, intent, or effect of Paragraph 3, Section 14 of this Act.

7. Nothing in this Act shall be construed to prohibit the use of the title "Interior Designer" or "Interior Decorator" by qualified persons or to limit the practice of interior designing or interior decorating." Sec. 10(a) amended by Acts 1969, 61st Leg., p. 2377, ch. 802, § 7, emerg. eff. June 14, 1969.

(b). Nothing in this Act shall prevent registered professional engineers licensed under the laws of this State from planning and supervising work, such as railroad, hydroelectric work, industrial plants, or other construction primarily intended for engineering use or structures incidental thereto, nor prevent said engineers from planning, designing, or supervising the structural features of any building.

A firm, partnership or corporation carrying on the practice of professional engineering as authorized by Section 17 of the Texas Engineering Practice Act, as amended, may engage in the practice of architecture in this State and may hold itself out to the public as such, provided that the actual practice of architecture on behalf of such firms, partnerships or corporations is carried on only by architects registered in this State who shall be responsible to the Texas Board of Architectural Examiners for their professional acts and conduct.

Sec. 10(b) amended by Acts 1969, 61st Leg., p. 2377, ch. 802, § 8, emerg. eff. June 14, 1969.

Revocation or cancellation of certificates

Sec. 11. Registration certificates of architects issued in accordance with this Act shall remain in full force and effect until expiration date unless revoked or suspended for cause as herein provided. The registration certificate and right of any person to practice architecture in this State may be revoked and cancelled by the Texas Board of Architectural Examiners after due notice and hearing and upon the proof of the violation of the law in any respect in regard thereto, or for any cause for which the Texas Board of Architectural Examiners is authorized to refuse to grant registration certificates, or for proof of gross incompetency, or for

recklessness in the construction of buildings on the part of the architect designing, planning, or supervising the construction or alteration of same, or for dishonest practice on the part of the holder of such registration certificate. The action of the Board in revoking and cancelling such registration certificate may be appealed to a District Court in the County of residence of the aggrieved party, and such appeal shall be trial de novo as in cases from the justice court to the county court.

Sec. 11 amended by Acts 1969, 61st Leg., p. 2377, ch. 802, § 9, emerg. eff. June 14, 1969.

Annual registration and fee; certificate of renewal; failure to obtain renewal; architects in armed forces; firms, partnerships and corporations

Sec. 12.

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(c). A firm, partnership or a corporation may engage in the practice of architecture, as defined herein, in this State, provided that such practice is actually carried on, conducted and performed only by persons to whom registration certificates have been duly issued under the provisions of this Act, and which certificates are in full force and effect; provided however, that nothing herein shall restrict or limit or be construed as to restrict or limit the personal liability of any registered architect which may result or occur by reason of the practice of architecture by such person.

Sec. 12(c) amended by Acts 1969, 61st Leg., p. 2377, ch. 802, § 10, emerg. eff. June 14, 1969.

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Art. 249c. Regulation of practice of landscape architecture

Definitions

Section 1. As used in this Act:

(a) "Landscape Architect" means a person licensed to practice or teach landscape architecture in this state as provided herein.

(b) "Landscape Architecture" means the performance of professional services such as consultation, investigation, research, preparation of general development and detailed design plans, studies, specifications, and responsible supervision in connection with the development of land areas where, and to the extent that, the principal purpose of such service is to arrange and modify the effects of natural scenery for aesthetic effect, considering the use to which the land is to be put. Such services concern the arrangement of natural forms, features, and plantings, including ground and water forms, vegetation, circulation, walks, and other landscape features to fulfill aesthetic and functional requirements but shall not include any services or functions within the definition of the practice of Engineering, Public Surveying, or Architecture as defined by the laws of this state.

(c) "Board" means the Texas State Board of Landscape Architects, as created and provided for in this Act.

(d) "Person" means a natural person except where otherwise specifically indicated.

(e) "Secretary" means the executive secretary of the board as herein provided.

Exemptions

Sec. 2. The provisions of this Act do not apply to nor affect laws relating to a registered professional engineer, building designer, land surveyor, nurseryman, and architect (except landscape architect), respectively. Every agriculturist, agronomist, horticulturist, forester, gardener, contract gardener, garden or lawn caretaker, nurseryman, grader or cul-

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tivator of land and any person making plans for property owned by himself is exempt from registration under the provisions of this Act, provided however, none of the foregoing shall use the title or term "landscape architect," in any sign, card, listing, advertisement or represent himself to be a "landscape architect" without complying with the provisions of this Act.

Texas state board of landscape architects

Sec. 3. There is hereby created a Texas State Board of Landscape Architects which board shall consist of three members, each of whom shall be a citizen of the United States and a resident of this state. Members of the board and their successors shall be appointed by the Governor with the advice and consent of the Senate, and shall be individuals who have been actively engaged in the practice of landscape architecture for a period of not less than 10 years prior to the date of their appointment. The membership of the board, except the first three members, shall be licensed landscape architects under the provisions of this Act. Members of the first board shall be appointed within 90 days after this Act becomes effective to serve the following terms: one member for two years; one member for four years; and, one member for six years from the date of their appointment or until their successors are duly appointed and qualified. Thereafter, at the expiration of the term of each member first appointed, his successor shall be appointed by the Governor of the state, and he shall serve for a term of six years, or until his successor is appointed and qualified. Before entering upon the duties of his office, each member of the board shall take and subscribe to the constitutional oath of office, and the same shall be filed with the Secretary of State. Upon the death, resignation, or removal of any member of the board, the Governor shall appoint a successor for the remainder of the term of such member who shall qualify in the same manner as other members of the board. Any member may be removed by the Governor for official misconduct, gross inefficiency or moral unfitness.

Powers and duties of the board

Sec. 4. (a) The board shall promulgate procedural rules and regulations only, consistent with the provisions of this Act, to govern the conduct of its business and proceedings. Notwithstanding any other provision of this Act, the board shall not have any power or authority to amend or enlarge upon any provision of this Act by rule or regulation or by rule or regulation to change the meaning in any manner whatsoever of any provision of this Act or to promulgate any rule or regulation which is in any way contrary to the underlying and fundamental purposes of this Act or to make any rule or regulation which is unreasonable, arbitrary, capricious, illegal, or unnecessary. At its first meeting it shall select one of its members as chairman of the board and he shall serve as such chairman for such length of time not exceeding his term as a member of the board, as the board may prescribe. The chairman shall serve a term as prescribed by the rules and regulations of the board and may be removed for cause, his removal however, not to disqualify him from continuing as a member of the board. Two members of the board shall constitute a quorum for the transaction of business. The board may adopt such reasonable rules and regulations of the orderly conduct of its affairs as it may deem necessary, and may from time to time amend such rules and regulations.

(b) The first board appointed under the provisions of this Act shall hold its first meeting within 30 days after the members have been qualified. It shall hold at least two regular meetings each year at such time and place as the chairman may designate. It may hold special meetings at such times and at such places as a majority of the board may deem necessary after giving reasonable notice thereof to all members. The

board is authorized to employ an executive secretary who shall have such duties and responsibilities as the board may prescribe. The board is authorized to employ such other persons as it may deem necessary to administer the provisions of this Act. The salary of the secretary and all other employees of the board shall be fixed by the board and shall be paid out of the Texas State Board of Landscape Architect's fund as provided for in this Act. All salaries paid by the board shall be reasonable, comparable in amounts to salary paid by other departments of the state government to employees engaged in similar capacities. All persons employed by the board shall hold their positions at the pleasure of the board. Each member of the board shall receive as compensation for services performed in connection with his duties as such member a sum equal to his expenses actually incurred, provided however, said expenses shall not exceed the sum of \$25 per day, exclusive of travel expense. All payments to board members or employees and all expenses of the administration of this Act shall be paid out of the Texas State Board of Landscape Architect's fund provided for herein, and no part of the expense of administering this Act shall ever be charged against the general funds of the State of Texas. The board shall arrange for such suitable office space and equipment as it may deem necessary and the rental for such office space and the cost of such equipment shall be considered administration expenses, provided however, that if space is available this agency shall be housed in one of the state office buildings of the State of Texas and such compensation as may be required by the administration of said office building shall be considered as a part of the administration expense of this Act. The board shall, as of August 31st of each year, after the passage of this Act make a written report to the Governor accounting for all receipts and disbursements under this Act.

Qualifications for registration

Sec. 5. From and after September 1st following the effective date of this Act, no person shall represent himself in or by any manner to be a landscape architect, as defined herein, unless such person shall be registered as provided herein. The following classes of persons shall be qualified for registration:

(a) Any person over the age of 21 years, notwithstanding any other provisions of this Act, who submits evidence to the board that prior to the passage of this Act, that he is a resident of Texas and a citizen of the United States, possesses good moral character, and who has, for a period of not less than three years, regularly represented himself to be a landscape architect engaged in the practice of landscape architecture, as defined in this Act, shall be entitled to receive, without examination, a license to practice landscape architecture as a landscape architect, if he files such application within six months of this Act being enacted into law. Such application shall be accompanied by a fee of \$50.

(b) Any person who is a resident of the State of Texas and a citizen of the United States over the age 21 years, possessing good moral character, and having or holding a degree from a school whose study of landscape architecture is approved by the board, or shall have had not less than seven years actual experience in the office of a licensed landscape architect, may apply for examination and such application shall be accompanied by a fee of \$50. The examination to be prepared by the members of the board and given by the board at its office in Austin, Travis County, Texas, or such other place as the board may determine or designate, provided however, that a majority of the board shall be present at each examination held and provided further that not more than three examinations may be held during any calendar year. The scope of the examination and the methods of procedure shall be prescribed by the board with special reference to the applicant's ability which will insure safety to the public welfare and the property rights. A candidate failing

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an examination may apply for reexamination at the expiration of six months, and shall be reexamined one time without payment of additional fee.

Reciprocal provisions

Sec. 6. The board may certify for registration without examination an applicant who is legally registered as a landscape architect in any state or country whose requirements for registration are at least substantially equivalent to the requirements of this state and which extends the same privilege of reciprocity to landscape architects registered in this state. Such application shall be accompanied by a fee to be determined by the board.

Certificates of registration

Sec. 7. All certificates of registration shall expire on the 31st day of August of each year, following their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the secretary of the board to notify every person registered under this Act of that date of expiration of his certificate and the amount of the fee that shall be required for its renewal for one year; such notice shall be mailed at least one month in advance of the date of the expiration of said certificate. Renewal may be effected at any time during the month of July or August of each year by payment of the fee as prescribed and set by the board, but in no event to be less than \$10 nor more than \$50. Failure on the part of any registrant to renew his certificate annually, and by not later than August 31st, as required above shall not deprive such person of the right of renewal, but the fee to be paid for the renewal of a certificate after August 31st shall be increased 10 percent for each month or fraction of a month that renewal payment is delayed; and provided further, that if such failure to renew shall continue for more than one year after the date of expiration of the registration certificate, the applicant must reapply for registration and must qualify under Section 5, Subsection (b) of this Act. All renewal certificates shall carry the same registration number as the original certificate.

Revocation and reissuance of certificates

Sec. 8. (a) The board has the power to revoke the certificate of registration of any registrant who is charged with and found guilty of:

- (1) Violations of provisions of this Act;
- (2) The practice of any fraud or deceit in obtaining a certificate of registration;
- (3) Any gross negligence, incompetency, or misconduct in the practice of landscape architecture;
- (4) Holding himself out to the public or any member thereof as an engineer or making use of the words "engineer," "engineered," "professional engineer," "P.E.," or any other terms tending to create the impression that such registrant is authorized to practice engineering or any other profession unless he is licensed under provisions of Texas Engineering Practice Act or the other applicable licensing law of this state.
- (5) Holding himself out to the public or any member thereof as a surveyor or making use of the words "surveyor," "surveyed," "registered public surveyor," "R. P. S.," or any other terms tending to create the impression that such registrant is authorized to practice surveying or any other profession unless he is licensed under the provisions of the Registered Public Surveyors Act or the other applicable licensing law of this state.

(b) In determining the truth of any such charges the board shall proceed upon sworn information furnished it by any reliable resident of this state; such information shall be in writing and shall be duly verified by the person familiar with the facts therein charged, and three copies of the

same shall be filed with the secretary of the board. Upon receipt of such information the board, if it deems the information sufficient to support further action on its part, shall make an order setting the charges therein contained for hearing at a specified time and place, and the secretary of the board shall cause a copy of the board's order and of the information contained in the written charges to be served upon the accused at least 30 days before the date appointed in the order for the hearing. The accused may appear in person or by counsel or both, at the time and place named in the order and make his defense to the same. The board shall have the power, through its chairman or secretary, to administer oaths and compel the attendance of witnesses before it as in civil cases in the district court, by subpoena issued over the signature of the secretary and the seal of the board.

Any person who may feel himself aggrieved by reason of the revocation of his certificate of registration of the board, as hereinabove authorized, shall have the right to file suit within 30 days within receiving notice of the board's order revoking his certificate of registration in the district in the county of his residence or the county in which the alleged events relied upon, and grounds for revocation, took place, to annul or vacate the order of the board revoking the certificates of registration; said suit to be filed against the board as defendant, and service of process may be had upon its chairman or secretary. The only issues to be tried in such cause shall be whether such person has been guilty as originally found by the board, which issue shall be by trial de novo, as that term is commonly used in connection with an appeal from the justice of the peace court to the county court, and the substantial evidence rule shall not apply.

Violations and penalties

Sec. 9. After the effective date of this Act as defined in Section 5 hereof, any person who represents himself to be a landscape architect in this state without being registered or exempted in accordance with the provisions of this Act, or any person presenting or attempting to use as his own, the certificate of registration or the seal of another, or any person who shall give any false or forged evidence of any kind to the board or to any member thereof in obtaining or assisting in attaining for another a certificate of registration, or any person who shall violate any of the provisions of this Act, shall be fined not less than \$100 nor more than \$500, or be confined in jail for a period not to exceed three months, or both. Each day of such violation shall be a separate offense.

The attorney general or his assistants shall act as legal advisor of the board and shall render such legal assistance as may be necessary in enforcing and making effective the provisions of this Act, provided that this shall not relieve the local, prosecuting officers of any of their duties under the law as such.

Fees

Sec. 10. Every landscape architect shall pay an annual fee as set by the board, but in no event to be less than \$10 nor more than \$50, as provided in Section 7 hereof. The fee shall be due and payable on or before August 31 of each calendar year and shall become delinquent on September 1 of each year.

All sums of money paid to the board under the provisions of this Act, shall be deposited in the treasury of the State of Texas, and placed in a special fund to be known as the "Texas State Board of Landscape Architect's Fund." All expenditures for the administration and enforcement of this Act shall be in the amounts and for the purposes fixed by the general appropriation bill.

For Annotations and Historical Notes, see V.A.T.S.

Severability

Sec. 11. If any article, section, subsection, sentence, clause or phrase of this Act is for any purpose or reason held to be unconstitutional, such invalid portion shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed the valid portions of the Act irrespective of the fact that any one or more portions thereof be declared unconstitutional.

Repeal of conflicting legislation with proviso

Sec. 12. All laws or parts of laws in conflict with the provisions of this Act shall be, and the same are hereby repealed, provided however, that this Act shall not be construed as repealing or amending any laws affecting or regulating any other profession.

Acts 1969, 61st Leg., p. 1516, ch. 457, eff. Sept. 1, 1969.

Architecture, regulation of practice, see art. 249a.

Title of Act:

An Act creating a Texas State Board of Landscape Architects; defining the terms "Landscape Architects," "Landscape Architecture," "Board," "person," and "Secretary"; providing for exemption for certain persons in professions; namely, registered professional engineers, city planners, registered public surveyors, nurserymen, architects (except landscape architects), and any person making plans, for property owned by himself and others; creating a board which shall consist of three members who shall be citizens of the United States and residents of Texas; prescribing qualifications for membership on board; providing method of appointment and prescribing term of office; defining a quorum of said board; providing for and prescribing oath of office and the manner of filling vacancies as well as removal for

cause; prescribing the powers and duties of the board; providing for time and place of meetings; authorizing the board to adopt rules and regulations; authorizing employment of executive secretary, and employees of board; restricting salaries to those comparable in other departments of state; providing that no expense of the administration of the Act shall ever be charged against the general fund of the State of Texas; prescribing qualifications for registration; providing for examination and prescribing fee; prescribing for reciprocal provisions with other states and prescribing fee; prescribing for certificates of registration, fee, and method of revocation and reissuance; providing penalties for violation; prescribing for appeal from board order; providing for the disposition of money collected under the Act; providing a saving and severability clause; repealing laws in conflict; and declaring an emergency. Acts 1969, 61st Leg., p. 1516, ch. 457.

Art. 249d. Construction contracts; indemnification of architects or engineers; covenants

Any covenant or promise, in or in connection with or collateral to any contract or agreement made and entered into by any owner, contractor, subcontractor or supplier relative to the construction, alteration, repair or maintenance of a building, structure, appurtenance, road, highway, bridge, dam, levee, or other improvement to or on real property, including moving, demolition and excavating connected therewith, whereby a registered architect or registered engineer or his agents, servants or employees is indemnified or held harmless by the contractor who is to perform the work from liability for bodily injury or death to persons or damage to property of any person or expenses in connection therewith caused by or resulting from defects in plans, designs or specifications prepared, approved or used by such architect or engineer or negligence of such architect or engineer in the rendition or conduct of professional duties called for or arising out of the contract or agreement and the plans, designs or specifications which are a part thereof shall be deemed void as against public policy and wholly unenforceable; provided, however, that this Act shall not apply to a contract of insurance nor to an owner of an interest in real property and persons employed solely by such owner, and this Act shall not prohibit nor render void or unenforceable any covenant or promise to indemnify or hold harmless such owner, and persons employed solely by such owner, in connection with contracts and agreements of the class described above and further provided that this Act shall not ap-

ply to any contract or agreement whereby an architect or engineer or their agents, servants or employees is indemnified from liability for their negligent acts other than those described above or for the negligent acts of the contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

Acts 1969, 61st Leg., p. 2393, ch. 805, § 1, eff. Sept. 1, 1969.

Title of Act:

An Act relating to certain covenants of indemnification in contracts of agreements pertaining to construction, alteration, maintenance, or repair of certain improve-

ments to or on real property; providing for certain exemptions; providing for severability; and declaring an emergency. Acts 1969, 61st Leg., p. 2393, ch. 805.

TITLE 14—ATTORNEYS AT LAW

Art. 320a—1. State Bar Act

* * * * *

Venue; conviction in court prerequisite to suspension; appeal; probation; disbarment

Sec. 6. No disbarment proceeding shall be instituted against any attorney except in the district court located in the county of said attorney's residence, nor shall any attorney be suspended until such attorney has been convicted of the charge pending against him, in a court of competent jurisdiction in the county of such attorney's residence. Provided, however, upon proof of conviction of an attorney in any trial court of any felony involving moral turpitude or of any misdemeanor involving the theft, embezzlement, or fraudulent appropriation of money or other property, the district court of the county of the residence of the convicted attorney shall enter an order suspending said attorney from the practice of law during the pendency of any appeal from said conviction. An attorney who has been given probation after such conviction shall be suspended from the practice of law for the period of his probation. Upon proof of final conviction of any felony involving moral turpitude or of any misdemeanor involving theft, embezzlement, or fraudulent appropriation of money or other property, where probation has not been given or has been revoked, the district court of the county of the residence of the convicted attorney shall enter a judgment disbaring him.

Sec. 6 amended by Acts 1969, 61st Leg., p. 364, ch. 134, § 1, emerg. eff. May 6, 1969.

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TITLE 15—ATTORNEYS—DISTRICT AND COUNTY

1. DISTRICT ATTORNEYS

Art.

326k—36a. Forty-seventh judicial district; supplemental salary of district attorney; appointment and compensation of assistants and investigators; payment [New].

326k—49a. One hundred and twelfth judicial district; supplemental salary of district attorney [New].

326k—56a. Seventy-fifth judicial district; compensation of district attorney [New].

Art.

326k—61a. District attorney for 229th judicial district; assistants; stenographer-secretary; compensation [New].

326k—63. Criminal district attorney of Navarro County; office of county attorney abolished [New].

326l—3. Assistant district attorney for third judicial district [New].

4. PUBLIC DEFENDERS [NEW]

341—1. Tarrant County; appointment and compensation; entitlement of indigents [New].

1. DISTRICT ATTORNEYS

Judicial Districts Act of 1969, see art. 199a.

Art. 326. Hudspeth and Culberson Counties

The commissioners courts of Hudspeth and Culberson Counties shall pay to El Paso County the sum of One Hundred Dollars each per month, to be used by El Paso County as provided in Section 6, Chapter 9, General Laws, Acts of the 39th Legislature, 1st Called Session, 1926. Amended by Acts 1969, 61st Leg., p. 2299, ch. 776, § 1(b), eff. Sept. 1, 1969.

Art. 326e. Funds for use of district attorney in such counties

El Paso County is hereby authorized to set aside each year a sum to be approved by the commissioners court to be expended by said district attorney in preparation and conduct of criminal affairs of said office and all sums of money now required by Article 326, Revised Civil Statutes of Texas, 1925, to be paid by Hudspeth and Culberson Counties to El Paso County shall be paid into the fund provided for in this Article and shall be used as directed. This fund to be expended upon sworn claims of said district attorney and approved by the commissioners court of El Paso County. Amended by Acts 1969, 61st Leg., p. 2299, ch. 776, § 1(c), eff. Sept. 1, 1969.

Art. 326k—7. Repealed by Acts 1969, 61st Leg., p. 157, ch. 56, § 2, emerg. eff. April 3, 1969

See, now, art. 326k—14.

Art. 326k—12. Counties of 70,000 to 220,000 and counties of 39,000 to 50,000; 30th Judicial District

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Investigators and assistants for Criminal District Attorney of McLennan county; salaries

Sec. 2b. The salary of the investigators and assistants appointed by the Criminal District Attorney of McLennan County shall be fixed at a sum of not more than Twelve Thousand Dollars (\$12,000) per annum nor less than Three Thousand Dollars (\$3,000) per annum. Sec. 2b added by Acts 1959, 56th Leg., p. 564, ch. 255, § 1, eff. May 26,

1959. Amended by Acts 1967, 60th Leg., p. 179, ch. 93, § 1, emerg. eff. April 22, 1967; Acts 1969, 61st Leg., p. 1373, ch. 415, § 1, emerg. eff. June 2, 1969.

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Art. 326k—14. Fifty-third judicial district; duties of district attorney; assistants; office personnel; compensation

Representation of state

Section 1. The District Attorney of the 53rd Judicial District shall represent the State of Texas in all criminal cases before all the District Courts of Travis County, Texas.

Assistants; qualifications; appointment and removal

Sec. 2. The District Attorney of the 53rd Judicial District shall appoint a First Assistant District Attorney and such other Assistant District Attorneys as shall be necessary to the proper performance of his official duties. The number of assistants to be appointed and the compensation to be paid shall be with the approval of the Commissioners Court of Travis County, Texas. The First Assistant District Attorney and other Assistant District Attorneys shall be duly licensed to practice law in the State of Texas and shall be authorized to perform any official act delving upon or authorized to be performed by the District Attorney, under the direction of the District Attorney, and shall be subject to removal at the will of the District Attorney.

Office personnel

Sec. 3. The District Attorney of the 53rd Judicial District shall appoint as many stenographers, secretaries, investigators and other office personnel to be appointed and the compensation to be paid shall be with the approval of the Commissioners Court of Travis County, Texas.

Compensation

Sec. 4. The District Attorney of the 53rd Judicial District shall be paid a salary in an amount equal to the total salary paid from State and County Funds to the Judge of the 53rd Judicial District Court of Travis County, Texas, excluding any compensation paid to the Judge of the 53rd Judicial District Court of Travis County, Texas, with reference to juvenile board matters. The First Assistant District Attorney shall be paid a salary not to exceed Fifteen Thousand Dollars (\$15,000.00) per year, and the other Assistant District Attorneys shall be paid a salary not to exceed Twelve Thousand-Five Hundred Dollars (\$12,500.00) per year. The Commissioners Court of Travis County, Texas is hereby authorized to supplement the salaries of the District Attorney and the Assistant District Attorneys paid by the State of Texas in such an amount that the total salaries paid shall not exceed the maximum provided herein. Amended by Acts 1963, 58th Leg., p. 502, ch. 187, § 1, eff. Aug. 23, 1963; Acts 1969, 61st Leg., p. 157, ch. 56, § 1, emerg. eff. April 3, 1969.

Art. 326k—18. Assistants, investigators and stenographers in 51st and 119th Judicial Districts

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Stenographer; salary

Sec. 4. In addition to the assistants and investigators provided for in this Act the District Attorney of the 51st Judicial District and the District Attorney of the 119th Judicial District shall each be authorized to employ a stenographer who shall receive a salary not to exceed Forty-eight Hundred Dollars (\$4800.00) per annum, such salary to be fixed by the District Attorney of the respective Districts and approved by the District Judges of the 51st and 119th Judicial Districts.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 4 amended by Acts 1969, 61st Leg., p. 675, ch. 228, § 1, emerg. eff. May 16, 1969.

Salaries, expenses

Sec. 5. The assistants and investigators provided for in this Act shall receive a salary of not less than Five Thousand Dollars (\$5000.00) nor more than Nine Thousand Dollars (\$9000.00) per annum each, said salary to be fixed by the District Attorney of the respective Districts and approved by the District Judges of the 51st and 119th Judicial Districts. The assistants and investigators may be assigned to one or more counties by the District Attorney concerned and will be compensated accordingly by the County or Counties to which assigned. In addition to their salaries the investigators, assistants and district attorneys shall be allowed the actual and necessary expense incurred in the proper discharge of their duties never to exceed Eleven Hundred Dollars (\$1100.00) per annum each.

Sec. 5 amended by Acts 1969, 61st Leg., p. 675, ch. 228, § 1, emerg. eff. May 16, 1969.

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Art. 326k.—19. Stenographer in districts of two or more counties

Any district attorney in the State of Texas in a judicial district composed of two or more counties may employ a stenographer or clerk who shall receive a salary not to exceed \$4,800 per year, to be fixed by the district attorney for such district subject to the approval of the combined majority of the commissioners courts of the counties composing the judicial district. The salary of such stenographer or clerk provided for in this Act shall be paid monthly by the commissioners court of each county composing the judicial district, prorated in proportion to the population of each county as determined by the last preceding Federal census. Amended by Acts 1961, 57th Leg., p. 710, ch. 335, § 1, eff. June 16, 1961; Acts 1967, 60th Leg., p. 1239, ch. 562, § 1, emerg. eff. June 14, 1967; Acts 1969, 61st Leg., p. 1670, ch. 533, § 1, emerg. eff. June 10, 1969.

Art. 326k—28. Criminal District Attorney for Galveston County

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Representation of county employees

Sec. 3a. It shall be the duty of the Criminal District Attorney of Galveston County to represent any county official or employee other than members of the commissioners court of Galveston County in any civil matter pending in any district court in Galveston County or in any inferior court in Galveston County which arises out of the performance of official duties by such official or employee.

Sec. 3a added by Acts 1969, 61st Leg., 2nd C.S. p. 135, ch. 33, § 1, eff. Dec. 9, 1969.

Commission; compensation

Sec. 4. The Criminal District Attorney of Galveston County shall be commissioned by the Governor and shall receive as salary and compensation the following: a salary of Five Hundred Dollars (\$500) from the State of Texas as provided in the Constitution of the State of Texas for the salary of District Attorneys, and such sum to be paid out of the officers' salary fund of Galveston County as will bring the total salary, including the salary provided in the Constitution, to an amount equal to the salary paid district judges from the General Revenue Fund of the State of Texas. If the officers' salary fund of Galveston County is inadequate, the commissioners court shall transfer the necessary funds from the general fund of the county to the officers' salary fund.

Sec. 4 amended by Acts 1961, 57th Leg., p. 332, ch. 178, § 1; Acts 1963, 58th Leg., p. 922, ch. 353, § 1, eff. Aug. 23, 1963; Acts 1969, 61st Leg., 2nd C.S. p. 135, ch. 33, § 2, eff. Dec. 8, 1969.

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Art. 326k—36a. Forty-seventh judicial district; supplemental salary of district attorney; appointment and compensation of assistants and investigators; payment

District attorney: compensation, supplemental salary

Section 1. The District Attorney of the 47th Judicial District shall be compensated for his services by a supplemental salary in addition to that paid by the State of Texas, in an amount not more than \$8,500 per year.

Assistants and investigators

Sec. 2. The district attorney shall appoint a first assistant district attorney and such other assistants and investigators as shall be necessary to the proper performance of his official duties. The number of assistants and investigators to be appointed and the compensation to be paid shall be with the approval of the Commissioners Court of Potter County.

Compensation: assistants and investigators

Sec. 3. The first assistant district attorney shall receive a salary of not more than \$15,000 per year, and other assistant district attorneys shall receive salaries of not more than \$12,000 per year. Investigators shall receive salaries of not more than \$10,000 per year.

Qualifications of assistant district attorneys

Sec. 4. The assistants to the district attorney shall be licensed to practice law in the State of Texas and shall be authorized to perform all the duties imposed by law on the District Attorney of the 47th Judicial District.

Payment of salaries and expenses

Sec. 5. The Commissioners Court of Potter County is hereby authorized to pay the salaries provided for in this Act to the District Attorney of the 47th Judicial District and his assistants and investigators from the officers salary fund, the general fund, or any other available fund, or any combination thereof at the discretion of the commissioners court.

County funds to be used

Sec. 6. Any supplements or increases in salary authorized hereunder shall be paid exclusively through the funds of the county involved, and no such supplements or increases shall ever be charged on the State of Texas.

Acts 1961, 57th Leg., p. 751, ch. 348, emerg. eff. June 16, 1961. Amended by Acts 1969, 61st Leg., p. 250, ch. 97, § 1, emerg. eff. April 28, 1969.

Art. 326k—38a. Forty-ninth judicial district; compensation of district attorney; assistant district attorney; special investigators; stenographers

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Assistant district attorneys; appointment; qualifications; oath; compensation; removal

Sec. 2. Said District Attorney is hereby authorized to appoint two (2) Assistant District Attorneys for Webb County, provided that the District Attorney shall furnish data to the Commissioners Court of

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Webb County that he is in need of two Assistants and that it is necessary and to the best interests of the State and said County that said Assistant District Attorneys be appointed. Said Assistant District Attorneys so appointed shall be qualified residents of Webb County and shall give bond and take the official oath; and said Assistant District Attorneys shall be qualified licensed attorneys and shall have authority to perform all the acts and duties of the District Attorney in Webb County under the laws of this State. Said appointments shall be for such time as the District Attorney shall deem best in the enforcement of the law, not to be less than one month. Each Assistant District Attorney shall be paid by Webb County for the time of actual service rendered at a rate not to exceed Ten Thousand Dollars (\$10,000) per annum, in twelve (12) equal monthly installments out of county funds by warrants drawn upon such county funds. The District Attorney of said District, at any time he deems said Assistants unnecessary or finds that they, or either one of them, are not attending to their duties as required by law, may remove either one, or both, from office by giving written notice to the Assistant or Assistants and to the Commissioners Court to that effect.

Special investigator; compensation; powers; duties; removal

Sec. 3. Said District Attorney is hereby authorized to appoint one full-time assistant to serve in Webb County, in addition to his two (2) regular assistants, provided for in this Act, which assistant need not be licensed to practice law. Said assistant shall be known as a Special Investigator, and shall perform such duties as may be assigned to him by the District Attorney. Said assistant shall receive as compensation a salary not to exceed Six Thousand Dollars (\$6,000) per annum, payable monthly out of county funds by warrants drawn on such county funds. Said Special Investigator shall have authority under the direction of the District Attorney to make arrests and execute process in criminal cases and shall have all the rights and duties of a peace officer in criminal cases and in cases growing out of the enforcement of all laws. He shall serve at the will of the District Attorney and may be removed from office by written notice by the District Attorney to the Special Investigator and to the Commissioners Court to that effect.

Stenographer-secretary; appointment; compensation; duties

Sec. 4. The District Attorney is hereby authorized to appoint one Stenographer-Secretary, who shall keep the records of the District Attorney's office and perform the necessary stenographic and secretarial work, as may be assigned to such person by the District Attorney, and who shall receive as compensation a salary not to exceed Seven Thousand Dollars (\$7,000) per annum, payable monthly out of county funds by warrants drawn on such county funds.

Supplemental salary of district attorney

Sec. 5. The Commissioners Court of Webb County is hereby authorized to pay the salaries provided in Sections 2, 3 and 4 of this Act, and to supplement the salary of the District Attorney of the 49th Judicial District paid by the State of Texas in the amount set out in Section 1 hereof. The salaries of the Assistant District Attorneys, the Special Investigator, and the Stenographer-Secretary shall be fixed by the Commissioners Court at its discretion."

Acts 1961, 57th Leg., p. 11, ch. 7. Amended by Acts 1965, 59th Leg., p. 854, ch. 414, § 1, eff. June 14, 1965; Sec. 2-5 amended by Acts 1969, 61st Leg., p. 1848, ch. 620, § 1, eff. Sept. 1, 1969.

Art. 326k—49a. One hundred and twelfth judicial district; supplemental salary of district attorney

Section 1. The District Attorney of the 112th Judicial District shall be compensated for his services in such amount as may be fixed by the General Law relating to the salary paid to District Attorneys by the state, and the counties comprising the District of the District Attorney of the 112th Judicial District may supplement the same by an additional salary of Four Thousand Eight Hundred Dollars (\$4,800.00).

Sec. 2. The Commissioners Courts of the counties, or any one or more of them, comprising the District of the Attorney of the 112th Judicial District are hereby authorized to pay said supplement to the salary paid the District Attorney of the 112th Judicial District by the state, out of the Officer's Salary Funds of said counties, if adequate; if inadequate, the said Commissioners Courts shall transfer the necessary funds from the General Funds of said counties to the Officer's Salary Funds of said counties.

Acts 1969, 61st Leg., p. 2127, ch. 731, eff. Sept. 1, 1969.

Title of Act:

An Act authorizing the Commissioners Courts of the counties of the District of the District Attorney of the 112th Judicial Dis-

trict to supplement the salary of the District Attorney of the 112th Judicial District; and declaring an emergency. Acts 1969, 61st Leg., p. 2127, ch. 731.

Art. 326k—56a. Seventy-fifth judicial district; compensation of district attorney

The district attorney of the 75th Judicial District shall be compensated for his services in such amount as may be fixed by the general law relating to salaries paid to district attorneys by the state, and in addition his salary may be supplemented by the commissioners court of the counties comprising the 75th Judicial District, or any one of the commissioners courts. The total amount of supplemental salary to be paid by the commissioners court or courts for the district attorney shall not exceed \$3,000.00 per year. Any supplemental salary shall be paid 40 percent by the Chambers County Commissioners Court and 60 percent by the Liberty County Commissioners Court out of the officers salary fund of such county or counties, if adequate; if inadequate, the commissioners courts may transfer the necessary funds from the general funds of the counties to the officers salary funds.

Acts 1969, 61st Leg., p. 2212, ch. 754, § 1, emerg. eff. June 12, 1969.

Title of Act:

An Act relating to the compensation of the district attorney of the 75th Judicial

District; and declaring an emergency. Acts 1969, 61st Leg., p. 2212, ch. 754.

Art. 326k—61a. District attorney for 229th judicial district; assistants; stenographer-secretary; compensation

(a) The office of District Attorney for the 229th Judicial District is established. The district attorney has the powers and duties prescribed by law for district attorneys. On the effective date of this Act, the Governor shall appoint a district attorney for the 229th Judicial District who shall serve until the general election in 1970, and until his successor is elected and has qualified. A District Attorney for the 229th Judicial District shall be elected at the general election in 1970 for the remainder of a term expiring on December 31, 1972. Thereafter, beginning with the general election in 1972, he shall be elected every four years for a four-year term beginning on January 1 following his election.

(b) The District Attorney of the 229th Judicial District may be paid a supplemental salary, at the discretion of the District Judge of the 229th Judicial District, in an amount not to exceed \$5,100 per annum. The Commissioners Courts of Duval, Starr, and Jim Hogg counties are

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authorized to pay the salary in supplementation of the salary paid by the state, in equal monthly payments out of the county funds by warrants drawn on the county funds.

(c) The district attorney is hereby authorized to appoint one assistant district attorney for the 229th Judicial District provided that the district attorney shall furnish data to the Commissioners Courts of Duval, Starr, and Jim Hogg counties, that he is in need of an assistant and that it is necessary and to the best interests of the state and the counties that an assistant district attorney be appointed. The assistant district attorney shall be a qualified resident of the 229th Judicial District and shall give bond and take the official oath; and the assistant district attorney shall be a qualified licensed attorney and shall have authority to perform all the acts and duties of the district attorney in the 229th Judicial District under the laws of this state. The appointment shall be for such time as the district attorney shall deem best in the enforcement of the law, not to be less than one month. The assistant district attorney shall be paid by Duval, Starr, and Jim Hogg counties at a rate not to exceed \$8,400 per annum, in 12 equal monthly installments out of county funds by warrants drawn upon such county funds. The district attorney, at any time he deems the assistant unnecessary or finds that he is not attending to his duties as required by law, may remove the person from office by giving written notice to the assistant and to the commissioners courts to that effect.

(d) The district attorney is hereby authorized to appoint one part-time assistant and one full-time assistant to serve in addition to his regular assistant, provided for in this Act, which assistants need not be licensed to practice law. The assistants shall be known as special investigators, and shall perform such duties as may be assigned to them by the district attorney. The part-time assistant shall receive as compensation a salary not to exceed \$3,600 per annum, and the full-time assistant shall receive as compensation a salary not to exceed \$7,200 per annum, payable monthly out of county funds by warrants drawn on such county funds. The special investigators shall have authority under the direction of the district attorney to make arrests and execute process in criminal cases and shall have all the rights and duties of a peace officer in criminal cases and in cases growing out of the enforcement of all laws. They shall serve at the will of the district attorney and may be removed from office by written notice by the district attorney to the special investigator concerned and to the commissioners courts to that effect.

(e) The district attorney is hereby authorized to appoint one stenographer-secretary, who shall keep the records of the district attorney's office and perform the necessary stenographic and secretarial work, as may be assigned by the district attorney, and who shall receive as compensation a salary not to exceed \$4,800 per annum, payable monthly out of county funds by warrants drawn on such county funds.

(f) The supplemental salary of the district attorney, the salaries of the assistants and secretary, and the operating expenses of the office shall be paid by Duval, Starr, and Jim Hogg counties and shall be apportioned among the counties according to the following formula: The percentage of the total to be paid by each county shall be the same as that county's percentage of the total population of the three counties according to the last federal census. The judge of the 229th Judicial District shall determine the percentage for each county and notify the commissioners court of the amount to be paid by each county to each employee, and the amount of each county's share of the operating expenses.

Acts 1969, 61st Leg., p. 697, ch. 239, § 6, eff. Sept. 1, 1969.

Two hundred and twenty ninth judicial district, see art. 199 (229).

Art. 326k—63. Criminal district attorney of Navarro County; office of county attorney abolished**Creation of office; powers and duties**

Section 1. There is hereby created the Constitutional office of Criminal District Attorney of Navarro County. It shall be the duty of the criminal district attorney, or his assistants, as provided herein, to be in attendance upon each term and all sessions of the district court of Navarro County. The criminal district attorney and his assistants shall have the right and it shall be their primary duty to represent the State of Texas in criminal and civil cases pending in the district court and inferior courts of Navarro County. He shall have and exercise in addition to the specific powers given and duties imposed upon him and his assistants by this Act, all powers, duties, and privileges within Navarro County as are now by law conferred and which may hereafter be conferred on county attorneys and district attorneys in various counties and judicial districts of this state relative to criminal and civil matters for and in behalf of the county and the State of Texas.

Qualifications; oath; bond

Sec. 2. The criminal district attorney shall possess the qualifications and take the oath and give bond required by the constitution and laws of this state of other district attorneys.

Assistants; appointment; compensation; qualifications; removal

Sec. 3. The criminal district attorney shall appoint a first assistant criminal district attorney and other assistants necessary to the proper performance of his official duties. The assistants shall be paid a salary to be determined and paid by the commissioners court. The assistants must be duly and legally licensed to practice law in this state. The assistants shall be subject to removal at the will of the criminal district attorney and shall be and are hereby authorized to perform any official act devolving upon or authorized to be performed by the criminal district attorney.

Special investigator; appointment; qualifications; compensation; powers and duties; removal

Sec. 4. The criminal district attorney is hereby authorized to appoint one assistant in addition to his legal assistants provided for in this Act, which assistant shall not be required to possess the qualifications prescribed by law for district or county attorneys. The assistant shall be known as special investigator, shall perform such duties as may be assigned to him by the criminal district attorney, and shall receive as compensation a salary set by the commissioners court and payable out of the county funds. The special investigator shall be subject to removal at the will of the criminal district attorney. The special investigator shall have authority under the direction of the criminal district attorney to make arrests and execute process in criminal cases and shall have all the rights and duties of a peace officer in criminal cases and in cases growing out of the enforcement of all laws.

Stenographer; appointment; compensation; removal

Sec. 5. The criminal district attorney is hereby authorized to appoint one stenographer who may or may not possess the qualifications prescribed by law for district and county attorneys, who shall perform the necessary stenographic work as may be assigned by the criminal district attorney, and who shall receive as compensation a salary set by the commissioners court and payable out of the county funds. The stenographer shall be subject to removal at the will of the criminal district attorney.

For Annotations and Historical Notes, see V.A.T.S.

Expenses

Sec. 6. Navarro County is hereby authorized to set aside each year a sum of money to be expended by the criminal district attorney in the preparation and conduct of criminal affairs of the office.

Compensation

Sec. 7. The criminal district attorney shall be compensated for his services by the state in such manner and in such amount as may be fixed by the general law relating to the salary to be paid to district attorneys by the state, and in addition his salary may be supplemented by the commissioners court in such amount as it deems advisable.

County attorney; interim status

Sec. 8. The present County Attorney of Navarro County shall fill the office of criminal district attorney herein created until January 1, 1971, and until his successor is elected and has qualified, unless a vacancy in the office of criminal district attorney shall occur by death, resignation, or other lawful cause, whereupon the remaining term of this office shall be filled in accordance with the law.

Severability

Sec. 9. If any paragraph, phrase, clause, or section of this statute be held invalid, it shall not affect the balance of said statute, but it is expressly declared to be the intention of the Legislature that it would have passed the balance of said Act without such portion as may be held invalid.

Office of county attorney abolished

Sec. 10. The office of County Attorney of Navarro County is abolished from and after the effective date of this Act.
Acts 1969, 61st Leg., p. 2656, ch. 876, eff. Sept. 1, 1969.

Title of Act:

An Act relating to creation of the office of Criminal District Attorney for the 13th Judicial District of Texas; providing for

the administration of the office; abolishing the office of County Attorney of Navarro County; and declaring an emergency.
Acts 1969, 61st Leg., p. 2656, ch. 876.

Art. 326l—1. Assistant District Attorney for Second Judicial District and salary

Section 1. The District Attorney for the Second Judicial District, composed of the counties of Cherokee and Nacogdoches, is hereby authorized to employ an Assistant District Attorney with the consent of the Commissioners Court of each of such counties.

Sec. 2. Said Assistant District Attorney shall be a qualified licensed attorney and shall have authority to perform all the acts and duties of the District Attorney under the laws of this state.

Sec. 3. If the Commissioners Court of the counties involved shall consent to the employment of an Assistant District Attorney, the salary of the same shall be paid as follows: one-half ($\frac{1}{2}$) of the annual salary shall be paid by Cherokee County, and one-half ($\frac{1}{2}$) of the annual salary shall be paid by Nacogdoches County.

Sec. 4. The District Attorney of the Second Judicial District, subject to the consent of the Commissioners Courts of the counties in said district, shall fix the salary of the Assistant District Attorney at a sum not to exceed \$6,500 per annum, subject to the approval of each commissioners Court of each county for its one-half ($\frac{1}{2}$) share of the payment of the annual salary so prescribed.

Acts 1965, 59th Leg., p. 1498, ch. 649, eff. June 17, 1965; amended by Acts 1969, 61st Leg., 2nd C.S. p. 94, ch. 23, § 5.004, eff. Sept. 19, 1969.

Art. 326l-3. Assistant district attorney for third judicial district

Section 1. The district attorney for the Third Judicial District, composed of the counties of Anderson, Henderson, and Houston, is hereby authorized to employ an assistant district attorney with the consent of the commissioners courts of two or more counties within the district.

Sec. 2. Said assistant district attorney shall be a qualified licensed attorney and shall have authority to perform all the acts and duties of the district attorney under the laws of this state.

Sec. 3. If the commissioners courts of two or more counties in the Third Judicial District shall consent to the employment of an assistant district attorney, the salary of the same shall be paid as follows: one-third of the annual salary shall be paid by Anderson County, one-third of the annual salary shall be paid by Henderson County, and one-third of the annual salary shall be paid by Houston County.

Sec. 4. The district attorney of the Third Judicial District, subject to the consent of the commissioners courts of two or more counties in said district, shall fix the salary of the assistant district attorney. Acts 1969, 61st Leg., p. 2336, ch. 791, eff. Sept. 1, 1969.

Title of Act:

An Act authorizing the employment of assistant district attorney for the Third Judicial District; and declaring an emergency. Acts 1969, 61st Leg., p. 2336, ch. 791.

2. COUNTY ATTORNEYS

Art. 331f-1. Assistant county attorneys and secretaries in certain counties on Mexican border

Section 1. In all counties of this state having a population of not less than 64,191, and not more than 100,000 inhabitants, according to the last preceding federal census, and which counties border on the International Boundary between the United States and the Republic of Mexico, the county attorneys of such counties may appoint, with the approval of the commissioners court of such counties, an assistant county attorney and a secretary. The application for such appointment must be sworn to and be in writing stating a need for an assistant county attorney and secretary, if such application includes the services of a secretary. The compensation to be paid must be a reasonable amount fixed at the discretion of the commissioners court of such counties, but shall not exceed \$10,000 per annum for the assistant county attorneys and \$5,800 per annum for the secretaries, to be paid out of the officers' salary funds of such counties in 12 equal monthly installments.

Sec. 2. The provisions of this Act are cumulative of Article 3902 of the Revised Civil Statutes of Texas of 1925, as amended, and in nowise shall be considered as a limitation on the other powers and authority of the commissioners court therein prescribed.

Acts 1967, 60th Leg., p. 1236, ch. 559, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 1602, ch. 494, eff. Sept. 1, 1969.

Title of Act:

An Act relating to the appointment and compensation of assistant county attorneys and secretaries in certain counties; and declaring an emergency. Acts 1967, 60th Leg., p. 1236, ch. 559; Acts 1969, 61st Leg., p. 1602, ch. 494.

Art. 331i. County attorney of Midland county; employment of stenographers, assistants and special investigators

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Stenographers; salaries

Sec. 2. Each stenographer of the county attorney of such county shall be paid a salary of not less than Four Thousand Dollars (\$4,000) per annum and not more than Seven Thousand Five Hundred Dollars (\$7,500)

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per annum as determined by the Commissioners Court of such county, to be paid in equal monthly installments out of the officers salary fund, the general fund, or any other available fund of such county.

Sec. 2 amended by Acts 1969, 61st Leg., p. 841, ch. 278, § 1, eff. May 29, 1969.

Assistants; salaries

Sec. 3. Each assistant of the county attorney of such county shall be paid a salary of not less than Four Thousand Eight Hundred Dollars (\$4,800) per annum and not more than Twelve Thousand Dollars (\$12,000) per annum as determined by the Commissioners Court of such county to be paid in equal monthly installments out of the officers salary fund, the general fund or any other available fund of such county. Each investigator shall be paid a salary of not less than Four Thousand Eight Hundred Dollars (\$4,800) and not more than Nine Thousand Dollars (\$9,000) per annum as determined by the Commissioners Court of such county to be paid in equal monthly installments out of the officers salary fund, the general fund, or any other available fund of such county.

Amended by Acts 1969, 61st Leg., p. 841, ch. 278, § 1, eff. May 29, 1969.

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4. PUBLIC DEFENDERS

Art. 341—1. Tarrant County; appointment and compensation; entitlement of indigents

Findings and purpose

Section 1. (a) Recent federal and state court decisions have emphasized the constitutional obligation of the state to afford needy persons the effective assistance of counsel in criminal actions. In some counties, the bar has partially met this obligation through creation of a nonprofit organization, primarily financed by federal grants, which provides counsel; in others, volunteers from the bar donate their services to defend needy persons. And in still other counties, the courts concerned appoint counsel under Articles 26.04 and 26.05, Code of Criminal Procedure, 1965.

(b) Especially in the metropolitan counties, the obligation to furnish competent counsel imposes a substantial burden on county financial resources. None of the alternative methods presently employed to furnish counsel has proved entirely satisfactory and the Legislature finds that a countywide public defender system, functioning either alone or in a combination with other methods, may better satisfy the constitutional and statutory obligations for providing counsel for the needy accused.

(c) In view of the findings and determinations expressed in Subsections (a) and (b) of this section, there is established in Tarrant County the offices of Public Defender of Tarrant County, hereafter referred to as the "public defender."

Appointment of public defenders

Sec. 2. (a) Each criminal district judge of Tarrant County shall appoint one attorney to serve as a public defender and define his duties and responsibilities. A public defender serves at the pleasure of the appointing Judge.

(b) To be eligible for appointment as a public defender, a person must:

- (1) be a member of the State Bar of Texas;
- (2) have practiced law at least three years; and
- (3) be experienced in the practice of criminal law.

Compensation

Sec. 3. (a) The public defenders shall receive an annual salary of not less than \$10,000 to be fixed by the Commissioners Court of Tarrant County and paid from the appropriate county fund.

(b) The provisions of Article 26.05, Code of Criminal Procedure, 1965, as amended, regarding daily appearance fees shall not apply to public defenders, however, all other provisions of Article 26.05, Code of Criminal Procedure, 1965, as amended, regarding fees and allowances shall apply to public defenders.

(c) A public defender may not engage in any criminal law practice other than that authorized in this Act and shall accept nothing of value, except as authorized in this Act, for any services rendered in connection with a criminal case.

(d) A violation of Subsection (c), Section 3 of this Act shall be cause for removal of the public defender by the judge who appointed him.

Entitlement to representation

Sec. 4. (a) Any indigent person charged with a criminal offense in a court in Tarrant County or any indigent person in Tarrant County who is a party in a juvenile delinquency proceeding shall be represented by a public defender or other practicing attorney appointed by a court of competent jurisdiction. If an attorney, other than a public defender, is appointed, he shall be compensated as provided in Article 26.05, Code of Criminal Procedure, 1965, as amended.

(b) A public defender may inquire into the financial condition of any person whom he is appointed to represent and shall report any findings of the investigation to the court appointing him. The court may hold a hearing into the financial condition of the defendant and shall make a determination as to his indigency and to his entitlement to representation by a public defender.

Substitute defender

Sec. 5. At any stage, including appeal or other post-conviction proceedings, the court concerned may assign a substitute attorney. The substitute attorney shall be entitled to compensation as provided in Article 26.05, Code of Criminal Procedure, 1965, as amended.

Severability clause

Sec. 6. If any provision of the Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Acts 1969, 61st Leg., p. 1621, ch. 501, eff. Sept. 1, 1969.

Title of Act:

An Act providing for the appointment and compensation of Public Defenders of Tarrant County; defining their duties and responsibilities; providing for other court

appointed attorneys; providing for severability; and declaring an emergency. Acts 1969, 61st Leg., p. 1621, ch. 501.

TITLE 16—BANKS AND BANKING

TEXAS BANKING CODE OF 1943

**CHAPTER ONE—SCOPE OF ACT, DEFINITIONS, FINANCE
 COMMISSION AND STATE BANKING BOARD**

**Art. 342—111. Finance Commission—Sections—Meetings—Quorum—
 Voting—Minutes**

The Finance Commission and each Section thereof shall hold at least two regular meetings each year at such dates as are set by the Commission. After the effective date of this Act, the Commission shall elect by majority vote from its members a chairman who shall serve until the first regular meeting of the succeeding calendar year. At the first regular meeting of the Commission during each calendar year, the Commission shall elect a chairman from its members by majority vote who shall be entitled to vote on all matters and shall serve until the first regular meeting of the next calendar year and until his successor shall be duly elected, provided, however, no member shall serve more than one year consecutively as chairman. The chairman of the Finance Commission shall preside at all meetings of the Finance Commission and shall cause adequate minutes of the proceedings of all meetings to be kept. Special meetings of the Commission may be called by the chairman or by any three members of the Commission. The Commission and each Section thereof may adopt internal requirements of procedure governing the time and place of meetings, the character of notice of special meetings, the procedure by which all meetings are to be conducted and other similar matters. A majority of the membership of the Commission shall constitute a quorum for the purpose of transacting any business coming before the Commission and a majority of each Section of the Commission shall constitute a quorum for the purpose of transacting any business coming before said Section.

Amended by Acts 1969, 61st Leg., p. 885, ch. 299, § 1, emerg. eff. May 22, 1969.

**Art. 342—114. Savings and Loan Section—Rules and Regulations—
 Loans and Investments—Advisory Powers**

The Savings and Loan Section, through resolutions adopted by not less than two affirmative votes, may promulgate general rules and regulations not inconsistent with the Constitution and Statutes of this State, and from time to time amend the same, which rules and regulations shall be applicable alike to all State associations, and may authorize savings and loan associations organized under the laws of this State to invest their funds in any manner and to the same extent which said association could invest such funds under existing or any future law, rule or regulation were they organized and operating as a Federal Savings and Loan Association under the laws of the United States, provided, however, that this authority shall not be construed in any wise to confer authority to abridge, or diminish or limit any rights or powers specifically given to State associations by the statutory laws of this State. In addition to such powers as may be conferred upon the Savings and Loan Section by this Act or by the Savings and Loan Act of Texas, as amended, the Savings and Loan Section shall have the following duties:

(a) When in the judgment of the Section, protection of investors in State associations requires additional regulations or limitations, to promulgate such additional rules and regulations as will in its judgment prevent State savings and loan associations from concentrating an ex-

cessive or unreasonable portion of their resources in any particular type or character of loan or security authorized by the Texas Savings and Loan Act.

(b) When in the judgment of the Section, establishment of standards or changes in existing standards for investment are necessary, to establish standards through rules and regulations for investments by State associations in the investments authorized under the provisions of Section 5.11 of the Texas Savings and Loan Act, which standards may also establish a limit in the amount which State associations may invest in any particular type or character of investment under said Subdivision to an amount or percentage based upon assets or reserves, permanent capital and undivided profits.

(c) To advise with the Savings and Loan Commissioner as to the forms to be prescribed for the filing of the annual statements with the Savings and Loan Department and the forms to be prescribed for the publication of the annual financial statements by State associations.

(d) To confer with the Savings and Loan Commissioner and with the President of the regional Federal Home Loan Bank of the district in which Texas State associations are members on general and special business and economic conditions affecting State associations.

(e) To request information and to make recommendations with respect to matters within the jurisdiction of the Savings and Loan Commissioner as relating to the savings and loan business, including recommendations as to legislation affecting such institutions, providing, that no information regarding the financial condition of any State savings and loan association obtained through examination or otherwise shall be divulged to any member of the Finance Commission, nor shall any member of the Finance Commission be given access to the files and records of the Department appertaining thereto; provided, further, however, that the Commissioner may disclose to the Savings and Loan Section any file or record pertinent to any hearing or matter pending before such Section.

Amended by Acts 1969, 61st Leg., p. 885, ch. 299, § 2, emerg. eff. May 22, 1969.

CHAPTER TWO—THE BANKING DEPARTMENT OF TEXAS

Art. 342—204. Examiners—Assistant Examiners—Appointment—Qualifications—Compensation

The Commissioner shall appoint bank examiners and assistant bank examiners in sufficient number to fully perform his duties and responsibilities under the Code and the laws of this State. Such examiners shall have the qualifications required by the Banking Section of the Finance Commission. Each examiner and each assistant examiner shall receive such compensation as shall be fixed by the Finance Commission.

Amended by Acts 1963, 58th Leg., p. 134, ch. 81, § 1, eff. May 24, 1963; Acts 1969, 61st Leg., p. 1630, ch. 507, § 1, emerg. eff. June 10, 1969.

Art. 342—205. Savings and Loan Department—Savings and Loan Commissioner—Powers and Duties

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(b) The Savings and Loan Commissioner, subject to the approval of the Savings and Loan Section of the Finance Commission, shall appoint one or more Deputy Savings and Loan Commissioners, having the same qualifications as are required of the Savings and Loan Commissioner, one of which shall be designated by the Savings and Loan Commissioner to be vested with all of the powers and perform all of the duties of the Savings and Loan Commissioner during the absence or inability

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of the Savings and Loan Commissioner. The Savings and Loan Commissioner may also appoint a Hearing Officer or Officers, who shall be full time employees of the Savings and Loan Department, to conduct such investigations or public hearings as may be required by law of the Savings and Loan Commissioner. The Hearing Officer or Officers shall be vested for the purpose of such investigations or public hearings with the power and authority as the Savings and Loan Commissioner would have if he were personally conducting such investigation or public hearing, provided that the Hearing Officer or Officers shall not be authorized to make any order upon the final subject matter of such investigation or hearing; and provided, further, that the record of any investigation or public hearing conducted before the Hearing Officer may be considered by the Savings and Loan Commissioner in the same manner and to the same extent as evidence that is adduced before him personally in any such proceeding. The Savings and Loan Commissioner shall also appoint Savings and Loan Examiners. Each Deputy Savings and Loan Commissioner, the Savings and Loan Examiners, each Hearing Officer, and all other officers and employees of the Savings and Loan Department shall receive such compensation as is fixed by the Finance Commission which shall be paid from the funds of the Savings and Loan Department.

“(c) The Savings and Loan Commissioner, each Deputy Savings and Loan Commissioner, each Hearing Officer, each Savings and Loan Examiner, and every other officer and employee of the Savings and Loan Department specified by the Finance Commission, shall, before entering upon the duties of his office, take an oath of office and make a fidelity bond in the sum of Ten Thousand Dollars (\$10,000) payable to the Governor of the State of Texas, and his successors in office, in individual, schedule or blanket form, executed by a surety appearing upon the list of approved sureties acceptable to the United States Government. Each bond required under this Article shall be in the form approved by the Finance Commission. The premiums for such bonds shall be paid out of the funds of the Savings and Loan Department.

* * * * *

(g) The Savings and Loan Commissioner shall attend each meeting of the Savings and Loan Section of the Finance Commission, but he shall not vote. The Savings and Loan Section shall elect a Chairman in the same fashion and for the same term as required and provided for the Chairman of the Commission. Special meetings of the Section may be called by the Chairman, or any two (2) members of the Section.

* * * * *

(i) Insofar as the provisions of this Section may conflict with any other provisions of The Texas Banking Code of 1943, as amended, or Senate Bill No. 111, Acts 1929, 41st Legislature, page 100, Chapter 61, as amended, or the Texas Savings and Loan Act of 1963, Chapter 113, Acts 58th Legislature, 1963, page 269, et seq., as amended, the provisions of this Act shall control; except that the terms “Savings and Loan,” “Savings and Loan Association,” and “Savings and Loan Section of the Finance Commission” as used herein are intended to and shall have the same meaning as the terms “Building and Loan” and “Building and Loan Association” and “Building and Loan Section of the Finance Commission” as used in said Statutes, and the Building and Loan Section of the Finance Commission is hereby renamed as the Savings and Loan Section of the Finance Commission of Texas.

Amended by Acts 1961, 57th Leg., p. 393, ch. 198, § 2, eff. Sept. 1, 1961. Pars. (b), (c), (g), (i) amended by Acts 1969, 61st Leg., p. 885, ch. 299, § 3, emerg. eff. May 22, 1969.

Art. 342—208. Examination—May Administer Oath—Fees—Disposition

The Commissioner shall examine each state bank three times each twenty-four months and no more, unless he deems additional examinations necessary to safeguard the interest of depositors, creditors, and stockholders, and to enforce the provisions of the Banking Code of 1943. The Commissioner, Deputy Commissioner, Departmental Examiner and each examiner may administer oaths and examine any person under oath upon any subject which he deems pertinent to the financial condition of any state bank. The Commissioner shall assess and collect a fee in connection with each examination, based on the bank's total assets, covering the cost of such examination, the equitable or proportionate cost of maintenance and operation of the Banking Department, and the enforcement of the provisions of the Banking Code of 1943, including but not limited to, the premium on the bond of the Commissioner and other officers and employees of the Banking Department, and such other fidelity or casualty insurance or coverage required or furnished pursuant to or in connection with the provisions of the Banking Code of 1943, together with all other expenses of the Banking Department, which fee shall in no event be less than Fifty Dollars (\$50) for each examination so made. Such fees, together with any other fees, penalties or revenues collected by the Commissioner, pursuant to any law of this State, shall be retained by the Banking Department and shall be expended only for the expenses of said department.

Amended by Acts 1969, 61st Leg., p. 1630, ch. 507, § 2, emerg. eff. June 10, 1969.

CHAPTER THREE—INCORPORATION, MERGER, REORGANIZATION, PURCHASE OF ASSETS OF ANOTHER BANK, DISBURSING AGENT, AMENDMENT OF ARTICLES OF ASSOCIATION OF STATE BANKS, AND CONVERSION**Art. 342—312. Amendment of Articles of Association—Rights of Stockholders upon Increase in Capital—Stock Option Plans**

Subject to the provisions of this Code, any state bank may amend its articles of association for any lawful purpose.

If the owners of record of two-thirds of the capital stock, at any regular meeting of stockholders, or any special meeting called for that purpose, vote to amend the charter, the board of directors shall prepare, execute in the manner provided for the execution of articles of association, and file with the Commissioner an amendment to the articles of association. If the Commissioner finds that the amendment is not violative of law and does not prejudice the interest of depositors and creditors or the public, he shall approve such amendment and deliver to the bank a certified copy thereof, and said amendment shall thereupon become effective; provided, however, that if a state bank does not have the power to receive demand deposits, no amendments of its articles of association adopting any power provided under Subsections (a), (b), (c), (d), or (f) of Article 1 of this Chapter and no amendment changing the domicile of any state bank shall be effective until approved by the State Banking Board in the manner provided for the approval of an original application for charter. Any state bank may amend its articles of association to extend its corporate existence for a perpetual period or for any period of years.

Each stockholder of a state bank shall be entitled to his proportionate part of any increase of stock effected out of surplus funds or undivided profits, and shall be entitled to subscribe for his proportionate share of any capital increase to be paid in cash; provided, however, that each

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stockholder or his assignee, in event he elects to assign such rights of subscription, shall subscribe for and pay the amount of such subscription to the corporation within ten (10) days after the stockholders have adopted such amendment, otherwise the board of directors may allocate the unsubscribed or unpaid portion of the increase among the other stockholders or otherwise as they deem to the best interest of the bank.

With prior approval of the owners of record of two-thirds of the capital stock, shares of stock in a bank, which are created by a capital increase, may be allocated to and purchased by the bank out of its surplus which is not certified or out of its undivided profits to be held by the bank for fulfilling the requirements of an officer or employee stock option plan, whereby officers or employees, or both, of the bank are given options to purchase shares of the bank's capital stock at a specified price, subject to the following requirements and restrictions:

The number of shares so held shall not, at any time, exceed five per cent (5%) of the total number of shares outstanding in the hands of other stockholders. Stock option plans authorized under this Article may not extend beyond a period of ten years from the date of issuance and shall otherwise qualify under applicable sections of the Internal Revenue Code of 1954, as it may be amended from time to time. No officer or employee who owns or controls more than five per cent (5%) of the bank's capital stock shall be eligible to participate or to continue participation in a stock option plan authorized by this Article.

Amended by Acts 1967, 60th Leg., p. 1772, ch. 673, § 1, emerg. eff. June 17, 1967; Acts 1967, 60th Leg., p. 1853, ch. 722, § 1, emerg. eff. June 18, 1967; Acts 1969, 61st Leg., p. 1630, ch. 507, § 3, emerg. eff. June 10, 1969.

CHAPTER FOUR—STOCK, STOCKHOLDERS, BY-LAWS, DIRECTORS, OFFICERS, EMPLOYEES

Art. 342—405. Directors—Qualifications

No person shall serve as director of a state bank when (1) the bank holds a judgment against him, or (2) holds a charged-off note against him, or (3) he is not the bona fide owner in his own right of unpledged and unencumbered stock in said bank of a par value of One Thousand Dollars (\$1,000). Provided, however, if the capital stock is less than \$50,000 each director shall own in his own right unpledged and unencumbered stock in the bank as may be prescribed in its Articles of Association but the foregoing minimum requirement as to other banks shall not apply, or (4) he has been convicted of a felony.

Amended by Acts 1969, 61st Leg., p. 1317, ch. 403, § 1, eff. Sept. 1, 1969.

CHAPTER FIVE—LOANS AND INVESTMENTS

Art. 342—503. Engaging in Commerce—Exceptions

No state bank shall invest its funds in trade or commerce by buying and selling goods, wares, merchandise or chattels or by owning or operating an industrial plant except when necessary to avoid a loss on a loan or investment previously made in good faith. Provided that to the extent that national banks may now or hereafter have authority to do so, a state bank may become the owner and lessor of personal property acquired upon the specific request and for the use of a customer and may incur such additional obligations as may be incident to becoming an owner and lessor of such property.

Rental payments collected by the bank under the lease agreement shall be considered to be rent and shall not be deemed to be interest or compensation for the use of money loaned.

The aggregate of the bank's investment in properties so acquired shall not exceed limits prescribed by the Banking Section of the Finance Commission as they may be adjusted from time to time, and property so acquired shall not be retained more than six (6) months beyond the

duration of the original lease period agreed to by the customer for whom the property was acquired, except with written permission of the Banking Commissioner.

Amended by Acts 1969, 61st Leg., p. 1630, ch. 507, § 4, emerg. eff. June 10, 1969.

Art. 342—504. Real Estate Loans—Limitations—Exceptions

Except as provided in Sections 4 through 8 of this Article, no state bank shall make a loan upon security of real estate or invest its funds in obligations secured by real estate unless:

* * * * *

2. The total net balance owing upon the indebtedness secured by such lien:

* * * * *

(b) does not exceed seventy per cent (70%) of the appraised value of such real estate and such loan or obligation provides for uniform monthly, quarterly, semi-annual or annual reductions of principal in such amounts as to retire the entire indebtedness within one hundred and eighty (180) months from the date of the bank's loan or investment; or

* * * * *

Sec. 2(c) amended by Acts 1967, 60th Leg., p. 1856, ch. 722, § 4, emerg. eff. June 18, 1967; Sec. 2(b), amended by Acts 1969, 61st Leg., p. 1630, ch. 507, § 5, emerg. eff. June 10, 1969.

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Art. 342—506. Own Stock—Security—Acquisition—Disposition—Investment Certificates—Maturity

No state bank shall acquire a lien by pledge or otherwise on its shares of stock nor purchase or acquire title to such stock, except to prevent loss upon a loan or investment previously made in good faith. Provided, however, that with the approval of the owners of record of two-thirds of the capital stock, a bank may purchase and carry as an asset its own shares for the purpose of fulfilling the requirements of an officer or employee stock option plan.

The number of shares so held shall not, at any time, exceed five per cent (5%) of the total number of shares outstanding in the hands of the other stockholders. Stock option plans authorized under this Article may not extend beyond a period of ten years from the date of issuance and shall otherwise qualify under applicable sections of the Internal Revenue Code of 1954, as it may be amended from time to time. No officer or employee who owns or controls more than five per cent (5%) of the bank's capital stock shall be eligible to participate or to continue participation in a stock option plan authorized by this Article.

If a state bank acquires a lien upon or title to its stock under the exception first provided for in this Article, it shall not permit such lien to continue for more than two (2) years, nor shall it hold title to such stock for more than one (1) year. Provided that the stock on which the bank has a lien plus the stock held by it as owner shall not exceed, in par value, the aggregate of all surplus accounts and undivided profits of said bank; provided, however, that any provision of this Code to the contrary notwithstanding, a state bank may make loans, charge or collect in advance interest thereon at a rate not exceeding that permitted by law, together with other charges permitted by this Code, and take as collateral thereof its investment certificates, issued simultaneously with the granting of the loans or otherwise, requiring weekly, semi-monthly, monthly or other regular periodic installments to be paid upon such certificates; such loans, subject to acceleration for specified causes, shall

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mature when the withdrawal value of the investment certificate or certificates securing the same equals the face amount of the note evidencing the loans, and shall be comparable in form and principle of operation to sinking-fund loans which building and loan associations are now authorized to make under the laws of this State.

Amended by Acts 1969, 61st Leg., p. 1630, ch. 507, § 6, emerg. eff. June 10, 1969.

Art. 342—507. Limit of Liability of Any One Borrower—Exceptions—Penalty

No state bank shall permit any person or any corporation to become indebted or in any other way liable to it in an amount in excess of twenty-five per cent (25%) of its capital and certified surplus. The phrase "indebted or in any other way liable" shall be construed to include liability as partner or otherwise. The above limitation shall not apply to the following classes of indebtedness or liability:

1. Liability as endorser or guarantor of commercial or business paper discounted by or assigned to the bank by the actual owner thereof who has acquired it in the ordinary course of business.

2. Indebtedness evidenced by bills of exchange or drafts drawn against actually existing values and secured by a lien upon goods in transit with shippers' order bills of lading or comparable instruments attached.

3. Indebtedness evidenced by notes or other paper secured by liens upon agricultural products, manufactured goods, or other chattels in storage in bonded warehouses or elevators with warehouse or elevator receipts attached, cotton yard tickets, signed by a bonded weigher, when the value of the security is not less than one hundred twenty-five per cent (125%) of the indebtedness, and the bank's interest therein is adequately insured against loss, with insurance policies or certificates of insurance attached.

4. Deposit in a reserve depository, or a Federal Reserve Bank.

5. Indebtedness of another state or national bank arising out of short-term loans when such loans are made out of the excess cash reserve funds of the lending bank and have settlement periods of less than one week.

6. Indebtedness arising out of the daily transaction of the business of any clearing house association in this State.

7. Bonds and other legally created general obligations of any State or of any county, city, municipality or political subdivision thereof and indebtedness of the United States of America, or any instrumentality or agency of the United States Government.

8. Any portion of any indebtedness which the United States Government or any agency or instrumentality of the United States Government has unconditionally agreed to purchase or has unconditionally guaranteed as to payment of both principal and interest.

A state bank may permit any person, partnership, association or corporation to become indebted or in any other way liable to it in an amount equal to or less than fifteen per cent (15%) of its capital and certified surplus in addition to any indebtedness or liability of such person, partnership, association or corporation to the bank in an amount not in excess of twenty-five per cent (25%) of its capital and certified surplus, when such additional indebtedness or liability to the bank is secured by bonds or notes of the United States issued since April 24, 1917, certificates of indebtedness of the United States, Treasury bills of the United States, or obligations fully guaranteed both as to principal and interest by the United States, the market value of which security is at all times not less than one hundred twenty per cent (120%) of such indebtedness or liability to the bank.

Any officer, director or employee of a state bank who knowingly violates or participates in the violation of any provision of this Article shall upon conviction be fined not more than Five Thousand Dollars (\$5,000) or confined in the State penitentiary not more than five (5) years, or both.

Amended by Acts 1959, 56th Leg., p. 894, ch. 412, § 10, emerg. eff. May 30, 1959; Acts 1969, 61st Leg., p. 1630, ch. 507, § 7, emerg. eff. June 10, 1969.

CHAPTER SIX—SURPLUS, DIVIDENDS, LIABILITIES, UNINVESTED TRUST FUNDS, PREFERENCES, RESERVES, DEBENTURES AND WITHDRAWALS

Art. 342—602. Liability Limit—Exceptions

No state bank shall without the prior written consent of the Commissioner be indebted or liable for an amount in excess of its capital and certified surplus except on account of the following:

1. Money on deposit with or collected by it.
 2. Bills of exchange, checks or drafts drawn against money actually on deposit to the credit of the bank or due to said bank.
 3. Liability to stockholders on account of the capital stock, surplus and undivided profits.
 4. Liabilities arising under or pursuant to the provisions of the Federal Deposit Insurance Corporation Act,¹ the Federal Reserve Act,² the Federal Agricultural Credit Act of 1923,³ or pursuant to any or all amendments to any or all of said acts.
 5. Indebtedness evidenced by investment certificates or certificates of indebtedness.
 6. Liability on endorsement of notes, bills of exchange or other evidences of indebtedness actually owned by said bank and sold or endorsed with or without recourse, provided said sale or endorsement shall have been previously approved by the board of directors of said bank.
 7. Liabilities to other banks arising out of short-term loan transactions when such liabilities are incurred for the purpose of fulfilling cash reserve requirements and have settlement periods of less than one week.
- Amended by Acts 1969, 61st Leg., p. 1630, ch. 507, § 8, emerg. eff. June 10, 1969.

¹ 12 U.S.C.A. §§ 1811-1831.

² 12 U.S.C.A. § 221 et seq.

³ 12 U.S.C.A. §§ 1151-1322 (repealed).

Art. 342—606. Cash Reserve—Calculation Reserve Depositories—Amount Carried

Every state bank shall maintain a reserve of not less than fifteen per cent (15%) of its aggregate demand deposits and five per cent (5%) of all other deposits, provided that any member of the Federal Reserve System which maintains the reserves required by that System shall not be deemed to have violated the provisions of this Article.

Such reserve shall be kept in the vaults of the bank or on deposit with Federal Reserve banks or with banks incorporated by any state or the United States with not less than Fifty Thousand Dollars (\$50,000) capital approved as reserve depositories by the Commissioner and such reserves may be calculated on the basis of the average daily deposit balances covering weekly periods. Items in the process of clearing through a clearing house association shall be considered as reserves on deposit with an approved reserve depository within the meaning of this Article. If a state bank shall fail to maintain the total reserves required by this Article, it shall be liable for and the Banking Commissioner may

For Annotations and Historical Notes, see V.A.T.S.

collect as a fee or penalty not more than Fifty Dollars (\$50) per week for the period of such failure as may be prescribed from time to time by the Banking Section of the Finance Commission of Texas; and upon relation of the Banking Commissioner of default in such payment, the Attorney General shall institute a suit to recover such fees or penalties and for such other relief as in the judgment of the Attorney General is proper and necessary. No state bank shall deposit an amount in excess of twenty per cent (20%) of its capital, certified surplus and deposits in any one reserve depository

Amended by Acts 1959, 56th Leg., p. 894, ch. 412, § 11, eff. May 30, 1959; Acts 1967, 60th Leg., p. 2047, ch. 756, § 1, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 1630, ch. 507, § 9, emerg. eff. June 10, 1969.

CHAPTER NINE—GENERAL PROVISIONS

Art.
342—951. Mortgage banking institutions;
supervision by commissioner
[New].

Art. 342—951. Mortgage banking institutions; supervision by commissioner

Section 1. Any Texas mortgage banking institution that has actually paid in capital of not less than \$25,000 and up to but not including \$100,000 and is qualified to lend money under the provisions of the Federal Housing Act is subject to inspection and supervision by the Banking Commissioner of Texas.

Sec. 2. On or before February 1 of each year, any mortgage banking institution that meets the requirements of Section 1 shall file with the Banking Commissioner of Texas a statement of its condition as of the previous December 31. The statement of condition shall be filed in the form prescribed by the banking commissioner and shall be accompanied by a filing fee of \$25. The statement of condition is for the information of the banking commissioner and his employees only and its contents shall not be made public except in the course of some judicial proceeding of this state.

Sec. 3. The banking commissioner shall annually examine or cause to be examined the books and accounts of any mortgage banking institution which meets the requirements of Section 1. The institution being examined shall pay the actual expenses incident to the examination and a fee of not more than \$25 per day per person engaged in the examination. Such fees, together with all other fees, penalties and revenues collected by the banking department, shall be retained by the department and shall be expended only for the expenses of the department.

Sec. 4. If an institution subject to the provisions of this Act fails to comply with the provisions of Section 2, that institution is subject to a penalty of not less than \$100 nor more than \$1,000, which penalty shall be assessed and collected by the banking commissioner. If the banking commissioner assesses a penalty against a mortgage banking institution and that institution fails to pay the penalty within 30 days from the date it is notified of the assessment, the banking commissioner may request the attorney general to collect the penalty by suit.

Sec. 5. If an institution subject to the provisions of this Act refuses to submit to the examination by or withholds information from the banking commissioner or his representatives or has an impairment of a minimum of \$25,000 capitalization, the banking commissioner shall notify the institution of such failure. If such failure is not corrected within 30 days from the date of such notification such failure to comply with this Act shall constitute grounds for forfeiture of the institution's char-

ter in an action filed by the attorney general upon the request of the Banking Commissioner of Texas.

Acts 1969, 61st Leg., p. 701, ch. 241, eff. May 21, 1969.

Title of Act:

An Act providing that certain mortgage banking institutions are subject to supervision by the Banking Commissioner of Texas; specifying the procedure, terms,

and extent of the supervision and providing penalties for noncompliance; and declaring an emergency. Acts 1969, 61st Leg., p. 701, ch. 241.

TITLE 20—BOARD OF CONTROL**CHAPTER THREE—PURCHASING DIVISION**

Arts. 634(B), 634(C). Repealed by Acts 1969, 61st Leg. p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

CHAPTER FOUR—PUBLIC BUILDINGS AND GROUNDS DIVISION

Art. 678g. Construction of public buildings and facilities for use by handicapped persons [New].

Art. 678. State Cemetery

(a) The State Board of Control shall control, superintend and beautify the grounds of the State Cemetery and shall preserve the grounds and everything pertaining thereto and protect the property from depreciation and injury. The Board shall procure and erect, at the head of each grave which has no permanent monument, an obelisk of marble upon which shall be engraved the name of the dead therein buried.

(b) The persons eligible for burial in the State Cemetery are as follows:

- (1) present and former members of the Texas Legislature;
- (2) present and former elective state officials;
- (3) present and former state officials who have been appointed by the Governor and confirmed by the Texas Senate;
- (4) persons specified by a Governor's proclamation; and
- (5) persons specified by a concurrent resolution by the Texas Legislature.

(c) Grave spaces may be allotted for a person eligible for burial and his spouse. Children may not be included. The size of a grave plot may not be longer than eight feet nor wider than ten feet, inclusive of monument, marker, or statue.

(d) No monument or statue may be erected that is taller than any existing monument or statue in the State Cemetery on the effective date of this Act.

(e) No trees, shrubs, or flowers may be planted in the State Cemetery without written permission from the State Board of Control.

(f) Burial of persons on state property may take place only in the State Cemetery or in a cemetery maintained by a state eleemosynary institution, and no other state property, including the capitol grounds, may be used as an interment site.

Amended by Acts 1969, 61st Leg., p. 1594, ch. 489, § 1, eff. Sept. 1, 1969.

Art. 678g. Construction of public buildings and facilities for use by handicapped persons

Policy

Section 1. The provisions of this Act are enacted to further the policy of the State of Texas to encourage and promote the rehabilitation of handicapped or disabled citizens. It is the intent of this Act to eliminate, insofar as possible, unnecessary barriers encountered by aged,

handicapped or disabled persons, whose ability to engage in gainful occupations or to achieve maximum personal independence is needlessly restricted when such persons cannot readily use public buildings.

Application of act

Sec. 2. (a) The standards and specifications set forth in this Act shall apply to all buildings and facilities used by the public which are constructed in whole or in part by the use of state, county, or municipal funds, or the funds of any political subdivision of the state. To such extent as is not contraindicated by federal law or beyond the state's power of regulation, these standards shall also apply to buildings and facilities constructed in this state through partial or total use of federal funds. All buildings and facilities constructed in this state, or substantially renovated, modified, or altered, after the effective date of this Act from any one of these funds or any combination thereof shall conform to each of the standards and specifications prescribed herein except where the governmental department, agency, or unit concerned shall determine, after taking all circumstances into consideration, that full compliance with any particular standard or specification is impracticable. Where it is determined that full compliance with any particular standard or specification is impractical, the reasons for such determination shall be set forth in written form by those making the determination and forwarded to the State Building Commission. If it is determined that full compliance is not practicable, there shall be substantial compliance with the standard or specification to the maximum extent practical, and the written record of the determination that it is impractical to comply fully with a particular standard or specification shall also set forth the extent to which an attempt will be made to comply substantially with the standard or specification.

(b) These standards and specifications shall be adhered to in those buildings and facilities under construction on the effective date of this Act, unless the authority responsible for the construction shall determine that the construction has reached a state where compliance is impractical. This Act shall apply to temporary or emergency construction as well as permanent buildings.

Scope and purpose

Sec. 3. (a) This Act is concerned with nonambulatory disabilities, semiambulatory disabilities, sight disabilities, hearing disabilities, disabilities of coordination and aging.

(b) It is intended to make all buildings and facilities covered by this Act accessible to, and functional for, the physically handicapped to, through, and within their doors, without loss of function, space, or facilities where the general public is concerned.

Definitions

Sec. 4. For the purpose of this Act the following terms have the meanings as herein set forth:

(1) "Nonambulatory disabilities" means impairments that, regardless of cause or manifestation, for all practical purposes, confine individuals to wheelchairs.

(2) "Semiambulatory disabilities" means impairments that cause individuals to walk with difficulty or insecurity. Individuals using braces or crutches, amputees, arthritics, spastics, and those with pulmonary and cardiac ills may be semiambulatory. The listing here made is illustrative and shall not be construed as being exhaustive.

(3) "Sight disabilities" means total blindness or impairments affecting sight to the extent that the individual functioning in public areas is insecure or exposed to danger.

For Annotations and Historical Notes, see V.A.T.S.

(4) "Hearing disabilities" means deafness or hearing handicaps that might make an individual insecure in a public area because he is unable to communicate or hear warning signals.

(5) "Disabilities of coordination" means faulty coordination or palsy from brain, spinal, or peripheral nerve injury.

(6) "Aging" means those manifestations of the aging processes that significantly reduce mobility, flexibility, coordination, and perceptiveness but are not accounted for in the aforementioned categories.

(7) "Standard," when this term appears in small letters, is descriptive and means typical type.

(8) "Fixed turning radius, wheel to wheel" means the tracking of the caster wheels and large wheels or a wheelchair when pivoting on a spot.

(9) "Fixed turning radius, front structure to rear structure" means the turning radius of a wheelchair, left front-foot platforms to right rear wheel, or right front-foot platform to left rear wheel when pivoting on a spot.

(10) "Involved (involvement)" means a portion or portions of the human anatomy or physiology, or both, that have a loss or impairment of normal function as a result of genesis, trauma, disease, inflammation, or degeneration.

(11) "Ramps, ramps with gradients" means ramps with gradients (or ramps with slopes) that deviate from what would otherwise be considered the normal level. An exterior ramp, as distinguished from a "walk," shall be considered an appendage to a building leading to a level above or below existing ground level. As such, a ramp shall meet certain requirements similar to those imposed upon stairs.

(12) "Walk, walks" means a predetermined, prepared-surface, exterior pathway leading to or from a building or a facility, or from one exterior area to another, places on the existing ground level and not deviating from the level of the existing ground immediately adjacent.

(13) "Appropriate number" means the number of a specific item that would be reasonably necessary, in accord with the purpose and function of a building or a facility, to accommodate individuals with specific disabilities in proportion to the anticipated number of individuals with disabilities who would use a particular building or facility.

Design criteria

Sec. 5. The following design criteria shall be applicable:

(1) The collapsible-model wheelchair of tubular metal construction with plastic upholstery for back and seat is most commonly used. The standard model of all manufacturers falls within the following limits, which are used as the basis of consideration:

(A) Length: 42 inches

(B) Width, when open: 25 inches

(C) Height of seat from floor: 19-1/2 inches

(D) Height of armrest from floor: 29 inches

(E) Height of pusher handles (rear) from floor: 36 inches

(F) Width, when collapsed: 11 inches

(2) The fixed turning radius of a standard wheelchair, wheel to wheel, is 18 inches. The fixed turning radius, front structure to rear structure, is 31.5 inches.

(3) The average turning space required by a person in a wheelchair (180 to 360 degrees) is 60 × 60 inches. A turning space of 63 × 56 inches may at times prove more workable and desirable.

(4) A minimum width of 60 inches is required for two individuals in wheelchairs to pass each other.

(5) In a wheelchair the average unilateral vertical reach is 60 inches and ranges from 56 to 78 inches.

(6) The average horizontal working (table) reach of a person in a wheelchair is 30.8 inches and ranges from 28.5 inches to 33.2 inches.

(7) The bilateral horizontal reach, both arms extended to each side, shoulder high, of a person in a wheelchair, ranges from 54 inches to 71 inches and averages 64.5 inches.

(8) An individual reaching diagonally (from a wheelchair) as would be required in using wall-mounted dial telephones or towel dispenser, would make the average reach (on the wall) 48 inches from the floor.

(9) Most individuals ambulating on braces or crutches, or both, or on canes are able to manipulate within the specifications prescribed for wheelchairs, although doors present quite a problem at times. However, a crutch tip extending laterally from an individual is not obvious to others in heavily trafficked areas, and not as obvious or protective as a wheelchair and is, therefore, a source of vulnerability.

(10) On the average, individuals 5 feet 6 inches tall require an average of 31 inches between crutch tips in the normally accepted gait.

(11) On the average, individuals 6 feet 0 inches tall require an average of 32.5 inches between crutch tips in the normally accepted gait.

Site development

Sec. 6. (a) The ground shall be graded, even contrary to existing topography, so that it attains a level with a normal entrance and will make a facility accessible to individuals with physical disabilities.

(b) Public walks shall be at least 48 inches wide and shall have a gradient not greater than 5 percent. These walks shall be of continuing common surface, not interrupted by steps or abrupt changes in level. Wherever walks cross other walks, driveways, or parking lots they shall blend to a common level. A walk shall have a level platform at the top which is at least 5 feet by 5 feet if a door swings out onto the platform or toward the walk. This platform shall extend at least one foot beyond each side of the doorway. A walk shall have a level platform at least 3 feet deep and 5 feet wide, if the door does not swing onto the platform or toward the walk. This platform shall extend at least one foot beyond each side of the doorway.

(c) Spaces in parking lots that are accessible to the building or facility shall be set aside and identified for use by individuals with physical disabilities. An adequate parking space is one that is open on one side and which allows room for individuals in wheelchairs or individuals with braces and crutches to get in and out of an automobile onto a level surface, suitable for wheeling and walking. Parking spaces for individuals with physical disabilities when placed between two conventional diagonal or head-on parking spaces shall be 12 feet wide. Care in planning shall be exercised so that individuals in wheelchairs and individuals using braces and crutches are not compelled to wheel or walk behind parked cars. Consideration shall be given to the distribution of spaces for use by the disabled, in accordance with the frequency and regularity of their parking needs. Walks shall be in conformity with Section 6(b) of this Act.

Ramps

Sec. 7. (a) Where ramps with gradients are necessary or desired, they shall conform to the following specifications:

(1) A ramp shall not have a slope greater than one foot rise in 12 feet, or 8.33 percent, or 4 degrees 50 minutes.

(2) A ramp shall have handrails on at least one side, and preferably two sides, that are 32 inches in height, measured from the surface of the ramp, that are smooth, that extend one foot beyond the top and bottom of the ramp, and that as far as practicable conform with American Standard Safety Code for Floor and Wall Openings, and Toe Boards as promulgated by the American Standards Association, Inc.

For Annotations and Historical Notes, see V.A.T.S.

(b) Ramps shall have a surface that is nonslip. A ramp shall have a level platform at the top which is at least 5 feet by 5 feet, if a door swings out onto the platform or toward the ramp. This platform shall extend at least one foot beyond each side of the doorway. A ramp shall have a level platform at least 3 feet deep and 5 feet wide, if the door does not swing onto the platform or toward the ramp. This platform shall extend at least one foot beyond each side of the doorway. Each ramp shall have at least 6 feet of straight clearance at the bottom. Ramps shall have level platforms at 30 foot intervals for purposes of rest and safety and shall have level platforms wherever they turn.

Entrances

Sec. 8. At least one primary entrance to each building shall be useable by individuals in wheelchairs. At least one entrance useable by individuals in wheelchairs shall be on a level that would make the elevators accessible.

Doors

Sec. 9. Doors shall have a clear opening of no less than 32 inches when open and shall be operable by a single effort. The floor on the inside and outside of each doorway shall be level for a distance of 5 feet from the door in the direction the door swings and shall extend one foot beyond each side of the door. Sharp inclines and abrupt changes in level shall be avoided at doorsills. As much as practicable, thresholds shall be flush with the floor.

Stairs

Sec. 10. Stairs shall conform to standards of the American Standards Association, Inc., with the following additional considerations: Steps in stairs shall be designed wherever practicable so as not to have abrupt (square) nosing. Stairs shall have handrails 32 inches high as measured from the tread at the face of the riser. Stairs shall have at least one handrail that extends at least 18 inches beyond the top step and beyond the bottom step. Steps should, wherever possible, and in conformation with existing step formulas, have risers that do not exceed 7 inches.

Floors

Sec. 11. Floors shall wherever practicable have a surface that is nonslip. Floors on the same story shall be of a common level throughout or be connected by a ramp in accord with Section 7(a) through the first paragraph of Section 7(b), inclusive.

Toilet rooms

Sec. 12. (a) An appropriate number of toilet rooms, in accordance with the nature and use of a specific building or facility, shall be accessible to, and useable by, the physically handicapped.

(b) Toilet rooms shall have space to allow traffic of individuals in wheelchairs, in accordance with Section 5.

(c) Toilet rooms shall have at least one toilet stall that

(1) is 3 feet wide

(2) is at least 4 feet 8 inches, preferably 5 feet deep

(3) has a door (where doors are used) that is 32 inches wide and swings out

(4) has handrails on each side, 33 inches high and parallel to the floor, 1-1/2 inches in outside diameter, with 1-1/2 inches clearance between rail and wall, and fastened securely at ends and center

(5) has a water closet with the seat 20 inches from the floor.

(d) Toilet rooms shall have lavatories with narrow aprons, which when mounted at standard height are usable by individuals in wheelchairs, or shall have lavatories mounted higher, when particular designs demand, so that they are useable by individuals in wheelchairs.

(e) Mirrors and shelves shall be provided above lavatories at a height as low as practicable and no higher than 40 inches above the floor, measured from the top of the shelf and the bottom of the mirror.

(f) Toilet rooms for men shall have an appropriate number of wall-mounted urinals with the opening of the basin 19 inches from the floor, or shall have floor-mounted urinals that are on level with the main floor of the toilet room.

(g) Toilet rooms shall have an appropriate number of towel racks, towel dispensers, and other dispensers and disposal units mounted no higher than 40 inches from the floor.

Water fountains

Sec. 13. (a) An appropriate number of water fountains or other water-dispensing means shall be accessible to, and useable by, the physically disabled.

(b) Water fountains or coolers shall have up-front spouts and controls. Water fountains or coolers shall be hand-operated or hand- and foot-operated.

Public telephones

Sec. 14. (a) An appropriate number of public telephones shall be made accessible to, and useable by, the physically disabled.

(b) Such telephones shall be placed so that the dial and the handset can be reached by individuals in wheelchairs.

(c) An appropriate number of public telephones shall be equipped for those with hearing disabilities and so identified with instructions for use.

Elevators

Sec. 15. Elevators shall be provided and shall be accessible to, and useable by, the physically disabled at all levels normally used by the general public. Elevator control buttons shall have identifying features for the benefit of the blind. Elevators shall allow for traffic by wheelchairs.

Switches and controls

Sec. 16. Switches and controls for light, heat, ventilation, windows, draperies, fire alarms, and all similar controls of frequent or essential use, shall be placed within the reach of individuals in wheelchairs.

Identification for the blind

Sec. 17. Appropriate identification of specific facilities within a building used by the public is essential to the blind. Raised letters or numbers shall be used to identify rooms and offices. Identification shall be placed on the wall, to the right or left of the door, at a height between 4 feet 6 inches and 5 feet 6 inches measured from the floor, and preferably at 5 feet. Doors that are not intended for normal use, and that are dangerous if a blind person were to exit or enter by them, shall be made quickly identifiable to the touch by knurling the door handle or knob.

Warning signals

Sec. 18. (a) Audible warning signals shall be accompanied by simultaneous visual signals for the benefit of those with hearing disabilities.

(b) Visual signals shall be accompanied by simultaneous audible signals for the benefit of the blind.

Hazards

Sec. 19. (a) Every effort shall be exercised to obviate hazards to individuals with physical disabilities.

(b) Access panels or manholes in floors, walks, and walls can be extremely hazardous, particularly when in use, and shall be avoided where possible.

(c) When manholes or access panels are open and in use, or when an open excavation exists on a site, particularly when it is approximate to normal pedestrian traffic, barricades shall be placed on all open sides, at least 8 feet from the hazard, the warning devices shall be installed in accord with the provisions of Subsection (b) of this section.

(d) Low-hanging door closers that are within the opening of a doorway when the door is open, or that protrude hazardously into regular corridors, or traffic ways when the door is closed, shall be avoided.

(e) Low-hanging signs, ceiling lights, and similar objects or signs and fixtures that protrude into regular corridors or traffic ways shall be avoided. A minimum height of 7 feet, measured from the floor, shall be had.

(f) Lighting on ramps shall be at least equal to that prescribed by the specifications of American Standards Association, Inc. Exit signs shall be in accordance with specifications of American Standards Association, Inc., except as modified by Section 8 of this Act.

Responsibilities for enforcement

Sec. 20. (a) The responsibility for administration and enforcement of this Act shall reside primarily in the State Building Commission, but the State Building Commission shall have the assistance of appropriate state rehabilitation agencies in carrying out its responsibilities under this Act. State agencies involved in extending direct services to disabled or handicapped persons are authorized to enter into interagency contracts with the State Building Commission to provide such additional fundings as might be required to insure that service objectives and responsibilities of such agencies are achieved through the administration of this Act. In enforcing this Act the State Building Commission shall also receive the assistance of all appropriate elective or appointive public officials. The State Building Commission shall from time to time inform professional organizations and others of this law and its application.

(b) The State Building Commission shall have all necessary powers to require compliance with its rules and regulations and modifications thereof and substitutions therefore, including powers to institute and prosecute proceedings in the District Court to compel such compliance, and shall not be required to pay any entry or filing fee in connection with the institution of such proceeding.

(c) The State Building Commission is authorized to promulgate such rules and regulations as might reasonably be required to implement and enforce this Act. The State Building Commission, after consultation with state rehabilitation agencies, is also authorized to waive any of the standards and specifications presently set forth in this Act and to substitute in lieu thereof standards or specifications consistent in effect to such standards or specifications as might be adopted by the American Standards Association, Inc. (or its federally-recognized successor in function) subsequent to the effective date of this Act.

(d) The respective governing boards of state-supported institutions of higher education are responsible for enforcement of this Act on all properties under their jurisdiction. In all other instances, the responsibility for enforcement of this Act shall be in the State Building Commission.

Effective date

Sec. 21. This Act takes effect on January 1, 1970. Acts 1969, 61st Leg., p. 1002, ch. 324, eff. Jan. 1, 1970.

State building commission, see art. 678m. State building construction administration act, see art. 678f.

the use of federal, state, county, or municipal funds shall adhere to the principles prescribed by this Act in order to make these buildings and facilities accessible to, and useable by, the physically handicapped; and declaring an emergency. Acts 1969, 61st Leg., p. 1002, ch. 324.

Title of Act:

An Act to require that those buildings and facilities constructed in the state by

CHAPTER FOUR A—STATE BUILDING COMMISSION

Art. 678m. Building Commission

* * * * *

Appropriation for State Office Building

Sec. 19a. The legislative reference library shall be kept and maintained in the State Capitol, and shall include an up-to-date law library. Sec. 19a amended by Acts 1969, 61st Leg., p. 154, ch. 55, § 12, eff. Sept. 1, 1969.

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CHAPTER SIX—DIVISION OF ESTIMATES AND APPROPRIATIONS

Art. 689a—6. Transmission of copies of budget; committee hearings; copies of budget for distribution

Within five (5) days after the beginning of each Regular Session of the Legislature, the Governor shall transmit to all members of the Legislature printed copies of the budget; and, the Appropriations Committee in the House and the Finance Committee in the Senate may, if they so desire, begin preliminary committee hearings on the budget without waiting for the submission of the budget bills. The Governor shall also cause to be printed such extra copies of the budget as in his judgment are necessary for public distribution.

Amended by Acts 1969, 61st Leg., p. 1688, ch. 546, § 1, eff. Sept. 1, 1969.

Section 2 of the amendatory act of 1969 provided: "This Act shall be effective from and after September 1, 1969."

Art. 689a—17a. Repealed by Acts 1969, 61st Leg. p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Art. 689a—19a. Repealed by Acts 1969, 61st Leg. p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

CHAPTER SEVEN A—CHILD WELFARE

Art. 695a. Child Welfare

* * * * *

County welfare board; appointment by commissioners' court; multi-county boards; coordinated plans and services

Sec. 4. (a) The Commissioners Court of any county may appoint in said county a Child Welfare Board for the county; such Board shall consist of not less than seven (7) nor more than fifteen (15) members, and shall be of such size and such membership, within the limitations prescribed herein, and experience as may be determined by the Commissioners Court and the State Department of Public Welfare to be essential. The members of the Child Welfare Board shall be residents of the county and shall serve without compensation and shall hold office during the pleasure of the Commissioners Court. The Child Welfare Board shall select its own chairman, and it shall perform such duties as may be required of it by the said Commissioners Court and the State Department of Public Welfare in furtherance of the purposes of this Act. The County Commissioners Court of any county may remove any member of the Child Welfare Board for just cause.

(b) When found to be more practical, and when approved by the State Department of Public Welfare, multi-counties may join for the purpose of this law in establishing a Child Welfare Board for their joint use under the terms and conditions above set forth for a single county. In such cases such combined counties shall have the same powers and be subject to the same liabilities as a single county herein provided for.

(c) In the interest of the welfare of all children in this state, it is essential that the state and all subdivisions thereof be given the authority through legislative acts to make broad, general, flexible plans for improving health, education and welfare of all children, and it is particularly necessary for the County Commissioners Court in the various counties to have discretionary powers in relation to determining the size of Child Welfare Boards established depending upon the needs and the types of programs in the particular county.

It is the expressed intent of this Act to strengthen Child Welfare Boards so that services may be provided to all children in the county who are in need of services. The Child Welfare Board shall work with the County Commissioners Court and shall be an entity of the State Department of Public Welfare for the purposes of providing coordinated state and local public welfare services for children and their families and coordinated utilization of federal, state, and local funds for these services. Sec. 4 amended by Acts 1969, 61st Leg., p. 2273, ch. 765, § 1 eff. Sept. 1, 1969.

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Acts 1969, 61st Leg., p. 2273, ch. 765, § 1, amending section 4 of this article, provided in sections 2-4:

"Sec. 2. The effective date of this Act shall be September 1, 1969.

"Sec. 3. All laws or parts of laws in conflict herewith are hereby repealed to the extent of the conflict only.

"Sec. 4. If any section, subsection, paragraph, sentence, clause, phrase, or word in

this Act or application thereof to any person or circumstance is held invalid, such holding shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares it would have passed such remaining portions despite such invalidity."

Physicians' reports of certain injuries involving children, see art. 695c-1.

TITLE 20A. BOARD AND DEPARTMENT OF PUBLIC WELFARE

Art. 695c—2. Physical abuse of children; reports to county attorney; central registry [New].

Art. 695k—1. Contribution of funds to local organizations cooperating with Governor's Committee on Aging; Counties of 34,240 to 34,420 [New].

Art. 695c. Public Welfare Act of 1941

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Duties and functions of State Department

Sec. 4. The State Department shall be charged with the administration of the welfare activities of the State as hereinafter provided. The State Department shall:

- (1) Administer aid to needy dependent children, assistance to needy blind, and administer or supervise general relief;
- (2) Administer or supervise all child welfare service, except as otherwise provided for by law;
- (3) Administer assistance to the needy aged;
- (4) Cooperate with the Federal Social Security Board, created under Title 7 of the Social Security Act enacted by the Seventy-fourth Congress and approved August 14, 1935,¹ and any amendment thereto, and with any other agency of the Federal Government in any reasonable manner which may be necessary to qualify for Federal Aid for Assistance to persons who are entitled to assistance under the provisions of that Act, and in conformity with the provisions of this Act, including the making of such reports, in such forms and containing such information as the Federal Social Security Board or any other proper agency of the Federal Government may, from time to time, require, and comply with such requirements as such Board or agency may, from time to time, find necessary to assure the correctness and verifications of such reports;
- (5) Assist other departments, agencies and institutions of the local State and Federal Governments, when so requested and cooperate with such agencies when expedient, in performing services in conformity with the purposes of this Act;
- (6) Fix the fees to be paid to ophthalmologists or physicians skilled in treatment of diseases of the eye for the examination of applicants for, and recipients of, assistance as needy blind persons;
- (7) Establish and provide such method of local administration as is deemed advisable, and provide such personnel as may be found necessary for carrying out in an economical way the administration of this Act. To serve in an advisory capacity to such local administrative units as may be established, there may be also established local advisory boards of public welfare, which boards shall be of such size, membership, and experience as may be determined by the Commissioner of the Department of Public Welfare to be essential for the accomplishment of the purposes of this Act not in conflict with or duplication of other laws on this subject;
- (8) Carry on research and compile statistics relative to the entire Public Welfare Program throughout the State, including all phases of dependency, delinquency, and related problems, and develop plans in cooperation with other public and private agencies for the prevention as well as treatment of conditions giving rise to public welfare problems;
- (9) Have authority, any provision of law to the contrary notwithstanding, to dismiss without notice any person employed in the administration of this Act upon receipt of notice of a determination by the United States Civil Service Commission that such person has violated

For Annotations and Historical Notes, see V.A.T.S.

the provisions of the Act of Congress entitled an 'Act to prevent pernicious political activities' as amended² (U.S.C., Title 18, Section 61a) and that such violation warrants the removal of such person from his employment;

(10) Have authority to establish by rule and regulation a Merit System for persons employed by the State Department of Public Welfare in the administration of this Act; and shall provide by rule and regulation for the proper operation and maintenance of such Merit System on the basis of efficiency and fitness, and may provide for the continuance in effect of any and all actions theretofore taken in pursuance of the purposes of this subsection. The State Department is empowered and authorized to adopt regulations that may be necessary to conform to the Federal Social Security Act approved March 14, 1935, as amended,³ and shall have the power and authority to provide for the maintenance of a Merit System in conjunction with any Merit System applicable to any other State agency or agencies operating under the said Social Security Act as amended.

The Social Security Board shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods.

It is further provided that if any Merit Council is set up under authority of this Act the members and the executive head thereof shall be appointed subject to the confirmation of two thirds of the Senate.

(11) The Council shall provide for a preference in every State Department in this State (under which the Council has supervision) to all honorably discharged soldiers, sailors, nurses, and marines from the army and navy of the United States in the late Spanish-American and Philippine Insurrection Wars and the late World War when the United States of America was engaged in war against the Imperial Government of Germany and its allies and who are and have been residents or citizens of the State of Texas for a period of ten (10) years and who are competent and fully qualified shall be entitled to preference in appointments and employment; provided further that they shall receive a credit of five (5) points to be added to their merit ratings.

(12) Notwithstanding any other provisions contained in the law, the State Department of Public Welfare is authorized and empowered, at such times as may be necessary in order that Federal matching money will be available for public welfare programs administered by the Department for and/or on behalf of needy persons, and at such times as the State Department may determine feasible and within the limits of appropriated funds, to extend the scope of the public welfare programs and the services provided in relation to such programs to and on behalf of clients and related groups so as to include, in whole or in part, the entire range of public welfare assistance and/or services designed to help families and individuals attain or retain capability for independence or self-care and for such rehabilitation and other services as may be prescribed or authorized under Federal laws and rules and regulations, as they now are or as they may hereafter be amended.

The State Department shall have the authority to establish and maintain such programs designed to accomplish these objectives, and is authorized and empowered to enter into agreements with Federal agencies, other State agencies, or other public or private agencies, or individuals for the purpose of achieving these goals and accomplishing these purposes. Such agreements or contracts entered into between the State Department of Public Welfare and any other State agency shall not be subject to or controlled by "The Intergency Cooperation Act", being Article 4413(32), Vernon's Texas Civil Statutes.

The State Department of Public Welfare is authorized to accept, expend, and transfer any and all Federal and State funds appropriated for such purposes. The State Department of Public Welfare is author-

ized to accept, expend and transfer funds received from a county, municipality, or any public or private agency or from any other source; and such funds shall be deposited with the State Treasury, subject to withdrawal upon order of the Commissioner of Public Welfare in accordance with rules and regulations adopted by the Department and as authorized herein.

If any portion of the public welfare laws or amendments thereto are found to be in conflict with the provisions of the appropriate Federal statutes, as they now are or as they may hereafter be amended, then and in that event, the State Department of Public Welfare is specifically authorized and empowered to prescribe by means of rules and regulations such policies as may be necessary in order that the State may receive and expend Federal matching funds to the fullest extent possible within the Constitutional provisions relating to public welfare and in accordance with the provisions of this Act and the Federal statutes as they now are or as they may hereafter be amended and within the limits of appropriated funds.

Sec. 4 amended by Acts 1969, 61st Leg., p. 2525, ch. 845, § 1, eff. Sept. 1, 1969.

¹ 42 U.S.C.A. §§ 901-904.
² See 18 U.S.C.A. § 595.
³ 42 U.S.C.A. § 301 et seq.

Divisions in State Department

Sec. 5. The Commissioner of Public Welfare is hereby authorized to create such divisions within the State Department of Public Welfare as the commissioner may find necessary for effective administration and for carrying out the functions and responsibilities of the Department in compliance with the Federal and State Laws, as they now read or as they may hereafter be amended.

The commissioner shall have the power to allocate and reallocate functions among the Divisions within the Department and have the power and authority, subject to classification, to select, appoint, and discharge such assistants, clerks, stenographers, auditors, bookkeepers, and clerical assistants as may be necessary in the administration of the duties imposed upon the State Department of Public Welfare within the limits of the appropriations that may be made for the work of said Department.

Sec. 5 amended by Acts 1969, 61st Leg., p. 2525, ch. 845, § 2, eff. Sept. 1, 1969.

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Blind persons; assistance to

Sec. 12. Assistance shall be given under the provisions of this Act to any needy blind person who:

- (1) Is over the age of eighteen (18) years; and
- (2) Whose vision, with correctional glasses, is insufficient for use in an occupation for which sight is essential; and
- (3) Who resides in the State; and
- (4) Who is not publicly soliciting alms in any part of this State. The term "publicly soliciting" shall be construed to mean the wearing, carrying, or exhibiting the signs denoting blindness, or the carrying of receptacles for the reception of alms, or the doing of the same by proxy, or by begging from house to house or on any public street, road, or thoroughfare within the state; and
- (5) Who has not sufficient income or other resources to provide a reasonable subsistence compatible with decency and health; and
- (6) Who is a citizen of the United States.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 12 amended by Acts 1967, 60th Leg., p. 822, ch. 348, § 1, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 2525, ch. 845, § 3, eff. Sept. 1, 1969.

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Permanently and totally disabled persons; eligibility for assistance; definitions; amount of assistance

Sec. 16-B. (1) Assistance to the permanently and totally disabled shall be given under the provisions of this Act to any needy person:

1. Who is permanently and totally disabled as hereinafter defined; and
2. Who is eighteen (18) years of age or older but less than sixty-five (65) years of age; and
3. Who is a citizen of the United States, and
4. Who resides in the State; and
5. Who is in need as hereinafter defined; and
6. Who is not receiving Old Age Assistance, Aid to the Blind, or Aid to Families with Dependent Children; and
7. Who has not disposed of property, either personal or real, for the purpose of qualifying or increasing need for assistance, provided that the property, if still available, would affect either eligibility or the amount of the assistance payment.

No application for assistance under the provisions of this Act shall be approved until it has been established in accordance with the rules and regulations promulgated by the State Department of Public Welfare that the applicant is permanently and totally disabled by reason of a mental or physical impairment or a combination of both.

(2) The term "Permanently and totally disabled", as used in this Act, means that the individual has a permanent physical or mental impairment, disease, or loss, or a combination of such which is verifiable by medical findings, which is irreversible, or progressive, and not amenable to treatment, or requires treatment that is continuous, extremely hazardous, or of questionable benefit, and renders the individual totally disabled, as demonstrated by the fact that he is restricted in his performance of usual activities of daily living to the extent that he requires services, or the presence of another person in performing these activities, and which permanently precludes the applicant from engaging in a useful occupation as a homemaker or as a wage earner.

"Permanent and total disability", as defined herein, shall be established on the basis of a current applicable medical report of examination by a physician legally licensed to practice medicine in the State of Texas and who has been approved by the State Department of Public Welfare to make such examinations. The examining physician shall certify in writing, upon forms prescribed by the State Department, such information as the Department may require for proper diagnosis, prognosis, and recommendations as to medical and surgical treatment. Said reports shall be reviewed by a physician legally licensed to practice medicine in the State of Texas and employed by the State Department of Public Welfare, who shall approve or disapprove the medical evidence to substantiate the finding of "permanent and total disability". Said reviewing physician shall also determine the feasibility of referring said applicant for vocational rehabilitation. The State Department of Public Welfare shall adopt a reasonable fee schedule for examinations, when examinations are considered necessary by the State Department of Public Welfare for the purpose of determining eligibility for assistance of individuals who are permanently and totally disabled under the provisions of this Act, and the Department of Public Welfare is hereby authorized to pay for such examinations out of the funds appropriated to the State Department for the purpose of assistance to the permanently and totally disabled persons under the provisions of this Act or for administrative expense. The State

Department of Public Welfare is hereby authorized to incur claims for medical examinations which may be paid later out of subsequent appropriations for medical expenses when the current appropriation is inadequate to pay for such medical examinations.

Each recipient of assistance who is permanently and totally disabled shall submit to a reexamination whenever such reexamination is deemed necessary by the State Department of Public Welfare for the continuance of the assistance grant.

(3) The Department of Public Welfare is authorized to provide through employment of properly qualified personnel such medical, social and related services as are found necessary for proper administration of this Act, and for most effective use of other resources for rehabilitation and restoration to health and independence. The Department of Public Welfare shall refer recipients who can be benefited thereby to the appropriate public and private resources for rehabilitation through retraining, restorative services, or treatment and therapy.

(4) In determining "need", the State Department of Public Welfare shall adopt reasonable rules and regulations for the purpose of determining eligibility, and shall take into consideration all of the resources and income available to the individual from any source. Assistance may not be granted if such individual has available resources which are sufficient to provide a reasonable subsistence compatible with health and decency; provided that in consideration of income and resources actually available to an applicant, the State Department shall take into consideration the income and resources which may be available to the relatives of an applicant or a recipient, who under rules and regulations promulgated by the Department pursuant to Federal rules and regulations, are responsible for his support.

The State Department of Public Welfare shall adopt reasonable rules and regulations for determining the amounts of assistance given to an applicant. The amount of assistance given shall be determined by the State Department of Public Welfare through its District or County Agents in the County or District in which the needy person resides. The amount granted shall provide such person with a reasonable subsistence compatible with health and decency and within the limitations and provisions of the Constitution of the State of Texas, as is now provided or may hereafter be provided. The amount of such assistance out of state funds to each person assisted shall never exceed the amount so expended out of Federal funds. The method of investigation and the determination of the amount of assistance granted shall comply with the limitations and provisions of the Federal Social Security Act as is now provided or may hereafter be provided.

Sec. 16-B amended by Acts 1965, 59th Leg., p. 1619, ch. 693, § 1, eff. Aug. 31, 1965; Acts 1967, 60th Leg., p. 823, ch. 348, § 2, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 2525, ch. 845, § 3, eff. Sept. 1, 1969.

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Aid to families with dependent children

Sec. 17. Aid to Families with Dependent Children shall be given under the provisions of this Act with respect to any dependent child. "Dependent Child" is any needy child:

- (1) Who is a citizen of the United States; and
- (2) Who resides in the State; and
- (3) Who is under the age of eighteen (18), or under the age of twenty-one (21) and (as determined by the Department in accordance with standards prescribed by the Department) a student regularly attending a school, college, or university, or regularly attending a course of vocational or technical training designed to fit him for gainful employment; and

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(4) Who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent; and

(5) Who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece, in a place of residence maintained by one or more of such relatives as his or their own home; and

(6) Who has not sufficient income or other resources to provide a reasonable subsistence compatible with decency and health. In determining need, the State Department of Public Welfare shall take into consideration any other income and resources of any child or relative claiming Aid to Families with Dependent Children, as well as any expenses reasonably attributable to the earning of any such income; except that, in making such determination, the State Department may, subject to limitations prescribed by the Department, permit all or any portion of the earned or other income to be set aside for the future identifiable needs of the dependent child.

Sec. 17 amended by Acts 1967, 60th Leg., p. 825, ch. 348, § 3, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 2525, ch. 845, § 3, eff. Sept. 1, 1969.

Dependent child; definition

Sec. 17-A. The term "dependent child" shall, notwithstanding the provisions of Section 17 of this Act, also include a child:

(1) Who would meet the requirements of such Section 17 except for his removal from the home of a relative as specified in said Section, as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child; and

(2) Whose placement and care are the responsibility of the State Department of Public Welfare or some other agency with whom the State Department of Public Welfare has made an agreement for the care and supervision of such child, and in compliance with the rules and regulations promulgated by the State Department of Public Welfare for carrying out the provisions of this Act and for whose placement and care the State Department of Public Welfare is responsible, and who has been placed in a foster family home or child-caring institution as a result of such determination, and for whom the State may receive Federal funds for the purpose of providing foster family care in accordance with rules and regulations promulgated by the Department; and the Department is empowered and authorized to accept and expend funds made available to it from any and all sources for the purpose of providing foster care on behalf of such children. Any such homes which may not be subject to the licensing provisions of this Act are hereby made subject to such licensing provisions.

Sec. 17-A amended by Acts 1969, 61st Leg., p. 2525, ch. 845, § 4, eff. Sept. 1, 1969.

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Program for welfare and related services; federal programs and funds; rules and regulations

Sec. 18-A. (1) The State Department of Public Welfare shall provide for the development and application of a program for such welfare and related services for each child who receives Aid to Families with Dependent Children as may be necessary in the light of the particular home conditions and other needs of such child, and provide for coordination of such programs with any other services provided for children in the State, and particularly with the Child Welfare Services provided by the Department, with a view of making available welfare and related services which will best promote the welfare of such child and his family and which will help to maintain and strengthen family life by helping such parents or

relatives to attain or retain their capabilities for maximum self-support and personal independence consistent with the maintenance of continued parental care and protection, and in accordance with reasonable rules and regulations prescribed by the State Department of Public Welfare in cooperation with other public and private welfare agencies for the care and protection of children.

(2) The State Department of Public Welfare is authorized to promulgate rules and regulations which will enable it to fully participate in the work and training programs authorized by Federal Law as it now reads or as it may hereafter be amended; to provide through rules and regulations for all services required or deemed advisable under the provisions of the Program; and to accept, transfer and expend funds made available by the Government of the United States, the State of Texas, or through any other public or private source for the purpose of carrying out the provisions of this Section.

Sec. 18-A amended by Acts 1969, 61st Leg., p. 2525, ch. 845, § 5, eff. Sept. 1, 1969.

* * * * *

Old age assistance; persons eligible

Sec. 20. Old Age Assistance shall be given under the provisions of this Act to any needy person:

- (1) Who has attained the age of sixty-five (65) years; and
- (2) Who is a citizen of the United States or who is a noncitizen and has resided within the boundaries of the United States for at least twenty-five (25) years; and
- (3) Who resides in the State; and
- (4) Who has not sufficient income or other resources to provide a reasonable subsistence compatible with health and decency. Provided that in consideration of income and resources actually available to applicant the State Agency shall not evaluate income and resources which may be available only to relatives of applicant. Income and resources to be taken into consideration shall be known to exist and shall be available to the applicant. An applicant for old age assistance shall not be denied assistance because of the existence of a child or other relative, except husband or wife, who is able to contribute to the applicant's support, and no inquiry shall be made into the financial ability of said child or other relative, except husband or wife, in determining applicant's eligibility. The applicant's child or other relative, except husband or wife, is to be treated by the State Department in the same way as any person not related to the applicant; any aid or contributions to the applicant from such child or other relative, except husband or wife, must actually exist in fact, or with reasonable certainty, be available in the future to constitute a resource to the applicant.

(5) An applicant for old age assistance shall not be denied assistance because of the ownership of a resident homestead, as the term "resident homestead" is defined in the Constitution and Laws of the State of Texas. Sec. 20 amended by Acts 1967, 60th Leg., p. 137, c. 71, § 1, eff. Aug. 28, 1967; Acts 1967, 60th Leg., p. 826, ch. 348, § 5, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 2525, ch. 845, § 3, eff. Sept. 1, 1969.

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Legal services; fee schedule; licensed attorneys; solicitation

Sec. 32. (1) The State Department of Public Welfare is authorized to provide legal services to an applicant for or recipient of assistance, under any of the programs administered by the Department, in an appeal or fair hearing before the Department if the applicant or recipient requests such legal services. Such services shall be provided by an attorney legally licensed to practice in the State of Texas, or through the use of law students acting under the supervision of a law teacher or of a

For Annotations and Historical Notes, see V.A.T.S.

legal services organization, and who has been approved by the State Department of Public Welfare. The State Department shall adopt a reasonable fee schedule for such services, such fees not to exceed those customarily charged by the attorney for similar services for private clients. Such fees shall be paid only out of such funds as may be appropriated to the Department for this purpose.

(2) It shall be unlawful for any attorney in fact, or any other person, firm or corporation whatsoever, representing any applicant or recipient of assistance with respect to any application before the State Department, or any of its agents, to charge a fee for his services in aiding or representing any such applicant before the State Department, or for any other service in aiding such applicant to secure assistance or service unless such individual is an attorney legally licensed to practice in the State of Texas. It shall be unlawful for any person, firm or corporation, to advertise, hold himself out for or solicit the procurement of assistance or service.

Sec. 32 amended by Acts 1969, 61st Leg., p. 2525, ch. 845, § 6, eff. Sept. 1, 1969.

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Acts 1969, 61st Leg., p. 2525, ch. 845, which amended various sections of this article, provided in sections 7-10:

"Sec. 7. The effective date of this Act shall be September 1, 1969.

"Sec. 8. All laws or parts of laws in conflict herewith are hereby repealed to the extent of the conflict only.

"Sec. 9. If any section, subsection, paragraph, sentence, clause, phrase, or word in this Act or application thereof to any person or circumstance is held invalid, such holding shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares it would have passed such remaining portions despite such invalidity.

"Sec. 10. The fact that under Federal Law the Department is required to extend the welfare programs and to provide services to and on behalf of the needy people served by the Department, and such services can, in many instances, be best provided through contracts and agreements with individuals or with other public or private agencies; the fact that by extending these programs and services, funds which could be made available to the Department through other public or private sources can be used for matching Federal funds; the fact that the Federal and State Laws enacted since the State Department of Public Welfare was created have added innumerable responsibilities to the Department thereby making the divisions which were created within the Department at that time inoperative; the further fact that

the Department could more effectively operate and more effectively use staff time if divisions were restructured; the fact that many persons, particularly aged and disabled persons, live with their children or other relatives so as to receive personal care and assistance; the fact that these aged and disabled recipients have to frequently move across state lines in order to receive this care because the relatives with whom they live have to move across state lines due to military service or employment; the fact it works a grave hardship and injustice on the recipient whose public assistance grant is denied because of these factors beyond his control; the fact that part of the funds used in paying the grants come from Federal funds; the fact that the Federal courts have held that the durational residence requirement for recipients of public assistance is unconstitutional; the fact that under Title XIX durational residence for Medical Assistance is prohibited; the fact that the Social Security Amendments of 1967 provided additional funds for extending the assistance and services available to applicants for and recipients of Public Assistance, and the crowded condition of the calendar create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and the said Rule is suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Art. 695c—2. Physical abuse of children; reports to county attorney; central registry

Purpose

Section 1. In order to protect children whose health and welfare may be adversely affected through the infliction, by other than accidental means, of physical injury, or through physical neglect, the legislature hereby provides for the reporting of such cases by physicians or medical staff of institutions, school teachers, nursery school directors, coroners, social workers, and all peace officers of the state to the office of the

county attorney. It is the intent of the legislature that, as a result of such reporting, protective social services shall be made available through the office of the nearest director of child welfare services in an effort to prevent further abuse or neglect, and to safeguard and enhance the welfare of such children and preserve family life wherever possible.

Persons to report

Sec. 2. (a) Any licensed physician staff member of a medical institution, intern, registered nurse, school teacher, nursery school director, social worker, coroner, or peace officer who observes or treats a child suffering from injuries suspected to have been inflicted by other than accidental means, or who appears to be suffering from physical neglect, may report this fact to the county attorney of the county in which the child resides, or to the Regional Department of Public Welfare, Division of Child Welfare.

Immunity from liability

Sec. 3. Any person making a report without malice pursuant to this Act is immune from any civil or criminal liability.

Evidence not privileged

Sec. 4. The husband-wife privilege shall not be a ground for excluding evidence regarding a child's injuries or neglect, or the cause thereof, in any judicial proceeding resulting from a report made pursuant to this Act.

Duties of the county attorney

Sec. 5. (a) Each county attorney shall accept and maintain a file of the reports rendered to his office under the provisions of this Act on injured or neglected children residing within the county.

(b) The file of reports shall be sufficient to trace a family pattern of abuse or neglect, if any, and to facilitate inter-agency cooperation.

(c) The county attorney is responsible for implementing the recommendations of the local director of the county child welfare unit.

(d) The county attorney shall take whatever legal measures are necessary to insure the physical well-being, health, and safety of the child, including requesting issuance from the juvenile court of an order for the temporary removal of the child, such order to become permanent upon a showing of good cause at the completion of the investigation.

Central registry

Sec. 6. There shall be established and maintained in Austin, Texas, by the Texas State Welfare Department a central registry of reported cases of child abuse. The Registry shall provide for cooperation with local social service agencies, and cooperation with other states in exchanging reports to effect a national registration system.

Acts 1965, 59th Leg., p. 277, ch. 117, eff. Aug. 30, 1965. Amended by Acts 1969, 61st Leg., p. 637, ch. 219, § 1, eff. Sept. 1, 1969.

Title of Act:

An Act relating to physicians' reports of declaring an emergency. Acts 1965, 59th certain injuries involving children; and Leg., p. 277, ch. 117.

Art. 695i. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

For Annotations and Historical Notes, see V.A.T.S.

Art. 695k. Texas State Committee on Aging

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Chairman; duties; compensation

Sec. 2. In addition to the nine (9) members provided for in Section 1, the Governor shall also appoint a Chairman of the Governor's Committee on Aging, who shall serve during the tenure of the Governor who appointed him, and until his successor has been appointed. If the Governor appoints a state officer as Chairman, the services of said Chairman shall not constitute any office but shall be considered as an extension of his other official duties. He shall direct the work of the Coordinator of the Aging and the Committee.

The Chairman shall serve without compensation but shall be entitled to reimbursement for actual travel expenses incurred in the performance of said duties.

Sec. 2 amended by Acts 1969, 61st Leg., 2nd C.S. p. 142, ch. 38, § 1, emerg. eff. Sept. 19, 1969.

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Art. 695k—1. Contribution of funds to local organizations cooperating with Governor's Committee on Aging; Counties of 34,240 to 34,420

In all counties of the State of Texas having a population of not less than 34,240 and not more than 34,420, according to the last preceding federal census, any such county, or any city or town located in any such county, may cooperate with the Governor's Committee on Aging in carrying out the purposes of such committee on a local level by contributing funds to any local organization the functions of which, in whole or in part, are to cooperate with such committee, and which does operate with the approval and sanction of the Governor's Committee on Aging, as set out in Chapter 320, Acts of the 59th Legislature, Regular Session, 1965 (Article 695k, Vernon's Texas Civil Statutes). The fact that the buildings, facilities, services, or programs operated by such organization may be in part for other community activities or benefits shall not prohibit the contributing of such funds provided the Governor's Committee on Aging has approved that part of the program applying to the aging.

Acts 1969, 61st Leg., p. 1803, ch. 607, § 1, emerg. eff. June 12, 1969.

Title of Act:

An Act providing that in all counties of the State of Texas, having a population of not less than 34,240 and not more than 34,420, according to the last preceding federal census, any such county, or any city or town located in any such county, may cooperate with the Governor's Committee on Aging in carrying out the purposes of that committee on a local level by contributing funds to any local organization the functions of which, in whole or in part, are to cooperate with such committee and which does operate with the approval and sanc-

tion of the Governor's Committee on Aging, as set out in Chapter 320, Acts of the 59th Legislature, Regular Session, 1965 (Article 695k, Vernon's Texas Civil Statutes), and providing that the fact that the buildings, facilities, services, or programs operated by such organization may be in part for other community activities or benefits shall not prohibit the contributing of such funds provided the Governor's Committee on Aging has approved that part of the program applying to the aging; and declaring an emergency. Acts 1969, 61st Leg., p. 1803, ch. 607.

TITLE 22. BONDS—COUNTY, MUNICIPAL, ETC.

CHAPTER ONE—GENERAL PROVISIONS AND REGULATIONS

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| <p>Art.
717k—2. Public securities; issuance by public agencies; interest rate [New].</p> <p>717k—3. Refunding bonds; issuance by public agencies; approval; registration; etc. [New].</p> | <p>Art.
717k—4. Revenue bonds; issuance by cities, towns and villages; validation of proceedings [New].</p> |
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Art. 717k. State, county, municipality or political subdivision; issuer of bonds, notes, etc.

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Refunding bonds; power to issue; sale price; maturity; interest rate; security; combination issuance; election; approval; registration; sale and delivery; legal investments; exception

Sec. 2. (a) The governing body of any issuer shall be authorized to refund all or any part of any of its outstanding bonds, notes, or other general or special obligations by the issuance of refunding bonds to be sold for cash in such principal amounts as are necessary to provide all or any part of the money required to pay the principal of any obligations being refunded and the interest to accrue on said obligations to the maturity thereof, and/or to provide all or any part of the money required to redeem any obligations being refunded, prior to maturity, on any date or dates upon which said obligations are subject to such redemption, including principal, and any required redemption premium, and the interest to accrue on said obligations to said redemption date or dates. Said refunding bonds shall be sold for not less than their par value plus accrued interest to date of delivery, shall mature not more than forty years from their date, and shall bear interest at any rate or rates as shall be determined within the discretion of the governing body of the issuer. Such refunding bonds may be secured by and made payable from the same source as the obligations being refunded thereby, or may be secured by and made payable from taxes or revenues, or both, or any other or different source, or any combination of sources, if the issuer is otherwise authorized by the Texas Constitution or any statute to secure or pay any kind or type of bonds by or from any such source. Said refunding bonds may be issued in combination with new bonds, and/or with provision for the subsequent issuance of additional parity bonds, or subordinate lien bonds, under such terms or conditions, and with such security, as may be set forth in the proceedings authorizing the issuance of said refunding bonds, all within the discretion of the governing body of the issuer; provided, however, that no such bonds shall be issued contrary to the provisions of the Texas Constitution. All refunding bonds issued pursuant to this Act may be issued without any election in connection with the issuance thereof or the creation of any encumbrance in connection therewith; except that if the Texas Constitution would require an election or vote to permit any procedure, action, or matter pertaining to such refunding bonds, then an election to authorize any such procedure, action, or matter shall be held substantially in accordance with Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended, to the extent practicable, applicable, and appropriate. All bonds permitted to be issued under this Act, and the appropriate proceedings authorizing their issuance, shall be submitted to the Attorney General of the State of Texas for examination. If he finds that such bonds have been authorized in accordance with the Texas Constitution and this Act he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas, without the surrender, exchange, or cancellation of the obligations being refunded; and notwithstanding any provisions of this Act to the con-

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trary, such bonds shall be so registered before the making of the deposit with the State Treasurer as required hereunder, and such refunding bonds may be sold and delivered to the purchaser thereof in order to permit the issuer to use the proceeds from such sale and delivery to make all or any part of said deposit. After such approval and registration, such bonds shall be incontestable in any court, or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes. All refunding bonds issued under this Act, shall be legal and authorized investments for all banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, fiduciaries, trustees and guardians, and for the interest and sinking funds and other public funds of any issuer, as such term is defined in this Act. Said refunding bonds also shall be eligible and lawful security for all deposits of public funds of the State of Texas and of any issuer, as such term is defined in this Act, to the extent of the market value of said refunding bonds, when accompanied by any unmatured interest coupons appurtenant thereto. Notwithstanding any provisions of this Act to the contrary, no refunding bonds shall be issued hereunder unless the obligations to be refunded are scheduled to mature or are subject to redemption prior to maturity within not more than five years from the date of the refunding bonds; and no refunding bonds shall be issued hereunder to refund electric and gas system revenue bonds issued by any city having a population in excess of 500,000, according to the most recent federal census.

Sec. 2(a) amended by Acts 1969, 61st Leg., p. 2316, ch. 783, § 1, emerg. eff. June 14, 1969.

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Deposits with State Treasurer; effect; refunding of obligations; fees; forwarding to place of payment; time of payment

Sec. 7. When the deposit of money required hereunder is made with the State Treasurer in accordance with this Act, for any obligations being refunded pursuant hereto, such deposit shall constitute the making of firm banking and financial arrangements for the discharge and final payment or redemption of the obligations being refunded; provided, however, that, at the option of and within the discretion of the issuer, provision may be made in the proceedings authorizing the issuance of such refunding bonds for the subordination thereof to the obligations being refunded, but only in the manner and to the extent specifically provided in said proceedings. Notwithstanding any provisions of this Act to the contrary, the fees to be paid the State Treasurer for his services and expenses under this Act shall not exceed a maximum of \$1,000. Immediately after the receipt thereof, and by the most expeditious means, it shall be the duty of the State Treasurer to forward to and deposit with the place of payment (paying agent) for the obligations being refunded all of the money deposited with him pursuant hereto (excepting the fees for his services). If there is more than one place of payment for the obligations being refunded, the State Treasurer shall forward the aforesaid money directly to the one of said places of payment which is located in the State of Texas; provided that if more than one of such places of payment is located in the State of Texas, or if no place of payment is located in the State of Texas and there is more than one place of payment located outside of the State of Texas, then said money shall be forwarded directly to the one of such places of payment having the largest capital and surplus. It shall be the duty of the place of payment to deposit the aforesaid money received from the State Treasurer (excepting the amount thereof representing the charges of the place of payment) into an interest and sinking fund to be established and maintained in trust and as a trust fund for the payment of the obligations being refunded. Further, it shall be the duty of the place of payment, out of said interest and sinking fund, to pay or redeem the obligations being refunded when duly presented

therefor at the maturity, due date, or redemption date thereof. If there is more than one place of payment, the one having the deposit shall make appropriate financial arrangements so that the necessary funds will be available at the other place or places of payment to pay or redeem any of such obligations being refunded when so presented for payment or redemption. The holder or holders of any obligations being refunded by any refunding bonds issued and sold under this Act shall not have the right to demand or receive payment thereof at any time before the scheduled maturity date or dates, due date or dates, or redemption date or dates, respectively, of said obligations being refunded, unless the governing body of the issuer shall have specifically and affirmatively provided for and authorized the earlier payment of said obligations in the proceedings authorizing said refunding bonds.

Sec. 7 amended by Acts 1969, 61st Leg., p. 2316, ch. 783, § 2, emerg. eff. June 14, 1969.

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Art. 717k—2. Public securities; issuance by public agencies; interest rate

Section 1. As used in this Act, unless the context otherwise requires:

(a) The term "public agency" shall mean and include the State of Texas, any department, board, agency, or instrumentality of the State of Texas, any municipal corporation, any political subdivision, any district, and any body politic and corporate of the State of Texas.

(b) The term "public securities" shall mean any bonds, notes, or other obligations payable from taxes, or revenues, or both, which any public agency is now or hereafter may be authorized to issue and sell pursuant to provisions of law other than this Act.

(c) The term "net interest cost" with reference to an issue or series of public securities shall mean the total of all interest to accrue and come due thereon through the final scheduled maturity date thereof, plus any discount or minus any premium included in the price paid therefor. The term "bond years" with reference to each separate bond, note, or other obligation constituting part of an issue or series of public securities shall mean the figure obtained by dividing the principal amount (par value) of each such bond, note, or other obligation by one-thousand (1000) and multiplying such quotient by the number of years from the date interest commences to accrue thereon to its scheduled maturity date. The term "net effective interest rate" with reference to an issue or series of public securities shall mean the figure obtained by dividing the amount of the net interest cost of such issue or series by the aggregate total number of bond years of all bonds, notes, or other obligations constituting such issue or series, and then dividing such quotient by ten (10) and expressing the result as a rate of interest in per cent per annum.

Sec. 2. Any public agency is hereby authorized to issue and sell any issue or series of its public securities at any price or prices and bearing interest at any rate or rates, as shall be determined within the discretion of the governing body of the public agency, subject to the exceptions hereinafter provided. Any public securities heretofore authorized by an election may be issued, sold, and bear interest as provided in this Act, except that public securities heretofore authorized by an election required by the Constitution of Texas shall not be issued at an interest rate greater than authorized at such election unless a further election is held resulting favorably to the issuance of such previously voted public securities at a price and at a rate authorized by this Act. Elections for that purpose shall be called and held, and notice thereof given, in the same manner as provided by law applicable to the previous election authorizing such public securities.

Sec. 3. The provisions of this Act concerning sale price and the maximum rates of interest which public securities may bear shall apply

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to all public securities notwithstanding the provisions or restrictions of any general or special law or charter to the contrary, but shall not apply to any public securities whose maximum rate of interest or maximum net effective interest rate is, at the time of issuance thereof, otherwise specifically fixed by the Constitution.

Acts 1969, 61st Leg., p. 9, ch. 3, emerg. eff. Feb. 24, 1969, Secs. 2, 3 amended by Acts 1969, 61st Leg., 2nd C.S. p. 48, ch. 3, § 1, emerg. eff. Sept. 11, 1969.

Title of Act:

An Act providing that the State of Texas, any department, board, agency or instrumentality of the State of Texas, any municipal corporation, any political subdivision, any district and any body politic and corporate of the State of Texas which is now or may hereafter be authorized by law to issue and sell bonds, notes, or other obligations payable from taxes, or revenues,

or both, may issue and sell such bonds, notes, or other obligations at any price or prices and bearing interest at any rate or rates, provided that the net effective interest rate, as herein defined, shall not exceed six and one-half per cent (6½%) per annum; making certain qualifications and exceptions; enacting other provisions related to the subject; and declaring an emergency. Acts 1969, 61st Leg., p. 9, ch. 3.

Art. 717k—3. Refunding bonds; issuance by public agencies; approval; registration; etc.

Definitions

Section 1. The term "issuer," as used in this Act, shall mean any department, board, authority, agency, subdivision, municipal corporation, district, public corporation, body politic, or instrumentality of the State of Texas of every kind or type whatsoever, including, without limitation, all counties, home rule charter cities, general law cities, towns, villages, state-supported educational institutions of higher learning, junior and regional college districts, school districts, hospital districts, water districts, road districts, navigation districts, conservation districts, and all other kinds and types of political or governmental entities. The term "governing body," as used in this Act, shall mean the board, council, commission, court, or other group which is authorized by law to issue bonds for or on behalf of any issuer.

Complete or partial refunding

Sec. 2. The governing body of any issuer shall be authorized to refund all or any part of any of its outstanding bonds, notes, or other general or special obligations by the issuance of refunding bonds.

Maturity; interest; security and source of payment; combination issuance; election; exception

Sec. 3. Said refunding bonds shall mature serially or otherwise in not more than forty years from their date, and shall bear interest at any rate or rates as shall be determined within the discretion of the governing body of the issuer. Such refunding bonds may be secured by and made payable from the same source as the obligations being refunded thereby, or may be secured by and made payable from taxes or revenues, or both, or any other or different source, or any combination of sources, if the issuer is otherwise authorized by the Texas Constitution or any statute to secure or pay any kind or type of bonds by or from any such source. Said refunding bonds may be issued in combination with new bonds, and/or with provision for the subsequent issuance of additional parity bonds, or subordinate lien bonds, under such terms or conditions, and with such security, as may be set forth in the proceedings authorizing the issuance of said refunding bonds, all within the discretion of the governing body of the issuer; provided, however, that no such bonds shall be issued contrary to the provisions of the Texas Constitution. All refunding bonds issued pursuant to this Act may be issued without any election in connection with the issuance thereof or the creation of any incumbrance in connec-

tion therewith; except that if the Texas Constitution would require an election or vote to permit any procedure, action, or matter pertaining to such refunding bonds, then an election to authorize any such procedure, action, or matter shall be held substantially in accordance with Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended, to the extent practicable, applicable, and appropriate. Notwithstanding any provisions of this Act to the contrary, no refunding bonds shall be issued hereunder to refund electric and gas system revenue bonds issued by any city having a population in excess of 500,000, according to the most recent federal census.

Negotiability; redeemability; issuance

Sec. 4. Said bonds, and any interest coupons appurtenant thereto, shall be negotiable instruments (except that such bonds may be made registrable as to principal alone or as to both principal and interest), and they may be made redeemable prior to maturity, and may be issued in such form, denominations, and manner, and under such terms, conditions and details, and may be executed, as provided by the governing body of the issuer in the proceedings authorizing the issuance of said bonds.

Approval; registration; exchange

Sec. 5. All bonds permitted to be issued under this Act, and the appropriate proceedings authorizing their issuance, shall be submitted to the Attorney General of the State of Texas for examination. If he finds that such bonds have been authorized in accordance with the Texas Constitution and this Act, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas; and after such approval and registration, such bonds shall be incontestable in any court, or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes. The refunding bonds authorized by this Act shall be issued in exchange for, and upon surrender and cancellation of, the obligations being refunded thereby, and the Comptroller of Public Accounts shall register the refunding bonds and deliver the same to the holder or holders of the obligations being refunded thereby, in accordance with the provisions of the proceedings authorizing the refunding bonds. Any such exchange may be made in one or in several installment deliveries, and all or any part of any outstanding issue of bonds, notes, or other obligations may be refunded in whole or in part hereunder. Any outstanding issue of bonds, notes, or other obligations, whether payable from revenues, taxes, or otherwise, may be refunded hereunder in part provided that the issuer can demonstrate to the attorney general at the time of the refunding that adequate resources will remain, based on then current conditions, to provide for the payment of the unrefunded part of such issue when due.

Legal investments; security for deposits

Sec. 6. All bonds issued under this Act shall be legal and authorized investments for all banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, fiduciaries, trustees and guardians, and for the interest and sinking funds and other public funds of any issuer, as such term is defined in this Act. Said refunding bonds also shall be eligible and lawful security for all deposits of public funds of the State of Texas and of any issuer, as such term is defined in this Act, to the extent of the value of said refunding bonds, when accompanied by any unmatured interest coupons appurtenant thereto.

Cumulative effect

Sec. 7. This Act shall be cumulative of all other laws on the subject, but this Act shall be wholly sufficient authority within itself for the

For Annotations and Historical Notes, see V.A.T.S.

issuance of the bonds and the performance of the other acts and procedures authorized hereby, without reference to any other laws or any restrictions or limitations contained therein, except as herein specifically provided; and when any bonds are being issued under this Act, then to the extent of any conflict or inconsistency between any provisions of this Act and any provisions of any other law, the provisions of this Act shall prevail and control; provided, however, that any issuer shall have the right to use the provisions of any other laws, not in conflict with the provisions hereof, to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this Act.

Severability

Sec. 8. In case any one or more of the sections, provisions, clauses, or words of this Act, or the application thereof to any situation or circumstance, shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other sections, provisions, clauses, or words of this Act, or the application thereof to any other situation or circumstance, and it is intended that this Act shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, provision, clause, or word had not been included herein.

Acts 1969, 61st Leg., p. 2319, ch. 784, emerg. eff. June 14, 1969.

Title of Act:

An Act defining the term "issuer" as meaning any and every kind and type of political or governmental instrumentality or entity in or of the State of Texas, and defining the term "governing body" as being the group authorized by law to issue bonds for or on behalf of any issuer; authorizing the governing body of any issuer to refund any of its outstanding bonds, notes, or other general or special obligations by the issuance of refunding bonds to be secured by or payable from any lawful source; providing for the manner in which said refunding

bonds may be issued, and for certain restrictions in connection therewith; providing for the approval of said bonds by the attorney general and the registration thereof by the comptroller of public accounts; providing for the exchange of refunding bonds for the obligations being refunded; providing that this Act shall be cumulative of all other laws on the subject, but shall prevail and control in the case of conflict with any other law; prescribing a severability provision; and declaring an emergency. Acts 1969, 61st Leg., p. 2319, ch. 784.

Art. 717k—4. Revenue bonds; issuance by cities, towns and villages; validation of proceedings

Section 1. Where any city, town, or village incorporated under the laws of the State of Texas has heretofore submitted to the qualified electors who own taxable property in said city and who had duly rendered the same for taxation a proposition or propositions for the issuance of revenue bonds for a purpose or purposes provided by Chapter 10, Title 28, Revised Civil Statutes of Texas, 1925, as amended, and such revenue bonds were approved by a majority vote of the said participating property taxpaying voters, all election proceedings relating thereto are hereby validated, ratified, and confirmed and such bonds may be issued and made payable from and secured by the net revenues of one or more of the utility systems mentioned in the said proposition or propositions approved at the said election, but in no event shall any such pledge of net revenues be made which would conflict with the contract rights of the holders of any outstanding bonds.

Sec. 2. All proceedings of the governing body of an incorporated city with respect to the authorization of bonds payable from revenues (any sources except ad valorem taxes) are hereby ratified and confirmed and such bonds shall be payable from and secured by the revenues pledged to the payment thereof.

Sec. 3. In all instances where revenue bonds are validated by the provisions hereof, all proceedings relating to the authorization of such bonds shall be submitted to the Attorney General of Texas, and when

such bonds have been or are hereafter approved by the Attorney General and registered by the Comptroller of Public Accounts, they shall be incontestable.

Sec. 4. The provisions hereof shall not be construed as validating any bonds where (i) such bonds were required by law to be approved at an election unless the issuance thereof was approved at such election by a majority of the participating resident qualified property taxpaying electors, or (ii) the bonds or election proceedings are involved in litigation questioning the validity thereof on the effective date of this Act if such litigation is ultimately determined against the validity thereof. Acts 1969, 61st Leg., 2nd C.S. p. 159, ch. 47, emerg. eff. Sept. 19, 1969.

Sections 5 and 6 of the act of 1969 provided:

"Sec. 5. If any word, phrase, clause, sentence, or part of this Act shall be held by any court of competent jurisdiction to be invalid or unconstitutional, or for other reasons void or unconstitutional, it shall not affect any other word, phrase, clause, sentence, or part of this Act, and such remaining portions shall remain in full force and effect.

"Sec. 6. The fact that a decision of the United States Supreme Court (dated July 16, 1969, in the case styled Cipriano v. City of Houma) [see 89 S.Ct. 714, 1623, 286 F. Supp. 823] has cast doubt upon the validity of elections ordered held for the purpose of authorizing the issuance of revenue bonds by holding a state may not constitutionally restrict the electorate participating in such an election to property taxpaying voters, the fact that under Texas laws most revenue bonds are required to be approved by such restricted classification of voters, the fact that cities should be authorized to proceed with the issuance of revenue bonds

which have been approved at an election, if same was required by Texas law, and the further fact that proceedings relating to the authorization of revenue bonds should be validated with limited exceptions, all of which facts constitute and create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and the same is hereby suspended and this Act shall take effect and be in force from and after its passage, and it is so enacted."

Title of Act:

An Act validating proceedings relating to the issuance of revenue bonds authorized by incorporated cities, towns, and villages under certain conditions; providing for the issuance of such revenue bonds, for their security and payment, their approval by the Attorney General and registration by the Comptroller of Public Accounts; limiting the application of the Act; providing a severance clause; and declaring an emergency. Acts 1969, 61st Leg., 2nd C.S., p. 159, ch. 47.

CHAPTER THREE—PUBLIC ROAD BONDS

1. COUNTY AND DISTRICT BONDS

Art.

752y—6. Validation of road bonds [New].

1. COUNTY AND DISTRICT BONDS

Art. 752b. Bond elections

Upon the petition of the resident property taxpaying voters of any county equivalent in number to one percent or more of the total votes cast in said county in the last preceding general election for Governor, the commissioners court of such county, at any Regular or Special Session thereof, shall order an election to be held in such county to determine whether or not the bonds of such county shall be issued for the purpose of the construction, maintenance and operation of macadamized, graveled, or paved roads and turnpikes, or in aid thereof, and whether or not taxes shall be levied on all taxable property of said county, subject to taxation, for the purpose of paying the interest on said bonds and to provide a sinking fund for the redemption thereof at maturity. Provided, however, that if said petition designates any particular road or roads, project or projects or any portion or portions thereof, the petition shall be accompanied with a written estimate of the cost thereof prepared by the county engineer at county expense. The election order and notice of election shall state the purpose for which the bonds are to be issued, the amount thereof, the rate of in-

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terest, and that ad valorem taxes are to be levied annually on all taxable property within said county sufficient to pay the bonds at maturity. Amended by Acts 1969, 61st Leg., p. 1654, ch. 518, § 1, emerg. eff. June 10, 1969.

Art. 752y—6. Validation of road bonds

Section 1. All road bonds heretofore voted and authorized under the provisions of Article 3, Section 52, of the Constitution of the State of Texas, by a two-thirds majority vote of the qualified resident property taxpaying voters, voting at an election held for such purpose in any road district or other defined district in the State of Texas, as the case may be, who own taxable property in such road district, or other defined district, as the case may be, and who had duly rendered such property for taxation, and all proceedings had with respect to the voting of said bonds, including the petition praying for the calling of all such elections, the giving of notice of the hearing had upon such petition and the holding of the hearing thereon, and also including the order calling all such elections and the giving of the notices of election in all such elections, including also the holding of each such election and the declaring the results thereof, are hereby in all things validated. All such bonds heretofore voted and issued, including the order authorizing the issuance of such bonds and the levying of the tax in payment of such bonds, are hereby in all things validated; and all such bonds heretofore voted but not yet issued, when approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of Texas, and delivered to the purchaser, shall be held to be general, direct, and binding obligations of such road district, or other defined district, against which same is issued, and shall be incontestable except for fraud or forgery. All such bonds which have heretofore been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of Texas, and delivered to the purchaser, are hereby in all things validated and shall be held to be general, direct, and binding obligations of such road district, or other defined district, against which same is issued, and shall be incontestable except for fraud or forgery.

Sec. 2. All road districts or other districts, heretofore created and defined by the commissioners courts of this state which have heretofore voted and authorized the issuance of road bonds under the provisions of Article 3, Section 52, of the Constitution of Texas, by a two-thirds majority vote of the qualified resident property taxpaying voters of such road district or other defined district at an election held therein for such purpose, who owned taxable property in such road district or other defined district and who had duly rendered their property for taxation, are hereby in all things validated as though each such road district, or other defined district, had been created and defined in the first instance by the Legislature of the State of Texas.

Sec. 3. It is hereby expressly found and declared that all property subject to taxation situated in the road districts or other defined districts, the bonds of which have been heretofore voted by a two-thirds majority vote pursuant to the provisions of Article 3, Section 52, of the Constitution of the State of Texas, and which are hereby validated, will be or have been benefited by the improvements proposed to be made or which have been made with the proceeds of the bonds herein validated to an amount not less than the amount of the required levy of ad valorem taxes against said property and the collection thereof for the purpose of paying the principal and interest on the bonds herein validated.

Sec. 4. The provisions of this Act shall not apply to any such road bonds or to any such road district or other defined district involved in litigation pending in any court of competent jurisdiction in this state on the effective date hereof, questioning the validity of any matters

hereby validated, if such litigation is ultimately determined against the validity of the same; nor shall this Act apply to any such road bonds or to any such road district or other defined district which has been declared invalid by a court of competent jurisdiction in this state.

Acts 1969, 61st Leg., p. 1586, ch. 482, emerg. eff. June 10, 1969.

Title of Act:

An Act validating all road bonds of road districts or other defined districts in the State of Texas authorized under the provisions of Article 3, Section 52, of the Constitution of the State of Texas, and heretofore voted by a two-thirds majority vote of those qualified to vote thereon; validating all proceedings had pertaining to all such bonds; providing that all such bonds which have been issued, approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of Texas and delivered to the purchaser, shall be general, direct, and binding obligations and shall be incontestable except for fraud or forgery; providing that all such bonds heretofore voted but not yet issued, when approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of Texas, and delivered to the purchaser, shall be held to be general, direct, and binding obligations and shall be incontestable except for fraud or forgery; validating all road districts or other defined districts which have heretofore voted and authorized the issuance of road bonds by

a two-thirds majority vote of those qualified to vote thereon, under the provisions of Article 3, Section 52, of the Constitution of Texas, and providing that all such road districts or other defined districts be in all things validated as though each such road district or other defined district had been created and defined in the first instance by the Legislature of the State of Texas; finding that all taxable property within such road districts or other defined districts, the bonds of which are validated hereby, will be or have been benefited by the improvements to be made or which have been made from the proceeds of the bonds validated hereby to an amount not less than the amount of the required levy of ad valorem taxes to pay for such bonds; providing that this Act shall not apply to any road bonds involved in litigation under certain circumstances and conditions on the effective date of this Act, nor to any road district or other defined district which has been declared invalid by a court of competent jurisdiction; providing a severability clause; and declaring an emergency. Acts 1969, 61st Leg., p. 1586, ch. 482.

CHAPTER SEVEN—MUNICIPAL BONDS

Art.
835q. Revenue bonds and ad valorem tax bonds; validation of proceedings [New].

Art.
835r. Bonds for payment of judgments; election [New].

Art. 835q. Revenue bonds and ad valorem tax bonds; validation of proceedings

Section 1. Where any city in the state which operates under the general law or pursuant to a home rule charter has heretofore at an election submitted to the qualified electors who own taxable property in said city and who have duly rendered the same for taxation propositions for the issuance of the bonds of such city for the purposes stated in such propositions, such bonds being payable from the revenues stated in such propositions or payable from ad valorem taxes to be levied therefor, and such propositions having carried by the vote of a majority of the persons voting in such election, all of the proceedings heretofore had by such city, including all proceedings had and acts done in connection with the calling and holding of the election, despite any failure or failures in such proceedings to comply with the pertinent statutes, are hereby ratified, validated and confirmed.

Sec. 2. The governing body of each such city is authorized to adopt all proceedings necessary or desirable to complete the issuance of the revenue bonds and the ad valorem tax bonds so authorized, and to do everything necessary to the issuance of revenue bonds and ad valorem tax bonds in the amounts so authorized as provided by the statutes relating to the issuance of such bonds.

Sec. 3. The revenue bonds and ad valorem tax bonds of any such city when delivered and paid for pursuant to such existing proceedings, and lawful proceedings hereinafter had shall be and are hereby declared to be

For Annotations and Historical Notes, see V.A.T.S.

valid and binding obligations of such city in accordance with the terms thereof.

Sec. 4. This Act shall have no application to litigation pending in any court of competent jurisdiction in this state on the effective date hereof questioning the validity of any matters hereby validated, if such litigation is ultimately determined against the validity of same.

Acts 1969, 61st Leg., p. 67, ch. 25, emerg. eff. March 25, 1969.

Title of Act:

An Act validating proceedings heretofore had by cities in Texas for the issuance of certain revenue bonds and ad valorem tax bonds; validating bonds to be issued pursuant to such proceedings; authorizing the

adoption of proceedings necessary to complete the issuance of such bonds; providing the Act shall not apply to pending litigation; and declaring an emergency. Acts 1969, 61st Leg., p. 67, ch. 25.

Art. 835r. Bonds for payment of judgments; election

Section 1. Whenever a final judgment or decree of a court of competent jurisdiction shall have been heretofore entered or may hereafter be entered against any city or town or for which the payment thereof is the legal responsibility of such city or town which judgment or decree awards the plaintiff or plaintiffs a cash judgment or decree against such city or town and such city or town does not have funds available with which to pay said judgment or decree and the interest thereon in cash and the cost and expenses connected therewith, the governing body of such city or town shall have the right, power and authority, after due notice, to call and hold an election, in the same manner provided for calling and holding other bond elections, for the purpose of submitting to the qualified resident electors of such city or town who own taxable property within said city and who have duly rendered the same for taxation the proposition of whether or not such city or town shall issue, sell and deliver to a purchaser thereof its negotiable bonds in an amount sufficient to pay said judgment or decree and the interest thereon and any costs and expenses connected therewith. If a majority of those voting at such election vote in favor of the issuance of such bonds, there shall be levied and collected a tax against all the taxable property in said city or town to pay the interest on said bonds and to create a sinking fund to redeem the principal of said bonds as same becomes due. Such bonds shall be issued to mature serially or otherwise not to exceed forty (40) years from their date and to bear interest at a rate not to exceed six and one-half percent (6- $\frac{1}{2}$ %) per annum and in such denominations as may be determined by the governing body of such city or town. Except as otherwise provided in this Act, the general laws governing the issuance of bonds by cities and towns shall be applicable to the issuance of said bonds.

Sec. 2. Said bonds or refunding bonds and the record pertaining to same shall be submitted to the Attorney General of Texas for his examination and if he approves same they shall be registered by the Comptroller of Public Accounts of Texas and delivered to the purchaser thereof at a price of not less than the par value thereof and accrued interest. After such approval by the Attorney General and registration by the Comptroller of Public Accounts, said bonds in the hands of the original purchaser or subsequent holders thereof shall be legal, valid and binding general obligations of such city or town and shall be incontestable for any cause.

Sec. 3. Said governing body shall have the authority to refund such bonds in accordance with the general laws authorizing the issuance of refunding bonds by cities and towns, except such refunding bonds shall bear interest at the same or lower rate than borne by the bonds refunded,

unless it is shown mathematically that a savings will result in the total amount of interest to be paid.

Acts 1969, 61st Leg., p. 1679, ch. 540, eff. Sept. 1, 1969.

Title of Act:

An Act providing for the authorization and issuance of general obligation bonds by any city or town and the levy and collection of taxes for the payment of the principal and interest thereof for the purpose of securing money to pay a cash judgment or decree heretofore or hereafter entered against said city or town or for which it is legally responsible and interest thereon and cost and expenses in connection therewith; providing for an election to approve issuance, sale, and delivery of the bonds; pro-

viding for the maximum interest rate and maturity of said bonds and denominations thereof; providing for the manner of issuance thereof; providing for the approval of said bonds by the Attorney General and registration by the Comptroller of Public Accounts; providing for the incontestability of said bonds; providing for refunding of said bonds and related matters; providing for a severability clause; and declaring an emergency. Acts 1969, 61st Leg., p. 1679, ch. 540.

TITLE 24—BUILDING—SAVINGS AND LOAN ASSOCIATIONS**Art. 852a. Savings and Loan Act****CHAPTER TWO. FORMATION OF ASSOCIATIONS****Art. 852a, sec. 2.01a. Proposed managing officer of applicants; approval**

The applicants for a charter for a new association shall not be required at any contested hearing concerning the granting of the charter by the Commissioner, to identify in the public record of that hearing the name and qualifications of the proposed managing officer of the new association, but such evidence may be presented to the Commissioner before, during, or after other determinations required by this Act are made; provided, however, no new association shall commence business without first having presented to the Commissioner the name and qualifications of its proposed managing officer, and until that managing officer is approved as qualified by the Commissioner.

Sec. 2.01a added by Acts 1969, 61st Leg., p. 1678, ch. 539, § 1, eff. Sept. 1, 1969.

Art. 852a, sec. 2.02. Permanent Reserve Fund Stock

The charter of an association may provide for the issuance of Permanent Reserve Fund Stock. No other form or type of stock or shares may be issued. Such Permanent Reserve Fund Stock, when issued, may not be retired or withdrawn except as hereinafter provided, until after all liabilities of the association shall have been satisfied in full, including the withdrawal value of all savings accounts. Such stock must be fully paid for in cash in advance of issuance and the association may not make any loans against the shares of such stock. Shares of such stock may be issued with par value of not less than One Dollar (\$1) nor more than One Hundred Dollars (\$100). With the prior written approval of the Commissioner as to the number of shares to be issued, the bylaws of an association may provide that its Permanent Reserve Fund Stock may be issued with no par value. An association authorized to issue such stock must have at all times issued and outstanding stock with a value on its books of at least Twenty-five Thousand Dollars (\$25,000) or two and one-half per cent (2½%) of its gross assets, whichever is greater, but no association shall be required to have an amount of such stock with a value on its books of more than Two Hundred and Fifty Thousand Dollars (\$250,000). Associations whose savings accounts are insured by the Federal Savings and Loan Insurance Corporation may retire in whole or in part any such stock heretofore issued when such associations are authorized to do so by a majority vote at any annual meeting of its members, or any special meeting of members called for such purpose; provided, that the basis of such retirement shall have been first approved by the Commissioner and consent to such retirement upon the part of the Federal Savings and Loan Insurance Corporation has been filed in writing with the Commission.

Sec. 2.02 amended by Acts 1969, 61st Leg., p. 2363, ch. 800, § 1, emerg. eff. June 14, 1969.

CHAPTER FOUR. CORPORATE POWERS OF ASSOCIATIONS**Art. 852a, sec. 4.02. Power to borrow**

An association shall have power to borrow an aggregate amount equal to twenty-five per cent (25%) of its savings liability on the date of borrowing from any non-governmental source and may pledge its assets to secure the repayment of money so borrowed. Any borrowing from non-

governmental sources in excess of such amount must first be approved in writing by the Commissioner. Notwithstanding the aforesaid limitation, an association which is a member of a Federal Home Loan Bank shall have power to borrow or obtain advances from such bank in such amounts and upon such terms as may be prescribed by such bank from time to time. In addition, an association may, at any time through action of its board of directors, issue such capital notes, debentures or other capital obligations as shall be authorized under rules and regulations promulgated by the Building and Loan Section of the Finance Commission and the Commissioner acting pursuant to the rule-making power delegated by Chapter 198, Acts of the 57th Legislature, Regular Session, 1961, as the same may be amended from time to time.

Sec. 4.02 amended by Acts 1969, 61st Leg., p. 2363, ch. 800, § 2, emerg. eff. June 14, 1969.

CHAPTER SIX. SAVINGS ACCOUNTS

Art. 852a, sec. 6.19. Permissive Bylaw Provisions in Respect to Priority of Savings Accounts and Notice of Withdrawal

The bylaws of an association may provide that in the event of voluntary or involuntary liquidation, dissolution, or winding up of the association or in the event of any other situation in which the priority of savings accounts is in controversy, all savings accounts shall, to the extent of their withdrawal value, be debts of the association having the same priority as the claims of general creditors of the association not having priority (other than any priority arising or resulting from consensual subordination) over other general creditors of the association. If its bylaws so provide, an association may require advance notice of as much as sixty (60) days before paying withdrawal applications. An association which, having required advance notice of withdrawal, fails to make full payment of any withdrawal application at the end of the notice period shall be deemed to be subject to receivership proceedings under Section 8.16 of this Act.

Sec. 6.19 added by Acts 1969, 61st Leg., p. 2363, ch. 800, § 3, emerg. eff. June 14, 1969.

Art. 852a, sec. 6.20. Enlargement of Powers

Notwithstanding any provision of this Act to the contrary, an association may raise capital in the manner and form and issue any certificate in the form and pay dividends, earnings or interest thereon in the manner which the association could if it were a Federal Association as defined in Section 1.03(9) of this Act.

Sec. 6.20 added by Acts 1969, 61st Leg., p. 2363, ch. 800, § 3, emerg. eff. June 14, 1969.

TITLE 25—CARRIERS

6. REGULATION OF MOTOR
CARRIERS

Art.
911g. Motor transportation of migrant
agricultural workers [New].

1. DUTIES AND LIABILITIES

Art. 883. [708] [320] [278] Liability fixed; exceptions for rates based on value; evidence; notice of claim may be required

Railroad companies, and other carriers of passengers, goods, wares, and merchandise for hire, within this state, on land, or in boats or vessels on the waters entirely within this state, shall not limit or restrict their liability as it exists at common law, by any general or special notice, or by inserting exceptions in the bill of lading or memorandum given upon the receipt of the goods for transportation or in any other manner whatsoever; provided, however, that the provisions hereof respecting liabilities of carriers as it exists at common law for loss, damage, or injury to baggage and personal effects of passengers transported incident to the carriage of persons, goods, wares, and merchandise shall not apply to property received for transportation concerning which the carriers shall have been or shall hereafter be expressly authorized or required by order of the Railroad Commission of Texas to establish and maintain rates dependent upon the value declared in writing by the shipper of the property or agreed upon in writing as the released value of the property, in which case, such declaration or agreement shall have no effect other than to limit liability and recovery to an amount not exceeding the value so declared or released, and so far as relates to values, shall be valid and is not hereby prohibited. The Railroad Commission of Texas is hereby authorized to fix and establish just and reasonable rates for transportation of goods, wares, and merchandise described by commodities or articles or by generic grouping of commodities or articles, and the baggage and personal effects of passengers, dependent upon the value thereof declared in writing, or agreed upon in writing by the shipper or passenger as the agreed value, under the circumstances and conditions surrounding such transportation. Provided further, that a requirement of a notice or claim consistent with the provisions of Article 5546 of the Revised Civil Statutes of Texas, 1925, as heretofore amended, as a condition precedent to the enforcement of any claim or loss, damage and delay or either, or any of them, whether inserted in a bill of lading or other contract or arrangement for carriage, or otherwise provided, shall be valid and is not hereby prohibited.

Amended by Acts 1965, 59th Leg., p. 581, ch. 295, § 1, eff. Aug. 30, 1965; Acts 1969, 61st Leg., p. 618, ch. 213, § 1, eff. Sept. 1, 1969.

Saving Clause

Acts 1969, 61st Leg., p. 618, ch. 213, which amends article 883, repeals conflicting laws but provides that nothing therein shall affect the provisions of article 911a, § 6aa, or article 883(a). See note under article 883.

Section 2 of the amendatory act of 1969 provided: "All other laws or parts of laws in conflict herewith or to the extent of such conflict are hereby repealed, provided, however, that nothing herein shall affect the

provisions of Section 6aa, Chapter 314, General Laws, Acts of the 41st Legislature, Regular Session, 1929, as added by Section 6, Chapter 277, General Laws, Acts of the 42nd Legislature, Regular Session, 1931

(Section 6aa, Article 911a, Vernon's Texas Civil Statutes), requiring that minimum rates, fares, and charges of contract carriers shall not be less than the rates prescribed for common carriers for substantially the same service, or the provisions of Article 883(a), Revised Civil Statutes of Texas, 1925, as added by Section 1, Chap-

ter 327, Acts of the 50th Legislature, Regular Session, 1947, relating to declaration of value, rates based on value, and evidence, with respect to transportation of household goods, personal effects, or used office furniture and equipment by specialized motor carriers and other carriers for hire."

Art. 889a. Repealed by Acts 1969, 61st Leg., p. 1374, ch. 416, § 9, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 1374, ch. 416, relating to the use of public facilities by persons blind or otherwise handicapped, repealed article 889a.

See, now, art. 4419e.

6. REGULATION OF MOTOR CARRIERS

Saving Clause

Acts 1969, 61st Leg., p. 618, ch. 213, which amends article 883, repeals conflicting laws but provides that nothing therein shall affect the provisions of article 911a, § 6aa, or article 883(a). See note under article 883.

Art. 911g. Motor transportation of migrant agricultural workers

Definitions

Section 1. As used in this Act, unless the context otherwise requires:

(a) "Migrant agricultural worker" means any person performing or seeking to perform farm labor and who is a seasonal worker and who occupies living quarters other than his own permanent home during the period of employment. For this purpose, the term "farm labor" includes that necessary to the processing of agricultural food products.

(b) "Carrier of migrant agricultural workers by motor vehicle" means any person, including any "contract by motor vehicle," but not including any "common carrier by motor vehicle," who or which transports within this state at any one time five or more migrant agricultural workers to or from their employment by any motor vehicle other than a passenger automobile or station wagon, except a migrant agricultural worker transporting himself or his immediate family.

(c) "Motor carrier" means any carrier of migrant agricultural workers by motor vehicle as defined in Paragraph (b) above.

(d) "Motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof, but does not include a passenger automobile or station wagon, any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passengers transportation in street-railway service.

(e) "Bus" means any motor vehicle designed, constructed, and used for the transportation of passengers, except passenger automobiles or station wagons other than taxicabs.

(f) "Truck" means any self-propelled motor vehicle except a truck tractor, designed and constructed primarily for the transportation of property.

(g) "Truck tractor" means a self-propelled motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

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(h) "Semitrailer" means any motor vehicle other than a "pole trailer" with or without motive power, designed to be drawn by another motor vehicle and so constructed that some part of its weight rests upon the towing vehicle.

(i) "Driver or operator" means any person who drives a motor vehicle.

(j) "Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular traffic.

Application of Act

Sec. 2. The regulations prescribed in this Act shall be applicable to motor carriers of migrant agricultural workers only in the case of transportation of any migrant worker for a total distance of more than 50 miles.

Drivers; requirements

Sec. 3. Every motor carrier of migrant agricultural workers and its officers, agents, representatives and employees who drive motor vehicles or are responsible for the hiring, supervision, training, assignment or dispatching of drivers shall comply with and be conversant with the requirements listed herein.

(a) Minimum physical requirements. No person shall drive, nor shall any motor carrier require or permit any person to drive, any motor vehicle unless he possesses the following minimum qualifications:

(1) No loss of foot, leg, hand, or arm.

(2) No mental, nervous, organic, or functional disease, likely to interfere with safe driving.

(3) No loss of fingers, impairment of use of foot, leg, fingers, hand or arm, or other structural defect or limitation likely to interfere with safe driving.

(4) Eyesight: Visual acuity of at least 20/40 (Snellen) in each eye either without glasses or by correction with glasses; form field of vision in the horizontal median shall not be less than a total of 140 degrees; ability to distinguish colors, red, green and yellow; drivers requiring correction by glasses shall wear properly prescribed glasses at all times when driving.

(5) Hearing: Hearing shall not be less than 10/20 in the better ear, for conversational tones, without a hearing aid.

(6) Liquor, narcotics and drugs: Shall not be addicted to the use of narcotics or habit forming drugs, or the excessive use of alcoholic beverages or liquors.

(7) Initial and periodic physical examination of drivers: No person shall drive nor shall any motor carrier require or permit any person to drive any motor vehicle unless within the immediately preceding 36-month period such person shall have been physically examined and shall have been certified in accordance with the provisions of Subparagraph (8) hereof by a licensed doctor of medicine or osteopathy as meeting the requirements of this subsection.

(8) Certificate of physical examination: Every motor carrier shall have in its files at its principal place of business for every driver employed or used by it a legible certificate of a licensed doctor of medicine or osteopathy based on a physical examination as required by Subparagraph (7) hereof or a legible photographically reproduced copy thereof, and every driver shall have in his possession while driving, such a certificate or a photographically reproduced copy thereof covering himself.

(9) Doctor's certificate: The doctor's certificate shall certify as follows:

**"Doctor's Certificate
(Driver of Migrant Agricultural Workers)**

This is to certify that I have this day examined _____ in accordance with the Texas law governing physical qualifications of drivers of migrant agricultural workers and that I find him

- Qualified under said law
- Qualified only when wearing glasses

I have kept on file in my office a completed examination.

(Date)	(Place)
(Signature of Examining Doctor)	
(Address of Doctor)	

Signature of Driver _____
Address of Driver _____"

(b) Minimum age and experience requirements. No person shall drive, nor shall any motor carrier require or permit any person to drive, any motor vehicle unless such person possesses the following minimum qualifications:

- (1) Age: Minimum age shall be 21 years.
- (2) Driving skill: Experience in driving some type of motor vehicle (including private automobiles) for not less than one year, including experience throughout the four seasons.
- (3) Knowledge of regulations: Familiarity with the rules and regulations prescribed in the law pertaining to the driving of motor vehicles.
- (4) Driver's permit: Possession of a valid permit qualifying the driver to operate the type of vehicle driven by him in the jurisdiction by which the permit is issued.

Safety regulations

Sec. 4. Every motor carrier shall comply with the requirements of this section, shall instruct its officers, agents, representatives and drivers with respect thereto, and shall take such measures as are necessary to insure compliance therewith by such persons. All officers, agents, representatives, drivers and employees of motor carriers directly concerned with the management, maintenance, operation, or driving of motor vehicles, shall comply with and be conversant with the requirements of this section.

(a) Driving rules to be obeyed. Every motor vehicle shall be driven in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated, unless such laws, ordinances and regulations are at variance with specific regulations in this law which impose a greater affirmative obligation or restraint.

(b) Driving while ill or fatigued. No driver shall drive or be required or permitted to drive a motor vehicle while his ability or alertness is so impaired through fatigue, illness, or any other cause as to make it unsafe for him to begin or continue to drive, except in case of grave emergency where the hazard to passengers would be increased by observance of this section and then only to the nearest point at which the safety of the passengers is assured.

(c) Schedules to conform with speed limits. No motor carrier shall permit nor require the operation of any motor vehicle between points in such a period of time as would necessitate the vehicle being operated at

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speeds greater than those prescribed by the jurisdictions in or through which the vehicle is being operated.

(d) Equipment and emergency devices. No motor vehicle shall be driven unless the driver thereof shall have satisfied himself that the following parts, accessories, and emergency devices are in good working order; nor shall any driver fail to use or make use of such parts, accessories, and devices when and as needed:

Service brakes, including trailer brake connections.

Parking (hand) brake.

Steering mechanism.

Lighting devices and reflectors.

Tires.

Horn.

Windshield wiper or wipers.

Rear-vision mirror or mirrors.

Coupling devices.

Fire extinguisher, at least one properly mounted.

Road warning devices, at least one red burning fusee and at least three red flares (oil burning pot torches), red electric lanterns, or red emergency reflectors.

(e) Safe loading. (1) Distribution and securing of load: No motor vehicle shall be driven nor shall any motor carrier permit or require any motor vehicle to be driven if it is so loaded, or if the load thereon is so improperly distributed or so inadequately secured, as to prevent its safe operation.

(2) Doors, tarpaulins, tailgates and other equipment: No motor vehicle shall be driven unless the tailgate, tailboard, tarpaulins, doors, all equipment and rigging used in the operation of said vehicle, and all means of fastening the load, are securely in place.

(3) Interference with driver: No motor vehicle shall be driven when any object obscures his view ahead, or to the right or left sides, or to the rear, or interferes with the free movement of his arms or legs, or prevents his free and ready access to the accessories required for emergencies, or prevents the free and ready exit of any person from the cab or driver's compartment.

(4) Property on motor vehicles: No vehicle transporting persons and property shall be driven unless such property is stowed in a manner that will assure: (i) unrestricted freedom of motion to the driver for proper operation of the vehicle;

(ii) unobstructed passage to all exits by any person; and

(iii) adequate protection to passengers and others from injury as a result of the displacement or falling of such articles.

(5) Maximum passengers on motor vehicle: If the trip is for a total of 50 miles or more, no motor vehicle shall be driven if the total number of passengers exceeds the seating capacity which will be permitted on seats prescribed in Section 5 when that section is effective. All passengers carried on such vehicle shall remain seated while the motor vehicle is in motion.

(f) Rest and meal stops. Every carrier shall provide for reasonable rest stops at least once between meal stops. Meal stops shall be made at intervals not to exceed six hours and shall be for a period of not less than 30 minutes duration.

(g) Kinds of motor vehicles in which agricultural workers may be transported. Workers may be transported in or on only the following types of motor vehicles: a bus, a truck with no trailer attached, or a semitrailer attached to a truck tractor provided that no other trailer is attached to the semitrailer. Closed vans without windows or means to assure ventilation shall not be used.

(h) Limitation on distance of travel in trucks. Any truck when used for the transportation of migrant workers, if such workers are being transported in excess of 500 miles, shall be stopped for a period of not less than eight consecutive hours either before or upon completion of 500 miles of travel, and either before or upon completion of any subsequent 500 miles of travel to provide rest for drivers and passengers.

(i) Lighting devices and reflectors. No motor vehicle shall be driven when any of the required lamps or reflectors are obscured by the tailboard, by any part of the load, by dirt, or otherwise, and all lighting devices required by law shall be lighted during darkness or at any other time when there is not sufficient light to render vehicles and persons visible upon the highway at a distance of 500 feet.

(j) Ignition of fuel; prevention. No driver or any employee of a motor carrier shall: (1) fuel a motor vehicle with the engine running, except when it is necessary to run the engine to fuel the vehicle; (2) smoke or expose any open flame in the vicinity of a vehicle being fueled; (3) fuel a motor vehicle unless the nozzle of the fuel hose is continuously in contact with the intake pipe of the fuel tank; (4) permit any other person to engage in such activities as would be likely to result in fire or explosion.

(k) Reserve fuel. No supply of fuel for the propulsion of any motor vehicle or for the operation of any accessory thereof shall be carried on the motor vehicle except in a properly mounted fuel tank or tanks.

(l) Driving by unauthorized person. Except in case of emergency, no driver shall permit a motor vehicle to which he is assigned to be driven by any person not authorized to drive such vehicle by the motor carrier in control thereof.

(m) Protection of passengers from weather. No motor vehicle shall be driven while transporting passengers unless the passengers therein are protected from inclement weather conditions such as rain, snow, or sleet, by use of the top or protective devices required in Section 5 hereof.

(n) Unattended vehicles; precautions. No motor vehicle shall be left unattended by the driver until the parking brake has been securely set, the wheels chocked, and all reasonable precautions have been taken to prevent the movement of such vehicle.

(o) Railroad grade crossings; stopping required; sign on rear of vehicle. Every motor vehicle carrying migrant agricultural workers as defined in this Act, shall, upon approaching any railroad grade crossing, make a full stop not more than 50 feet, nor less than 15 feet from the nearest rail of such railroad grade crossing, and shall not proceed until due caution has been taken to ascertain that the course is clear; except that a full stop need not be made at:

(1) A streetcar crossing within a business or residence district of a municipality.

(2) A railroad grade crossing where a police officer or a traffic-control signal (not a railroad flashing signal) directs traffic to proceed.

(3) An abandoned or exempted grade crossing which is clearly marked as such by or with the consent of the proper state authority, when such marking can be read from the driver's position.

All such motor vehicles shall display a sign on the rear reading, "This Vehicle Stops at Railroad Crossings."

Vehicles; equipment

Sec. 5. Every motor carrier engaged in transporting migrant workers, its officers, agents, drivers, representatives, and employees directly concerned with the installation and maintenance of equipment and accessories, shall comply and be conversant with the requirements and

For Annotations and Historical Notes, see V.A.T.S.

specifications of this section, and no motor carrier engaged in transporting migrant workers shall operate any motor vehicle, or cause or permit it to be operated, unless it is equipped in accordance with said requirements and specifications.

(a) Lighting devices. Every motor vehicle shall be equipped with the lighting devices and reflectors required by law in this state.

(b) Brakes. Every motor vehicle shall be equipped with brakes as required by the laws of this state.

(c) Coupling devices; fifth wheel mounting and locking. The lower half of every fifth wheel mounted on any truck tractor or dolly shall be securely affixed to the frame thereof by U-bolts of adequate size, securely tightened, or by other means providing at least equivalent security. Such U-bolts shall not be of welded construction. The installation shall be such as not to cause cracking, warping, or deformation of the frame. Adequate means shall be provided positively to prevent the shifting of the lower half of the fifth wheel on the frame to which it is attached. The upper half of every fifth wheel shall be fastened to the motor vehicle with at least the security required for the securing of the lower half to the truck tractor or dolly. Locking means shall be provided in every fifth wheel mechanism including adapters when used, so that the upper and lower halves may not be separated without the operation of a positive manual release. A release mechanism operated by the driver from the cab shall be deemed to meet this requirement. On fifth wheels designed and constructed as to be readily separable, the fifth wheel locking devices shall apply automatically on coupling for any motor vehicle the date of manufacture of which is subsequent to December 31, 1952.

(d) Tires. Every motor vehicle shall be equipped with tires of adequate capacity to support its gross weight. No motor vehicle shall be operated on tires which have been worn so smooth as to expose any tread fabric or which have any other defect likely to cause failure. No vehicle shall be operated while transporting passengers while using any tire which does not have tread configurations on that part of the tire which is in contact with the road surface. No vehicle transporting passengers shall be operated with regrooved, recapped, or retreaded tires on front wheels.

(e) Passenger compartment. Every motor vehicle transporting passengers, other than a bus, shall have a passenger compartment meeting the following requirements:

(1) Floors: A substantially smooth floor, without protruding obstructions more than two inches high, except as are necessary for the securing of seats or other devices to the floor, and without cracks or holes.

(2) Sides: Side walls and ends above the floor at least 60 inches high, by attachment of sideboards to the permanent body construction if necessary. Stake body construction shall be construed to comply with this requirement only if all six-inch or larger spaces between stakes are suitably closed to prevent passengers from falling off the vehicle.

(3) Nails, screws, splinters: The floor and the interior of the sides and ends of the passenger-carrying space shall be free of inwardly protruding nails, screws, splinters, or other projecting objects, likely to be injurious to passengers or their apparel.

(4) Seats: On and after November 1, 1969, a seat shall be provided for each worker transported if the total trip is for 100 miles or more. The seats shall be: securely attached to the vehicle during the course of transportation; not less than 16 inches nor more than 19 inches above the floor; at least 13 inches deep; equipped with backrests extending to a height of at least 36 inches above the floor, with at least 24 inches of space between the backrests or between the edges of the opposite seats when face to face; designed to provide at least 18 inches of seat for each

passenger; without cracks more than one-fourth inch wide, and the back-rests, if slatted, without cracks more than two inches wide, and the exposed surfaces, if made of wood, planed or sanded smooth and free of splinters.

(5) Protection from weather: Whenever necessary to protect the passengers from inclement weather conditions, be equipped with a top at least 80 inches high above the floor and facilities for closing the sides and ends of the passenger-carrying compartment. Tarpaulins or other such removable devices for protection from the weather shall be secured in place.

(6) Exit: Adequate means of ingress and egress to and from the passenger space shall be provided on the rear or at the right side. Such means of ingress and egress shall be at least 18 inches wide. The top and the clear opening shall be at least 60 inches high, or as high as the side wall of the passenger space if less than 60 inches. The bottom shall be at the floor of the passenger space.

(7) Gates and doors: Gates or doors shall be provided to close the means of ingress and egress and each such gate or door shall be equipped with at least one latch or other fastening device of such construction as to keep the gate or door securely closed during the course of transportation; and readily operative without the use of tools.

(8) Ladders or steps: Ladders or steps for the purpose of ingress and egress shall be used when necessary. The maximum vertical spacing of footholds shall not exceed 12 inches, except that the lowest step may be not more than 18 inches above the ground when the vehicle is empty.

(9) Handholds: Handholds or devices for similar purpose shall be provided to permit ingress and egress without hazard to passengers.

(10) Emergency exit: Vehicles with permanently affixed roofs shall be equipped with at least one emergency exit having a gate or door, latch and hold as prescribed in this section and located on a side or rear not equipped with the exit described in Subparagraph (6) of this subsection.

(11) Communication with driver: Means shall be provided to enable the passengers to communicate with the driver. Such means may include telephone, speaker tubes, buzzers, pull cords, or other mechanical or electrical means.

(f) Protection from cold. Every motor vehicle shall be provided with a safe means of protecting passengers from cold or undue exposure, but in no event shall heaters of the following types be used:

(1) Exhaust heaters: Any type of exhaust heater in which the engine exhaust gases are conducted into or through any space occupied by persons or any heater which conducts engine compartment air into any such space.

(2) Unenclosed flame heaters: Any type of heater employing a flame which is not fully enclosed.

(3) Heaters permitting fuel leakage: Any type of heater from the burner of which there could be spillage or leakage of fuel upon the tilting or overturning of the vehicle in which it is mounted.

(4) Heaters permitting air contamination: Any heater taking air, heated or to be heated, from the engine compartment or from direct contact with any portion of the exhaust system; or any heater taking air in ducts from the outside atmosphere to be conveyed through the engine compartment, unless said ducts are so constructed and installed as to prevent contamination of the air so conveyed by exhaust or engine compartment gases.

(5) Any heater not securely fastened to the vehicle.

For Annotations and Historical Notes, see V.A.T.S.

Hours of service of drivers; maximum driving time

Sec. 6. Hours of service of drivers; maximum driving time. No person shall drive nor shall any motor carrier permit or require a driver employed or used by it to drive or operate for more than 10 hours in the aggregate (excluding rest stops and stops for meals) in any period of 24 consecutive hours, unless such driver be afforded eight consecutive hours rest immediately following the 10 hours aggregate driving. The term "24 consecutive hours" as used in this section means any period starting at the time the driver reports for duty.

Inspection and maintenance of motor vehicles

Sec. 7. Inspection and maintenance of motor vehicles. Every motor carrier shall systematically inspect and maintain or cause to be systematically maintained, all motor vehicles and their accessories subject to its control, to insure that such motor vehicles and their accessories are in safe and proper operating condition.

Enforcement; penalty

Sec. 8. Any peace officer in this state is authorized to enforce the provisions of this Act, and any carrier of migrant agricultural workers who fails to comply with the provisions of this Act shall be guilty of a misdemeanor, and upon conviction shall be fined not less than \$5 nor more than \$50.

ICC certificate of compliance; effect

Sec. 9. Any carrier of migrant agricultural workers who possesses a certificate of compliance with the Interstate Commerce Commission regulations governing the transportation of migrant workers in interstate commerce issued to said person by the Interstate Commerce Commission and valid during the period of inspection by any peace officer in this state shall be deemed to have complied with the provisions of this Act.

Cumulative effect

Sec. 10. The provisions of this Act are cumulative of existing laws and shall not be construed as repealing or replacing any of the provisions of the Uniform Act Regulating Traffic on Highways or any other existing law.

Acts 1969, 61st Leg., p. 1382, ch. 421, emerg. eff. June 2, 1969.

Title of Act;

An Act adopting rules and regulations governing the transportation of migrant agricultural workers within this state; providing for enforcement and penalties; providing that holders of a valid certificate of compliance with Interstate Commerce Commission regulations governing the

transportation of migrant agricultural workers shall be deemed to have complied with the provisions of this Act; providing that the provisions of this Act shall be cumulative of existing laws; providing for severability; and declaring an emergency. Acts 1969, 61st Leg., p. 1382, ch. 421.

TITLE 26—CEMETERIES

Art.

912a—34. Interment; discrimination [New].

931b—1. Depth of burial graves; exceptions; penalty [New].

Art. 912a—34. Interment; discrimination

Cemetery associations shall not make, adopt, or enforce any rule or regulation which prohibits the interment of the remains of any deceased person in a cemetery because of the race, color, or national origin of such deceased person. Provisions in any contract entered into by a cemetery association, or in any deed or certificate of ownership granted or issued by a cemetery association with respect to the interment of the remains of deceased persons, which prohibit the interment of the remains of deceased persons in a cemetery because of race, color or national origin, are hereby declared to be against public policy, void, and unenforceable.

Acts 1945, 49th Leg., p. 559, ch. 340, § 34, added by Acts 1969, 61st Leg., p. 847, ch. 281, § 1, emerg. eff. May 22, 1969.

Art. 931b—1. Depth of burial graves; exceptions; penalty

Section 1. No dead human body shall be buried in such manner that the top of the outside container within which such dead human body is placed is less than two feet below the surface of the ground, except that, if such container is made of steel, bronze, concrete or other impermeable material, the top of such container shall be not less than one and one-half feet below the surface.

The above depths shall be considered maximum limits required for such burials in this state, and if any duly constituted governing body of a political subdivision of this state declares by ordinance, rule or regulation that lesser limits are required because of sub-surface soil conditions or other relevant considerations, then such burials within that political subdivision can be at the lesser limits prescribed by such ordinance, rule or regulation.

Any person who violates the provisions of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$200. The violation of the provisions in any ordinance, rule or regulation which establishes lesser limits than herein provided shall constitute a violation of this Act and is punishable under this Act.

Sec. 2. The provisions of this Act do not apply to burials in sealed surface reinforced concrete burial vaults.

Acts 1969, 61st Leg., p. 1525, ch. 460, eff. Sept. 1, 1969.

Title of Act:

An Act relating to the depth of burial graves; providing a penalty for violation;

providing certain exceptions; and declaring an emergency. Acts 1969, 61st Leg., p. 1525, ch. 460.

TITLE 28—CITIES, TOWNS AND VILLAGES

CHAPTER ONE—CITIES AND TOWNS

<p>Art. 969e. State-line border cities; joint governmental facilities and services; agreements [New].</p> <p>974d—13. Validation of incorporation; charters and amendments of cities of more than 5,000;</p>	<p>Art. 974d—14. Validation of boundary lines; cities and towns of 5,270 to 5,350 [New].</p>	<p>boundary lines; governmental proceedings; revenue bonds; exceptions [New].</p>
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Art. 969b. Acquisition of property for certain purposes; exercise of eminent domain or police powers, etc.; procedure; relocation expenses

**Authorization; modes and purposes of acquisition;
 procedure; relocation expenses**

Section 1. Any incorporated city or town in this State incorporated under general or special law or authorized to have or having a Charter under the provisions of the Constitution of Texas or the Statutes shall have and is hereby granted the power separately or jointly with any other city, town, cities or towns, or jointly with any other city, town, cities or towns and other governmental entity, to receive and acquire through gift or dedication and to acquire by purchase without condemnation or by condemnation, if within the county where said governmental entity, city, town, cities or towns are located, any property in this State located inside or outside of the corporate limits of such city or town, for the following purposes, which are declared to be public purposes: parks, hospitals, the extension, improvement and enlargement of its water system, including riparian rights, water supply reservoirs, standpipes, watersheds, dams, the laying, building, maintenance and construction of water mains and the laying, erection, establishment or maintenance of any necessary appurtenances or facilities which will furnish to the inhabitants of the city an abundant supply of wholesome water; for sewage plants and systems; rights of way for water and sewer lines; play grounds, airports, and landing fields, incinerators, garbage disposal plants, streets, boulevards and alleys or other public ways, and any right of way needed in connection with any property used for any purpose hereinabove named, and to exercise Police Power within the territory so acquired.

The procedure to be followed in condemnation proceeding hereunder and authorized herein shall be in accordance with the provisions of the State law with reference to eminent domain. The provisions of Title 52 of the Revised Civil Statutes of Texas, 1925,¹ shall apply to such proceedings, or such proceedings may be under any other State law now in existence or that hereafter may be passed governing and relating to the condemnation of land for public purposes by a city.

In the exercise of any authority granted by this Act to cities, towns and other governmental entities, in the event it becomes necessary in the exercise of the powers of eminent domain or Police Power, or any other power to relocate, raise, lower, reroute or change the grade or alter the construction of any railroad, electric transmission, telegraph or telephone line, conduit, pole, property or facility, or pipeline, outside of the corporate limits of any incorporated city or town, all such relocation, raising, lowering, rerouting, or change in grade or alteration of construction shall be accomplished at the sole expense of the city, town, cities, or towns, or other governmental entity; provided, that nothing contained herein shall affect the existing lawful rights of any city or town to control the streets, alleys, public ways and other public grounds within its corporate limits.

The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction, in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility."

Sec. 1 amended by Acts 1969, 61st Leg., p. 1604, ch. 496, § 1, emerg. eff. June 10, 1969.

¹ Article 3264 et seq.

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Art. 969e. State-line border cities; joint governmental facilities and services; agreements

Section 1. It is the purpose of this Act to permit any city in this state which borders on a state line and which is separated from a city in the adjoining state only by the state line, to cooperate with such adjoining city in another state in furnishing governmental services and facilities to the inhabitants of such adjoining cities to the end that such governmental services and facilities may be adequately provided in the most efficient manner.

Sec. 2. Any city in this state which borders on a state line and which is separated from a city in an adjoining state only by the state line may enter into an agreement or agreements with such adjoining city whereby either of such cities agrees to furnish certain services or facilities for the other or whereby such cities agree to jointly or cooperatively furnish any governmental service or facility or to exercise or enjoy any power or authority which the Texas city involved may furnish, exercise, or enjoy under the laws of this state, to the extent that the laws of the state in which the adjoining city is located permits such joint or cooperative activity.

Sec. 3. Every agreement or contract entered into by a city of this state as authorized in Section 2 of this Act shall specify:

- (1) its duration;
- (2) the precise organization, composition, and nature of any separate legal or administrative entity created thereby, together with the powers delegated thereto, provided such entity may be legally created;
- (3) its purpose or purposes;
- (4) the manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor, or in the case of an agreement whereby one city agrees to furnish specified services or facilities to the other city, the financial arrangement therefor;
- (5) the permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination; and
- (6) any other necessary and proper matters, including appropriate provisions for enforcement.

Sec. 4. If such agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to the requirements of Section 3 of this Act, contain the following:

- (1) provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board, cities party to the agreement shall be represented.
- (2) the manner of acquiring, holding, and disposing of real and personal property used in the joint or cooperative undertaking.

Sec. 5. No agreement made pursuant to this Act shall relieve any public agency of any obligation or responsibility imposed upon it by law, except that to the extent of actual and timely performance thereof by an adjoining city pursuant to an agreement entered into hereunder or by a joint board or other legal or administrative entity created by an agree-

ment made hereunder, said performance may be offered in satisfaction of the obligation or responsibility.

Sec. 6. No agreement entered into pursuant to this Act shall be effective until a copy thereof has been filed in the office of the county clerk of the county in which the affected Texas city is located.

Acts 1969, 61st Leg., p. 1404, ch. 425, emerg. eff. June 2, 1965.

Title of Act:

An Act authorizing and relating to contracts between any city of this state and any city of a bordering state, with a common boundary along the state line, to provide for joint and cooperative furnishing of certain governmental facilities and services; and declaring an emergency. Acts 1969, 61st Leg., p. 1404, ch. 425.

Art. 974d—13. Validation of incorporation; charters and amendments of cities of more than 5,000; boundary lines; governmental proceedings; revenue bonds; exceptions

Section 1. The incorporation proceedings of cities and towns (including home rule cities) heretofore incorporated or attempted to be incorporated under the general laws of the State of Texas, whether under the aldermanic or commission form of government, and which have functioned or attempted to function as incorporated cities or towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or incorporation proceedings may not have been in accordance with law.

Sec. 2. That each charter, and amendment to a charter adopted by any city of more than 5,000 inhabitants in this state, or where such city has amended or attempted to amend or adopt such charter, since the enactment of Chapter 147, Acts of the Regular Session of the 33rd Legislature of the State of Texas, 1913, and as thereafter amended, relating to home rule, and all of the amendments and proceedings had under same, that all bonds issued under any amendment where said bonds issued under any amendment have been approved by the attorney general and registered with the comptroller of public accounts, are hereby fully validated, ratified and confirmed and are hereby declared to be in full force and effect as if adopted in strict compliance with all of the requirements of said Chapter 147, Acts of the 33rd Legislature and as thereafter amended and the general laws of Texas relating thereto.

Sec. 3. The boundary lines of all such cities and towns, including both the boundary lines covered by the original incorporation proceedings and any subsequent extensions thereof are hereby in all things validated.

Sec. 4. All governmental proceedings performed by the governing bodies of all such cities and towns and all officers thereof since their incorporation or attempted incorporation are hereby in all respects validated as of the date of such proceedings.

Sec. 5. Where any city in the state which operated under the general law or pursuant to a home rule charter has heretofore at an election submitted to the qualified electors who own taxable property in said city and who have duly rendered the same for taxation propositions for the issuance of the bonds of such city for the purposes stated in such propositions, such bonds being payable from the revenues stated in such propositions or payable from ad valorem taxes to be levied therefor, and such propositions having carried by the vote of a majority of the persons voting in such election, all of the proceedings heretofore had by such city, including all proceedings had and acts done in connection with the calling and holding of the election, despite any failure or failures in such proceedings to comply with the pertinent statutes and all proceedings heretofore had by any such city to authorize the issuance of revenue bonds under the

provisions of Section 11 of Article 2368a, Vernon's Texas Civil Statutes (irrespective of the location of the improvements to be constructed or acquired with bond proceeds) are hereby ratified, validated, and confirmed. The governing body of each such city is authorized to adopt all proceedings necessary or desirable to complete the issuance of such bonds. All of such proceedings relating to the authorization of bonds shall be submitted to the Attorney General of Texas, and when such bonds have been or are hereafter approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts, they shall be incontestable.

Sec. 6. The provisions of this Act shall not apply to any city or town incorporated or attempted to be incorporated from and after August 23, 1963, which is situated in whole or in part within the extraterritorial jurisdiction of another city or town, unless consent or permission to incorporate was obtained in the manner prescribed by Chapter 160, Article I, Acts of the 58th Legislature, Regular Session, 1963, the Municipal Annexation Act, compiled as Article 970a, Vernon's Texas Civil Statutes.

Sec. 7. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation or extension of boundaries hereby validated if such litigation is ultimately determined against the legality thereof; nor shall this Act be construed as validating any proceedings which may have been nullified by a final judgment of a court of competent jurisdiction.

Acts 1969, 61st Leg., p. 44, ch. 15, emerg. eff. March 13, 1969.

Section 8 of the act of 1969 was a saving clause.

Title of Act:

An Act validating the incorporation and charter and charter amendment proceedings of cities and towns, including home rule cities, heretofore incorporated or attempted to be incorporated under the Constitution or general laws of Texas; validating the

boundary lines thereof, as said boundaries may have been changed by ordinance since the original incorporation; validating governmental proceedings; providing certain limitations as to the application of the Act; providing a non-litigation clause; providing a saving clause; and declaring an emergency. Acts 1969, 61st Leg., p. 44, ch. 15.

Art. 974d—14. Validation of boundary lines; cities and towns of 5,270 to 5,350

Section 1. This Act applies to cities and towns incorporated under the general laws of this state and having a population of not less than 5,270 and not more than 5,350 inhabitants and being situated in a county having a population less than 50,000 inhabitants, according to the last preceding federal census.

Sec. 2. The boundary lines of the cities and towns, including the boundary lines covered by the original incorporation proceedings and by subsequent extensions of the boundaries, are validated.

Sec. 3. No boundary extension is invalid for failure to comply with the provisions and requirements of the Municipal Annexation Act.

Acts 1969, 61st Leg., p. 1021, ch. 331, emerg. eff. May 27, 1969.

Title of Act:

An Act relating to validating boundary lines of certain cities and towns; and de-

claring an emergency. Acts 1969, 61st Leg., p. 1021, ch. 331.

CHAPTER THREE—DUTIES AND POWERS OF OFFICERS

Art. 999b. Law enforcement officers; interlocal assistance [New].

Coordinating relationships between local governmental units and federal agencies, see art. 4413d—2.

Art. 999. [809] [407] [363] Marshal, duties, etc.

The marshal of the city shall be ex officio chief of police, and may appoint one or more deputies which appointment shall only be valid up-

on the approval of the city council. Said marshal shall, in person or by deputy, attend upon the corporation court while in session, and shall promptly and faithfully execute all writs and process issued from said court. For the purpose of executing all writs and process issued from the corporation court, the jurisdiction of the marshal extends to the boundaries of the county in which the corporation court is situated. If the corporation court is in a city which is situated in more than one county, the jurisdiction of the marshal extends to all those counties. He shall have like power, with the sheriff of the county, to execute warrants; he shall be active in quelling riots, disorder and disturbance of the peace within the city limits and shall take into custody all persons so offending against the peace of the city and shall have authority to take suitable and sufficient bail for the appearance before the corporation court of any person charged with an offense against the ordinance or laws of the city. It shall be his duty to arrest, without warrant, all violators of the public peace, and all who obstruct or interfere with him in the execution of the duties of his office or who shall be guilty of any disorderly conduct or disturbance whatever; to prevent a breach of the peace or preserve quiet and good order, he shall have authority to close any theatre, ballroom or other place or building of public resort. In the prevention and suppression of crime and arrest of offenders, he shall have, possess and execute like power, authority, and jurisdiction as the sheriff. He shall perform such other duties and possess such other powers and authority as the city council may by ordinance require and confer, not inconsistent with the Constitution and laws of this State. The marshal shall give such bond for the faithful performance of his duties as the city council may require. He shall receive a salary or fees of office, or both, to be fixed by the city council. The governing body of any city or town having less than five thousand inhabitants according to the preceding Federal census, may by an ordinance, dispense with the office of marshal, and at the same time by such ordinance confer the duties of said office upon any peace officer of the county, but no marshal elected by the people shall be removed from his office under the provisions of this article.

Amended by Acts 1967, 60th Leg., p. 1172, ch. 523, § 3, eff. Aug 28, 1967; Acts 1969, 61st Leg., p. 1605, ch. 496, § 2, emerg. eff. June 10, 1969.

Art. 999b. Law enforcement officers; interlocal assistance

Section 1. "Municipality" as used herein means any city or town, including home-rule city or a city operating under the general law or a special charter. "Law enforcement officer" as used herein means any policeman, sheriff, or deputy sheriff, constable, or deputy constable, marshal, or deputy marshal.

Sec. 2. Any county or municipality shall have the power by resolution or order of its governing body to make provision for, or to authorize its major or chief administrative officer, chief of police or marshal to make provision for, its regularly employed law enforcement officers to assist any other county or municipality, when in the opinion of the mayor, or other officer authorized to declare a state of civil emergency in such other county or municipality, there exists in such other county or municipality a need for the services of additional law enforcement officers to protect the health, life, and property of such other county or municipality, its inhabitants, and the visitors thereto, by reason of riot, unlawful assembly characterized by the use of force and violence, or threat thereof by three or more persons acting together or without lawful authority, or during time of natural disaster or man-made calamity.

Sec. 3. While any law enforcement officer regularly employed as such in one county or municipality is in the service of another county or municipality pursuant to this Act, he shall be a peace officer of such

other county or municipality and be under the command of the law enforcement officer therein who is in charge in that county or municipality, with all the powers of a regular law enforcement officer in such other county or municipality, as fully as though he were within the county or municipality where regularly employed and his qualification, respectively, for office where regularly employed shall constitute his qualification for office in such other county or municipality, and no other oath, bond, or compensation need be made.

Sec. 4. Any law enforcement officer who is ordered by the official designated by the governing body of any county or municipality to perform police or peace duties outside the territorial limits of the county or municipality where he is regularly employed as such officer, shall be entitled to the same wage, salary, pension, and all other compensation and all other rights for such service, including injury or death benefits, the same as though the service had been rendered within the limits of the county or municipality where he is regularly employed, and shall also be paid for any reasonable expenses of travel, food, or lodging that he may incur while on duty outside such limits.

Sec. 5. All wage and disability payments, pension payments, damage to equipment and clothing, medical expense, and expenses of travel, food, and lodging shall be paid by the county or municipality regularly employing such law enforcement officer. Upon making such payments, the county or municipality that furnished the services shall, when it so requests, be reimbursed by the county or municipality whose authorized official requested the services out of which the payments arose. Each such county or municipality is hereby expressly authorized to make such payments and reimbursements notwithstanding any provision in its charter or ordinances to the contrary.

Acts 1969, 61st Leg., p. 201, ch. 81, emerg. eff. April 17, 1969.

Title of Act:

An Act granting to a county or a municipality the power to provide services of its law enforcement officers to another such county or municipality under stated conditions; defining municipality and law enforcement officer; enumerating conditions under which such power is granted; constituting such law enforcement officers as

peace officers in the other county or municipality while so employed; defining their powers; providing for payment of their services and expenses incident thereof and for its reimbursement; providing severability; repealing all laws in conflict; and declaring an emergency. Acts 1969, 61st Leg., p. 201, ch. 81.

CHAPTER FOUR—THE CITY COUNCIL

- Art. 1011m. Regional Planning Commissions [New].
- 1015g—3. Revenue bonds by border cities; bridges; approval and registration [New].

- Art. 1015m. Unauthorized vehicles in parking lots; removal; liability [New].

Art. 1011m. Regional Planning Commissions

Definitions

Section 1. A. "City" means any incorporated city, town or village in the State of Texas.

"B. "Governmental Unit" means any county, city, town, village, authority, district or other political subdivision of the state.

"C. "Commission" means a Regional Planning Commission, Council of Governments or similar regional planning agency created under this Act.

D. "Region," "Area," or "Regional" means a geographic area consisting of a county or part thereof, two or more adjoining counties or adjoining parts thereof, which have common problems of transportation, water supply, drainage or land use, similar, common or interrelated

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forms of urban development or concentration, or special problems of agriculture, forestry, conservation or other matters, or any combination thereof. It is the intention of this Act to permit the greatest possible flexibility among the various participating governmental units to organize and establish regions most suitable to the nature of the area problems as they see them.

E. "Comprehensive Development Planning Process" means the process of (1) assessing the needs and resources of an area; (2) formulating goals, objectives, policies and standards to guide its long-range physical, economic, and human resource development; and (3) preparing plans and programs therefor which (a) identify alternative courses of action and the spacial and functional relationships among the activities to be carried out thereunder, (b) specify the appropriate ordering in time of such activities, (c) take into account other relevant factors affecting the achievement of the desired development of the area, (d) provide an overall framework and guide for the preparation of function and project development plans, (e) make recommendations for long-range programming and financing of capital projects and facilities which are of mutual concern to two or more member governments, and (f) make such other recommendations as may be deemed appropriate.

Objectives

Sec. 2. The purpose of this Act is to encourage and permit local units of government to join and cooperate with one another to improve the health, safety and general welfare of their citizens; to plan for the future development of communities, areas, and regions to the end that transportation systems may be more carefully planned; that communities, areas, and regions grow with adequate street, utility, health, educational, recreational, and other essential facilities; that needs of agriculture, business, and industry be recognized; that residential areas provide healthy surroundings for family life; that historical and cultural value be preserved; and that the growth of the communities, areas, and regions is commensurate with and promotive of the efficient and economical use of public funds.

Creation

Sec. 3. Any two or more governmental units may join in the exercise, performance, and cooperation of planning, powers, duties, and functions as provided by law for any or all such governmental units. When two or more such governmental units agree, by ordinance, resolution, rule, order, or other means, to cooperate in regional planning, they may establish a Regional Planning Commission. But nothing in the Act shall be construed to limit the powers of the participating governmental units as provided by existing law. The participating governmental units, by appropriate mutual agreement, may establish a Regional Planning Commission for a region designated in such agreement, provided that such region shall consist of territory under their respective jurisdictions, including extraterritorial jurisdictions, if any, but need not include all of the territory of the governmental units participating.

Powers

Sec. 4. Under this Act, a Regional Planning Commission shall be a political subdivision of this state, the general purpose of which is to make studies and plans to guide the unified, far-reaching development of the area, to eliminate duplication, and to promote economy and efficiency in the coordinated development of the area. The Commission may make plans for the development of the area which may include recommendations on major thoroughfares, streets, traffic and transportation studies, bridges, airports, parks, recreation sites, school sites, public utilities, land use, water supply, sanitation facilities, drainage,

public buildings, population density, open spaces, and other items relating to the effectuation of the general purpose.

The plans and recommendations of the Commission may be adopted in whole or in part by the respective governing bodies of the cooperating governmental units. The Commission may assist the participating governmental units individually or collectively in carrying out plans or recommendations developed by the Commission. The Commission may assist any participating governmental unit individually in the preparation or effectuation of local planning consistent with the general purposes of this Act.

The Commission may contract with one or more of its member governments to perform any service which that government could, by contract, have any private organization without governmental powers perform, provided that such contract imposes no cost or obligation upon any member government not signatory thereto.

A Commission may purchase, lease or otherwise acquire, hold, sell or otherwise dispose of real and personal property. It may employ such staff, and consult with and retain such experts as it deems necessary. It may provide for retirement benefits for its employees by means of a jointly contributory retirement plan with an agency, firm, or corporation authorized to do business in this state.

Operation

Sec. 5. The cooperating governmental units may through joint agreement determine the number and qualifications of the governing body of the Commission. The joint agreement may provide for the manner of cooperation and the means and methods of the operation of the Commission. The joint agreement may provide a method for the employment of the staff and consultants, the apportionment of the cost and expenses, and the purchase of property and materials. The joint agreement may allow for the addition of other governmental units to the cooperative arrangement.

Funds

Sec. 6. (a) A Regional Planning Commission is authorized to apply for, contract for, receive and expend for its purposes any funds or grants from any participating governmental unit or from the State of Texas, federal government, or any other source.

(b) The Commission shall have no power to levy any character of tax whatever. The participating governmental units may appropriate funds to the Commission for the cost and expenses required in the performance of its purposes.

(c) A Commission which meets the conditions set forth below shall be eligible for state financial assistance of a minimum annual sum equal to Ten Thousand Dollars (\$10,000) plus five cents (\$.05) per capita for all population served over one hundred thousand (100,000). A grant made under this provision shall not exceed local funds available to the recipient agency. The provisions for state financial assistance shall be administered by the governor or such state agency as he may designate. For purposes of administering the provisions of this Act, population shall be based on the latest official estimate acceptable to the governor or such agency as he may designate to administer this Act.

In order to be eligible for state financial assistance, a Commission shall comply with the regulations of the agency responsible for administering this Act and shall:

(1) Offer membership in the Commission to all general purpose governments (counties and incorporated municipalities) included in the area or region;

(2) Be composed of two or more general purpose governments having a combined population equal to not less than sixty percent (60%)

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of the total population, and for purposes of this Act the population of the county shall be the population outside any incorporated municipality;

(3) Encompass a geographical area that is economically and geographically interrelated and which forms a logical planning area or region and includes at least one full county;

(4) Encompass an area or region including not less than twenty-five thousand (25,000) population; and

(5) Be engaged in a comprehensive development planning process.

Interstate Commissions

Sec. 7. With advance approval of the governor, a Commission including a region or area which is contiguous to an area lying in another state may join with any similar commission or planning agency in such areas to form an interstate Regional Planning Commission or may permit the Commission in the contiguous area to participate in the planning functions of a Commission formed pursuant to this Act, and the funds provided under the provisions of Section 6 of this Act may be commingled with the funds provided by the state government having jurisdiction over the contiguous areas.

International Areas

Sec. 8. With advance approval of the governor, a Commission in a region or area contiguous to areas in the Republic of Mexico may expend the funds available under the provisions of Section 6 of this Act in cooperation with agencies of the Republic of Mexico or its constituent states or local governments for planning studies encompassing areas lying both in this state and in contiguous territory of the Republic of Mexico.

Dissolution

Sec. 9. Unless it has been agreed to the contrary, any participating governmental unit may, by a majority vote of its membership qualified in serving, withdraw from its participation in any Regional Planning Commission.

Acts 1965, 59th Leg., p. 1248, ch. 570, eff. Aug. 30, 1965. Amended by Acts 1969, 61st Leg., p. 1367, ch. 413, § 1, eff. Sept. 1, 1969.

Art. 1015b. Repealed by Acts 1969, 61st Leg., p. 362, ch. 131, § 1, eff. Sept. 1, 1969.

Art. 1015g—3. Revenue bonds by border cities; pledge of revenue from toll bridges; approval and registration

Section 1. Any city or town in this state, including Home Rule Cities, having located within its corporate limits, or outside its corporate limits but within a distance of fifteen (15) miles from such corporate limits, a toll bridge over a river between the State of Texas and the Republic of Mexico, shall have the power, subject to any outstanding covenants relating to or made in favor of the holders of outstanding bonds of any such city or town, to appropriate or pledge all or any part of any revenues derived by any such city or town from or on account of any such toll bridge, including revenues derived by any such city or town from or on account of and pursuant to any contract with another city or town covering or relating to the operation of such a toll bridge, to the payment of bonds issued under and for the purposes permitted by this Act.

Sec. 2. Revenue bonds, payable from the source aforesaid, may be issued by any such city and town for the purpose of acquiring by purchase, construction or otherwise, or making repairs to, or extending or improving, any or all public buildings, utility system or systems and/or

other public properties or facilities, considered necessary and appropriate by the governing body of such city or town. Such revenue bonds may be issued without the necessity of an election when authorized by an ordinance or ordinances of such governing body, which ordinance may provide and contain such terms and conditions for such bonds and such covenants and commitments to bondholders with respect thereto as may be deemed appropriate by such governing body, except that each issue of such bonds shall mature in not more than forty (40) years from their date and shall bear interest not to exceed the rate or rates as provided in and computed in accordance with Senate Bill No. 20, 61st Legislature, Regular Session, 1969.¹ Additionally, such bonds may be refunded upon such terms and at such times, and maturing at such times and bearing such rate or rates of interest as the issuer shall deem appropriate.

Sec. 3. The proceedings authorizing such bonds shall be presented to the Attorney General for review and to the Comptroller of Public Accounts for registration, all as in the case of other bonds issued by cities and counties in this state. Upon the approval thereof by the Attorney General, the bonds and such proceedings thus approved shall be incontestable for any cause.

Acts 1969, 61st Leg., p. 1472, ch. 436, emerg. eff. June 4, 1969.

¹ Article 717k—2, §§ 1-3.

Title of Act:

An Act authorizing cities and towns having a toll bridge across a river between the State of Texas and the Republic of Mexico located within, or within fifteen (15) miles of, their corporate limits, subject to outstanding covenants relating to outstanding bonds, to appropriate or pledge to revenue bonds issued hereunder, all or any part of any revenues derived by such cities and towns from or on account of any such toll bridges, including revenues derived under any contracts with other cities or towns covering or relating to the operation of any such toll bridges; prescribing the

purposes for which such revenue bonds may be issued, and the manner of issuing the same and the terms, conditions and limitations permitted hereunder, including the maximum maturities and rates of interest thereof; directing the submission of such revenue bonds and related proceedings to the Attorney General for approval and to the Comptroller of Public Accounts for registration; providing for their incontestability; enacting other provisions relating to the subject; and declaring a necessity and an emergency. Acts 1969, 61st Leg., p. 1472, ch. 436.

Art. 1015m. Unauthorized vehicles in parking lots; removal; liability

Section 1. The owner of a parking lot, or his agent, or the lessee of a space in a parking lot may have any motor vehicle parked on the lot without the consent of the owner of the lot, or his agent, or parked in the space of the lessee without the consent of the lessee, removed and stored at the expense of the owner or operator of the vehicle if a readable sign specifying those persons who may park in the lot and prohibiting all others is prominently placed at all entrances to the lot.

Sec. 2. The owner of a lot or the lessee of a space in a lot who has an unauthorized vehicle removed and stored under the provisions of Section 1 of this Act is not liable for damages incurred by the owner or operator of an unauthorized vehicle as a result of removal or storage if the vehicle is removed by an insured vehicle wrecker service and stored by an insured storage company.

Acts 1969, 61st Leg., p. 1673, ch. 536, eff. Sept. 1, 1969.

Title of Act:

An Act relating to the removal of motor vehicles parked without consent in parking lots and the protection of persons in cer-

tain circumstances having motor vehicles removed and stored; and declaring an emergency. Acts 1969, 61st Leg., p. 1673, ch. 536.

CHAPTER FIVE—TAXATION

Cities of 600,000 or more, limitation on bonded indebtedness, see art. 835p.

Art. 1066c. Local Sales and Use Tax Act

* * * * *

Authority to adopt tax; imposition and rate; election and ballots; canvass of returns; results of election; city boundaries; tax schedule and bracket system formula for joint collection of taxes; standards

Sec. 2. * * *

B. The sales tax portion of any local sales and use tax adopted under this Section is hereby imposed at the rate of one percent (1%) on the receipts from the sale at retail of all taxable items within any city adopting such tax which items are subject to taxation by the State of Texas under the provisions of the Limited Sales, Excise and Use Tax Act, as enacted, and as heretofore or hereafter amended."

Sec. 2, subsec. B amended by Acts 1969, 61st Leg., 2nd C.S., p. 5, ch. 1, art. 1, § 39, eff. Oct. 1, 1969.

* * * * *

K. * * *

(2) When such Limited Sales, Excise and Use Tax imposed by the State of Texas shall be at the rate of three and one-fourth percent (3-1/4%) on the receipts from the sale at retail of all taxable items within this State which is subject to such tax, and the Local Sales and Use Tax imposed in any city under authority of this Act shall be at the rate of one percent (1%) on the receipts from the sale of all taxable items within such city which is subject to such tax, the total gross rate of such combined taxes in such city shall be at the rate of four and one-fourth percent (4-1/4%) on combined taxes in such city on the receipts from the sale of all tangible personal property within such city which is subject to such taxes. When the sale price shall involve a fraction of a dollar, the taxes shall be added to the sale price upon the following schedule:

Amount of Sale	Tax
\$.01 to \$.11	No Tax
.12 to .35	\$.01
.36 to .58	.02
.59 to .82	.03
.83 to 1.05	.04
1.06 to 1.29	.05
1.30 to 1.52	.06

Provided, that for successive brackets for this schedule in this paragraph, the tax shall be computed by multiplying four and one-fourth percent (4-1/4%) times the amount of the sale. Any fraction of one cent (\$.01) which is less than one half of one cent (\$.005) of tax shall not be collected. Any fraction of one cent (\$.01) of tax equal to one half of one cent (\$.005) or more shall be collected as a whole cent (\$.01) of tax.

Provided, however, that any retailer who can establish to the satisfaction of the Comptroller that fifty percent (50%) or more of his receipts from the sale of tangible personal property and taxable services arise from individual transactions where the total sales price is eleven cents (\$.11) or less may exclude the receipts from such sales when reporting and paying the tax imposed under this Act and the Limited Sales, Excise and Use Tax imposed by the State of Texas. No retailer shall avail himself of this provision without prior written approval of the Comptroller. The Comptroller shall grant such approval when he is satisfied that the retailer qualifies on the basis set forth in this Section

and when the retailer has submitted satisfactory evidence that he can and will maintain records adequate to substantiate the exclusion herein authorized. Any attempt on the part of any retailer to exercise this provision without prior written approval of the Comptroller shall be deemed to be a failure and refusal to pay the taxes imposed by this Act and the Limited Sales, Excise and Use Tax Act and the retailer shall be subject to assessment for both taxes, penalties and interest as provided for in this Act and the Limited Sales, Excise and Use Tax Act.

(3) In the event the Legislature shall either increase or decrease the rate of such State Limited Sales, Excise and Use Tax, the combined rate of the State Limited Sales, Excise and Use Tax and the Local Sales and Use Tax shall be the sum of the two rates, in which event the schedule for collection of such combined taxes shall be calculated by multiplying the combined tax rate times the amount of the sale. Any fraction of one cent (\$.01) which is less than one half of one cent (\$.005) of tax shall not be collected. Any fraction of one cent (\$.01) of tax equal to one half of one cent (\$.005) or more shall be collected by the retailer as a whole cent (\$.01) of tax. The Comptroller may publish a schedule based on the above formula for use in those cities which have imposed a Local Sales and Use Tax under the authority of this Act, and which cities have a need for such schedule under the provisions of this paragraph.

Subd. 2, subsec. K, sec. 2 amended by Acts 1968, 60th Leg., 1st C.S. p. 7, ch. 2, § 8, eff. Oct. 1, 1968. Acts 1969, 61st Leg., 2nd C.S., p. 5, ch. 1, art. 1, § 40, eff. Oct. 1, 1969.

Frequency of elections

Sec. 3. No election upon a proposition to adopt a local sales and use tax in any city or to abolish such tax in such city shall be held within one (1) year from the date of the last preceding election in such city on any of such propositions.

Sec. 3 amended by Acts 1969, 61st Leg., p. 158, ch. 57, § 1, emerg. eff. April 3, 1969.

Excise tax; combined rate of excise tax; imposition, rate and collection of tax

Sec. 4. A. In every city where the local sales and use tax has been adopted pursuant to the provisions of this Act, there is hereby imposed an excise tax on the storage, use, or other consumption within such city of tangible personal property purchased, leased, or rented from any retailer on or after the effective date for collection of the sales tax portion of the local sales and use tax for storage, use or other consumption in such city at the rate of one percent (1%) of the sales price of the property or, in the case of leases or rentals, of said lease or rental price; provided, that if no excise tax on the storage, use or other consumption of any article or item of tangible personal property is owed to or collected by the State of Texas under the State Limited Sales, Excise and Use Tax Act, then the tax imposed by this Section shall not be owed to and shall not be collected by, for or in behalf of such city for storage or other consumption of such article or item of tangible personal property within such city.

B. In each city where the local sales and use tax has been imposed as provided in Section 2 of this Act, the excise tax imposed under the State Limited Sales, Excise and Use Tax Act on the storage, use, or other consumption of tangible personal property and the excise tax imposed by this Section of this Act shall be added together to form a combined rate of excise tax which is equal to the sum of the two taxes. The tax imposed by this Section of this Act shall be collected by the Comptroller on behalf of and for the benefit of such city. The bracket system formula prescribed in Subsection K of Section 2 of this Act shall be applicable to the collection of the excise tax imposed under this Section.

C. The provisions of Article 20.031, Title 122A, shall be applicable to the collection of the tax imposed by this Section, provided that the name

For Annotations and Historical Notes, see V.A.T.S.

of the city where the local sales and use tax has been adopted shall be substituted for that of the State where the words "this State" are used to designate the taxing authority or to delimit the tax imposed; and provided further that the effective date for commencing the collection of the sales tax portion of the tax imposed by this Act in any city shall be substituted for the phrase "the effective date of this Chapter."

Sec. 4, subsec. C amended by Acts 1969, 61st Leg., 2nd C.S., p. 5, ch. 1, art. 1, § 44, eff. Oct. 1, 1969.

Comptroller; functions for administration, collection, enforcement and operation of tax

Sec. 5. On and after the effective date of any tax imposed under the provisions of this Act, the Comptroller shall perform all functions incident to the administration, collection, enforcement, and operation of the tax, and the Comptroller shall collect, in addition to the Limited Sales, Excise and Use Tax for the State of Texas, an additional tax under the authority of this Act of one percent (1%) on the receipts from the sale at retail or on the sale price or lease or rental price on the storage, use, or other consumption of all taxable items within such city which property is subject to the State Limited Sales, Excise and Use Tax Act. The tax imposed hereunder and the tax imposed under the Limited Sales, Excise and Use Tax Act shall be collected together and reported upon such forms and under such administrative rules and regulations as may be prescribed by the Comptroller. On and after the effective date of any proposition to abolish such local sales and use tax in any city, the Comptroller shall comply therewith as provided in this Act.

Sec. 5 amended by Acts 1969, 61st Leg., 2nd C.S., p. 5, ch. 1, art. 1, § 41, eff. Oct. 1, 1969.

Provisions governing collection of tax

Sec. 6. The following provisions shall govern the collection by the Comptroller of the tax imposed by this Act:

* * * * *

B. (1) For the purposes of the local sales tax imposed by this Act, all retail sales, leases and rentals, except sales of natural gas or electricity, are consummated at the place of business of the retailer unless the tangible personal property sold, leased, or rented is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination or the taxable service is to be performed at an out-of-state location. In the event the retailer has no permanent place of business in the State, the place or places at which the retail sales, leases, or rentals are consummated for the purposes of the tax imposed by this Act shall be determined under rules and regulations prescribed by the Comptroller. If the retailer has more than one place of business in the State, the place or places at which retail sales, leases, and rentals are consummated shall be the retailer's place or places where the purchaser or lessee takes possession and removes from the retailer's premises the articles of tangible personal property, or if the retailer delivers the tangible personal property to a point designated by the purchaser or lessee, then the sales, leases, or rentals are consummated at the retailer's place or places of business from which tangible personal property is delivered to the purchaser or lessee. The sale of natural gas or electricity is consummated at the point of delivery to the consumer.

Sec. 6, subd. B(1) amended by Acts 1969, 61st Leg., 2nd C.S., p. 5, ch. 1, art. 1, § 42, eff. Oct. 1, 1969.

* * * * *

C. (1) All exemptions granted to agencies of government, organizations, persons, and to the sale, storage, use, and other consumption of certain articles and items taxable under the provisions of Article 20.04, Chapter 20, Title 122A, are hereby made applicable to the imposition and collection of the tax imposed by this Act.

(2) The receipts from the sale, use or rental of and the storage, use or consumption in this State, of taxable items are exempt from the tax imposed by this Act, if:

(a) the items are used for the performance of a written contract entered into prior to the date this Act takes effect in any city which may affect the contract, if the contract is not subject to change or modification by reason of the tax; or

(b) the items are used pursuant to an obligation of a bid or bids submitted prior to the date this Act takes effect in any city which may affect the contract, if the bid or bids may not be withdrawn, modified, or changed by reason of the tax imposed by this Act; and

(c) if notice of a contract or bid on which an exemption is to be claimed is given by the taxpayer to the Comptroller within sixty (60) days from the date this Act takes effect in any city which may affect the bid or contract.

The exemption provided by this Subsection shall have no effect after three (3) years from the date this Act takes effect in any city.

Sec. 6, subsec. C amended by Acts 1969, 61st Leg., 2nd C.S., p. 5, ch. 1, art. 1, § 43, eff. Oct. 1, 1969.

* * * * *

Acts 1968, 60th Leg., 1st C.S., Ch. 2, § 8, modified subsec. K(2) of section 2 by conforming provisions to state tax increase from two to three per cent and increasing scheduled amounts, and by adding second proviso. Section 16 provided for effective date of Oct. 1, 1968.

Acts 1969, 61st Leg., 2nd C.S., p. 5, ch. 1, art. 1, which amended provisions of sections 2 and 4-6 of this article, provided in section 45:

(a) There are exempted from the increase in the Limited Sales, Excise, and Use Tax imposed by this Act the receipts from the sale, use, or rental, and the storage, use, or consumption in this State of tangible personal property, and there are exempted from the Limited Sales, Excise, and Use Tax and the Local Sales and Use Tax the receipts from the sale, use, or rental, and the storage, use or consumption in this state of taxable items not taxed before the effective date of this article, if:

(1) the items are used for the performance of a written contract entered into prior to the effective date of this article, if the contract is not subject to change or modification by reason of the tax; or the items are used pursuant to an obligation of a bid or bids submitted prior to the effective date of this article, if the bid or bids may not be withdrawn, modified, or changed by reason of the tax imposed by this Act; and

(2) notice of a contract or bid on which an exemption is to be claimed is given by the taxpayer to the Comptroller before the 60th day following the effective date of this article.

(b) The exemptions provided by this section have no effect after September 30, 1972.

Section 1 of Acts 1969, 61st Leg., 2nd C.S., p. 5, ch. 1, art. 10, provided for effective date of Oct. 1, 1969.

CHAPTER NINE—STREET IMPROVEMENTS

Art.

1105b—2. Validation of special assessments and reassessments for street improvements [New].

Art. 1105b—2. Validation of special assessments and reassessments for street improvements

Section 1. All assessments and reassessments for street or highway improvements heretofore levied or purported to be levied by any and all cities in the state against properties abutting their streets or highways and against the owners of such properties, and all proceedings of the governing bodies of such cities levying or purporting to levy such assessments or reassessments are in all respects validated and shall have the force and effect provided by the provisions of Chapter 106 of the Fortieth Legislature, First Called Session, 1927, as amended,¹ except that nothing herein shall be construed to validate or to legalize any assessment lien levied or attempted to be levied against any property or interest in property exempt at the time the improvements were ordered from the lien of special assessment for street improvements.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 2. All assignable certificates of special assessment issued in evidence of such assessments or reassessments are hereby validated according to their terms. Any city which has not yet issued assignable certificates of special assessment to evidence such assessments may issue same and such certificates shall be valid and legal.

Sec. 3. This Act is not intended to validate, nor does it apply to any assessments or reassessments for street improvements or utility improvements (regardless whether said assessment or reassessment be in the form of zoning regulations, plat regulations, utility regulations, or direct money assessments), nor to any ordinances or resolutions of the governing bodies of such cities authorizing the issuance of any such certificates of special assessment, which are the subject matter of any litigation pending on the effective date of this Act, in any court of competent jurisdiction in this state in which the validity thereof is being challenged, if such litigation is ultimately determined against the validity of same. Acts 1969, 61st Leg., p. 1588, ch. 483, emerg. eff. June 10, 1969.

¹ Article 1105b.

Title of Act:

An Act validating and legalizing all special assessments and reassessments for street improvements levied or purported to be levied by any and all cities in the state; and validating the proceedings of the governing bodies of such cities levying or purporting to levy such assessments or reassessment; validating all assignable certificates of special assessment issued to evidence such assessments or reassessments;

providing that nothing herein shall be construed as validating or legalizing any assessment lien against any interest in property exempt at the time the improvements were ordered from the lien of special assessment for street improvements; providing a non-litigation clause; providing a severability clause; and declaring an emergency. Acts 1969, 61st Leg., p. 1588, ch. 483.

CHAPTER TEN—PUBLIC UTILITIES

1. CITY OWNED UTILITIES

Art.

1110e. Waterworks and sanitary sewer systems; "on-site" and "off-site" improvements; assessments; certificates; procedure [New].

1. CITY OWNED UTILITIES

Art. 1109c. Repealed by Acts 1969, 61st Leg. p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Art. 1109k. Soil conservation districts; flood control and drainage; contracts; contribution and expenditure of funds

* * * * *

Sec. 2. (a) All counties, cities, water control and improvement districts, drainage districts and other political subdivisions in the State of Texas may contribute funds to soil conservation districts for construction or maintenance of canals, dams, flood detention structures, drains, levees and other improvements for flood control and drainage as related to flood control and for making the necessary outlets and maintaining them regardless of whether the title to such properties is vested in the State of Texas, or a soil conservation district, so long as the work to be accomplished is for the mutual benefit of the donor and the agency or political subdivision having title to such property on which the improvements are located.

(b) A county may contribute funds to a soil conservation district which the district may use to match all or part of funds received by the

district from the state for use in soil conservation and flood control programs.

Sec. 2 amended by Acts 1969, 61st Leg., p. 2586, ch. 860, § 1, emerg. eff. June 18, 1969.

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Art. 1110c. Improvements to water and sewer systems

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Assessment of subdivided or platted property; cities of less than 900,000

Sec. 19. In cities with a population of less than 900,000 inhabitants according to the last preceding Federal Census no assessment or other charge for the construction of improvements to any water or sewer system shall be made against any property or property owners, regardless of who initiates the request for said construction, unless such property is in an area which has been subdivided or platted for a period of at least ten years next preceding the effective date of this Act. For purposes of determining property or areas to which this Act shall apply, "subdivided or platted property" shall mean such property as has been duly platted under the terms of Article 974—a, V.A.T.C.S. or any property which has been subdivided or platted by map or plat filed for record in the office of any county clerk, by the terms of which map or plat there has been made any dedication of the property to the public use for a street or alley right-of-way or for public utility easements.

Sec. 19 amended by Acts 1967, 60th Leg., p. 2068, ch. 769, § 2, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 1681, ch. 542, § 1, emerg. eff. June 11, 1969.

* * * * *

Art. 1110e. Waterworks and sanitary sewer systems; "on-site" and "off-site" improvements; assessments; certificates; procedure

Power to make off-site improvements and assessments

Section 1. Cities as defined herein shall have the power under this Act to make improvements of the kinds or classes herein named or any combination thereof or part thereof within certain designated or defined areas within their limits so as to enable water service or sanitary sewer service, either or both, to be furnished to property situated in such areas from "off-site" waterworks system or sanitary sewer systems, either or both, as herein defined hereafter constructed, purchased or otherwise acquired by such cities and to assess a portion of the cost of such improvements against the properties benefited thereby and against the owners thereof, regardless of whether or not said property is in an area which has been subdivided or platted preceding the effective date of this Act by a plat filed for record in the office of the county clerk of the county in which such city is situated or otherwise.

Definitions

Sec. 2. (a) "City" shall mean any city or town, including general law and home rule cities, and not included in whole or in part within the boundaries of any political subdivision functioning and with an outstanding bonded indebtedness having as one of its purposes the supplying of fresh water for domestic or commercial uses or the furnishing of sanitary sewer services, and which city or town does not have a municipally owned water or sanitary sewer service system at the effective date of this Act. The powers conferred in this Act shall terminate after a period of 5 years from the effective date of this Act.

(b) "On-site" when used in connection with the words sanitary sewer system, water system, mains, gates, tees, crosses, adjuncts, appurtenances or improvements, or improvements to the sewer system or water system shall refer to such segments of a water or sanitary sewer system, or improvements in connection therewith, including mains, gates, tees, cross-

For Annotations and Historical Notes, see V.A.T.S.

es, taps, meter boxes, manholes, laterals, extensions, appliances, adjuncts and other appurtenances located within the "Defined Area" within which the benefited property lies. "On-site Improvements" do not include the water and/or sanitary sewer plant proper even though situated within the area.

(c) "Off-site" when used in connection with the words sanitary sewer system, water system, mains, gates, tees, crosses, taps, meter boxes, manholes, laterals, extensions, appliances, adjuncts, appurtenances or improvements, or improvements to the sewer system or improvements to the water system shall refer to mains, gates, tees, crosses, taps, meter boxes, manholes, laterals, extensions, appliances, adjuncts and other appurtenances or segments of a water or sanitary sewer system located outside of the "Defined Area" in which the benefited property lies. "Off-site Improvements" include the waterworks and/or sanitary sewer plant proper whether situated within such area or outside of such area.

(d) "Improvements to the Sanitary Sewer System" shall mean the laying of all mains, laterals and extensions, any and all other appliances or appurtenances or adjuncts thereto and any combinations thereof or of portions thereof above mentioned, and other "on-site improvements" liberally construed, necessary or advisable for the sanitary disposal of excreta and offal from Benefited Properties situated within the "Defined Area" but shall not embrace any connection facilities leading from public mains into private property for service to such property.

(e) "Improvements to the Water System" shall mean the laying of all water mains with gates, tees, crosses, taps, meter boxes, manholes, laterals, extensions, appliances, adjuncts thereto and any and all other appliances or appurtenances or adjuncts thereto and any combinations thereof or of portions thereof above mentioned and other "on-site improvements" liberally construed, advisable or necessary for the furnishing of water for domestic or commercial purposes to the Benefited Properties in the "Defined Area" but shall not embrace any connection facilities leading from a meter into private property.

(f) "Cost of Improvement" with regard to the construction of improvements to the water system and sewer system, either or both, shall include expenses of engineering, fiscal fees, and other expenses incident to construction of improvements in addition to the other costs of the improvements.

(g) "Construction of Improvement" when used herein shall mean the construction of "on-site" improvements, as same are defined herein, to the water or sewer system, either or both, hereafter constructed, purchased or otherwise acquired by the city.

(h) "Improvements" when used alone herein shall mean "on-site" improvements within designated or defined areas of cities which will enable water service or sanitary sewer service, either or both, to be furnished to property situated in such area from "off-site" waterworks and sanitary sewer systems, either or both, hereafter constructed, purchased or otherwise acquired by such cities.

(i) "Governing Body" shall mean the city, or town council or commission which serves as the legislative body of the municipality.

(j) "Benefited Property" shall mean any lot or tract of land situated in a "Defined Area" and to which water and sewer service, either or both, is made available under the terms of this Act.

(k) "Defined Area or Areas" means any area or any areas within the limits of any city to which this Act applies which is served by neither a municipally owned sanitary sewer or water system the boundaries of which area or areas are defined by the governing body of the city in an ordinance or resolution declaring that a necessity exists for improvements as herein defined.

Power to make on-site improvements and assessments

Sec. 3. The governing body of the city shall have at any time the power to determine the necessity for and to order the construction of "on-site" improvements within said city to a water system or to a sanitary sewer system, either or both, hereafter constructed, purchased or otherwise acquired by the city and to contract for the construction of such improvements by one or more contracts in the name of the city and to provide for the payment of the costs of such improvements by the city or partly by the city and partly by assessments levied against benefited property and the owners thereof as herein provided.

Ordinance; cost estimates; payment of cost by assessment and by city

Sec. 4. By the ordinance or resolution declaring that the necessity exists for such improvements, the city shall state generally the nature and extent of the "on-site" improvements, shall define the area or areas in which the benefited property lies and in which the "on-site" improvements are to be constructed, and may direct that detailed plans, specifications and cost estimates therefor be prepared and submitted to the governing body. The costs of "on-site" improvements may be wholly paid by the city or partly by the city and partly by the property benefited by the construction of the improvements and the owners of such property, but if any part of such cost is to be paid by such benefited property and the owners thereof, then before any "on-site" improvements are actually constructed, either before or after bids for the proposed construction are received by the city, and before any hearing herein provided for is held, the governing body shall prepare or cause to be prepared an estimate of the cost of such "on-site" improvements; in no event shall more than nine-tenths of the costs of such "on-site" improvements as shown on such estimate be assessed against such benefited property and the owners thereof. The city shall pay all of the costs of "off-site" improvements.

Railway assessment exemption

Sec. 5. No special tax or assessment shall be levied against a railway, street railway or interurban right-of-way to defray a portion of the cost of improvements to a city's water or sanitary sewer system.

Assessments; payment and interest; priority of liens; assignable certificates; suits; collection costs

Sec. 6. Subject to the terms hereof, the governing body of any city shall have power by ordinance to assess not exceeding nine-tenths of the estimated cost of "on-site" improvements against benefited property, and against the owners of such property, and to provide the time, terms, and conditions of payment and defaults of such assessments, and to prescribe the rate of interest thereon not to exceed 10 percent per annum. Any assessment against benefited property shall be a first and prior lien thereon, from the date improvements are ordered and shall be a personal liability and charge against the true owners of such property at such date whether named or not in any notice, instrument, certificate or ordinance provided for hereunder. The governing body shall have the power to cause to be issued in the name of city assignable certificates in evidence of assessments levied hereunder declaring the lien upon the property and liability of the true owners thereof whether correctly named or not and to fix the terms and conditions of such certificates. Such certificates may be signed by the mayor or mayor pro tem or other authorized officer and attested by the city secretary or city clerk, which signatures may be facsimile signatures in lieu of manual signatures and such facsimile signatures may be printed, engraved, lithographed, stamped or otherwise placed in facsimile thereon. The city seal may likewise be placed in facsimile thereon.

If any such certificate shall recite substantially that the proceeding with reference to making the improvements therein referred to have been regularly had in compliance with the law and that all prerequisites to the fixing of the assessment lien against the property described in said certificate and the personal liability of the owner or owners thereof have been performed, and that the improvements have been completed in accordance with the plans and specifications and have been accepted by the city and the date of such acceptance, same shall be prima facie evidence of all the matters recited in said certificate, and no further proof thereof shall be required. In any suit upon any assessment or reassessment in evidence of which a certificate may be issued under the terms of this Act it shall be sufficient to allege the substance of the recitals in such certificate and that such recitals are in fact true, and further allegations with reference to the proceedings relating to such assessment or reassessment shall not be necessary.

Such assessments shall be collectable with interest, expense of collections, and reasonable attorney's fees, if incurred, and shall be first and prior liens on the property assessed, superior to all other liens and claims except state, county, school district and city ad valorem taxes, and shall be a personal liability and charge against said owners of the property assessed.

Apportionment of cost

Sec. 7. That part of the cost of water and sewer "on-site" improvements, either or both, but computed separately, which may be assessed against benefited property and the owners thereof in the Defined Area or Areas shall be apportioned among the tracts or parcels of property benefited by such water improvements or sewer improvements, or both, and against the owners thereof in accordance with the square footage of each tract or parcel of land as shown on a recorded plat if such property is platted and the square footage can be computed from the information shown on such plat, or if no such plat is recorded, then as such square footage may be estimated by the city's engineer from such information as is available, provided that if the application of this rule of apportionment would in the opinion of the governing body, in particular cases, result in injustice or inequality it shall be the duty of said body to apportion and assess said costs in such proportion as it may deem just and equitable, having in view the special benefits in enhanced value to be received by such owners, and the adjustment of such apportionment so as to produce a substantial equality of benefits received and burdens imposed. For purposes of computing the amount of the assessment to be made each parcel of benefited property shall be assessed according to the number of square feet of each such parcel irrespective of the location of "on-site" improvements constructed hereunder relative to such parcel so long as such improvements provide water or sanitary sewer service, or both, to the parcel to be assessed.

Notice of assessment; requisites; filing

Sec. 8. Whenever the governing body of any city shall pursuant to this Act determine it to be necessary that any "on-site" improvements should be constructed, then if it is proposed that all or any part of the costs of the "on-site" improvements be levied or assessed and made a lien on property benefited thereby, there may be filed with the county clerk of the county or counties in which such property is situated a notice signed in the name of such city by the city clerk, secretary, mayor or mayor pro tem or other authorized officer, which signatures may be facsimile signatures in lieu of manual signatures, and such facsimile signatures may be printed, engraved, lithographed, stamped or otherwise placed in facsimile thereon. Such notice shall meet all requirements of the Act when it shows substantially that the governing body of such

city has ordered, directed or otherwise provided or determined it to be necessary that such system be improved and shall define the outside boundaries of the area or areas in which the benefited property lies (the Defined Area or Areas), either by metes and bounds or by reference to streets, highways, survey lines, city limits lines or lot and block or subdivision lines shown on recorded plats, or shall otherwise identify or designate the area within which the improvements are to be made; and shall state that a portion of the costs of the "on-site" improvements is to be or has been specially assessed as a lien upon the benefited property. It is specially provided that one notice may embrace and include any number of such systems or improvements, or designated areas. If there are lots or parcels of land within any Defined Area or Areas which it has been determined by the governing body or the city's engineer will not be Benefited Property as that term is defined herein, then in such notice or in a later notice filed as promptly as feasible after such fact has been so determined such non-benefited property shall be described as adequately as possible and the inchoate lien against same and liability of the owners thereof shall be declared released and cancelled.

Necessity of acknowledgment and filing of assessment notice

Sec. 9. It shall not be necessary that any notice required by this Act give details or that it be sworn to or acknowledged and same may be filed at any time and the county clerk with whom any such notice is filed shall record same and index same in the name of the city and in the name or other designation of the water or sewer system or systems to the improvement of which it relates. The lien and liability of the assessment shall not be invalidated should said notice not be filed or not be indexed or recorded as herein provided, or shall be otherwise defective.

Exemptions from assessment; lien and personal liability; enforcement

Sec. 10. No property of any kind, church, school or otherwise, shall be exempt from any tax or assessment or assessments authorized hereby for local improvements, provided, however, that nothing herein shall empower any city or its governing body to fix a lien against any interest in property which is exempt from the lien of special assessments for local improvements under the Constitution of Texas at the time the lien takes effect, but the owner or owners of such property shall nevertheless be personally liable for any assessment in connection with such improvement and the city shall have power and authority to refuse water or sewer service, either or both, to the owners of such property until the owner thereof pays to the city the amount of assessment made against such property or an amount equal to the amount assessed for such improvements against private property of equal or comparable size. The fact that any improvement, though ordered, is omitted as to any property, any interest in which is so exempt shall not invalidate the lien or liability of assessments made against other property.

The lien created against any property and the personal liability of the owner or owners thereof may be enforced by suit in any court having jurisdiction, or by sale of the property assessed in the same manner as may be provided by law or charter in force in the particular city for sale of property for ad valorem city taxes, and the city, as an aid to the enforcement of the liability imposed by the assessment, may refuse to connect or may disconnect sewer or water service to a tract or parcel of benefited property during the period on which there is a default in the payment of any amount assessed hereunder against such tract or parcel and the owners thereof.

Notice and opportunity for hearing; publication and mailing of notices;
requisites; powers of governing body; appeal

Sec. 11. No assessment herein provided for shall be made against any benefited property or its owners, until after notice and opportunity for hearing as herein provided, and no assessment shall be made against any benefited property or owners thereof in excess of the special benefits of such property and its owners in the enhanced value thereof by means of such improvements as determined at such hearing. Such notice shall be by advertisement inserted at least three times in some newspaper published in the city where such special assessment is to be imposed, if there be such a paper: if not, then in a newspaper published in the county wherein such city is situated with general circulation in such city; the first publication of such notice of hearing to be made at least 21 days before the date of the hearing; and, additional written notice of the hearing shall be given by depositing in the United States mail, at least 14 days before the date of the hearing, notice of such hearing, (which may consist of a copy of the published notice) postage prepaid, in envelopes addressed to the respective owners of the Benefited Properties, as the names of such owners are shown on the then current rendered tax rolls of such city and at the addresses so shown, or if the names of such respective owners do not appear on such rendered tax rolls, then addressed to such owners as their names are shown on the current unrendered rolls of the city at the addresses shown thereon. The certificate of the city clerk or city secretary of such mailing and such publication shall constitute proof that all notice requirements of this Act have been fully complied with.

If any such notice shall describe in general terms the nature of the improvements for which assessments are proposed to be levied and to which such notice relates; shall name the water or sanitary sewer system to be improved, shall state the estimated amount or amounts per square foot proposed to be assessed against benefited property or the owners thereof, showing separately the amount proposed to be assessed for water improvements and the amount proposed to be assessed for sanitary sewer improvements; shall define in the manner provided by Section 8 of this Act the outside boundaries of the area or areas in which the benefited property lies or lie (the Defined Area or Areas), with reference to which the hearing mentioned in the notice is to be held; shall state the estimated total cost of the "on-site" improvements to the water system separately from the estimated total cost of the "on-site" improvements to the sewer system; and shall state the time and place at which such hearing shall be held, then such notice shall be sufficient, valid and binding upon all owning or claiming such benefited property or any interest therein. Such hearing shall be by and before the governing body of such city and all owning or claiming such benefited property, or any interest therein, shall have the right, at such hearing, to be heard on any matter as to which hearing is a constitutional prerequisite to the validity of any assessment authorized by this Act, and to contest the amounts of the proposed assessments, the lien and liability thereof, the special benefits to the benefited property and owners thereof by means of the improvements for which assessments are to be levied, the accuracy, sufficiency, regularity and validity of the proceedings and contract or contracts in connection with such improvements and proposed assessments, and the governing body shall have power to correct any deficiencies, and to determine the amounts of assessments and all other matters necessary, and by ordinance to close such hearing and levy such assessments before, during or after the construction of such improvements, but no part of any assessment shall be made to mature prior to acceptance by the city of the improvements or the portion of such im-

provements which make service available to the Benefited Property against which assessment is levied.

Anyone owning or claiming any property assessed, or any interest therein, who shall desire to contest any such assessment on account of the amount thereof, or any inaccuracy, irregularity, invalidity, or insufficiency of the proceedings or contract with reference thereto, or with reference to such improvements, or on account of any matter or thing not in the discretion of the governing body, shall have the right to appeal therefrom and from such hearing by instituting suit for that purpose in any court having jurisdiction within 15 days from the time such assessment is levied; and anyone who shall fail to institute such suit within such time shall be held to have waived every matter which might have been taken advantage of at such hearing, and shall be barred and estopped from in any manner contesting or questioning such assessment, the amount, accuracy, validity, regularity and sufficiency thereof, and of the proceedings and contract with reference thereto and with reference to such improvements for or on account of any matter whatsoever. And the only defense to any such assessment in any suit to enforce the same shall be that the notice of hearing was not published or mailed or did not contain the substance of one or more of the requisites therefor herein prescribed, or that the assessments substantially exceed the amount of the estimate, and no words or acts of any officer or employee of the city, or member of any governing body of the city, other than the action of the governing body shown in its written proceedings and records shall in any way affect the force and effect of the provisions of this Act.

Changes in improvements

Sec. 12. The governing body of the city shall have power to provide for changes in plans, methods or contracts for improvements, or other proceedings relating thereto, but any change substantially affecting the nature or quality of any improvements shall only be made when it is determined by a majority vote of the governing body that it is not practical to proceed with the improvements as theretofore provided for, and if any such substantial change be made after any hearing has been held or after notice has been given of any such hearing, as herein required, then unless the improvement be abandoned altogether a new estimate of cost shall be made and a new hearing ordered, and held, and new notices given, all with like effect and in like manner as herein provided for original notice and hearings. The substitution of equivalents shall not be deemed a substantial change. The elimination or change of location of particular mains, laterals, adjuncts and other appurtenances shall not be deemed a substantial change if an ordinance shall be passed which shall have the effect of cancelling any assessments theretofore levied against properties and their owners will as a result of such elimination or change receive neither water nor sewer service, and cancelling any assessment so levied for sewer improvements if sewer service is eliminated or for water improvements if water service is to be eliminated, as the case may be. Changes in or abandonment of improvements must be with the consent of such person, firm or corporation as may have contracted with the city for the construction thereof, if any such contract has been entered into.

Separate or joint assessments

Sec. 13. Assessments against several parcels of benefited property may be made in one assessment when owned by the same person, firm, corporation or estate, and benefited property owned jointly by one or more persons, firms or corporations may be assessed jointly.

Powers of governing body; rules and regulations

Sec. 14. Said governing body shall have power to carry out all the terms and provisions of this Act and to exercise all the powers thereof, either by resolution, motion, order or ordinance, except where ordinance is specifically prescribed, and such governing body shall have power to adopt, either by resolution or ordinance, any and all rules or regulations appropriate to the exercise of such powers, the method and manner of ordering and holding such hearings, and the giving of notices thereof.

Invalid assessments; correction of irregularities; amendment of assessment; reassessments; effect on certificates

Sec. 15. In case any assessment for any reason whatsoever be held or determined to be invalid or unenforceable, then the governing body of such city is empowered to supply any deficiency in proceedings with reference thereto and at any time before or after suit is filed seeking to enforce such assessment or during the pendency of any such suit but in any event not later than two years after the maturity date of the last installment on the assessment involved extended by the period of time, if any, in which litigation involving such assessment or the certificate evidencing same was pending to make and levy reassessments after notice and hearing as nearly as possible in the manner herein provided for original assessments and subject to the provisions hereof with reference to special benefits; however, such city may at any time correct any mistake or irregularity by amending any assessment without the necessity of reassessment proceedings and without the necessity of new notice and hearing where the original notice to the property owners after the original hearing was published and mailed as required by this Act and contained, in substance, the information required to be contained therein by this Act and the irregularity or mistake can be corrected by the substitution of a correct property description for an incorrect one, or the making of a correction showing the true area of a particular tract where an incorrect area was originally shown, so long as such correction is insubstantial and does not go to the question of benefits, or where other similar irregularities exist and where such amendment does not require an increase in the square foot rate previously assessed against the benefited property and the owner thereof nor go to the question of benefits to such property. Recitals in certificates issued in evidence of reassessments or amended assessments shall have the same force as provided for in recitals in certificates relating to the original assessment, and such certificate shall be dated as of the date of the original certificate and shall bear interest as therein provided. Such certificates may be signed by the mayor, mayor pro tem or other authorized officer and attested by the city clerk or city secretary in office at the date of their issuance. Such signatures and the seal of the city may be placed on said reassessment certificates in facsimile in the manner herein provided for assessment certificates.

Reassessments; appeal

Sec. 16. Anyone owning or claiming any property interest in any property against which such reassessment is levied shall have the same right of appeal as herein provided in connection with original assessments, and in the event of failure to appeal within 15 days from the date of hearing relative to such reassessment, the provisions hereinabove made with reference to waiver, bar, estoppel and defense shall apply to such reassessment.

Construction of Act

Sec. 17. The powers conferred by this Act shall not be construed as precedent beyond the powers specifically granted herein, and nothing

contained herein shall be construed to affect in any way the law of this State whether promulgated by Statute or court decision, either or both, relating to the duty of a city in its proprietary capacity to furnish water and sewer service, either or both. Nor shall the legislative history of this Act be construed to affect in any way the law of this State.

Certificates of assessment; legal investments

Sec. 18. Certificates of special assessment issued under the provisions of this Act shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, and sinking funds of cities, towns and villages, counties, school districts or other political subdivisions of the State of Texas and for all other public funds of the State or its agencies.

Certificates of assessment; purchase from contractor; payment

Sec. 19. Any city to which this Act applies may purchase at not more than face value and accrued interest from the contractor constructing the improvements any certificates of special assessment which may be issued to him pursuant to the provisions of this Act out of the proceeds of any bond funds voted and issued for making such improvements (whether such bond funds be proceeds from the sale of general obligation tax bonds or revenue bonds issued by the city), or out of any other available funds; provided that the amount of the assessment evidenced by any such certificate levied for water improvements, if paid out of bond funds, is paid out of bond funds issued for such improvements and the amount of the assessment evidenced by any such certificates levied for sewer improvements, if paid out of bond funds, is paid out of the proceeds of bond funds voted and issued for such sewer improvements, and further provided that the proceeds from such certificates, both principal and interest, when collected shall be paid into the fund from which the money was obtained to purchase the certificates.

Cumulative effect

Sec. 20. The provisions of this Act shall be cumulative of existing laws, except that the provisions of this Act shall be controlling as to cities acting under its provisions, over any irreconcilable conflicting provisions of any Act enacted contemporaneously herewith at this session. The provisions of this Act shall be liberally construed to effectuate its purposes and substantial compliance with the provisions hereof shall be sufficient.

Repealer

Sec. 21. All laws or parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of conflict only.

Severability

Sec. 22. Should any section, provision, word, phrase, or clause of this Act or the application thereof to any person or circumstance be held invalid, unconstitutional or ineffective, the remainder of the Act, and the application of such provisions to other persons or circumstances shall not be affected thereby.

Acts 1969, 61st Leg., p. 2442, ch. 818, emerg. eff. June 14, 1969.

Title of Act:

An Act authorizing cities and towns, including home rule cities and those incorporated under the general laws, and not included in whole or in part within the boundaries of any political subdivision having as one of its purposes the supplying of fresh water for domestic or commercial uses or the furnishing of sanitary sewer services which are functioning and with

outstanding bonded indebtedness, and which cities or towns do not have municipally owned water or sanitary sewer systems, to assess against benefited properties and the owners thereof a part of the costs of "on-site" improvements, as therein defined, to any waterworks or sanitary sewer system (either or both) hereafter constructed, purchased or otherwise acquired; lim-

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iting the powers conferred herein to a period of 5 years from the effective date of this Act; authorizing the construction of such "on-site" improvements in areas to be defined by such cities so that water service or sanitary sewer service, or both, can be furnished to such areas; providing procedures in connection with assessment programs and for the enforcement and collection of such assessments; prescribing the effect of certificates of special assessment

and that same shall be legal and authorized investments in certain instances; repealing all laws or parts of laws in conflict therewith; providing that the provisions of the Act shall be cumulative of existing laws and shall be liberally construed to effect its purpose; providing a severance clause; enacting other provisions incident and relating to the subject matter; and declaring an emergency. Acts 1969, 61st Leg., p. 2442, ch. 818.

2. ENCUMBERED CITY SYSTEM

Art. 1118w. Mass transportation systems; power to own, acquire, construct, operate, etc.; federal grants and loans; revenue bonds

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Mass transportation services

"Sec. 1a. Any such city or town shall be authorized to accept grants and loans from the United States of America to finance all or a portion of the cost of the acquisition, construction, reconstruction, and improvement of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service in such city, its suburbs and adjacent areas and in coordinating such service with highway and other transportation in such areas. Any such city or town shall be authorized, either individually or in cooperation with agencies of the United States of America, to undertake research, development and demonstration projects for mass transportation systems in such areas and to acquire, construct and reconstruct and improve facilities and equipment for use, by operation or lease or otherwise, in mass transportation service in such areas, on, under, over, along or across public streets and highways and on lands, easements and rights-of-way acquired for such purpose. Any such city or town shall be authorized to issue revenue bonds for such purposes and all of the provisions of the Act amended hereby shall apply to the additional powers and functions herein authorized."

Sec. 1a added by Acts 1969, 61st Leg., p. 1876, ch. 630, § 1, emerg. eff. June 11, 1969.

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CHAPTER THIRTEEN—HOME RULE

Art. 1175e. Parking facilities [New].

Art. 1175e. Parking facilities

Section 1. Any home rule city in this state is hereby authorized to establish, acquire, lease as lessor or lessee, purchase, construct, improve, enlarge, equip, repair, operate and maintain structures, parking areas, parking garages or facilities for off-street parking or storage of motor vehicles or other conveyances.

Sec. 2. Any such city is hereby authorized and shall have the power by the exercise of the right of eminent domain to acquire the fee simple title to property for the purpose of acquiring sites upon which to build parking structures, parking areas, parking garages or facilities for off-street parking or storage of motor vehicles or conveyances. Any such city is hereby authorized and shall have the power to regulate the use of such facilities and establish rates and charges for the use thereof. In the event that the city, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes

necessary the relocation, raising, rerouting, or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the city. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 3. The governing body of any such city may divide the city or any portion thereof into improvement districts clearly defining the limits of each district, and any such city shall have the power to borrow money on the credit of such city and issue bonds of the city for the acquisition of the public improvements authorized herein; but every proposition to borrow money on the credit of the city for the acquisition or construction of any of said public improvements within any improvement district shall be submitted to the qualified taxpaying voters living and owning property in such districts, and each proposition to borrow money on the credit of the city in any improvement district shall distinctly specify the purpose for which the bonds are to be issued and the public improvements to be constructed. If said proposition be sustained by a majority of the votes cast in such election in such district, the issuance of such bonds shall be lawful. All bonds shall specify for which purpose they were issued, shall bear interest at a rate not greater than $6\frac{1}{2}\%$ per annum, and when sold, shall net not less than par value, with accrued interest to date of payment of the proceeds into the city treasury, and such bonds may be negotiated in lots, as the governing body of such city may direct. No debts shall ever be created against the city or any improvement district unless at the same time provision be made to assess and collect annually upon the property in such improvement district a sum sufficient to pay the interest on such bonds and create a sinking fund of at least 2% thereon. The interest and sinking fund tax shall be in addition to the other current taxes levied by the city, and shall be kept separate by the City Treasurer from other funds, and shall not be diverted or used for any other purpose than to pay interest and principal on such bonds and the City Treasurer shall honor no draft on said fund except to pay the interest and redeem the bonds for which it was provided. The sinking fund for such bonds may be invested in such securities as are now permitted by law for other municipal bonds. The tax levied for interest and sinking fund for bonds issued for public improvements in any district shall not exceed 50 cents on the \$100.00 valuation annually which tax shall be in addition to all other taxes authorized or permitted to be levied by the charter of such city.

Acts 1969, 61st Leg., 2nd C.S., p. 125, ch. 27, emerg. eff. Sept. 19, 1969.

Title of Act:

An Act authorizing home rule cities of this state to establish, acquire, lease, purchase, construct, improve, enlarge, equip, repair, operate and maintain parking structures parking areas, parking garages or facilities for off-street parking or storage of motor vehicles or other conveyances; authorizing the governing body of such cities to exercise the right of eminent domain to acquire fee simple title to property for the purpose of acquiring sites for off-street parking facilities; authorizing such cities to regulate the use of such facilities and establish rates and charges for the use thereof; providing that in the event the exercise of eminent domain or other power

makes necessary the relocation of highways, railroads or other specified facilities, such relocation shall be accomplished at the sole expense of such city; authorizing such cities to borrow money on the credit of such city and issue bonds of the city for the acquisition of off-street parking facilities within improvement districts; providing for an election by the qualified voters residing within a district to authorize the issuance of bonds and providing for an interest rate on bonds of not greater than $6\frac{1}{2}\%$; providing for a sinking fund to redeem said bonds of at least 2% thereon; providing for a tax levy not to exceed 50 cents on the \$100.00 valuation to redeem said bonds which tax

CITIES, TOWNS AND VILLAGES Art. 1194A

For Annotations and Historical Notes, see V.A.T.S.

shall be in addition to all other taxes au- emergency. Acts 1969, 61st Leg., 2nd C.S.
 thorized or permitted to be levied by the p. 125, ch. 27.
 charter of such cities; and declaring an

CHAPTER FOURTEEN—CITIES ON NAVIGABLE WATERS

Art. 1187f. Harbor and port facilities; cities and towns over 5,000 on Gulf or connecting waters; bonds

Application of act; authority of city.

Section 1. This Act shall apply to every incorporated city or town (including Home Rule Cities) located on the coast of the Gulf of Mexico, or any channel, canal, bay or inlet connected therewith, having a population of more than five thousand (5,000) inhabitants according to the Federal Census last preceding the taking of any action by such city under the provisions of this Act. Every such city or town owning and operating port facilities (referred to hereinafter as "city") is hereby empowered and authorized to build, construct, purchase, acquire, improve, enlarge, extend, repair, maintain, or replace any and all improvements and facilities which the governing body thereof deems to be necessary or convenient for the proper operation of the ports or harbors of such city. Without in any way limiting the generalization of the foregoing, it is expressly provided that such improvements and facilities mentioned above shall include lands, properties, wharves, piers, docks, roadways, belt railways, warehouses, grain elevators, dumping facilities, bunkering facilities, floating plants and facilities, lightering facilities, towing facilities, any and all equipment and supplies, and all other structures, buildings, and facilities which the governing body deems to be necessary or convenient for the proper operation of the ports or harbors of such city. The improvements and facilities mentioned in this Section 1 are hereinafter referred to as the "improvements and facilities."

Sec. 1 amended by Acts 1969, 61st Leg., 2nd C.S., p. 130, ch. 29, § 1, emerg. eff. Sept. 19, 1969.

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CHAPTER SIXTEEN—MUNICIPAL COURT

GENERAL PROVISIONS [NEW].

PARTICULAR MUNICIPAL COURTS [NEW].

Art.

1194A. Change of name [New].

Art.

1200aa. Wichita Falls [New].

The name of the "Corporation Court" was changed to the "Municipal Court" by Acts 1969, 61st Leg., p. 1689, ch. 547. See article 1194A.

GENERAL PROVISIONS [NEW]

Art. 1194A. Change of name

The name "Corporation Court" is changed to the "Municipal Court." All other statutory references to the Corporation Court shall be construed to mean the Municipal Court.

Added by Acts 1969, 61st Leg., p. 1689, ch. 547, § 1, eff. Sept. 1, 1969.

PARTICULAR MUNICIPAL COURTS [NEW]

Art. 1200aa. Wichita Falls

Creation; formation by ordinance; additional courts

Section 1. There is created in the City of Wichita Falls a court of record to be known as the "Municipal Court," to be held in that city if the governing body of the city, by legally adopted ordinance, finds and determines that the conditions of the dockets of the other courts of the county are such as to require the formation of the municipal court in order to properly dispose of the cases arising in the city. The governing body of the city may by ordinance determine that more than one municipal court is required in order to dispose of the cases arising in the city, in which case the governing body of the city may establish as many municipal courts as it deems necessary and the ordinance establishing the municipal courts shall designate the municipal courts as Municipal Court No. 1, Municipal Court No. 2, and as each municipal court is established it shall be designated with the next succeeding number.

Criminal jurisdiction; writs; terms; exchange of benches

Sec. 2. (a) Municipal courts in Wichita Falls shall have concurrent jurisdiction in all criminal cases arising under the charter and ordinances of the city and shall also have concurrent jurisdiction in all criminal cases arising under the laws of the State of Texas and arising within the territorial limits of the city, in which punishment is by fine only, and where the maximum of such fine may not exceed \$200. The Municipal Court shall have exclusive original jurisdiction in all misdemeanor cases arising under the traffic laws of the State of Texas as defined in Chapter 173, Acts of the 47th Legislature, Regular Session, 1941, as amended,¹ and Chapter 421, Acts of the 50th Legislature, Regular Session, 1947, as amended² where the offense was committed within the corporate limits of the city.

(b) The judge of a municipal court may grant writs of mandamus, injunction, attachment, and all other necessary writs necessary to the enforcement of the jurisdiction of the court, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court.

(c) Municipal courts shall hold no terms and may sit at any time for the transaction of the business of the courts.

(d) Where more than one municipal court is established by the governing body of the city, the judges of the municipal courts may, at any time, exchange benches and may, at any time, sit and act for and with each other in any case, matter, or proceeding pending in their courts; and any and all acts thus performed by any of the judges shall be valid and binding upon all parties to such cases, matters, and proceedings.

Criminal jurisdiction; conformance to this Act

Sec. 3. The jurisdiction of all courts exercising criminal jurisdiction is conformed to the terms and provisions of this Act.

Judges; qualifications; appointment; compensation; removal; vacancies; bond and oath

Sec. 4. Municipal courts shall be presided over by a judge, who shall be known as the "municipal judge," who shall be a licensed attorney in good standing with two or more years of experience in the practice of law in this state, a citizen of the United States and of this state. He need not be a resident of the city at the time of his appointment, but he shall maintain his residence within the city during his tenure of office. He shall devote his entire time to the duties of his office, and shall not engage

For Annotations and Historical Notes, see V.A.T.S.

in the private practice of law while in office. He shall be selected and appointed to office by the Board of Aldermen.

(a) Municipal court judges shall receive a salary to be set by the governing body of the city which may not be diminished during his term of office. A municipal judge may not be removed from office during the term for which he was appointed except for cause to the same extent and under the same rules that judges of the county courts may be removed from office.

(b) At the end of the term of office for which a municipal judge is appointed, the governing body of the city may appoint the person serving as municipal judge to another two-year term, or the governing body of the city may declare the office of municipal judge vacant.

(c) Any vacancy in the office of municipal judge by death, resignation, or otherwise shall be filled in the same manner as original appointments.

(d) Pending such nomination as hereinabove provided, as well as during any period during which a municipal judge is temporarily unable to act for any reason, the mayor of the city, by and with the consent of the governing body of said city, is authorized to appoint some qualified person to act in the place and stead of the municipal judge, and the appointee shall have all the powers and discharge all the duties of the office, and shall receive the same compensation therefor as is payable to the regular municipal judge while he is so acting.

(e) Municipal judges shall execute a bond and take the oath of office as required by law relating to county judges.

Complaints by city attorney

Sec. 5. All proceedings in municipal courts shall be commenced upon original complaint filed by the city attorney of the city. All such complaints shall be prepared under the direction of the city attorney.

Filing of original papers; notations on case folder

Sec. 6. The clerk of the municipal courts under the direction of the presiding judge shall file the original complaint and the original of all judgments, orders, motions, or other papers and proceedings in each case in a folder for permanent record. No separate minute book for the court is required, but the original papers filed with the court shall constitute the records of the courts. The clerk of the municipal courts shall cause to be noted on the outside of each case folder the following information:

- (1) The style of the action;
- (2) The nature of the offense charged;
- (3) The date the warrant was issued and return made thereon;
- (4) The time when the examination or trial was had, and if a trial, whether it was by a jury or before the judge of the court;
- (5) Trial settings;
- (6) The verdict of the jury, if any;
- (7) Judgment of the court, if any;
- (8) Motion for a new trial, if any, and the decision thereon;
- (9) If an appeal was taken; and
- (10) The time when, and the manner in which the judgment and sentence was enforced.

Clerk of municipal courts; appointment; duties

Sec. 7. The clerk of the municipal courts shall be appointed by the governing body of the city. It shall be the duty of the clerk or his deputies to keep the records of proceedings of the court and to issue all processes and generally to do and to perform the duties now prescribed by law for

clerks of county court at law exercising criminal jurisdiction insofar as the same may be applicable. The clerk of the municipal courts shall hold his office at the pleasure of the governing body of the city, and shall perform his duties under the direction and control of the municipal judge.

Court reporter; qualifications; appointment; duties

Sec. 8. For the purpose of preserving a record in all cases tried before the municipal courts, the governing body of the city shall appoint an official shorthand reporter, who shall be well skilled in his profession and have the qualifications required of a court reporter in the county courts or county courts at law as provided by the general laws of Texas. The reporter shall be a sworn officer of the court and shall hold his office at the pleasure of the governing body of the city at a salary to be fixed by the governing body. The court reporter of the court is not required to take testimony in cases where neither the defendant, prosecutor, nor the judge demands it. The governing body of the city may authorize and appoint more than one court reporter for each court established so as to dispose of the business of the courts without delay. The court reporter shall perform his duties under the direction and control of the municipal judge.

Evidence; admissibility in other proceedings

Sec. 8a. That testimony, exhibits or evidence given by any witness in the course of any proceeding in such municipal courts shall be solely for the purpose of such proceeding or appeal therefrom and, in any other civil proceeding, evidence relating to such testimony, exhibits, evidence or reproductions thereof shall be privileged and not admissible for any purpose.

Costs

Sec. 9. No court costs shall be assessed or collected by any municipal court in any case tried in the courts, except warrant fees or capias fees as authorized by the code of criminal procedure for corporation courts.

Service of process

Sec. 10. All processes issuing out of municipal courts may be served by a policeman of the city or by any peace officer under the same rules as are provided for service by sheriffs and constables of process issuing out of a county court so far as applicable.

Prosecutions by city attorney; bailiff

Sec. 11. All prosecutions in municipal courts shall be conducted by the city attorney of the city, or his assistant or deputy. The chief of police of the city shall in person or by deputy attend the court and perform the duties of a bailiff.

Complaint; form

Sec. 12. Proceedings in municipal courts shall be commenced by complaint filed by the city attorney, which shall begin: "In the name and by authority of the State of Texas"; and shall conclude "Against the peace and dignity of the State." All complaints shall be prepared under the direction of the city attorney and may be signed by any credible person upon information and belief sworn to before the city attorney, or his assistant or deputy, who, for that purpose shall have power to administer the oath. The complaint shall be in writing and shall state:

- (1) The name of the accused, if known, and if unknown, shall describe him as accurately as practicable;
- (2) The offense with which he is charged in plain and intelligible words;
- (3) It must appear that the place where the offense is charged to have been committed is within the jurisdiction of the municipal court; and,

CITIES, TOWNS AND VILLAGES Art. 1200aa
 For Annotations and Historical Notes, see V.A.T.S.

(4) It must show, from the date of the offense stated therein that the offense is not barred by limitations. All pleadings in the municipal courts shall be in writing and filed with the clerk of such courts.

Right to jury trial; selection of jurors

Sec. 13. (a) Every person brought before the municipal courts and charged with an offense shall be entitled to be tried by a lawful jury of six persons. The municipal judge may set certain days of each week or month for the trial of jury cases. Juries for the court shall be selected as follows: On the adoption of this Act by the governing body of the city and between the 1st and 15th days of August of each year thereafter, the tax assessor and collector of the city, or one of his deputies, and the clerk of the municipal court or one of his deputies, and the city secretary, or one of his deputies, shall meet together and select from the list of qualified jurors in the city, the jurors for service in the municipal courts for the ensuing year. The list of jurors shall be taken from the tax list in the city tax assessor's office. The officers shall write the names of all persons who are known to be qualified jurors under the law residing in the city on separate cards of uniform size and color, writing also on the cards, whenever possible, the post-office address of each juror so selected. The cards containing the names shall be deposited in a jury wheel to be provided for that purpose by the governing body of the city. The wheel shall be constructed of any durable material, shall be so constructed so as to freely revolve on its axle, and may be equipped with a motor to revolve the wheel so as to thoroughly mix the cards. The wheel shall be locked at all times, except when in use as hereinafter provided, by the use of two separate locks so arranged that the key to one will not open the other lock. The wheel and the clasps into which the locks are fitted shall be arranged so that the wheel cannot be opened unless both of the locks are unlocked. The keys to the locks shall be kept one by the city secretary and the other by the clerk of the municipal court. The city secretary and the clerk of the municipal court shall not open the wheel nor permit it to be opened by any person except at the time and in the manner and by the persons herein specified. The city secretary and clerk shall keep the wheel when not in use in a safe and secure place where it cannot be tampered with.

(b) Not less than 10 days before January 1, April 1, July 1, and October 1 of each year, the clerk of the municipal court, or one of his deputies, and the city secretary or one of his deputies, in the presence and under the direction of the municipal judge shall draw from the wheel containing the names of jurors, after the wheel has been turned and the cards thoroughly mixed, one by one the names of jurors to provide the number directed by the judge for each week of the three months next ensuing for which a jury may be required, and shall record the names as they are drawn upon a separate sheet of paper for each week for which jurors may be required. At the drawing no person other than those above-named shall be permitted to be present. The officers attending the drawing shall not divulge the name of any person that may be drawn as a juror to any person. If at any time during the next three months and prior to the next drawing date it appears that the list already drawn will be exhausted before the expiration of three months, additional lists for as many additional weeks as the judge may direct will be drawn in the same manner. The several lists of names so drawn shall be certified under the hand of the clerk of the municipal court, or the deputy, doing the drawing and the municipal judge in whose presence the names were drawn, to be the lists drawn by him for that quarter and shall be sealed up in separate envelopes endorsed "List No. _____ of the Petit Jurors drawn on the _____ day of _____, 19____, for the Municipal Court of Wichita Falls, Texas." The clerk doing the drawing shall write his name across the seals of the envelopes and deliver them to the judge who shall inspect

the envelopes to see that they are properly endorsed and shall then deliver them to the clerk or his deputy, and the clerk shall then immediately file them away in some safe and secure place in his office under lock and key. When the names are drawn for jury service, the cards containing the names shall be sealed in separate envelopes endorsed "Cards containing the names of jurors list No. _____ of the Petit Jurors drawn on the _____ day of _____, 19____, for the Municipal Court of Wichita Falls, Texas." Each envelope shall be retained unopened by the clerk until after the jury selected from the corresponding list has been impaneled. After the jurors so impaneled have served four or more days, the envelope containing the cards bearing the names of the jurors on that list shall then be opened by the clerk or his deputy and those cards bearing the names of persons who have not been impaneled and who have not served as many as four days shall be immediately returned to the wheel by the clerk or his deputy; and the cards bearing the names of the persons serving as many as four days shall be put in a box provided for that purpose for the use of the officers who shall next select the jurors from the wheel. If any of the lists drawn are not used, the clerk or his deputy shall open the envelopes containing the cards bearing the names of the unused lists immediately after the expiration of the three-month period and return the cards to the wheel. The jurors serving on a jury in the court shall receive not less than \$5 for each day and for each fraction of a day he attends the court as a juror and in no event less than that paid in county courts.

Ordinances and corporate limits; judicial notice

Sec. 14. Municipal courts shall take judicial notice of all the city ordinances and the corporate limits of Wichita Falls in all cases tried in the courts.

Code of Criminal Procedure; applicability

Sec. 15. Except as modified by this Act, the trial of cases before municipal courts shall be governed by the Code of Criminal Procedure of the State of Texas applicable to county courts.

Bonds

Sec. 16. All bonds taken in proceedings in the courts shall be payable to the State of Texas for the use and benefit of Wichita Falls.

Judgment and sentence

Sec. 17. The judgment and sentence, in case of conviction before municipal courts shall be in the name of the State of Texas, and shall recover of the defendant the fine and costs for the use and benefit of the city; shall require that the defendant remain in custody of the chief of police of such city until the fine and costs are paid; and order that execution issue to collect the fines and penalties.

Appeals

Sec. 18. Appeals from municipal courts shall be heard by the county court except in cases where the county court has no jurisdiction of appeals from justice courts, in which cases, the appeals shall be heard by the court having jurisdiction of appeals from justice courts.

Right of appeal; state

Sec. 19. The state shall have no right of appeal.

Right of appeal; defendant; motion for new trial

Sec. 20. A defendant has the right of appeal from a judgment of conviction in a municipal court under the rules hereinafter prescribed, and a

For Annotations and Historical Notes, see V.A.T.S.

motion for a new trial shall be prerequisite to the right of appeal from a municipal court.

Motion for new trial; time; filing

Sec. 21. A motion for a new trial must be made within five days after the rendition of judgment and sentence, and not afterward. Such motion must be in writing and filed with the clerk of said court.

New trial; state

Sec. 22. In no case shall the state be entitled to a new trial.

Notice of appeal; bond; time

Sec. 23. An appeal may be taken by giving notice of appeal in open court, which shall be noted on the docket of the court or embodied in the order overruling the motion for new trial. The notice must be given or filed within 10 days after the order overruling the motion for a new trial is rendered. If the defendant is not in custody, an appeal may not be taken until the required appeal bond has been given and approved by the court. The appeal bond must be filed with the court within 10 days after the order of the court refusing a new trial has been rendered, and not afterwards.

Bail on appeal

Sec. 24. In appeals from the judgments and sentence of a municipal court, the defendant shall, if he be in custody, be committed to jail unless he gives bail, to be approved by the judge of the municipal court, in an amount not less than double the amount of fine and costs adjudged against him, payable to the State of Texas for the use and benefit of the city; provided the bail shall not in any case be for a less sum than \$100. The bond shall recite that in the cause the defendant shall make his personal appearance before the court to which the appeal is taken instanter, if the court is in session; and if the court is not in session, then at its next session, and there remain from day to day and answer in the cause.

Perfecting appeal; filing of bond

Sec. 25. Appeals from municipal courts may be perfected by filing the appeal bond provided for in the preceding section upon approval by the municipal court.

Record and briefs on appeal

Sec. 26. In view of the crowded conditions of the dockets of the courts, the record and briefs on appeal in a case appealed from a municipal court shall be limited so far as possible to the questions relied on for reversal.

Record on appeal

Sec. 27. The record on appeal in a case appealed from a municipal court shall consist of a transcript, and where necessary to the appeal, a statement of facts.

Assignments of error; waiver

Sec. 28. The motion for a new trial in a case appealed from a municipal court shall constitute the assignments of error on appeal. A ground of error not distinctly set forth in a motion for new trial shall be considered as waived.

Record on appeal; stipulation

Sec. 29. The city attorney, or his assistant or deputy, and the defendant, or his attorney, by written stipulation filed with the clerk of the municipal court may designate the parts of the record, proceedings, and evidence to be included in the record on appeal.

Contents of transcript

Sec. 30. The clerk of the municipal court, under written instructions of the defendant, or his attorney, shall prepare under his hand and seal of the court for transmission to the appellate court a true copy of the proceedings in the municipal court, and, unless otherwise designated by agreement of the parties, shall include the following: (1) the complaint upon which the trial was had; (2) the order of the court upon any motions or exceptions; (3) the judgment of the court and the verdict of the jury; (4) any findings of fact or conclusions of law by the court; (5) the judgment of the court; (6) the motion for new trial and the order of the court thereon; (7) the notice of appeal; (8) any statement of the defendant or the city attorney as to the matter to be included in the record; (9) the appeal bond; (10) certified bill of cost; (11) any signed paper designated as material by the defendant, or his attorney, or the city attorney or his assistant or deputy. The defendant, or his attorney, may file with the clerk and deliver or mail to the city attorney a copy of the written instruction, and the city attorney may file and deliver or mail a written direction to the clerk to include in the transcript additional portions of proceedings in the trial court.

Statement of facts

Sec. 31. (a) The statement of facts of the testimony of the witnesses need not be in narrative form but may be in question and answer form. The defendant, or his attorney, may prepare and file with the clerk a condensed statement in narrative form of all or part of the testimony and deliver a true copy thereof to the city attorney and if the city attorney is dissatisfied with the narrative statement, he may require the testimony in question and answer form to be substituted for all or part thereof.

(b) All matters not essential to the decision or the questions presented in the motion for new trial, shall be omitted from a statement of facts. Formal parts of all exhibits and more than one copy of any document appearing in the transcript or the statement of facts shall be excluded. All documents shall be abridged by omitting or abbreviating a formal portion thereof.

(c) It shall be unnecessary for the statement of facts to be approved by the trial court or judge thereof when agreed to by the defendant, or his attorney, and the city attorney.

(d) A written request for a statement of facts shall be made to the court reporter of the municipal court by the defendant or his attorney.

Agreed statement of case

Sec. 32. The defendant, or his attorney, and the city attorney may agree upon a brief statement of the case and upon the facts proven as will enable the appellate court to determine where there is error in the judgment of the trial court. Such statements shall be copied into the transcript in lieu of the proceedings themselves.

Transcript and statement of facts; filing

Sec. 33. The transcript and the statement of facts shall be filed with the clerk of the municipal court within 60 days from the date of the order overruling the motion for new trial, and shall be promptly forwarded by the clerk of the municipal court to the clerk of the court to which the appeal is taken.

Preparation of transcript and statement of facts; fee

Sec. 34. The defendant shall pay a fee of \$10 to the clerk of the municipal court for the preparation of the transcript and statement of facts.

If the case is reversed on appeal, the \$10 fee shall be refunded to the defendant.

Briefs; filing

Sec. 35. Briefs shall be filed with the clerk of the court to which an appeal is taken within 10 days from the date of the filing of the transcript and statement of facts in the municipal court.

Procedure on appeal

Sec. 36. The court to which the appeal is taken shall hear and determine appeals from municipal courts at the earliest time it may be done, with due regard to the rights of parties and proper administration of justice. Oral arguments before the court shall be under such rules as the court may determine, and the parties may submit the case on the records and briefs without oral arguments.

Disposition on appeal; presumptions; decision

Sec. 37. The court, having jurisdiction of appeals from municipal courts, may affirm the judgment of the municipal court, or may reverse or remand for a new trial, or may reverse and dismiss the case, or may reform or correct the judgment, as the law and the nature of the case may require. The court shall presume (1) that the venue was proven in the court below; (2) that the jury was properly impaneled and sworn; (3) that the defendant was arraigned and that he pleaded to the complaint; (4) that the court's charge was certified by the judge and filed by the clerk before it was read to the jury; unless such matters were made an issue in the municipal court, or it affirmatively appears to the contrary from the transcript or statement of facts. In each case decided by the court having jurisdiction of appeals, the court shall deliver a written opinion either sustaining or overruling each assignment of error presented. If an assignment of error is overruled no reason need be given by the court, but cases relied upon by the court may be cited. If an assignment of error is sustained, the court shall set forth the reasons for such decision. Copies of the decision of the court shall be mailed by the clerk of the court to the parties and the judge of the municipal court as soon as rendered by the court.

Certificate of appellate proceedings; filing of record; enforcement of judgment

Sec. 38. When the judgment of the court, having jurisdiction of appeal from municipal courts becomes final, the clerk of the court shall make out a proper certificate of the proceedings had and the judgment rendered and mail the certificate to the clerk of the municipal court from which the appeal was taken. When the record is received by the clerk of the municipal court, he shall file it with the papers in the case and note it upon the docket of the municipal court. Where the judgment has been affirmed no proceedings need be had after filing the record in the municipal court to enforce the judgment of the court, except to forfeit the bond of the defendant, to issue a writ of *habeas corpus* for the defendant, or an execution against his property.

New trial

Sec. 39. Where the appeal court awards a new trial to the defendant, the cause shall stand as it would have stood if a new trial had been granted by the municipal court.

Appeals to Court of Criminal Appeals; applicability of Code of Criminal Procedure; record

Sec. 40. Appeals to the Court of Criminal Appeals of Texas from the decision of the court having jurisdiction of appeals from municipal courts,

when permitted by law, shall be governed by the Code of Criminal Procedure of Texas, except that when an appeal is permitted by law, the transcript, briefs, and statement of facts filed in the court having jurisdiction of appeals from municipal courts shall constitute the transcript, briefs, and statement of facts before the Court of Criminal Appeals of Texas or as the rules of the court of criminal appeals may provide in such cases.

Places and quarters for court, etc., salaries

Sec. 41. (a) The municipal court shall be held in the city at a place or places within the corporate limits of the city as may be designated by the governing body of the city in the ordinances establishing the court.

(b) The governing body of the city shall provide suitable quarters for the court, and all costs of providing a court and office space for the court, the clerk, and court reporter shall be paid for by the governing body of the city. All salaries paid to the judge, clerk, court reporter, and employees of the municipal court shall be paid by the governing body of the city.

Payment and deposit of fines, etc.

Sec. 42. All fines, fees, costs, and cash bonds in municipal courts shall be paid to the clerk of the municipal court. The clerk of the municipal court shall deposit all fines, fees, costs, and cash bonds directly into the general fund of the city.

**Judges, clerks and court reporters: civil service ordinance;
retirement; vacation; sick leave; etc.**

Sec. 43. The judges of municipal courts, the clerks and deputy clerks of the courts, and the court reporters of the municipal courts shall not be considered to be classified employees under the city civil service ordinance. However, the governing body of the city may provide by ordinance that all other employees of the municipal courts may be hired and paid as classified employees of the city under the city civil service ordinance. The judges, clerks, deputy clerks, and court reporters may be authorized or required by the governing body of the city to participate in the retirement program of the city. The judges, clerks, deputy clerks, and court reporters of municipal courts shall receive the same vacation, sick leave, and other benefits as are provided for other nonclassified employees of the city under such regulations as may be provided by the governing body of the city by ordinance.

Vacation of court; transfer of pending cases

Sec. 44. After the establishment of a municipal court if the governing body of the city shall by legally adopted ordinance find and determine that the condition of the dockets of the other courts of the county is such as not to require the existence of the municipal court in order to properly dispose of the cases arising in the city, then the office of municipal judge, clerk of the municipal court, court reporter, and other employees of the court shall be declared vacated as of the end of the term for which the municipal court judge was last appointed. In that event, any case pending in the municipal court shall be transferred to the proper court having jurisdiction of the offense.

Acts 1969, 61st Leg., p. 2255, ch. 762, eff. Sept. 1, 1969.

¹ Article 6687b.

² Article 6701d.

Title of Act:

An Act creating municipal courts of record in the City of Wichita Falls; prescribing the jurisdiction, organization, administration, procedure, and power of municipal courts; prescribing the practice in such courts and the appeals therefrom; provid-

ing for appointment of a judge, court reporter, clerk and personnel of such court; providing for conforming of the criminal jurisdiction of other courts thereto; and declaring an emergency. Acts 1969, 61st Leg., p. 2255, ch. 762.

CHAPTER TWENTY—MISCELLANEOUS PROVISIONS

<p>Art. 1269j—4.2 Coliseums or stadiums of counties in excess of 500,000; sale to certain cities [New].</p> <p>1269j—4.3 Parking facilities; revenue bonds; gulf coast cities of more than 60,000 and less than 120,000 [New].</p>	<p>Art. 1269j—9. Validation of proceedings for public improvements on civic centers, etc. [New].</p> <p>1269j—101. Higher Education Authority Act [New].</p>
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Art. 1269j—4.2 Coliseums or stadiums of counties in excess of 500,000; sale to certain cities

Section 1. This Act shall be applicable to any city to which Chapter 63, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 1269j—4.1, Vernon's Texas Civil Statutes), shall apply (each such city herein called an "authorized city") and to any county which has a population in excess of 500,000 according to the then most recent federal census, which county has issued bonds for the purpose of constructing a coliseum or stadium within the county and which is operating such coliseum directly and is not having the same operated by another through a lease or other agreement not subject to cancellation by the county in event of a sale of such facilities (each such county being herein called an "authorized county").

Sec. 2. The commissioners court of any authorized county, upon finding (a) that the coliseum or stadium owned and operated by it is in need of expansion or other improvement, and (b) that such expansion or other improvement may be better accomplished without resort to the tax funds and resources of the county by the sale of such coliseum or stadium and related land to an authorized city in which such facility is located, may sell such coliseum or stadium and related land and facilities to such authorized city pursuant to an agreement of sale and purchase entered into in accordance with the provisions of this Act.

Sec. 3. A sale and purchase, as authorized in Section 2 of this Act, shall be upon such terms and for such price as shall be agreed between the authorized county and the authorized city, but in no event shall such price be less than the amount of the then outstanding bonds of the county issued for the purpose of constructing and equipping such coliseum or stadium. Such sale and purchase price may be paid by the authorized city in cash and the funds to pay the same may be obtained by such city in any manner now permitted by law; or, such sale and purchase price may be paid by the city in installments with interest at not lower than the same rates borne by the county's outstanding coliseum or stadium bonds. The funds with which to make such installments may be obtained by such city in any lawful manner, including, but not limited to, one or a combination of the following methods, to-wit: (a) Such installments, by the agreement, may be made payable to the authorized county out of revenues of the stadium or coliseum thus sold on dates coinciding with or earlier than the dates upon which principal and interest on such county's outstanding coliseum or stadium bonds shall mature and come due. If this method of payment is selected, the payments due the county may be treated as a fixed operating expense of the stadium or coliseum payable solely from the revenues of such facilities. When received by the county, such funds shall be utilized for the purpose of retiring and paying interest upon its outstanding coliseum or stadium bonds when due. (b) Such city and such county may agree that the city shall issue a series of coliseum or stadium acquisition revenue bonds (or include such purpose as a part of a larger series of coliseum or stadium revenue bonds), which revenue bonds (or part of a larger series allocable to such pur-

chase) shall be delivered to the county in payment of the purchase price for said stadium or coliseum. Such bonds shall be at least payable at the times and in the same amounts as, and bear not lower than the same rates of interest borne by, the county's outstanding coliseum or stadium bonds, so as to provide funds from such revenue bonds to the county with which to pay the principal and interest when due upon its said outstanding bonds. Such revenue bonds of the city may be upon such other terms as the city and the county may agree and may include any mortgage security authorized by Chapter 63, Acts of the 59th Legislature, Regular Session, 1965, as amended. Upon delivery of such bonds to the county, the county shall hold the same for the account of the Interest and Sinking Fund created in connection with its outstanding coliseum or stadium bonds and shall utilize the payments when received to pay the principal and interest on its said bonds when due.

Sec. 4. Any such sale authorized by this law shall be effected by delivery of a deed, with reservation of such vendor's liens on such facilities as may be appropriate in connection with the selected method for payment of the purchase price, from the county and approved by the commissioners court and accepted by the city in accordance with the terms of such sale and purchase agreement. From and after the delivery of such deed, the city shall be the complete and total owner of the coliseum or stadium, and the land and facilities thus conveyed, and may thereafter exercise all the powers with respect thereto authorized and implied by Chapter 63, Acts of the 59th Legislature, Regular Session, 1965, as amended, and any other laws applicable to such city, for the purpose of operating, maintaining, improving, or expanding a coliseum or stadium, and may in connection with the financing thereof include such indoor and outdoor recreational facilities, properties and entertainment attractions as may be considered by the city to be appropriate in connection therewith and may lease, or enter into operating agreements with respect to, all or any part of the same for such periods and upon such terms as the city may determine.

Acts 1969, 61st Leg., p. 1296, ch. 400, emerg. eff. May 29, 1969.

Title of Act:

An Act relating to any city to which Chapter 63, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 1269j—4.1, Vernon's Texas Civil Statutes), shall apply and to any county having a population in excess of 500,000 according to federal census which has issued bonds to construct and equip a coliseum or stadium and which is operating the same; authorizing any such county to sell such coliseum and stadium to any such city in which the

same is situated pursuant to agreements of sale and purchase; prescribing the minimum sale and purchase price for such facilities and authorizing alternative methods of payment thereof; directing the uses of the proceeds of such sale; prescribing the method of conveying title; prescribing the powers of such cities after the taking of title to such facilities; enacting other provisions relating to the subject; providing for severability; and declaring an emergency. Acts 1969, 61st Leg., p. 1296, ch. 400.

Art. 1269j—4.3 Parking facilities; revenue bonds; gulf coast cities of more than 60,000 and less than 120,000

Application to certain cities

Section 1. This Act shall apply to every incorporated city or town (including Home Rule Cities) located on the Coast of the Gulf of Mexico, or any channel, canal, bay or inlet connected therewith, having a population of more than sixty thousand (60,000) and less than one hundred twenty thousand (120,000) inhabitants according to the federal census last preceding the taking of any action by such city under the provisions of this Act.

Parking facilities

Sec. 2. That any such city is hereby authorized to establish, acquire, lease as lessor or lessee, purchase, construct, improve, enlarge, equip,

For Annotations and Historical Notes, see V.A.T.S.

repair, operate or maintain (any or all) permanent public improvements, to-wit: structures, parking areas or facilities (hereinafter called "improvements") for off-street parking or storage of motor vehicles or other conveyances; provided that any such lease shall be on such terms and conditions as said city shall deem appropriate.

Revenue bonds

Sec. 3. (a) Any such city is hereby authorized to issue negotiable revenue bonds to provide all or part of the funds for the establishment, acquisition, lease, purchase, construction, improvement, enlargement, equipment or repair (any or all) of said improvements.

(b) Such revenue bonds may be issued when duly authorized by an ordinance passed by the governing body of such city and shall be secured by a pledge of and be payable from all or any designated part of the revenues of said improvements (any or all) as may be provided in the ordinance or ordinances authorizing the issuance of such bonds. To the extent that such revenues may have been pledged to the payment of revenue or revenue refunding bonds which are still outstanding, the pledge securing the proposed bonds shall be inferior to the previous pledge or pledges. Within the discretion of the governing body of the city, and subject to the limitations contained in previous pledges, if any, in addition to the pledge of revenues a lien may be given on all or any part of the physical properties acquired out of the proceeds from the sale of such bonds.

(c) When any of the revenues of such improvements are pledged to the payment of bonds issued under this Act, it shall be the duty of the governing body of the city to cause to be fixed, maintained and enforced charges for services rendered by such improvements, the revenues of which have been pledged, at rates and amounts at least sufficient to comply with and carry out the covenants and provisions contained in the ordinance or ordinances authorizing the issuance of said bonds.

Bonds; demand of payment

Sec. 4. The owners or holders of such revenue or revenue refunding bonds shall never have the right to demand payment of either the principal or interest on such bonds out of any funds raised or to be raised by taxation.

Funds; additional bonds and covenants

Sec. 5. In the ordinance or ordinances authorizing the issuance of any revenue or revenue refunding bonds authorized hereunder, the city may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund or funds, reserve fund or funds, and other funds, and may make additional covenants with respect to the bonds and the pledged revenues and the operation and maintenance of those improvements and facilities, the revenues of which are pledged, including provisions for the operation or for the leasing of, as lessor or lessee, all or any part of said improvements and the use or pledge of moneys derived from such operation contracts and leases, as it may deem appropriate. Such ordinance or ordinances may also prohibit the further issuance of bonds or other obligations payable from the pledged revenues, or may reserve the right to issue additional bonds to be secured by a pledge of and payment from said revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to such conditions as are set forth in said ordinance or ordinances. Such ordinance or ordinances may contain other provisions and covenants, as the city may determine, not prohibited by the Constitution of Texas or by this Act, and the city may adopt and cause to be executed any other proceedings or instruments necessary or convenient in the issuance of any of said bonds.

Bond proceeds; appropriation; investment

Sec. 6. From the proceeds of sale of any bonds issued hereunder, the city may appropriate or set aside, out of the bond proceeds, an amount for the payment of interest expected to accrue during the period of construction, an amount or amounts to be deposited in the reserve fund or funds as may be provided in the bond ordinance or ordinances, and an amount necessary to pay all expenses incurred or to be incurred in the issuance, sale and delivery of the bonds. Until such time or times as the bond proceeds are needed to carry out the bond purpose, such bond proceeds may be invested in direct obligations of the United States of America or may be placed on time deposit, either or both, moneys in the interest and sinking fund or funds, and the reserve fund or funds, and any other fund or funds established or provided for in the bond ordinance or ordinances may be invested in such manner and in such securities as may be provided in the bond ordinance or ordinances.

Bonds; signatures; seal; facsimiles; maturity; interest; approval and registration

Sec. 7. That all bonds shall be signed by the mayor of the city and countersigned by the city secretary or city clerk, and shall have the seal of the city impressed thereon; provided, that the bond ordinance or ordinances may provide for the bonds and any attached interest coupons to be signed by facsimile signatures and for the seal of the city on the bonds to be in facsimile as provided by Acts, 1961, 57th Legislature, page 406, Chapter 204 (Art. 717j—1, V.A.C.S.), as amended. Such bonds shall mature serially or otherwise in not to exceed forty (40) years from their date or dates and may be sold at a price and under such terms determined by the governing body of the city to be the most advantageous and reasonably obtainable, provided that the interest cost to the city, calculated by the use of standard bond interest tables currently in use by insurance companies and investment houses, does not exceed six and one-half per cent (6½%) per annum, and within the discretion of the governing body such bonds may be called prior to maturity at such time or times and at such price or prices as may be prescribed in the ordinance or ordinances authorizing such bonds. Any such bonds may be made registrable as to principal, or as to both principal and interest. All bonds issued hereunder and the record relating to their issuance shall be submitted to the Attorney General of the State of Texas for his examination as to the validity thereof, and after said Attorney General has approved the same, such bonds shall be registered by the Comptroller of Public Accounts of the State of Texas. When such bonds have been approved by the Attorney General, registered by the Comptroller of Public Accounts, and delivered to the purchasers, they shall thereafter be incontestable.

Refunding bonds; approval and registration

Sec. 8. Any city to which this Act applies shall have the power and authority to issue revenue refunding bonds to refund either original bonds or revenue refunding bonds theretofore issued by said city under this Act, and such refunding bonds shall bear interest at the same or lower rate or rates than that of the bonds refunded unless it is shown mathematically that a saving will result in the total amount of interest to be paid. Refunding bonds shall be authorized by ordinance or ordinances and shall be executed and shall mature as is provided in this Act for original bonds. They shall be approved by the Attorney General as in the case of original bonds, and shall be registered by the Comptroller of Public Accounts upon the surrender and cancellation of the bonds to be refunded, but in lieu thereof the ordinance or ordinances authorizing their issuance may provide that they shall be sold and the proceeds

thereof deposited in the place or places where the underlying bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on and principal of the underlying bonds to their option or maturity date, and the Comptroller of Public Accounts shall register them without the surrender and cancellation of the underlying bonds. All such refunding bonds, after they have been approved by the Attorney General and registered by the Comptroller of Public Accounts, shall be incontestable.

Bonds; negotiability; legal investments; security for deposits

Sec. 9. All bonds issued under this Act, whether original bonds or refunding bonds, shall be and are hereby declared to be, and to have all the qualifications of, negotiable instruments under the Negotiable Instruments Act of the State of Texas, and all such bonds shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies of every kind or type, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value when accompanied by all unmatured coupons appurtenant thereto.

Cumulative effect; precedence

Sec. 10. This Act is cumulative of all existing laws of the State of Texas, but to the extent that such existing laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall govern and prevail; and this Act shall take precedence over any and all conflicting or inconsistent city charter provisions. Acts 1969, 61st Leg., p. 1966, ch. 665, emerg. eff. June 12, 1969.

Title of Act:

An Act authorizing certain cities to establish, acquire, lease as lessor or lessee, purchase, construct, improve, enlarge, equip, repair, operate and maintain permanent public improvements, to-wit: structures, parking areas or facilities for off-street parking or storage of motor vehicles or other conveyances; providing that such cities may lease such improvements on such terms and conditions as said cities shall deem appropriate; authorizing such cities to issue negotiable revenue bonds to provide funds for establishing, acquiring, leasing, purchasing, constructing, improving, en-

larging, equipping and repairing such improvements and containing provisions relating to such bonds and the revenues pledged in payment thereof; authorizing the issuance of revenue refunding bonds and containing provisions relating to said bonds and the revenues pledged in payment thereof; providing that this Act is cumulative of existing laws but providing that this Act shall take precedence over inconsistent or conflicting laws and over all city charter provisions; providing a severability clause; containing other provisions relating to the subject; and declaring an emergency. Acts 1969, 61st Leg., p. 1966, ch. 665.

Art. 1269j—9. Validation of proceedings for public improvements on civic centers, etc.

Section 1. All proceedings, including all revenue bonds and all provisions, pledges, security, and other terms thereof, and the terms and conditions of the sale of such bonds; and all contracts, agreements, leases, operating agreements, options, and all other agreements and proceedings; taken, had, made, entered into or executed by the governing bodies of all cities and towns, including home rule cities, in the State of Texas, in connection with the establishment, acquisition, purchase, construction, improvement, operation, maintenance and/or use of public improvements authorized by and described in Chapter 63, page 148, Acts of 1965, 59th Legislature, Regular Session, as amended by Chap-

ter 563, page 1239, Acts of 1967, 60th Legislature, Regular Session (compiled, as amended, as Article 1269j—4.1, Vernon's Annotated Civil Statutes), are in all things hereby fully validated, confirmed, approved and ratified.

Provided, however, nothing contained in this Act shall serve to validate, confirm, approve, or ratify any municipal ordinance, regulation, contract, agreement, or proceeding relating to utilities. Moreover, nothing contained in this Act shall serve to validate any contract or agreement relating to utilities entered into by the city or its agencies.

Sec. 2. All orders, resolutions, ordinances, indentures, and other actions authorizing the issuance of or securing any such revenue bonds, and the sale thereof, and the other agreements and proceedings validated in Section 1 hereof are themselves hereby in all things validated, confirmed, approved and ratified.

Sec. 2A. The provisions of this Act shall not serve to validate any proceedings the validity of which is being questioned on the effective date of this Act in any litigation in any court of competent jurisdiction in this state, if such proceedings are ultimately determined invalid in such litigation under the existing laws of this state.

Acts 1969, 61st Leg., p. 2335, ch. 790, emerg. eff. June 14, 1969.

Title of Act:

An Act validating all proceedings including all revenue bonds and provisions for security and payment thereof, the terms and conditions of sale thereof, contracts, agreements, leases, operating agreements, options and other agreements, taken, had, made, entered into or executed by the governing bodies of all cities and towns, including home rule cities, in the state, in connection with the establishment, acquisition, purchase, construction, improve-

ment, operation, maintenance, financing and use of public improvements under and pursuant to Chapter 63, page 148, Acts of 1965, 59th Legislature, Regular Session, as amended by Chapter 563, page 1239, Acts of 1967, 60th Legislature, Regular Session (compiled, as amended, as Article 1269j—4.1, Vernon's Annotated Civil Statutes); providing for severability; containing other provisions relating to the subject; and declaring an emergency. Acts 1969, 61st Leg., p. 2335, ch. 790.

Art. 1269j—101. Higher Education Authority Act

Creation; title

Section 1. Authorities without taxing power may be created as hereinafter provided. This law shall be known as the "Higher Education Authority Act."

Definitions

Sec. 2. As used in this law, "city" means any incorporated city or town in this state;

"Governing Body" means the counsel, commission or other governing body of a city;

"Authority" means a Higher Education Authority created under this Act;

"Board" or "Board of Directors" means the board of directors of the authority;

"Institution of Higher Learning" means a degree-granting college or university nonprofit corporation accredited by the Texas Education Agency.

"Educational Facilities" means a classroom building, laboratory, science building, faculty or administrative office building or other facility exclusively used for the conduct of the educational and administrative functions of an institution of higher learning.

"Housing Facilities" means any single or multi-family residence exclusively used for housing or boarding or housing and boarding students, faculty or staff members of an institution of higher learning, infirmaries, and student union buildings, but shall not include housing and boarding facilities, or either of them, for the use of fraternities, sororities or private clubs.

“Bond Resolution” means the resolution authorizing the issuance of revenue bonds;

“Trust Indenture” means the mortgage, deed of trust or other instrument pledging revenues of, or creating a mortgage lien on properties, or both, to secure the revenue bonds issued by the authority;

“Trustee” means the trustee under the trust indenture.

**Ordinance creating authority; status and powers; joint
action by two or more cities**

Sec. 3. When the governing body of a city shall find that it is to the best interest of the city and its inhabitants to create a Higher Education Authority, it shall pass an ordinance creating the authority and designating the name by which it shall be known. If the governing bodies of two or more cities shall find that it is to the best interest of such cities to create an authority to include such cities, each governing body shall pass an ordinance creating the authority and designating the name by which it shall be known. The authority shall comprise only the territory included within the boundaries of such city or cities and shall be a body politic and corporate. It shall have the power of perpetual succession, have a seal, may sue and be sued and may make, amend and repeal its bylaws.

Board of directors

Sec. 4. (a) The authority shall be governed by a board of directors consisting of not less than seven nor more than eleven members to be determined at the time of creating the authority. Except as hereinafter in this section provided, the first directors shall be appointed by the governing body of the city or by the governing bodies of the cities, and they shall serve until their successors are appointed as hereinafter provided. If authority includes more than one city, each governing body shall appoint an equal number of directors unless otherwise agreed by the cities. When the authority issues its revenue bonds the resolution authorizing the issuance of the bonds or the trust indenture securing them may prescribe the method of selecting and the term of office of a majority of the members of the board. The remaining members of the board shall be appointed by the governing body of the city or the governing bodies of the cities for two year terms. The trust indenture may also provide that, in event of default as defined in the trust indenture, the trustee may appoint all of the directors, in which event the terms of the directors then in office shall automatically terminate. Unless and until provision is made in the bond resolution or indenture in connection with the issuance of bonds for the appointment by other means of part of the directors, all of the directors shall be appointed by the governing body of the city or each of the cities, as the case may be, for terms not to exceed two years, but the terms of directors appointed prior to the issuance of the first issue of revenue bonds shall be subject to the exercise of the provision herein made for appointment of a majority of the members of the board in connection with the issuance of the bonds. No officer or employee of any such city shall be eligible for appointment as a director. Directors shall not receive compensation for services but shall be entitled to reimbursement of their expenses incurred in performing such service.

(b) In the event the authority purchases from a nonprofit corporation an educational facility or a housing facility for students, faculty or staff members which facility or facilities are then in existence or in process of construction, the first members of the board of directors and their successors shall be determined as provided in the contract of purchase.

Organization of board; quorum; manager or executive director; legal counsel

Sec. 5. The board of directors shall elect from among their members a president and vice president, and shall elect a secretary and a treasurer who may or may not be directors, and may elect such other officers as may be authorized by authority's bylaws. The offices of secretary and treasurer may be combined. The president shall have the same right to vote on all matters as other members of the board. A majority of the members of the board shall constitute a quorum and when a quorum is present action may be taken by a majority vote of directors present. The board may employ a manager or executive director of the facilities and such other employees, experts and agents as it may see fit, but it may delegate to the manager the power to employ and discharge employees. The board may employ legal counsel.

Powers as to construction, enlargement, etc., of facilities; location

Sec. 6. The authority shall have the power to acquire by purchase, purchase contract, or lease or to construct, enlarge, extend or improve educational facilities or housing facilities as defined herein, and to acquire lands for such purposes, and to furnish and equip such facilities, and to provide by contract, lease or otherwise for the operation and maintenance of such facilities. Such facilities need not be located within the city limits of such city or cities.

Revenue bonds

Sec. 7. The authority may issue revenue bonds to provide funds for any of its purposes. Such bonds shall be payable from and secured by a pledge of the net revenues to be derived from the operation of the facility or facilities and any other revenues resulting from the ownership of the educational facilities properties. The bonds may be additionally secured by a mortgage or deed of trust on real property of authority or by a chattel mortgage on its personal property, or by both.

Procedure for bond issue; requisites; maturity; sale; registration

Sec. 8. The bonds shall be authorized by resolution adopted by a majority vote of a quorum of the board of directors, and shall be signed by the president or vice president and countersigned by the secretary, or either or both of their facsimile signatures may be printed thereon. The seal of the authority shall be impressed or printed thereon. The bonds shall mature serially or otherwise in not to exceed 50 years and may be sold at a price and under terms determined by the board of directors to be the most advantageous reasonably obtainable, provided that the rate of interest to be borne by such bonds shall not exceed six and one-half percent per annum and that such bonds shall not be sold at less than 90 percent of their par or face value, plus accrued interest, and within the discretion of the board, may be made callable prior to maturity at such times and prices as may be prescribed in the resolution authorizing the bonds, and may be made registrable as to principal or as to both principal and interest.

Bond resolution; notice of intent to adopt; publication; referendum

Sec. 9. (a) Before authorizing the issuance of bonds, other than re-funding bonds, the board of directors shall cause a notice to be issued stating that it intends to adopt a resolution (herein called "bond resolution") authorizing the issuance of the bonds, the maximum amount thereof, and the maximum maturity thereof. The notice shall be published once each week for two consecutive weeks in a newspaper or newspapers

having general circulation in the authority, the first such publication shall be at least 14 days prior to the day set for adopting the bond resolution.

(b) If, prior to the day set for the adoption of the bond resolution, there is presented to the secretary or president of the board of directors a petition signed by not less than 10 percent of the qualified voters residing within the boundaries of the city or cities comprising the authority, who own taxable property in the authority and who have duly rendered the same for taxation to the city in which such property is located or situated, requesting an election on the proposition for the issuance of the bonds, the bonds shall not be issued unless an election is held and a majority vote is in favor of the bonds. Such election shall be called and held in accordance with the procedure prescribed in Chapter 1, Title 22, Revised Civil Statutes of 1925, as amended,¹ with the board of directors, president and secretary performing the functions therein assigned to the governing body of the city, the mayor and city secretary respectively. If no such petition is filed the bonds may be issued without an election. It is provided, however, that the board of directors may call such election on its own motion without the filing of the referendum petition.

Junior lien bonds; parity bonds

Sec. 10. Bonds constituting a junior lien on the net revenues or properties may be issued unless prohibited by the bond resolution or trust indenture. Parity bonds may be issued under conditions specified in the bond resolution or trust indenture.

Reserves for operating and other expenses

Sec. 11. Money for the payment of not more than two years interest on the bonds and an amount estimated by the board to be required for operating expenses during the first year of operation may be set aside for those purposes out of the proceeds from the sale of the bonds.

Refunding bonds

Sec. 12. Bonds may be issued for the purpose of refunding outstanding bonds in the manner provided in this Act for other bonds, and may be exchanged by the Comptroller of Public Accounts of the State of Texas or sold and the proceeds applied in accordance with the procedure prescribed by Chapter 503, Acts of the 54th Legislature.²

Attorney General; approval of bonds; registration; negotiability

Sec. 13. Bonds issued under this Act and the record relating to their issuance shall be submitted to the Attorney General of Texas and if he finds that they have been issued in accordance with this law and constitute valid and binding obligations of the authority and are secured as recited therein he shall approve them, and they shall be registered by Comptroller of Public Accounts of the State of Texas who shall certify such registration thereon. Thereafter they shall be incontestable. The bonds shall be negotiable and shall contain the following provision: "The holder hereof shall never have the right to demand payment thereof out of money raised or to be raised by taxation."

Nonprofit institution; rates charged; reserve funds

Sec. 14. The facilities may be operated by the authority without the intervention of private profit for the use and benefit of the public, or may be leased to an institution of higher learning as defined herein, or may be operated by such institution under a contract with the authority, such lease or contract to be in effect until any revenue bonds issued in

connection therewith shall have finally been retired with the interest thereon paid to their date of final payment. It shall be the duty of the board of directors to charge sufficient rates for the use of such facilities or for the lease or operation of the same, as shall be fully sufficient to pay all expenses in connection with the ownership, operation and upkeep of the facilities, to pay the interest on the bonds as it becomes due, to create a sinking fund to pay the bonds as they become due, and to create and maintain a bond reserve fund and such other funds and reserves as may be provided in the bond resolution or trust indenture. The bond resolution or trust indenture may prescribe systems, methods, routines and procedures under or in accordance with which the facilities shall be operated.

Depositories

Sec. 15. The authority may select a depository or depositories according to the procedures provided by law for the selection of city depositories or it may award its depository contract to the same depository or depositories selected by the city or cities and on the same terms.

Tax exemption

Sec. 16. Recognizing the fact that the property owned by the authority will be held for educational purposes only and will be devoted exclusively to the use and benefit of the students, faculty and staff members of an accredited institution of higher education, it shall be exempt from taxation of every character.

Eminent domain; transactions with other agencies and persons

Sec. 17. The authority shall have no power of eminent domain and no right to acquire the fee simple title to land and other property by condemnation or in any manner other than as set out herein; provided, that authority may borrow money and accept grants from and enter contracts, leases or other transactions with the United States of America, including any department, agency or instrumentality thereof, the State of Texas, and any municipal corporation therein or agency thereof, and any public or private person or corporation resident or authorized to do business in the State of Texas.

Legal and authorized investments

Sec. 18. All bonds issued under this Act, as amended, shall be legal and authorized investments for all banks, savings banks, trust companies, building and loan associations, savings and loan associations, and insurance companies of all kinds and types, and for the interest and sinking funds and other public funds of any issuer, as such term is defined in this Act. Said bonds also shall be eligible and lawful security for all deposits of public funds of the State of Texas and of any issuer, as such term is defined in this Act, to the extent of the value of said bonds, when accompanied by any unmatured interest coupons appurtenant thereto.

Investment of funds; security

Sec. 19. The law as to the security for and the investment of funds, applicable to cities, shall control, insofar as applicable to the investment of funds belonging to authority. The bond resolution or the indenture or both may further restrict the making of such investments. In addition to other powers authority shall have the right to invest the proceeds of its bonds, until such money is needed, in the direct obligations of or obligations unconditionally guaranteed by the United States Government, to the extent authorized in the bond resolution or indenture or in both.

Severability

Sec. 20. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Acts 1969, 61st Leg., p. 1734, ch. 571, eff. Sept. 1, 1969.

¹ Article 701 et seq.

² Article 717k.

Housing authorities law, see art. 1269k et seq.

Title of Act:

An Act relating to creation of public authorities to assist in acquisition, construction, and improvement of educational

and housing facilities for private institutions of higher education; authorizing the authorities to issue bonds and to accept grants for such purposes; prescribing related powers, duties and limitations; and declaring an emergency. Acts 1969, 61st Leg., p. 1734, ch. 571.

CHAPTER TWENTY-ONE—HOUSING

Art.

1269l—2.1 Planning assistance for political subdivisions by Governor's office; payment; federal grants transfer of property, etc. [New].

Art. 1269k. Housing Authorities Law

* * * * *

Rentals and tenant selection

Sec. 10. In the operation or management of housing projects an authority shall at all times observe the following duties with respect to rentals and tenant selection:

(a) It may rent or lease the dwelling accommodations therein only to persons of low income and at rentals within the financial reach of such persons.

(b) It may rent or lease to a tenant dwelling accommodations consisting of the number of rooms (but no greater number) which it deems necessary to provide safe and sanitary accommodations to the proposed occupants thereof, without overcrowding.

(c) It shall not accept any person as a tenant in any housing project if the person or persons who would occupy the dwelling accommodations have an aggregate annual income, excluding that earned by children attending school full time, in excess of five (5) times the annual rental of the quarters to be furnished such person or persons except that in the case of families with three (3) or more minor dependents such ratio shall not exceed six to one; in computing the rental for this purpose of selecting tenants, there shall be included in the rental the average annual cost (as determined by the authority) to the occupants, of heat, water, electricity, gas, cooking range, and other necessary services or facilities, whether or not the charge for such services and facilities is in fact included in the rental.

Nothing contained in this or the preceding section shall be construed as limiting the power of an authority to vest in an obligee the right, in the event of a default by the authority, to take possession of a housing project or cause the appointment of a receiver thereof or acquire title thereto through foreclosure proceedings, free from all the restrictions imposed by this or the preceding section.

Sec. 10 amended by Acts 1969, 61st Leg., p. 1686, ch. 544, § 1, emerg. eff. June 10, 1969.

* * * * *

Art. 1269l—2. State department of health; planning and assistance for political subdivisions; acceptance of federal grants for housing

Transfer of functions

Section 2 of Acts 1969, 61st Leg., p. 1449, ch. 429, provided that all property, records, and personnel used by the State Department of Health in administering planning assistance programs under this article are transferred to the Governor's office. See art. 1269l—2.1.

Art. 1269l—2.1 Planning assistance for political subdivisions by Governor's office; payment; federal grants; transfer of property, etc.

Section 1. The governor or his designated representative is hereby authorized, upon request to¹ the governing body of any political subdivision or the authorized agency of any group of political subdivisions: (a) to arrange planning assistance (including surveys, community renewal plans, technical services, and other planning work) and to arrange for the making of a study or report upon any planning problem of any such political subdivision or political subdivisions submitted to the governor or his representative;

(b) to agree with such governing body or the agency of such governing bodies as to the amount, if any, to be paid to the governor's office for such service; and

(c) to apply for and accept grants from the federal government or other sources in connection with any such assistance, study or report, and to contract with respect thereto. The regular functions of the office of the governor or other state agencies may be utilized in this program.

Sec. 2. All property, records, and personnel used by the State Department of Health in administering such programs for planning assistance as are authorized in this Act are transferred to the governor's office.

Sec. 3. The provisions of this Act shall take effect and be in full force on and after September 1, 1969.

Sec. 4. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

Acts 1969, 61st Leg., p. 1449, ch. 429, emerg. eff. Sept. 1, 1969.

¹ Possibly should read "of".

Title of Act:

An Act authorizing the governor's office to arrange planning assistance for political subdivisions; to accept grants therefor from the federal government or other sources; transferring property, records and

personnel; providing an effective date; repealing laws in conflict; and declaring an emergency. Acts 1969, 61st Leg., p. 1449, ch. 429.

For Annotations and Historical Notes, see V.A.T.S.

TITLE 31. CONVEYANCES

Art.	Art.
1291b. Reformation of interests in violation of rule against perpetuities [New].	1301b. Forfeiture and acceleration under executory contract for conveyance; notice; avoidance [New].
1293a. Invalidity of deed restrictions based on race, color, religion or national origin [New].	

Art. 1291b. Reformation of interests in violation of rule against perpetuities

Section 1. Any interest in real or personal property that would violate the Rule Against Perpetuities shall be reformed, or construed, within the limits of that Rule, to give effect to the general intent of the creator of that interest whenever that general intent can be ascertained. This provision shall be liberally construed and applied to validate such interest to the fullest extent consistent with such ascertained intent.

Sec. 2. To effectuate the provisions hereof, all courts of this state are, within their otherwise jurisdictional limits, hereby granted the power to reform or construe interests in real or personal property, as provided in Section 1 hereof, in accordance with the doctrine of cy pres.

Sec. 3. If an instrument violates the Rule Against Perpetuities, but it can be reformed or construed in accordance with the provisions of this Act, it shall not be declared totally invalid. Rather, the provisions thereof that do not offend the Rule shall be enforced, and only the provisions thereof that do violate, or might violate, the Rule shall be subject to reformation or construction under the doctrine of cy pres within the terms of this Act.

Sec. 4. This Act shall apply only to inter vivos instruments and wills taking effect after the Act becomes effective, and to appointments made after the Act becomes effective, including appointments by inter vivos instruments or wills under powers created before the Act becomes effective. The Act shall apply to both legal and equitable interests. Acts 1969, 61st Leg., p. 2020, ch. 693, eff. Sept. 1, 1969.

Prohibition of perpetuities, see Const. art. 1, § 26.

Title of Act:

An Act relating to the Rule Against Perpetuities; providing that no interest in property is either void or voidable if and to the extent that it can be reformed or

construed within the limits of the Rule; authorizing the courts of this state to make such reformation, if need be, within the limits of the cy pres doctrine; prescribing the applicability of the Act; and declaring an emergency. Acts 1969, 61st Leg., p. 2020, ch. 693.

Art. 1293a. Invalidity of deed restrictions based on race, color, religion or national origin

Section 1. A provision in any deed conveying real property or any interest in real property, or any restrictions affecting real property, whether stated expressly in the deed or restrictions, or incorporated by reference, which provides that the property may not be sold, leased, or transferred to, or used by, any person because of race, color, religion, or national origin, is void and unenforceable.

Sec. 2. The courts of this state shall dismiss any suit or part of any suit in which a provision, restriction, or covenant declared void by the provisions of Section 1 of this Act is sought to be enforced. Acts 1969, 61st Leg., p. 1664, ch. 527, emerg. eff. June 10, 1969.

Equal rights, see Const. art. 1, § 3.

Title of Act:

An Act declaring void certain deed restrictions based on race, color, religion, or

national origin; and declaring an emergency. Acts 1969, 61st Leg., p. 1664, ch. 527.

Art. 1301b. Forfeiture and acceleration under executory contract for conveyance; notice; avoidance

Section 1. A forfeiture of the interest and the acceleration of the indebtedness of a purchaser in default under an executory contract for conveyance of real property used or to be used as the purchaser's residence may be enforced only after notice of seller's intentions to enforce the forfeiture and acceleration has been given to the purchaser and only after the expiration of the periods provided below:

(a) When the purchaser has paid less than 10% of the purchase price, 15 days from the date notice is given.

(b) When the purchaser has paid 10% but less than 20% of the purchase price, 30 days from the date notice is given.

(c) When the purchaser has paid 20%, or more, of the purchase price, 60 days from the date notice is given.

(d) Notice must be by mail or other writing. If by mail, it must be registered or certified and shall be considered given at the time mailed to his residence or place of business, and notification by other writing shall be considered given at the time delivered to the purchaser at his residence or place of business.

(e) Such notice shall be conspicuously set out; shall be printed in 10 point bold face type or upper case typewritten letters; and shall include the following:

NOTICE

YOU ARE LATE IN MAKING YOUR PAYMENT UNDER THE CONTRACT TO BUY YOUR HOME. UNLESS YOU MAKE THE PAYMENT BY (date) THE SELLER HAS THE RIGHT TO TAKE POSSESSION OF YOUR HOME AND TO KEEP ALL PAYMENTS YOU HAVE MADE TO DATE.

Sec. 2. A purchaser in default under an executory contract for the conveyance of real property used or to be used as the purchaser's residence, may at any time prior to expiration of the period provided for in Section 1, avoid the forfeiture of his interest and the acceleration of his indebtedness by complying with the terms of the contract up to the date of compliance notwithstanding any agreement to the contrary.

Acts 1969, 61st Leg., p. 1991, ch. 680, eff. Sept. 1, 1969.

Title of Act:

An Act providing conditions to enforce forfeitures under executory contracts for conveyance of real property; providing a

method of avoiding forfeiture and acceleration; and declaring an emergency. Acts 1969, 61st Leg., p. 1991, ch. 680.

TITLE 32—CORPORATIONS

CHAPTER NINE—NON-PROFIT, RELIGIOUS,
CHARITABLE AND EDUCATIONAL

Art. 1396—2.06. Change of Registered Office or Agent

A. A corporation may change its registered office or change its registered agent, or both, upon filing in the office of the Secretary of State a statement setting forth:

- (1) The name of the corporation.
- (2) The post-office address of its then registered office.
- (3) If the post-office address of its registered office is to be changed, the post-office address to which the registered office is to be changed.
- (4) The name of its then registered agent.
- (5) If its registered agent is to be changed, the name of its successor registered agent.
- (6) That the post-office address of its registered office and the post-office address of the business office of its registered agent, as changed, will be identical.
- (7) That such change was authorized by its Board of Directors or by an officer of the corporation so authorized by the Board of Directors, or if the management of the corporation is vested in its members pursuant to Article 2.14C of this Act, by the members.

Sec. A amended by Acts 1969, 61st Leg., p. 2477, ch. 834, § 1, emerg. eff. June 18, 1969.

* * * * *

D. Any registered agent of a corporation may resign

- (1) by giving written notice to the corporation at its last known address
- (2) and by giving written notice, in triplicate, to the Secretary of State within ten days after mailing or delivery of said notice to the corporation. Such notice shall include the last known address of the corporation and shall include the statement that written notice of resignation has been given to the corporation and the date thereof. Upon compliance with the requirements as to written notice, the appointment of such agent shall terminate upon the expiration of thirty (30) days after receipt of such notice by the Secretary of State.

If the Secretary of State finds that such written notice conforms to the provisions of this Act, he shall:

- (1) Endorse on each of such originals the word "filed" and the month, day and year of the filing thereof.
- (2) File one of such originals in his office.
- (3) Return one original to such resigning registered agent.
- (4) Return one original to the corporation at the last known address of the corporation as shown in such written notice."

Sec. D amended by Acts 1969, 61st Leg., p. 2477, ch. 834, § 2, emerg. eff. June 18, 1969.

Acts 1969, 61st Leg., p. 2477, ch. 834, which amended this article and arts. 1396—7.01, 1396—7.02, 1396—8.08, and 1396—8.15, also provided:

"Sec. 9. Validation. Nothing in this Act shall invalidate any of the procedures hereby changed by this Act which have been initiated prior to the effective date of this Act, and under such circumstances and the Secretary of State and any other state agency affected is authorized to proceed un-

der the appropriate procedures authorized prior to this Act or as changed by this Act.

"Sec. 10. Severability. The provisions of this Act are severable. If any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act and the application of such provisions to other persons or circumstance shall not be affected thereby."

Art. 1396—7.01 Involuntary dissolution; reinstatement

A. A corporation may be dissolved involuntarily by a decree of the district court of the county in which the registered office of the corporation is situated or of any district court in Travis County in an action filed by the Attorney General when it is established that it is in default in any of the following particulars:

(1) The corporation or its incorporators have failed to comply with a condition precedent to incorporation; or

(2) The original articles of incorporation or any amendments thereof were procured through fraud; or

(3) The corporation has continued to transact business beyond the scope of the purpose or purposes of the corporation as expressed in its articles of incorporation; or

(4) A misrepresentation has been made of any material matter in any application, report, affidavit, or other document submitted by such corporation pursuant to this Act.

B. A corporation may be dissolved involuntarily by order of the Secretary of State when it is established that it is in default in any of the following particulars:

(1) The corporation has failed to file any report within the time required by law, or has failed to pay any fees, franchise taxes or penalties prescribed by law when the same have become due and payable; or

(2) The corporation has failed to maintain a registered agent in this state as required by law.

C. No corporation shall be involuntarily dissolved under Section B hereof unless the Secretary of State, or other state agency with which such report, fees, taxes or penalties is required to be made, gives the corporation not less than 90 days notice of its neglect, delinquency, or omission by certified mail addressed to its registered office or to its principal place of business, or to the last known address of one of its officers or directors, or to any other known place of business of said corporation, and the corporation has failed prior to such involuntary dissolution to correct the neglect, omission or delinquency.

D. Whenever a corporation has given cause for involuntary dissolution and has failed to correct the neglect, omission or delinquency as provided in Sections B and C, the Secretary of State shall thereupon dissolve the corporation by issuing a certificate of involuntary dissolution, which shall include the fact of such involuntary dissolution and the date and cause thereof. The original of such certificate shall be placed in his office and a copy thereof mailed to the corporation at its registered office, or to its principal place of business, or to the last known address of one of its officers or directors, or to any other known place of business of said corporation. Upon the issuance of such certificate of involuntary dissolution, the existence of the corporation shall cease, except for purposes otherwise provided by law.

E. Any corporation dissolved by the Secretary of State under the provisions of Section B of this article may be reinstated by the Secretary of State at any time within a period of 12 months from the date of such dissolution, upon approval of an application for reinstatement signed by an officer or director of the dissolved corporation. Such application shall be filed by the Secretary of State whenever it is established to his satisfaction that in fact there was no cause for the dissolution, or whenever the neglect, omission or delinquency resulting in dissolution has been corrected and payment made of all fees, taxes, penalties and interest due thereon which accrued before the dissolution plus an amount equal to the total taxes from the date of dissolution to the date of reinstatement which would have been payable had the corporation not been dissolved. A reinstatement filing fee of \$25.00 shall accompany the application for reinstatement.

For Annotations and Historical Notes, see V.A.T.S.

Reinstatement shall not be authorized if the corporate name is the same as or deceptively similar to a corporate name already on file or reserved or registered, unless the corporation being reinstated contemporaneously amends the articles of incorporation to change its name.

When the application for reinstatement is approved and filed by the Secretary of State, the corporate existence shall be deemed to have continued without interruption from the date of dissolution except the reinstatement shall have no effect upon any issue of personal liability of the directors, officers, or agents of the corporation during the period between dissolution and reinstatement.

Sec. A amended by Acts 1965, 59th Leg., p. 533, ch. 276, § 1, eff. Aug. 30, 1965; Sec. B added by Acts 1965, 59th Leg., p. 533, ch. 276, § 2, eff. Aug. 30, 1965; Secs. A-E amended by Acts 1969, 61st Leg., p. 2477, ch. 834, § 3, emerg. eff. June 18, 1969.

For validation and severability clauses of the 1969 amendatory act, see Historical Note under art. 1396—2.06.

Art. 1396—7.02. Notification to Attorney General, notice to corporation and opportunity to cure default

A. The Secretary of State shall certify to the Attorney General, from time to time, the names of all corporations which have given cause for judicial dissolution of their charters or revocation of their certificates of authority as provided in this Act, together with the facts pertinent thereto. Every such certificate from the Secretary of State to the Attorney General shall be taken and received in all courts as prima facie evidence of the facts therein stated.

Sec. A amended by Acts 1965, 59th Leg., p. 533, ch. 276, § 3, eff. Aug. 30, 1965; Acts 1969, 61st Leg., p. 2477, ch. 834, § 4, emerg. eff. June 18, 1969.

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For validation and severability clauses of the 1969 amendatory act, see Historical Note under art. 1396—2.06.

Art. 1396—8.08. Change of Registered Office or Registered Agent of Foreign Corporation

A. A foreign corporation authorized to conduct affairs in this state may change its registered office or change its registered agent, or both, upon filing in the office of the Secretary of State a statement setting forth:

- (1) The name of the corporation.
- (2) The post-office address of its then registered office.
- (3) If the post-office address of its registered office is to be changed, the post-office address to which the registered office is to be changed.
- (4) The name of its then registered agent.
- (5) If its registered agent is to be changed, the name of its successor registered agent.
- (6) That the post-office address of its registered office and the post-office address of the business office of its registered agent, as changed, will be identical.

(7) That such change was authorized by its Board of Directors or by an officer of the corporation so authorized by the Board of Directors, or if the management of the corporation is vested in its members pursuant to Article 2.14C of this Act, by the members.

Sec. A amended by Acts 1969, 61st Leg., p. 2477, ch. 834, § 5, emerg. eff. June 18, 1969.

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D. Any registered agent of a corporation may resign

(1) by giving written notice to the corporation at its last known address

(2) and by giving written notice, in triplicate, to the Secretary of State within ten days after mailing or delivery of said notice to the corporation. Such notice shall include the last known address of the corporation and shall include the statement that written notice of resignation has been given to the corporation and the date thereof.

Upon compliance with the requirements as to written notice, the appointment of such agent shall terminate upon the expiration of thirty (30) days after receipt of such notice by the Secretary of State.

If the Secretary of State finds that such written notice conforms to the provisions of this Act, he shall:

(1) Endorse on each of such originals the word "filed" and the month, day and year of the filing thereof.

(2) File one of such originals in his office.

(3) Return one original to such resigning registered agent.

(4) Return one original to the corporation at the last known address of the corporation as shown in such written notice.

Sec. D added by Acts 1969, 61st Leg., p. 2477, ch. 834, § 6, emerg. eff. June 18, 1969.

For validation and severability clauses of the 1969 amendatory act, see Historical Note under art. 1396—2.06.

Art. 1396—8.15. Revocation of certificate of authority

Revocation by court

A. The certificate of authority of a foreign corporation to conduct affairs in this state may be revoked by a decree of the district court for the county in which the registered office of the corporation in this state is situated or of any district court in Travis County in an action filed by the Attorney General when it is established that:

(1) The corporation has failed to comply with a condition precedent to the issuance of its certificate of authority or a renewal or amendment thereof; or

(2) The certificate of authority to transact business in this state or any amendment thereof was procured through fraud; or

(3) The corporation has continued to conduct affairs beyond the scope of the purpose or purposes expressed in its certificate of authority to conduct affairs in this state; or

(4) A misrepresentation has been made of any material matter in any application, report, affidavit, or other document submitted by such corporation as required by law.

Revocation by secretary of state

B. The certificate of authority of a foreign corporation to conduct affairs in this state may be revoked by order of the Secretary of State when it is established that it is in default in any of the following particulars:

(1) The corporation has failed to file its annual report within the time required by law, or has failed to pay any fees, franchise taxes, or penalties prescribed by law when the same have become due and payable; or

(2) The corporation has failed to maintain a registered agent in this state as required by law; or

(3) The corporation has failed to file in the office of the Secretary of State any amendment to its articles of incorporation or any articles of merger or consolidation within the time prescribed by this Act; or

(4) The corporation has changed its corporate name and has failed to file with the Secretary of State within thirty days after such change of

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name became effective, an application for an amended certificate of authority, or that the corporation has changed its corporate name and that the newly adopted name is not available for use in this state.

Notice

C. No foreign corporation shall have its certificate of authority to conduct affairs in this state revoked under Section B hereof unless the Secretary of State, or other state agency to which such report, taxes, fees or penalties is required to be made, gives the corporation not less than 90 days notice of its neglect, delinquency, or omission by certified mail addressed to its registered office or to its principal place of business, or to the last known address of one of its officers or directors, or to any other known place of business of said corporation, and the corporation has failed prior to such revocation to correct the neglect, omission or delinquency.

Certificate of revocation; effect

D. Whenever a corporation has given cause for revocation of its certificate of authority and has failed to correct the neglect, omission or delinquency as provided in Sections B and C, the Secretary of State shall thereupon revoke the certificate of authority of the corporation by issuing a certificate of revocation which shall include the fact of such revocation and the date and cause thereof. The original of such certificate shall be placed in his office and a copy thereof mailed to the corporation at its registered office or to its principal place of business, or to the last known address of one of its officers or directors, or to any other known place of business of said corporation. Upon the issuance of such certificate of revocation, the authority to conduct affairs in this state shall cease.

Reinstatement; application

E. Any corporation whose certificate of authority has been revoked by the Secretary of State under the provisions of Section B of this article may be reinstated by the Secretary of State at any time within a period of 12 months from the date of such dissolution, upon approval of an application for reinstatement signed by an officer or director of the corporation. Such application shall be filed by the Secretary of State whenever it is established to his satisfaction that in fact there was no cause for the revocation, or whenever the neglect, omission or delinquency resulting in revocation has been corrected and payment made of all fees, taxes, penalties and interest due thereon which accrued before the revocation plus an amount equal to the total taxes from the date of revocation to the date of reinstatement which would have been payable had the corporation's certificate not been revoked. A reinstatement filing fee of \$25.00 shall accompany the application for reinstatement.

Reinstatement shall not be authorized if the corporate name is the same as or deceptively similar to a corporate name already on file or reserved or registered, unless the corporation being reinstated contemporaneously amends its certificate of authority to change its name.

When the application for reinstatement is approved and filed by the Secretary of State, the corporate authority to do business in Texas shall be deemed to have continued without interruption from the date of revocation, except that reinstatement shall have no effect upon any issue of personal liability of the directors, officers, or agents of the corporation during the period between revocation and reinstatement.

Sec. A amended by Acts 1965, 59th Leg., p. 533, ch. 276, § 4, eff. Aug. 30, 1965; Sec. B added by Acts 1965, 59th Leg., p. 533, ch. 276, § 5, eff. Aug. 30, 1965; Secs. A-E amended by Acts 1969, 61st Leg., p. 2477, ch. 834, § 7, emerg. eff. June 18, 1969.

For validation and severability clauses of the 1969 amendatory act, see Historical Note under art. 1396—2.06.

Art. 1396—9.02. Failure to file reports; forfeiture; right of corporation to cure default

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F. Any corporation which is involuntarily dissolved or whose certificate of authority is revoked without judicial ascertainment, as provided in Section E hereof, and which has paid all fees, taxes, penalties and interest due thereon which accrued before the dissolution or revocation plus an amount equal to the total taxes from the date of dissolution or revocation to the date of reinstatement which would have been payable had the corporation not been dissolved or its certificate revoked may be relieved from such dissolution or revocation by filing the required report with the Secretary of State together with a filing fee of Twenty-Five (\$25.00) Dollars.

Sec. F added by Acts 1965, 59th Leg., p. 533, ch. 276, § 8, eff. Aug. 30, 1965; amended by Acts 1969, 61st Leg., p. 2477, ch. 834, § 8, emerg. eff. June 18, 1969.

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CHAPTER EIGHTEEN—MISCELLANEOUS

Art. 1527a. International commerce development corporation; foreign trade zone [New].

Art. 1528e. Professional corporations [New].
1528f. Professional associations [New].

Art. 1527a. International commerce development corporation; foreign trade zone

The International Commerce Development Corporation, organized and incorporated under the laws of the State of Texas, with offices at Fort Worth, Tarrant County, Texas, is authorized to apply for and accept a grant to establish, operate and maintain a foreign trade zone at the Fort Worth Port of Entry, and other sub-zones, subject to the requirements of federal law and regulations of the Foreign Trade Zones Board.

Acts 1969, 61st Leg., p. 581, ch. 196, § 1, emerg. eff. May 14, 1969.

Title of Act:

An Act authorizing the International Commerce Development Corporation, to establish, operate and maintain a foreign trade zone at Fort Worth, Tarrant County, Texas, and other sub-zones; authorizing the International Commerce Development Corporation, to apply to the Foreign Trade

Zone Board, Washington, D. C., for a grant to permit the establishment, operation and maintenance of the foreign trade zone and sub-zones in accordance with federal laws and the regulations of the Federal Trade Zones Board; authorizing the acceptance of such grant; and declaring an emergency. Acts 1969, 61st Leg., p. 581, ch. 196.

Art. 1528e. Professional corporations

Title

Section 1. This Act shall be known and may be cited as "The Texas Professional Corporation Act."

Sections, subsections and captions

Sec. 2. The division of this Act into sections and subsections and the use of captions in connection therewith are solely for convenience and shall have no legal effect in construing the provisions of this Act.

Definitions

Sec. 3. As used in this Act, unless the context otherwise requires, the term:

(a) "Professional Service" means any type of personal service which requires as a condition precedent to the rendering of such service, the

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obtaining of a license, permit, certificate of registration or other legal authorization, and which prior to the passage of this Act and by reason of law, could not be performed by a corporation, including by way of example and not in limitation of the generality of the foregoing provisions of this definition, the personal services rendered by architects, attorneys-at-law, certified public accountants, dentists, public accountants, and veterinarians; provided, however, that physicians, surgeons and other doctors of medicine are specifically excluded from the operations of this Act, since there are established precedents allowing them to associate for the practice of medicine in joint stock companies.

(b) "Professional Corporation" means a corporation organized under this Act for the sole and specific purpose of rendering professional service and which has as its shareholders only individuals who themselves are duly licensed or otherwise duly authorized within this state to render the same professional service as the corporation.

Articles of incorporation

Sec. 4. One or more individuals, each of whom is licensed or otherwise legally authorized to render the same kind of professional service within this state, may incorporate a professional corporation by filing, in duplicate originals, Articles of Incorporation with the Secretary of State. No professional corporation organized under this Act shall render more than one kind of professional service. The Articles of Incorporation shall set forth:

(a) The purpose for which the corporation is organized, including a statement of the one specific kind of professional service to be rendered by the corporation.

(b) The name of the corporation.

(c) The names and addresses of the individuals who are to be the shareholders of the corporation.

(d) The number of directors constituting the initial Board of Directors and the names and addresses of the persons who are to serve as the initial directors.

(e) The address of the principal office of the corporation.

(f) If the duration of the corporation is not to be perpetual, the period of its duration.

(g) The names and addresses of the Incorporators, each of whom must be duly licensed or otherwise legally authorized to render in this state the specific kind of professional service to be rendered by the corporation.

(h) Such other provisions, not inconsistent with law, which the shareholders may elect to set forth for the regulation of the internal affairs of the corporation.

Applicability of Texas Business Corporation Act

Sec. 5. The Texas Business Corporation Act shall be applicable to professional corporations, except to the extent that the provisions of the Texas Business Corporation Act conflict with the provisions of this Act; and professional corporations shall enjoy the powers and privileges and be subject to the duties, restrictions and liabilities of other business corporations except insofar as the same may be limited or enlarged by this Act. This Act shall take precedence in the event of any conflict with the provisions of the Texas Business Corporation Act or the law.

Purpose

Sec. 6. A professional corporation may be organized under this Act only for the purpose of rendering one specific type of professional service and services ancillary thereto.

Powers

Sec. 7. A professional corporation organized under this Act shall have power:

- (a) To have perpetual succession.
- (b) To sue and be sued in its corporate name.
- (c) To acquire, own, improve, use and otherwise deal with real or personal property in its own name.
- (d) To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets.
- (e) To make contracts and incur liabilities, borrow money at such rates of interest as its Board of Directors may determine, issue its notes, bonds and other obligations, and secure any of its obligations by a mortgage or pledge of all or any of its property and income.
- (f) To pay pensions and establish pension plans, pension trusts, profit sharing plans and trusts, health, accident and hospitalization plans, and other deferred compensation and incentive plans for its employees.
- (g) To insure the life of any shareholder, director, officer, agent or employee, and to continue such insurance after the relationship terminates.
- (h) To have and exercise all powers necessary or convenient to effect any or all of the purposes for which the corporation is organized.

Name

Sec. 8. A professional corporation may adopt any name that is not contrary to the law or ethics regulating the practice of the professional service rendered through the professional corporation.

Board of directors

Sec. 9. A professional corporation shall be governed by a Board of two or more Directors, which shall have the power to manage the business and affairs of the corporation, and the continuing authority to make management decisions on its behalf. No person not duly licensed or otherwise duly authorized to render the professional service of the corporation shall be a member of the Board of Directors. The number of directors shall be not less than two; but subject to this limitation, the number of directors shall be fixed by the bylaws of the professional corporation or by the Articles of Incorporation if such articles specifically prescribe the number of directors.

Officers

Sec. 10. The Board of Directors shall elect a President and a Secretary and such other officers as it may deem desirable to have to conduct the affairs of the professional corporation. No person not duly licensed or otherwise duly authorized to render the professional service of the professional corporation may hold an office.

Bylaws

Sec. 11. The shareholders may adopt bylaws for the regulation of the affairs of the professional corporation, or if such authority is given by the Articles of Incorporation, the shareholders may delegate to the Board of Directors the power to make and amend bylaws. The bylaws shall contain such provisions for the regulation and management of the affairs of the professional corporation as are not inconsistent with law and the Articles of Incorporation.

Issuance and transfer of shares

Sec. 12. A professional corporation may issue shares representing ownership of the capital of the professional corporation only to individuals who are duly licensed or otherwise legally authorized to render the same type of professional service as that for which the corporation was organized. Except to the extent provided in the Articles of Incorporation, the bylaws or any applicable stock purchase or redemption agreement, shares representing ownership of professional corporation capital shall be freely transferable by any shareholder to any other shareholder, or to the professional corporation which issued such shares or to any person who is not a shareholder, provided such person is duly licensed or qualified under the laws of this state to render the same type of professional service which the corporation was organized to render, and such transferee shall thereupon become a shareholder and be entitled to participate in the management, affairs, and profits of the professional corporation. Any restriction on the transfer of shares imposed by the Articles of Incorporation, the bylaws or any stock purchase or redemption agreement shall be written or printed on all certificates representing shares issued to shareholders, unless such restrictions are incorporated by reference pursuant to the provisions of the Texas Business Corporation Act.

Redemption of shares

Sec. 13. A professional corporation shall have the power to redeem the shares of any shareholder, or the shares of a deceased shareholder, upon such terms as may be agreed upon by the Board of Directors and such shareholder or his personal representative, or at such price and upon such terms as may be provided in the Articles of Incorporation, the bylaws, or any applicable stock purchase or redemption agreement.

Legal disqualification

Sec. 14. If any shareholder, officer or director of a professional corporation, or any agent or employee thereof who has been rendering professional service for or with it of the same type which such professional corporation was organized to render, becomes legally disqualified to render such professional service, he shall sever all employment with such professional corporation and shall terminate all financial interest therein forthwith; and such corporation shall thereupon purchase or cause to be purchased from him all shares owned by him in such professional corporation, at such price and upon such terms as may be provided in the Articles of Incorporation, the bylaws or any applicable stock purchase or redemption agreement. Likewise, if any person who is not licensed or duly authorized to render the professional service which a professional corporation was organized to render should succeed to the interest of any shareholder of such professional corporation, the person holding such interest shall terminate all financial interest in such professional corporation forthwith; and such corporation shall thereupon purchase or cause to be purchased from such person all shares owned by such person in such professional corporation, at such price and upon such terms as may be provided in the Articles of Incorporation, the bylaws or any applicable stock purchase or redemption agreement.

Rendition of professional services

Sec. 15. A professional corporation may render professional service only through its officers, employees and agents who are duly licensed to render such professional service in this state; provided, however, that this provision shall not be interpreted to include within such prohibition employees such as clerks, secretaries, bookkeepers, technicians,

nurses, assistants and other individuals who are not usually and ordinarily considered by custom and practice to be rendering professional service for which a license or other legal authorization is required; and further provided, that no person shall, under the guise of employment, practice a profession unless duly licensed or otherwise legally authorized to practice that profession under the laws of this state.

Professional relationships not affected

Sec. 16. The provisions of this Act shall not be construed to alter or affect the professional relationship between a person furnishing professional service and a person receiving such service, and all such confidential relationships enjoyed under this state shall remain unchanged. Nothing in this Act shall remove or diminish any rights at law which a person receiving professional services shall have against a person furnishing professional services for errors, omissions, negligence, incompetence, or malfeasance. The corporation shall be jointly and severally liable for such professional errors, omissions, negligence, incompetence, or malfeasance on the part of any officer or employee thereof.

Continuity of existence

Sec. 17. Unless the Articles of Incorporation expressly provide otherwise, a professional corporation shall continue as a separate entity for all purposes and for such period of time as is provided in the Articles of Incorporation until dissolved by a vote of its shareholders. A professional corporation shall continue to exist regardless of the death, incompetency, bankruptcy, resignation, withdrawal, retirement or expulsion of any one or more of its shareholders or the transfer of any of its shares to any new holder or the happening of any other event which under the laws of this state and under like circumstances would cause a dissolution of a partnership, it being the intent of this Section that such professional corporation shall have continuity of life independent of the life or status of its shareholders. No shareholder shall have power to dissolve the professional corporation by his independent act of any kind.

Dissolution

Sec. 18. A professional corporation may be dissolved at any time by the affirmative vote of the holders of at least two-thirds of the outstanding shares of the corporation by a meeting called and held in accordance with the bylaws or by unanimous written consent of all shareholders without the necessity of a meeting. A copy of such resolution (noting the shares voting for and against such resolution) or of such written consent, certified by the President or a Vice-President, or the Secretary of the corporation, shall be filed in duplicate originals in the office of the Secretary of State and the dissolution shall be effective from the time of such filing. In the event of a dissolution of a professional corporation, the Board of Directors, as Trustees of the property and assets of the corporation, shall apply the assets first to the payment of debts of the corporation and second, to or among the shareholders, as the Articles of Incorporation shall provide.

Exemption from securities laws

Sec. 19. The sale, issuance or offering of any capital stock of a professional corporation to persons permitted by the provisions of this Act to own such capital stock are hereby exempted from all provisions of the laws of this state, other than this Act, which provide for supervision, registration or regulation in connection with the sale, issuance or offering of securities; and the sale, issuance or offering of any such capital stock to such persons shall be legal without any action or approval whatsoever on the part of any official or state regulatory agency au-

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thorized to license, regulate, or supervise the sale, issuance or offering of securities.

Effective date

Sec. 20. This Act shall be effective on and after January 1, 1970. Acts 1969, 61st Leg., p. 2304, ch. 779, eff. Jan. 1, 1970.

Title of Act:

An Act to be known and cited as the Texas Professional Corporation Act; authorizing the establishment and regulation of corporations rendering a professional service; stating certain powers; making a provision with respect to corporation

name; providing for organizational matters; providing for issuance and transfers and redemption of shares of stock; providing an exemption from securities laws; and declaring an emergency. Acts 1969, 61st Leg., v. 2304, ch. 779.

Art. 1528f. Professional associations

Short title

Section 1. This Act may be cited as the Texas Professional Association Act.

Authority

Sec. 2.

(A) Formation. Any one or more persons duly licensed to practice a profession under the laws of this state may, by complying with this Act, form a professional association, as distinguished from either a partnership or a corporation, by associating themselves for the purpose of performing professional services and dividing the gains therefrom as stated in articles of association or bylaws.

(B) Activities. No professional association organized pursuant to this Act shall engage in more than one type of professional service.

(C) Licenses. All members of the association shall be licensed to perform the type of professional service for which the association is formed.

Definitions

Sec. 3. As used in this Act, the term "professional service" means any type of personal service to the public which requires as a condition precedent to the rendering of such service the obtaining of a license, and which service by law cannot be performed by a corporation. The term "license" includes a license, certificate of registration or any other evidence of the satisfaction of state requirements.

Name

Sec. 4. A professional association shall adopt a name consisting of the full or last name of one or more of the associates, followed by "Associated," "Association," "Professional Association," "and Associates," or the abbreviation "Assoc." or "P.A."

Powers concerning property and suits

Sec. 5.

(A) Property. A professional association may in its own name invest its funds in real estate, mortgages, stocks, bonds, or any other type of investment, and may own real or personal property necessary or appropriate for rendering its professional service. Any investment or property so owned may be transferred in the association name by action of the Board of Directors or Executive Committee.

(B) Suits. An association shall have power to sue and be sued, complain and defend in its association name.

Licensed individuals as employees of association—prohibition

Sec. 6. Each individual licensed in this state to perform professional services who is employed by a professional association shall remain subject to reprimand or discipline for his conduct under the provisions of the licensing statute pursuant to which he is licensed.

Professional relations

Sec. 7. This Act does not alter any law applicable to the relationship between a person furnishing professional service and a person receiving such professional service including liability arising out of such professional service.

Articles of association

Sec. 8.

(A) Required provisions. The articles of association shall set forth:

- (1) The name and address of the association
- (2) The period of duration
- (3) The type of professional service to be performed
- (4) The names and addresses of each of the original members
- (5) A statement that each of the original members is licensed to perform the type of professional service for which the association is formed.

(B) Continuity. Articles of association may provide that a professional association

(1) shall continue as a separate entity independent of its members, for all purposes, for such period of time as provided in the articles, or until dissolved by a vote of two-thirds of the members, and

(2) shall continue notwithstanding the death, insanity, incompetency, conviction for felony, resignation, withdrawal, transfer of membership, retirement, or expulsion of any one or more of the members (except the last surviving member), the admission of or transfer of membership to any new member or members, or the happening of any other event, which under the law of this state and under like circumstances, would work a dissolution of a partnership.

(C) Power to dissolve. The articles may provide that no member of a professional association shall have the power to dissolve the association by his independent act of any kind.

(D) Optional provisions. The articles of association may set forth any other provision, not inconsistent with the law, which the members elect to set forth for the regulation of the internal affairs of the association.

(E) Execution. The articles of association shall be signed and verified by each of the members.

Governing body; officers

Sec. 9.

(A) Board or committee. A professional association organized pursuant to the provisions of this Act shall be governed by a Board of Directors or an Executive Committee elected by the members, and represented by officers elected by the Board of Directors or Executive Committee, so that centralization of management will be assured.

(B) Member's power to bind. No member shall have the power to bind the association within the scope of the association's business or profession merely by virtue of his being a member of the association.

(C) Qualification of officers and board or committee members. Officers and members of the Board of Directors or Executive Committee shall be members of the professional association. Officers need not be members of the Board of Directors or Executive Committee ex-

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cept that the President shall be a member of the Board of Directors or Executive Committee.

(D) Bylaws. The members may adopt such bylaws as they may deem proper, or the power to promulgate bylaws of the association may be delegated by the articles of association to the Board of Directors or Executive Committee, as the members may decide.

(E) Members' voting rights. Each member shall have power to cast such vote or votes at the meeting of the members as the articles of association shall provide.

(F) Agents and employees. The officers of the professional association may employ such agents or employees of the association as they may deem advisable.

(G) Officers. The officers of the association shall include a President, Vice-President, Secretary, Treasurer, and such other officers as the Board of Directors or Executive Committee may determine. Any one person may serve in more than one office provided that the President and the Secretary of the professional association shall not be the same person unless the association has only one member.

Shares or units of ownership—transfer

Sec. 10. Shares or units of ownership in a professional association shall be transferable to persons licensed to perform the same type of professional service as that for which the professional association was formed.

Regulation of practice of law

Sec. 11. The manner in which lawyers practice law under this Act is subject to the powers of the Supreme Court to regulate the practice of law.

Filing of articles of association

Sec. 12.

(A) Duplicate originals of the articles of association shall be delivered to the Secretary of State. If the Secretary of State finds that the articles of association conform to law, he shall, when all fees have been paid as required by law:

(1) Endorse on each of such duplicate originals the word "Filed," and the month, day, and year of the filing thereof.

(2) File one of such duplicate originals in his office.

(3) Issue a certificate of association to which he shall affix the other duplicate original.

(B) The certificate of association, together with the duplicate original of the articles of association affixed thereto by the Secretary of State, shall be delivered to the members or their representatives.

Effect of issuance of certificate of association

Sec. 13. Upon the issuance of the certificate of association, the association's existence shall begin.

Amendment of articles of association

Sec. 14.

(A) Authority to amend. A professional association may amend its articles of association, from time to time, in accordance with the procedure for amendment stated therein or if none is stated therein, by two-thirds vote of its members.

(B) Acts not requiring amendment. Changes in membership or transfer of shares or units of ownership shall not require amendment.

Articles of amendment

Sec. 15. The Articles of amendments shall be executed in duplicate by the association by its president or a vice-president and by its secretary or an assistant secretary, and certified by one of the officers signing such articles, and shall set forth:

- (1) The name and address of the association
- (2) If the amendment alters any provision of the original or amended articles of association, an identification by reference or description of the altered provision and a statement of its text as it is amended to read. If the amendment is an addition to the original or amended articles of association, a statement of that fact and the full text of each provision added
- (3) The date of the adoption of the amendment
- (4) A statement that the amendment was adopted in accordance with the procedure for amendment stated in the articles of association or, if none is stated therein, a statement that the amendment was adopted by two-thirds vote of its members.

Filing of articles of amendment

Sec. 16.

(A) Duplicate originals of the articles of amendment shall be delivered to the Secretary of State. If the Secretary of State finds that the articles of amendment conform to law, he shall, when all fees have been paid as required by law:

- (1) Endorse on each of such duplicate originals the word "Filed," and the month, day, and year of the filing thereof.
- (2) File one of such duplicate originals in his office.
- (3) Issue a certificate of amendment to which he shall affix the other duplicate original.

(B) The certificate of amendment, together with the duplicate original of the articles of amendment affixed thereto by the Secretary of State, shall be delivered to the association or its representatives.

Effect of certificate of amendment

Sec. 17.

(A) Issuance. Upon the issuance of the certificate of amendment by the Secretary of State, the amendment shall become effective and the articles of association shall be deemed to be amended accordingly.

(B) Prior rights. No amendment shall affect any existing cause of action in favor of or against the association, or any pending suit to which the association shall be a party, or the existing rights of persons other than members. If the association name is changed by amendment, no suit brought by or against the association under its former name shall abate for that reason.

Articles of dissolution

Sec. 18. The articles of dissolution shall be executed in duplicate by the association by its president or a vice-president and by its secretary or an assistant secretary, and verified by one of the officers signing such articles. If there are no living officers of the association, the articles shall be executed by the legal representative of the last surviving officer. The articles of dissolution shall set forth:

- (1) The name and address of the association
- (2) The names and respective addresses of its officers
- (3) The names and respective addresses of the members of its Board of Directors or Executive Committee
- (4) A statement that the association is dissolving in accordance with its articles of association or, if there is no dissolution provision in the articles, by two-thirds vote of its members.

Filing of articles of dissolution**Sec. 19.**

(A) Duplicate originals of the articles of dissolution shall be delivered to the Secretary of State. If the Secretary of State finds that the articles of dissolution conform to law, he shall, when all fees have been paid as required by law:

(1) Endorse on each of such duplicate originals the word "Filed," and the month, day, and year of the filing thereof.

(2) File one of such duplicate originals in his office.

(3) Issue a certificate of dissolution to which he shall affix the other duplicate original.

(B) The certificate of dissolution, together with the duplicate original of the articles of dissolution affixed thereto by the Secretary of State, shall be delivered to the association or its representatives.

Effect of certificate of dissolution

Sec. 20. Upon the issuance of the certificate of dissolution by the Secretary of State, the dissolution shall become effective and the existence of the association shall cease except for the purpose of suits, other proceedings and acts necessary for the winding up of the association.

Annual statement

Sec. 21. A professional association shall in June of each year file with the Secretary of State a statement showing the name and address of the association; the names and addresses of all members of the association, and all officers and all members of the Board of Directors or Executive Committee; and shall certify that all members are licensed to perform the type of professional service for which the association is formed. The statement shall be on such form as the Secretary of State shall prescribe and furnish. It shall be signed by the president or a vice-president and by the secretary or an assistant secretary of the association, and verified by one of the officers signing the statement.

Fees

Sec. 22. The Secretary of State is authorized and required to collect for the use of the state the following fees:

(1) Filing articles of association and issuing a certificate of association, Fifty Dollars (\$50.00)

(2) Filing articles of amendment and issuing a certificate of amendment, Fifty Dollars (\$50.00)

(3) Filing articles of dissolution and issuing a certificate of dissolution, Five Dollars (\$5.00)

(4) Filing annual statement, Ten Dollars (\$10.00).

Existing associations

Sec. 23. Any existing association may become subject to this Act by complying with its terms and filing requirements.

Supplementary law

Sec. 24. Except as otherwise provided in this Act, and except as inconsistent with this Act, the statutory and common law of partnerships shall apply to associations formed under this Act.

Acts 1969, 61st Leg., p. 2513, ch. 840, emerg. eff. June 18, 1969.

Title of Act:

An Act relating to the formation, activities, functions and dissolution of profes-

sional associations; and declaring an emergency. Acts 1969, 61st Leg., p. 2513, ch. 840.

BUSINESS CORPORATION ACT

PART FIVE

Art.

5.16. Merger of Subsidiary or Subsidiaries
into Parent Corporation [New].

PART TWO

Art. 2.10. Change of Registered Office or Registered Agent

A. A corporation may change its registered office or change its registered agent, or both, upon filing in the office of the Secretary of State a statement setting forth:

- (1) The name of the corporation.
- (2) The post-office address of its then registered office.
- (3) If the post-office address of its registered office is to be changed, the post-office address to which the registered office is to be changed.
- (4) The name of its then registered agent.
- (5) If its registered agent is to be changed, the name of its successor registered agent.
- (6) That the post-office address of its registered office and the post-office address of the business office of its registered agent, as changed, will be identical.

an officer of the corporation so authorized by the Board of Directors.

an officer of the corporation so authorized by the Board of Directors."

Sec. A amended by Acts 1969, 61st Leg., p. 2483, ch. 835, § 1, emerg. eff. June 18, 1969.

* * * * *

D. Any registered agent of a corporation may resign

(1) by giving written notice to the corporation at its last known address

(2) and by giving written notice, in triplicate, to the Secretary of State within ten days after mailing or delivery of said notice to the corporation. Such notice shall include the last known address of the corporation and shall include the statement that written notice of resignation has been given to the corporation and the date thereof. Upon compliance with the requirements as to written notice, the appointment of such agent shall terminate upon the expiration of thirty (30) days after receipt of such notice by the Secretary of State.

if the Secretary of State finds that such written notice conforms to the provisions of this Act, he shall:

(1) Endorse on each of such originals the word "filed" and the month, day and year of the filing thereof.

(2) File one of such originals in his office.

(3) Return one original to such resigning registered agent.

(4) Return one original to the corporation at the last known address of the corporation as shown in such written notice.

Sec. D amended by Acts 1969, 61st Leg., p. 2483, ch. 835, § 2, emerg. eff. June 18, 1969.

Acts 1969, 61st Leg. p. 2483, ch. 835, which act amended this article and arts. 7.01, 7.02, 8.09, 8.16, also contained the following:

"Sec. 8. Validation. Nothing in this Act shall invalidate any of the procedures hereby changed by this Act which have been initiated prior to the effective date of this Act, and under such circumstances the Secretary of State and any other state agency affected is authorized to proceed under the appropriate procedures author-

ized prior to this Act or as changed by this Act.

"Sec. 9. Severability. The provisions of this Act are severable. If any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act and the application of such provisions to other persons or circumstance shall not be affected thereby."

PART FIVE**Art. 5.16. Merger of Subsidiary or Subsidiaries into Parent Corporation****Qualifications**

A. In any case in which at least ninety (90%) per cent of the outstanding shares of each class of a corporation or corporations is owned by another corporation, and one of such corporations is a domestic corporation and the other or others are domestic corporations or foreign corporations organized under the laws of a jurisdiction which permit such a merger, the corporation having such share ownership may merge such other corporation or corporations into itself by executing, verifying and filing articles of merger in accordance with Section B of this Article.

Execution of articles; contents

B. The articles of merger shall be executed in duplicate by the parent corporation by its president or a vice-president and by its secretary or an assistant secretary, and verified by one of the officers signing such articles, and shall set forth:

(1) The name of the parent corporation, and the name or names of the subsidiary corporations and the respective jurisdiction under which each such corporation is organized.

(2) The number of outstanding shares of each class of each subsidiary corporation and the number of such shares of each class owned by the parent corporation.

(3) A copy of the resolution adopted by the board of directors of the parent corporation to so merge and the date of the adoption thereof. If the parent corporation does not own all the outstanding shares of each class of each subsidiary corporation party to the merger, the resolution shall state the terms and conditions of the merger, including the securities, cash or other property to be used, paid or delivered by the surviving corporation upon surrender of each share of the subsidiary corporation or corporations not owned by the parent corporation.

(4) If the surviving corporation is a foreign corporation, the address, including street number if any, of its registered or principal office in the jurisdiction under whose laws it is governed. It shall comply also with the provisions of Article 5.07B(3) of this Act.

Delivery to secretary of state; duties

C. Duplicate originals of the articles of merger shall be delivered to the Secretary of State. If the Secretary of State finds that such articles conform to law, he shall, when all fees and franchise taxes have been paid as required by law:

(1) Endorse on each of such duplicate originals the word "Filed," and the month, day and year of the filing thereof.

(2) File one (1) of such duplicate originals in his office.

(3) Issue a certificate of merger to which he shall affix the other duplicate original and deliver them to the surviving corporation or its representative.

Effective date and effect

D. The effective date and the effect of such merger shall be the same as provided in Articles 5.05 and 5.06 of this Act if the surviving corporation is a domestic corporation. If the surviving corporation is a foreign corporation, the effective date and the effect of such merger shall be the same as in the case of the merger of domestic corporations except in so far as the laws of such other jurisdiction provide otherwise.

Remedy of minority shareholders

E. In the event all of the shares of a subsidiary domestic corporation party to a merger effected under this Article are not owned by the parent corporation immediately prior to the merger, the surviving corporation shall, within ten (10) days after the effective date of the merger, mail to each shareholder of record of such subsidiary domestic corporation a copy of the articles of merger and notify him that the merger has become effective. In case any such shareholder elects to demand payment for his shares, the following procedure shall be followed:

(1) Such shareholder shall within twenty (20) days after the mailing of the notice and copy of the articles of merger make written demand on the surviving corporation, domestic or foreign, for payment of the fair value of his shares. The fair value of such shares shall be the value thereof as of the day before the effective date of the merger, excluding any appreciation or depreciation in anticipation of such proposed act. Such demand shall state the number and class of the shares owned by the dissenting shareholder and the fair value of such shares as estimated by him. Any shareholder failing to make demand within the twenty (20) day period shall be bound by such corporate action.

(2) Within ten (10) days after receipt by the surviving corporation of a demand for payment of the fair value of his shares made by such dissenting shareholder in accordance with Subsection (1) hereof, such corporation shall deliver or mail to such dissenting shareholder a written notice which shall either set out that the corporation accepts the amount claimed in such demand and agrees to pay such amount within ninety (90) days after the date on which such corporate action was effected, upon the surrender of the share certificates duly endorsed, or shall contain an estimate by the corporation of the fair value of such shares, together with an offer to pay the amount of such estimate within ninety (90) days after the date on which such corporation action was effected, upon receipt of notice within sixty (60) days after such date from such shareholder that he agrees to accept such amount upon the surrender of the share certificates duly endorsed.

(3) If, within sixty (60) days after the date on which such corporate action was effected the value of such shares is agreed upon between the dissenting shareholder and the surviving corporation, payment therefor shall be made within ninety (90) days after the date on which such corporate action was effected, upon surrender of his certificate or certificates representing such shares. Upon payment of the agreed value, the dissenting shareholder shall cease to have any interest in such shares or in the corporation.

(4) If, within such period of sixty (60) days after the date on which such corporate action was effected, the shareholder and the surviving corporation do not so agree, then the dissenting shareholder or the corporation may, within sixty (60) days after the expiration of the sixty (60) day period, file a petition in any court of competent jurisdiction in the county in which the principal office of the corporation is located, asking for a finding and determination of the fair value of such shares as provided in Section B of Article 5.12 of this Act and thereupon the parties shall have the rights and duties and follow the procedure set forth in Sections B to D inclusive of Article 5.12 and set forth in Article 5.14.

(5) In the absence of fraud in the transaction, the remedy provided by this Article to a shareholder objecting to such corporate action is the exclusive remedy for the recovery of the value of his shares or money damages to such shareholder with respect to such corporate action; and if the surviving corporation complies with the requirements of this Article, any such shareholder who fails to comply with the requirements of

For Annotations and Historical Notes, see V.A.T.S.

this Article shall not be entitled to bring suit for the recovery of the value of his shares or money damages to such shareholder with respect to such corporate action.

Exemption from other articles

F. Except as otherwise provided in this Article, the provisions of Articles 5.11, 5.12 and 5.13 of this Act shall not be applicable to a merger effected under the provisions of this Article.

Added by Acts 1969, 61st Leg., p. 844, ch. 280, § 1, emerg. eff. May 22, 1969.

Severability:

Section 2 of Acts 1969, 61st Leg., p. 844, ch. 280, provided: "If any word, phrase, clause, sentence or section of this Act or the application thereof to any person or circumstances is held invalid, such in-

validity shall not affect other provisions or application of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

PART SEVEN

Art. 7.01. Involuntary Dissolution

A. A corporation may be dissolved involuntarily by a decree of the district court of the county in which the registered office of the corporation is situated or of any district court in Travis County in an action filed by the Attorney General when it is established that it is in default in any of the following particulars:

(1) The corporation or its incorporators have failed to comply with a condition precedent to incorporation; or

(2) The original articles of incorporation or any amendments thereof were procured through fraud; or

(3) The corporation has continued to transact business beyond the scope of the purpose or purposes of the corporation as expressed in its articles of incorporation; or

(4) A misrepresentation has been made of any material matter in any application, report, affidavit, or other document submitted by such corporation pursuant to this Act.

B. A corporation may be dissolved involuntarily by order of the Secretary of State when it is established that it is in default in any of the following particulars:

(1) The corporation has failed to file any report within the time required by law, or has failed to pay any fees, franchise taxes or penalties prescribed by law when the same have become due and payable; or

(2) The corporation has failed to maintain a registered agent in this state as required by law.

C. No corporation shall be involuntarily dissolved under Section B hereof unless the Secretary of State, or other state agency with which such report, fees, taxes, or penalties is required to be made, gives the corporation not less than 90 days notice of its neglect, delinquency, or omission by certified mail addressed to its registered office or to its principal place of business, or to the last known address of one of its officers or directors, or to any other known place of business of said corporation, and the corporation has failed prior to such involuntary dissolution to correct the neglect, omission or delinquency.

D. Whenever a corporation has given cause for involuntary dissolution and has failed to correct the neglect, omission or delinquency as provided in Sections B and C, the Secretary of State shall thereupon dissolve the corporation by issuing a certificate of involuntary dissolution, which shall include the fact of such involuntary dissolution and the date and cause thereof. The original of such certificate shall be placed in his office and a copy thereof mailed to the corporation at its registered office,

or to its principal place of business, or the last known address of one of its officers or directors, or to any other known place of business of said corporation. Upon the issuance of such certificate of involuntary dissolution, the existence of the corporation shall cease, except for purposes otherwise provided by law.

E. Any corporation dissolved by the Secretary of State under the provisions of Section B of this article may be reinstated by the Secretary of State at any time within a period of 12 months from the date of such dissolution, upon approval of an application for reinstatement signed by an officer or director of the dissolved corporation. Such application shall be filed by the Secretary of State whenever it is established to his satisfaction that in fact there was no cause for the dissolution, or whenever the neglect, omission or delinquency resulting in dissolution has been corrected and payment of all fees, taxes, penalties and interest due thereon which accrued before the dissolution plus an amount equal to the total taxes from the date of dissolution to the date of reinstatement which would have been payable had the corporation not been dissolved. A reinstatement filing fee of \$50 shall accompany the application for reinstatement.

Reinstatement shall not be authorized if the corporate name is the same as or deceptively similar to a corporate name already on file or reserved or registered, unless the corporation being reinstated contemporaneously amends the articles of incorporation to change its name.

When the application for reinstatement is approved and filed by the Secretary of State, the corporate existence shall be deemed to have continued without interruption from the date of dissolution except the reinstatement shall have no effect upon any issue of personal liability of the directors, officers, or agents of the corporation during the period between dissolution and reinstatement.

Amended by Acts 1969, 61st Leg., p. 2483, ch. 835, § 3, emerg. eff. June 18, 1969.

Art. 7.02. Notification to Attorney General, Notice to Corporation and Opportunity of Corporation to Cure Default

A. The Secretary of State shall certify to the Attorney General, from time to time, the names of all corporations which have given cause for judicial dissolution of their charters or revocation of their certificates of authority as provided in this Act, together with the facts pertinent thereto. Every such certificate from the Secretary of State to the Attorney General shall be taken and received in all courts as prima facie evidence of the facts therein stated.

Sec. A amended by Acts 1969, 61st Leg., p. 2483, ch. 835, § 4, emerg. eff. June 18, 1969.

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For validation and severability clauses of the 1969 amendatory act see Historical Note under art. 2.10.

Abatement of suit, miscellaneous corporation laws, see Vernon's Ann.Civ.St. art. 1302—5.09.

PART EIGHT

Art. 8.09. Change of Registered Office or Registered Agent of Foreign Corporation

A. A foreign corporation authorized to transact business in this state may change its registered office or its registered agent, or both,

For Annotations and Historical Notes, see V.A.T.S.

upon filing in the office of the Secretary of State a statement setting forth:

- (1) The name of the corporation.
 - (2) The post-office address of its then registered office.
 - (3) If the post-office address of its registered office is to be changed, the post-office address to which the registered office is to be changed.
 - (4) The name of its then registered agent.
 - (5) If its registered agent is to be changed, the name of its successor registered agent.
 - (6) That the post-office address of its registered office and the post-office address of the business office of its registered agent, as changed, will be identical.
 - (7) That such change was authorized by its Board of Directors or by an officer of the corporation so authorized by the Board of Directors.
- Sec. amended by Acts 1969, 61st Leg., p. 2483, ch. 835, § 5, emerg. eff. June 18, 1969.

* * * * *

D. Any registered agent of a corporation may resign

- (1) by giving written notice to the corporation at its last known address
- (2) and by giving written notice, in triplicate, to the Secretary of State within ten days after mailing or delivery of said notice to the corporation. Such notice shall include the last known address of the corporation and shall include the statement that written notice of resignation has been given to the corporation and the date thereof.

Upon compliance with the requirements as to written notice, the appointment of such agent shall terminate upon the expiration of thirty (30) days after receipt of such notice by the Secretary of State.

If the Secretary of State finds that such written notice conforms to the provisions of this Act, he shall:

- (1) Endorse on each of such originals the word "filed" and the month, day and year of the filing thereof.
- (2) File one of such originals in his office.
- (3) Return one original to such resigning registered agent.
- (4) Return one original to the corporation at the last known address of the corporation as shown in such written notice.

Sec. D added by Acts 1967, 60th Leg., p. 1728, ch. 657, § 16, emerg. eff. June 17, 1967; Amended by Acts 1969, 61st Leg., p. 2483, ch. 835, § 6, emerg. eff. June 18, 1969.

For validation and severability clauses of the 1969 amendatory act see Historical Note under art. 2.10.

Art. 8.16. Revocation of Certificate of Authority

A. The certificate of authority of a foreign corporation to transact business in this state may be revoked by a decree of the district court for the county in which the registered office of the corporation in this state is situated or of any district court in Travis County in an action filed by the Attorney General when it is established that:

- (1) The corporation has failed to comply with a condition precedent to the issuance of its certificate of authority or a renewal or amendment thereof; or
- (2) The certificate of authority to transact business in this state or any amendment thereof was procured through fraud; or
- (3) The corporation has continued to transact business beyond the scope of the purpose or purposes expressed in its certificate of authority to transact business in this state; or
- (4) A misrepresentation has been made of any material matter in any application, report, affidavit, or other document submitted by such corporation as required by law.

B. The certificate of authority of a foreign corporation to transact business in this state may be revoked by order of the Secretary of State when it is established that it is in default in any of the following particulars:

(1) The corporation has failed to file its annual report within the time required by law, or has failed to pay any fees, franchise taxes, or penalties prescribed by law when the same have become due and payable; or

(2) The corporation has failed to maintain a registered agent in this state as required by law; or

(3) The corporation has failed to file in the office of the Secretary of State any amendment to its articles of incorporation or any articles of merger or consolidation within the time prescribed by this Act; or

(4) The corporation has changed its corporate name and has failed to file with the Secretary of State within thirty days after such change of name became effective, an application for an amended certificate of authority, or that the corporation has changed its corporate name and that the newly adopted name is not available for use in this state.

C. No foreign corporation shall have its certificate of authority to transact business in this state revoked under Section B hereof unless the Secretary of State, or other state agency to which such report, taxes, fees, penalties is required to be made, gives the corporation not less than 90 days notice of its neglect, delinquency, or omission by certified mail addressed to its registered office or to its principal place of business, or to the last known address of one of its officers or directors, or to any other known place of business of said corporation, and the corporation has failed prior to such revocation to correct the neglect, omission or delinquency.

D. Whenever a corporation has given cause for revocation of its certificate of authority and has failed to correct the neglect, omission or delinquency as provided in Sections B and C, the Secretary of State shall thereupon revoke the certificate of authority of the corporation by issuing a certificate of revocation which shall include the fact of such revocation and the date and cause thereof. The original of such certificate shall be placed in his office and a copy thereof mailed to the corporation at its registered office or to its principal place of business, or to the last known address of one of its officers or directors, or to any other known place of business of said corporation. Upon the issuance of such certificate of revocation, the authority to transact business in this state shall cease.

E. Any corporation whose certificate of authority has been revoked by the Secretary of State under the provisions of Section B of this article may be reinstated by the Secretary of State at any time within a period of 12 months from the date of dissolution, upon approval of an application for reinstatement signed by an officer or director of the corporation. Such application shall be filed by the Secretary of State whenever it is established to his satisfaction that in fact there was no cause for the revocation, or whenever the neglect, omission or delinquency resulting in revocation has been corrected and payment made of all fees, taxes, penalties and interest due thereon which accrued before the revocation plus an amount equal to the total taxes from the date of revocation to the date of reinstatement which would have been payable had the corporation's certificate not been revoked. A reinstatement filing fee of \$50 shall accompany the application for reinstatement.

Reinstatement shall not be authorized if the corporate name is the same as or deceptively similar to a corporate name already on file or reserved or registered, unless the corporation being reinstated contemporaneously amends its certificate of authority to change its name.

When the application for reinstatement is approved and filed by the Secretary of State, the corporate authority to do business in Texas shall

For Annotations and Historical Notes, see V.A.T.S.

be deemed to have continued without interruption from the date of revocation, except that reinstatement shall have no effect upon any issue of personal liability of the directors, officers, or agents of the corporation during the period between revocation and reinstatement.

Amended by Acts 1969, 61st Leg., p. 2483, ch. 835, § 7, emerg. eff. June 18, 1969.

For validation and severability clauses of the 1969 amendatory act, see Historical Note under art. 2.10.

PART TEN

Art. 10.01. Filing Fees

A. The Secretary of State is authorized and required to collect for the use of the State the following fees:

(1) Filing articles of incorporation of a domestic corporation and issuing a certificate of incorporation, One Hundred Dollars (\$100.00).

(2) Filing articles of amendment of a domestic corporation and issuing a certificate of amendment, One Hundred Dollars (\$100.00).

(3) Filing articles of merger or consolidation, whether the surviving or new corporation be a domestic or foreign corporation, Two Hundred Dollars (\$200.00).

(4) Filing an application of a foreign corporation for an original or renewal of a certificate of authority to transact business in this State and issuing such a certificate of authority, Five Hundred Dollars (\$500.00).

(5) Filing an application of a foreign corporation for an amended certificate of authority to transact business in this State and issuing such an amended certificate of authority, One Hundred Dollars (\$100.00).

(6) Filing a copy of an amendment or supplement to the articles of incorporation of a foreign corporation holding a certificate of authority to transact business in this State, One Hundred Dollars (\$100.00).

(7) Filing restated articles of incorporation of a domestic corporation, Two Hundred Dollars (\$200.00).

(8) Filing application for reservation of corporate name and issuing certificate therefor, Ten Dollars (\$10.00).

(9) Filing notice of transfer of reserved corporate name and issuing a certificate therefor, Ten Dollars (\$10.00).

(10) Filing application for registration of corporate name and issuing a certificate therefor, Fifty Dollars (\$50.00).

(11) Filing application for renewal of registration of corporate name and issuing a certificate therefor, Fifty Dollars (\$50.00).

(12) Filing statement of change of registered office or registered agent, or both, Ten Dollars (\$10.00).

(13) Filing statement of change of address of registered agent, Ten Dollars (\$10.00).

(14) Filing statement of resolution establishing series of shares or filing statement of provisions to be incorporated by reference, Ten Dollars (\$10.00).

(15) Filing statement of cancellation of redeemable shares, Ten Dollars (\$10.00).

(16) Filing statement of cancellation of re-acquired shares, Ten Dollars (\$10.00).

(17) Filing statement of reduction of stated capital, Ten Dollars (\$10.00).

(18) Filing articles of dissolution and issuing certificate therefor, Ten Dollars (\$10.00).

(19) Filing application for withdrawal and issuing certificate therefor, Ten Dollars (\$10.00).

(20) Filing certificate from home state that foreign corporation is no longer in existence in said state, Ten Dollars (\$10.00).

(21) Maintaining a record of service of any process, notice or demand upon the Secretary of State as agent for foreign and domestic corporations and for any foreign association, joint stock company, partnership, or non-resident natural person, Ten Dollars (\$10.00).

Amended by Acts 1957, 55th Leg., p. 111, ch. 54, § 13; Acts 1961, 57th Leg., p. 451, ch. 224, § 1, eff. May 25, 1961; Acts 1967, 60th Leg., p. 1729, ch. 657, § 18, emerg. eff. June 17, 1967; Acts 1969, 61st Leg. p. 2701, ch. 884, § 1, eff. Sept. 1, 1969.

Acts 1969, 61st Leg., p. 2701, ch. 884, also contained the following:

"Sec. 2. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect

without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

"Sec. 3. All laws or parts of laws in conflict with the provisions of this Act are repealed to the extent of such conflict only."

COMMENT OF BAR COMMITTEE

The 1967 amendments to Art. 10.01 reflect the addition of the new form for statement of change of address of the registered agent and the elimination of the filing requirements for the statement of intent to dissolve and of the revocation of voluntary dissolution proceedings.

TITLE 33—COUNTIES AND COUNTY SEATS

CHAPTER THREE—CORPORATE RIGHTS AND POWERS

Art.

1581e—1. Flood insurance; participation in federal program by gulf coast counties; control of flood damage [New].

Art. 1581e—1. Flood insurance; participation in federal program by gulf coast counties; control of flood damage

Section 1. The State of Texas recognizes the personal hardships and economic distress caused by flood disasters since it has become uneconomical for the private insurance industry alone to make flood insurance available to those in need of such protection on reasonable terms and conditions. Recognizing the burden on the nation's resources, Congress enacted the National Flood Insurance Act of 1968,¹ whereby flood insurance can be made available through coordinated efforts of the Federal Government and the private insurance industry, by pooling risks, and through the positive cooperation of state and local government. The purpose of this Act is to evidence a positive interest in securing flood insurance coverage under this Federal program, and to so procure for those citizens of Texas desiring to participate; and to promote the public interest by providing appropriate protection against the perils of flood losses and encouraging sound land use by minimizing exposure of property to flood losses.

Sec. 2. Any county bordering on the Gulf of Mexico or the tidewater limits thereof may determine and describe the boundaries of flood, or rising water prone, areas. The suitability of such determination shall be conclusively established when the commissioners court of such county shall have made a finding in a resolution passed by it that an area or areas located within the boundaries of such county are flood, or rising water prone, areas.

Sec. 3. For the purposes of this Act, the phrase, "flood, or rising water prone, area" shall mean an area that is subject to or exposed to flooding by the Gulf of Mexico or its tidal waters, including lakes, bays, inlets, and lagoons, which results in damage to land or property.

Sec. 4. The commissioners court of any such county shall have the power and authority to enact and enforce regulations which regulate, restrict, or control the management and use of land, structures, and other development in flood, or rising water prone, areas in such a manner as to reduce the danger of damage caused by flood losses. This power and authority may include, but shall not be limited to, requirements for flood-proofing of structures which are permitted to remain in, or be constructed in, flood or rising water prone, areas; regulations concerning minimum elevation of any structure permitted to be erected in, or improved in, such areas; specifications for drainage; and any other action which is feasible to minimize flooding and rising water damage.

Acts 1969, 61st Leg., p. 2107, ch. 720, emerg. eff. June 12, 1969.

¹ 42 U.S.C.A. § 4011 et seq.

Title of Act:

An Act to secure for Texas citizens flood insurance coverage under the National Flood Insurance Act of 1968; authorizing counties bordering on the Gulf of Mexico or the tidewater limits thereof to enact and

enforce regulations relating to flood, or rising water prone, areas; defining the phrase "flood, or rising water prone, areas"; and declaring an emergency. Acts 1969, 61st Leg., p. 2107, ch. 720.

CHAPTER FIVE—COUNTY SEATS

Art.

1605a—4. Branch offices for tax assessors
and collectors in counties of
28,100 to 29,000 [New].

Art. 1605a—4. Branch offices for tax assessors and collectors in counties of 28,100 to 29,000

Section 1. In any county which has a population of not less than 28,100 inhabitants but not more than 29,000 inhabitants according to the last preceding federal census, the commissioners court may provide for, operate, and maintain a branch office for the county tax assessor and collector for any length of time the commissioners consider necessary.

Sec. 2. (a) If the branch office is maintained in a building which is owned by the county, the commissioners court shall operate and maintain the building in the same manner in which it operates and maintains the county courthouse. The commissioners court shall have care and custody of the building and may place any limitations on the use and maintenance of the building which it finds necessary.

(b) If the commissioners court does not wish to construct a building or purchase office space for the branch office, the commissioners court may rent or lease a sufficient amount of office space for the branch office.

Sec. 3. (a) After the commissioners court has authorized the creation of a branch office, the county tax assessor and collector may appoint one or more deputies to work in the office. The commissioners court shall determine the length of time for which the deputies will serve and the salaries to be paid to the deputies.

(b) Each deputy shall execute a bond in any amount required by the commissioners court, payable to the county judge, conditioned on the faithful performance of their duties. The county tax assessor and collector is liable under his bonds for all taxes collected by any deputy under this Act, and this Act shall not be construed as a limit on the liability of the bonds of the county tax assessor and collector or his deputies.

(c) Any deputy appointed under this Act may collect taxes from any person who desires to pay his taxes and may issue a valid receipt for the taxes.

(d) Any deputy appointed under this Act is subject to the terms and provisions of the law relating to deputy tax collectors.

Sec. 4. Expenses incurred in providing office space, in operating and maintaining the branch office, and in paying the salaries of the deputies are considered part of the necessary expenses of the county tax assessor and collector and shall be paid in the same manner as other expenses of the county tax assessor and collector.

Sec. 5. Any actions taken by the commissioners court and the county tax assessor and collector and his deputies which relate to providing, operating, and maintaining a branch tax office before the effective date of this Act and any expenditures made by the county in connection with a branch tax office before the effective date of this Act are validated. Acts 1969, 61st Leg., p. 74, ch. 32, §§ 1-5, emerg. eff. March 26, 1969.

Title of Act:

An Act relating to branch offices for county tax assessors and collectors in cer-

tain counties; and declaring an emergency. Acts 1969, 61st Leg., p. 74, ch. 32.

TITLE 34—COUNTY FINANCES**2. COUNTY AUDITOR**

Art.
 1659b. Counties of 350,000 to 800,000; bids
 for supplies or materials; ad-
 vertisement; filing [New].

1. GENERAL PROVISIONS

Art. 1630b. Change fund in counties of over 600,000 population

Section 1. The Commissioners Court of any county having a population of over 600,000 by the last preceding Federal Census may set aside from the General Fund an amount to be approved by the County Auditor for the use by any county or district official collecting public funds as a change fund, which said fund is to be used only for making change in connection with collections due and payable to the county, State of Texas or any political subdivision for which collections are often made by such county or district official.

Sec. 1. amended by Acts 1969, 61st Leg., p. 1651, ch. 515, § 1, emerg. eff. June 10, 1969.

* * * * *

Sec. 4. The Commissioners Court shall upon recommendation of the County Auditor increase or decrease such change funds at any time.

Sec. 4 amended by Acts 1969, 61st Leg., p. 1651, ch. 515, § 1, emerg. eff. June 10, 1969.

2. COUNTY AUDITOR

Art. 1652. Repealed by Acts 1969, 61st Leg., p. 514, ch. 178, § 1, eff. Sept. 1, 1969

Art. 1659b. Counties of 350,000 to 800,000; bids for supplies or materials; advertisement; filing

In all counties having a population of not less than 350,000 nor more than 800,000, according to the last preceding federal census, and having an assessed valuation of \$800,000,000 or more, supplies of every kind, road and bridge material, or any other material, for the use of said county, or any of its officers, departments, or institutions must be purchased on competitive bids, the contract to be awarded to the party who, in the judgment of the commissioners court, has submitted the lowest and best bid. Where the total expenditure for any such purchase or any such contract shall exceed \$1,000, advertisements for bids for such supplies and material, according to specifications giving in detail what is needed, shall be made by the county auditor once each week for two successive weeks in a daily newspaper published and circulated in the county. Such advertisements shall state where the specifications are to be found, and shall give the time and place for receiving such bids. Where the amount to be expended shall be \$1,000, or less, it shall not be necessary to advertise for bids, but sealed bids shall be asked from as many as three persons, firms, or corporations, or as many more as shall offer to bid, based on written specifications filed with the county auditor at least 48 hours before the time of opening said sealed bids. All such competitive bids shall be kept on file by the county auditor as a part of the records of his office, and shall be subject to inspection by anyone desiring to see them. Copies of all bids received shall be furnished by the county auditor to the commissioners court; and when the bids received

are not satisfactory to the commissioners court, the auditor shall reject said bids and readvertise for new bids, where the amount to be expended exceeds \$1,000, or ask for new bids, where the amount to be expended shall be \$1,000, or less. In cases of emergency, purchases or contracts not in excess of \$1,000 may be made upon requisition to be approved by the commissioners court, without advertising for competitive bids or asking for competitive bids.

Added by Acts 1969, 61st Leg., p. 70, ch. 28, § 1, emerg. eff. March 26, 1969.

Title of Act:

An Act relating to the purchasing procedures in counties having a population not less than 350,000 and not more than 800,000, and having an assessed valuation of \$800,-

000,000 or more; amending Chapter 2, Title 34, Revised Civil Statutes of Texas, 1925, to add a new Article 1659b; and declaring an emergency. Acts 1969, 61st Leg., p. 70, ch. 28.

TITLE 35—COUNTY LIBRARIES

Art. 1688. Repealed by Acts 1969, 61st Leg., p. 362, ch. 130, § 1, eff. Sept. 1, 1969

TITLE 39—COURT OF CIVIL APPEALS

CHAPTER ONE—TERMS AND JURISDICTION

Art.

1824a. May issue writs of habeas corpus
[New].

Art. 1824a. May issue writs of habeas corpus

Whenever any person is restrained in his liberty within a supreme judicial district, the court of civil appeals of such district, or any of the justices thereof, shall have concurrent jurisdiction with the supreme court to issue the writ of habeas corpus whenever it appears that such restraint of liberty is by virtue of any order, process, or commitment issued by any court or judge on account of the violation of any order, judgment, or decree theretofore made, rendered, or entered by such court or judge in a divorce case, wife or child support case, or child custody case. Said court or any justice thereof, pending the hearing of application for such writ, may admit to bail any person to whom the writ of habeas corpus may be so granted.

Added by Acts 1969, 61st Leg., p. 249, ch. 96, § 1, emerg. eff. April 28, 1969.

TITLE 40—COURTS—DISTRICT
CHAPTER TWO—DISTRICT CLERK

Art. 1897. [1689] [1082] [1102] Bond and oath

Each district clerk, before entering upon his official duties, shall give bond, to be set by the Commissioners Court of the county payable to the Governor, in a sum of not less than five thousand dollars, conditioned for the faithful discharge of the duties of his office, and shall also take and subscribe the official oath which shall be indorsed upon the bond. Such bond and oath shall be filed and recorded in the office of the county clerk.

Amended by Acts 1969, 61st Leg., p. 1711, ch. 561, § 1, eff. Sept. 1, 1969.

CHAPTER FOUR—TERMS OF COURT

Art. 1919. [1718] [1111] [1127] Terms of court; continuous sessions; rules and regulations; proceedings validated

* * * * *

Sec. 2. In all judicial districts in Texas containing more than one (1) county, the district court may hear and determine all preliminary and interlocutory matters in which a jury may not be demanded, and unless there is objection from some party to the suit, hear and determine any noncontested or agreed cases and contests of elections, pending in his district, and may sign all necessary orders and judgments therein in any county in his judicial district, and may sign any order or decree in any case pending for trial or on trial before him in any county in his district at such place as may be convenient to him, and forward such order or decree to the clerk for filing and entry. Any district judge assigned to preside in a court of another judicial district, or who may be presiding in exchange or at the request of the regular Judge of said court may in like manner hear, determine and enter any such orders, judgments and decrees in any such case which is pending for trial or has been tried before such visiting judge; provided that all contested divorce cases, all default judgments, and all cases in which any of the parties have been cited by publication shall be tried in the county in which filed.

Sec. 2 amended by Acts 1969, 61st Leg., p. 1658, ch. 523, § 1, emerg. eff. June 10, 1969.

CHAPTER FIVE—CRIMINAL DISTRICT COURTS

TARRANT COUNTY

Art.

1926—45. Criminal District Court No. 4 of
 Tarrant County [New].

TARRANT COUNTY

Art. 1926—45. Criminal District Court No. 4 of Tarrant County

(a) The Criminal Judicial District No. 4 of Tarrant County is hereby created. It is composed of the County of Tarrant.

(b) The Criminal District Court No. 4 of Tarrant County shall give preference to criminal cases.

Acts 1969, 61st Leg., 2nd C.S., p. 94, ch. 23, § 3.025, emerg. eff. Sept. 19, 1969.

TITLE 41—COURTS—COUNTY

CHAPTER ONE—THE COUNTY JUDGE

Art. 1934a—15. Stenographer or secretary in all counties; salary

Section 1.

* * * * *

(c) In each county having a population of at least fifty thousand and one (50,001) inhabitants and not more than one hundred thousand (100,000) inhabitants, according to the last preceding Federal Census, the secretary or stenographer of the County Judge shall receive an annual salary in an amount as determined by the Commissioners Court.

Sec. 1(c) amended by Acts 1965, 59th Leg., p. 1012, ch. 497, § 1, eff. June 16, 1965; Acts 1969, 61st Leg., p. 1802, ch. 606, § 1, eff. Sept. 1, 1969.

* * * * *

CHAPTER TWO—COUNTY CLERK

Art. 1937. [1747] [1137] [1144] Bond, oath and insurance

Section 1. Each county clerk shall, before entering upon the duties of his office, give bond either with four or more good and sufficient sureties or with a surety company authorized to do business in Texas as a surety, to be approved by the Commissioners Court in an amount equal to not less than Five Thousand Dollars (\$5,000) nor less than twenty per cent (20%) of the maximum amount of fees collected in any year during the previous term of office immediately preceding the term of office for which the bond is to be given, conditioned for the faithful discharge of the duties of his office. Said clerk shall also take and subscribe the official oath which shall be endorsed on the bond, and the bond and oath so taken and approved shall be recorded in the county clerk's office, and deposited in the office of the clerk of the District Court. A certified copy of such bond may be put in suit in the name of the county for the use of the party injured.

Sec. 2. Each county clerk shall obtain a surety bond covering his deputy; or a schedule surety bond or a blanket surety bond covering his deputies, if more than one, and all employees of his office. Each deputy and each employee, shall be covered for the same conditions and in the same amount as the county clerk.

Sec. 3. The bond covering the county clerk shall be made payable to the county and the bond or bonds covering the deputies and the employees of the county clerk shall be made payable to the county for the use and benefit of the county clerk.

Sec. 4. Each county clerk shall obtain an errors and omissions insurance policy, covering the county clerk and the deputy or deputies of the county clerk against liabilities incurred through errors and omissions in the performance of the official duties of said county clerk and the deputy or deputies of said county clerk; with the amount of the policy being in an amount equal to a maximum amount of fees collected in any year during the previous term of office immediately preceding the term of office for which said insurance policy is to be obtained, but in no event shall the amount of the policy be for less than Ten Thousand Dollars (\$10,000).

Sec. 5. The premiums for the bonds and the errors and omissions policies required by this Act to be given, or to be obtained, by the county clerk of each county shall be paid by the Commissioners Court of the

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county out of the general fund of the county as additional compensation for the services of the county clerk and which additional compensation shall be cumulative of and to all other compensation presently or hereafter authorized for said county clerk.

Amended by Acts 1965, 59th Leg., p. 941, ch. 456, § 1, eff. Aug. 30, 1965; Acts 1969, 61st Leg., p. 1711, ch. 561, § 2, eff. Sept. 1, 1969.

CHAPTER FIVE—MISCELLANEOUS PROVISIONS

ACTS CREATING COUNTY COURTS AT LAW AND SIMILAR COURTS, AND AFFECTING PARTICULAR COUNTY COURTS, AND DECISIONS THEREUNDER

HARRIS COUNTY

Art.
1970—110a.1. Repealed.

EL PASO COUNTY

1970—141.2. County court at Law No. 3 of El Paso County [New].

ELLIS COUNTY COURT

Art.
1970—338B. Jurisdiction of courts; transfer of cases; judgments [New].

DENTON COUNTY [NEW]

1970—352. County Court at law of Denton County [New].

ACTS CREATING COUNTY COURTS AT LAW AND SIMILAR COURTS, AND AFFECTING PARTICULAR COUNTY COURTS, AND DECISIONS THEREUNDER

DALLAS COUNTY PROBATE COURT

Art. 1970—31a. Probate Court of Dallas County

* * * * *

Sec. 13. The County Clerk of Dallas County shall be the Clerk of the Probate Court of Dallas County. The seal of such Court shall be the same as that provided by law for County Courts except that the seal shall contain the words "Probate Court of Dallas County, Texas." The Sheriff of Dallas County shall in person or by deputy attend the said Court when required by the Judge thereof. The Judge of the Probate Court of Dallas County shall have an administrative assistant to aid him in the performance of his duties. The salary of said administrative assistant shall be set by the Commissioners Court of Dallas County.

Sec. 13 amended by Acts 1969, 61st Leg., p. 1667, ch. 530, § 1, emerg. eff. June 10, 1969.

* * * * *

DALLAS COUNTY PROBATE COURT NO. 2

Art. 1970—31b. Probate Court No. 2 of Dallas County

* * * * *

Sec. 11. The County Clerk of Dallas County shall be the Clerk of the Probate Court Number 2 of Dallas County. The seal of such Court shall be the same as that provided by law for County Courts except that the seal shall contain the words "Probate Court Number 2 of Dallas County, Texas." The Sheriff of Dallas County shall in person or by deputy attend the said Court when required by the Judge thereof. The Judge of the Probate Court Number 2 of Dallas County shall have an administrative assistant to aid him in the performance of his duties. The salary of said administrative assistant shall be set by the Commissioners Court of Dallas County.

Sec. 11 amended by Acts 1969, 61st Leg., p. 1667, ch. 530, § 2, emerg. eff. June 10, 1969.

* * * * *

HARRIS COUNTY

Art. 1970—110a. Probate Court No. 1 of Harris County

Section 1. The Probate Court of Harris County, Texas, which was created by Chapter 520, Acts of the 51st Legislature, Regular Session, 1949, shall hereafter be called and known as the "Probate Court No. 1 of Harris County, Texas."

Sec. 2. The Probate Court No. 1 of Harris County, Texas, shall have the general jurisdiction of a Probate Court within the limits of Harris County, concurrent with the jurisdiction of the County Court of Harris County in such matters and proceedings. It shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons, lunacy proceedings and the apprenticing of minors as provided by law.

Sec. 3. All such matters hereafter filed with the County Clerk of Harris County, irrespective of the court or judge to which the matter or proceeding is addressed, shall be filed by said clerk alternately in said Probate Court No. 1 of Harris County and the Probate Court No. 2 of Harris County, with every fifth case bearing the last number "5" or "0" being filed by said clerk in the County Court of Harris County, and continuing alternatively thereafter, except every fifth case so deposited shall be filed with the County Court of Harris County, and further, said clerk shall keep separate dockets for each of said courts. Each of the judges of the County Court and the said Probate Courts Nos. 1 and 2 of Harris County may, at any time, with the consent of the judge of the County Court or of the Probate Court to which transfer is to be made, by an order entered upon the minutes of the said County Court or of such Probate Court, transfer to said County Court or Probate Court any such matter or proceeding pending in such county or Probate Court of Harris County, and all processes extant at the time of such transfer shall be returnable to and filed in the County Court or Probate Court to which such transfer is made and shall be as valid and binding as though originally issued out of the County Court or Probate Court to which such transfer may be made.

Sec. 4. The County Court of Harris County shall retain, as heretofore, the powers and jurisdiction of said court existing at the time of the passage of this Act, and shall exercise its powers and jurisdiction as a Probate Court with respect to all matters and proceedings of such nature other than those transferred to or filed in the said Probate Court No. 1 of Harris County or Probate Court No. 2 of Harris County. The County Judge of Harris County shall be the judge of the County Court of Harris County, and all ex officio duties of the County Judge of Harris County, as they now exist, shall be exercised by the County Judge of Harris County, except in so far as the same are expressly committed by statute to the judge of the Probate Court No. 1 of Harris County or to the judge of the Probate Court No. 2 of Harris County. Nothing contained in this Act shall be construed as in anywise impairing or affecting the jurisdiction of the County Civil Court at Law No. 1 of Harris County or the County Civil Court at Law No. 2 of Harris County.

Sec. 5. The practice and procedure in the Probate Court No. 1 of Harris County shall be the same as that provided by law generally for the county courts of this state; and all statutes and laws of the state, as well as all rules of court relating to proceedings in the county courts of this state, or to the review thereof or appeals therefrom, shall, as to all matters within the jurisdiction of said court, apply equally thereto.

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Sec. 6. The Probate Court No. 1 of Harris County shall have power to issue writs of injunction, mandamus, execution, attachment, and all writs and process necessary to the exercise and enforcement of the jurisdiction of said court, and also the power to punish for contempt under such provisions as are or may be provided by the general laws governing County Courts throughout the state.

Sec. 7. There shall be two (2) terms of said Probate Court No. 1 of Harris County in each year, and the first of such terms shall be known as the January-June Term, shall begin on the first Monday in January and shall continue until and including Sunday next before the first Monday in July; and the second of such terms, which shall be known as the July-December Term, shall begin on the first Monday in July and shall continue until and including Sunday next before the first Monday in the following January.

Sec. 8. The Judge of the Probate Court of Harris County shall continue as judge of the Probate Court No. 1 of Harris County until December 31, 1970, and until his successor is duly qualified. There shall be elected in said county by the duly qualified voters thereof at the general election of 1970, and at the general election every four (4) years thereafter, a judge of the Probate Court No. 1 of Harris County who shall hold his office for four (4) years and until his successor shall be duly qualified. The judge of the Probate Court No. 1 of Harris County shall be well informed in the laws of the state and shall have been a duly licensed and practicing member of the bar of this state for not less than five (5) consecutive years prior to his election.

Sec. 9. The judge of the Probate Court No. 1 of Harris County shall execute a bond in the sum of One Hundred Thousand Dollars (\$100,000), payable as required by law, and take the oath relating to county judges as provided by law.

Sec. 10. Any vacancy in the office of the judge of the Probate Court No. 1 of Harris County may be filled by the Commissioners Court of Harris County by the appointment of a judge of said court, who shall serve until the next general election and until his successor shall be duly elected and qualified.

Sec. 11. In the case of the absence, disqualification or incapacity of the judge of the Probate Court No. 1 of Harris County, the County Judge of Harris County or the judge of the Probate Court No. 2 of Harris County shall sit and act as judge of said court, and may hear and determine, either in his own courtroom or in the courtroom of said court, any matter or proceeding there pending, and enter any order in such matters or proceedings as the judge of said court may enter if personally presiding therein.

Sec. 12. In the case of the absence, disqualification or incapacity of the judge of the said Probate Court No. 1 and the judge of the Probate Court No. 2 of Harris County and the County Judge of Harris County, a Special Judge of the Probate Court No. 1 of Harris County may be appointed or elected as provided by the general laws relating to county courts and the judges thereof.

Sec. 13. The judge of the County Court of Harris County is designated as the presiding judge of the Courts of Probate of Harris County. It shall be the duty of the county judge to equalize as nearly as possible the dockets of the Probate Court No. 1 of Harris County and the Probate Court No. 2 of Harris County so that each of said courts will have two-fifths of the probate cases pending in Harris County. It shall be the duty of the said presiding judge of the courts of Probate of Harris County, to call a conference two times a year for the purpose of consultation and counsel as to the state of business in probate matters in Harris County,

Texas, and to arrange for the disposition of the business pending on the probate docket of each of the courts with probate jurisdiction in Harris County, Texas.

Sec. 14. The county clerk of Harris County shall be the clerk of the Probate Court No. 1 of Harris County. The seal of the court shall be the same as that provided by law for county courts except that the seal shall contain the words

“Probate Court No. 1 of Harris County, Texas,” and said seal shall be judicially noticed. The sheriff of Harris County shall, in person or by deputy, attend the court when required by the judge thereof.

Sec. 15. The judge of the Probate Court No. 1 of Harris County shall collect the same fees as are now or hereafter established by law relating to county judges as to matters within the jurisdiction of said court, all of which shall be paid to him into the County Treasury as collected, and he shall receive an annual salary in the amount, and to be fixed, as is now or hereafter established by law for probate judges.

Sec. 16. The primary purpose of this Act is to change the name of the Probate Court of Harris County, Texas, to Probate Court No. 1 of Harris County, Texas, and none of the provisions hereof shall be construed as creating a new court. All processes extant in the Probate Court of Harris County on the effective date of this Act shall be returnable to and filed in the said court, the Probate Court No. 1 of Harris County, and all of such processes so returned to and filed in the Probate Court No. 1 of Harris County shall be valid and binding.”

Sec. 9 amended by Acts 1963, 58th Leg., p. 769, ch. 296, § 1, eff. Aug. 23, 1963; Sec. 1 amended by Acts 1967, 60th Leg., p. 1836, ch. 712, § 1, eff. Aug. 28, 1967; Secs. 1–16 amended by Acts 1969, 61st Leg., p. 1974, ch. 669, § 1, eff. Sept. 1, 1969.

Art. 1970—110a.1 Repealed by Acts 1969, 61st Leg., p. 1974, ch. 669, § 2, eff. Sept. 1, 1969

The repealed article, enacted by Acts 1967, 60th Leg., p. 1836, ch. 712, § 1, changed the name of the Probate Court of Harris County to Probate Court No. 1 of Harris County. See, now, art. 1970—110a.

EL PASO COUNTY

Art. 1970—141.2 County Court at Law No. 3 of El Paso County

Section 1. There is hereby created an additional County Court at Law in El Paso County, Texas, to be known and designated as the “County Court at Law No. 3 of El Paso County, Texas.”

Sec. 2. The County Court at Law No. 3 of El Paso County, Texas, shall have the same jurisdiction over criminal matters that is now or may be vested in county courts having jurisdiction in criminal actions and proceedings under the Constitution and laws of Texas, and shall have appellate jurisdiction in appeals in criminal cases from justice courts and corporation courts within El Paso County, and the judge of the court shall have the same powers, rights and privileges as to criminal matters as are or may be vested in the judges of county courts having criminal jurisdiction. The County Court at Law No. 3 shall have and is hereby granted the same jurisdiction and powers in criminal matters and civil actions or proceedings that are now or may be conferred by law upon and vested in the County Court at Law No. 1 of El Paso County, Texas, and the County Court at Law No. 2 of El Paso County, Texas; and each judge of the county courts at law may with the consent of the judge of the court to which transfer is to be made, transfer civil or criminal actions or proceedings from his respective court to the other court by the entry of an order to that effect upon the docket, and the judges of the

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County Courts at Law No. 1 and No. 2 of El Paso County, shall transfer to the County Court at Law No. 3 of El Paso County, any civil or criminal action or proceeding pending on the docket of said court on the effective date of this Act as may be necessary in order that the now overcrowded dockets of the court may be relieved, and the County Court at Law No. 3 of El Paso County, and the judge thereof, shall have jurisdiction to hear and determine civil or criminal matters, and render and enter the necessary and proper orders, decrees, and judgments therein. No cause may be transferred without the consent of the judge of the court to which it is transferred.

Sec. 3. (a) The County Courts at Law of El Paso County shall henceforth have general jurisdiction of probate courts within the limits of El Paso County concurrent with jurisdiction of the County Court of El Paso County in such matters and proceedings. The County Courts at Law shall probate wills, appoint guardians of minors, idiots, and lunatics, persons non compos mentis, and drunkards, grant letters testamentary and of administration, settle accounts with administrators, executors, and guardians, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and drunkards; including the settlement, partition, and distribution of estates of deceased persons, the apprenticing of minors as provided by law, and conduct lunacy proceedings. The county courts at law shall have no jurisdiction over any other of those matters which are now vested exclusively in the County Court of El Paso County, or in the judge therein.

(b) The County Court of El Paso County, and the County Courts at Law of El Paso County, or each of the judges thereof shall have the power to issue writs of injunction, sequestration, attachments, garnishment, certiorari, supersedeas, and all other writs necessary to the enforcement of the jurisdiction of the courts; and also power to punish for contempt under such provisions as are, or may be provided by the general laws governing county courts throughout the state, and to issue writs of habeas corpus, in cases where the offense charged is within the jurisdiction of the courts or of any court or tribunal inferior to the courts.

(c) The judges of the County Court of El Paso County and the County Courts at Law of El Paso County may with the consent of the judge of the Court to which transfer is to be made, transfer probate matters or proceedings from his respective court to the other court by the entry of an order to that effect upon the docket, to enable the efficient and justiciable disposition of the probate matters and proceedings in El Paso County, Texas.

(d) The judges of the county court and the county courts at law may collectively make and publish rules from time to time governing the docketing and disposition of probate matters and proceedings in their courts not inconsistent with the laws of the State of Texas or the Texas Rules of Civil Procedure and for the purpose of efficient and justiciable disposition of probate matters and proceedings. A copy of the rules and changes shall be filed with the County Clerk of El Paso County, Texas, and one copy of the rules and changes shall be available in each court for the examination of participants in any probate matters filed.

Sec. 4. (a) The terms of the County Courts at Law of El Paso County shall commence on the first Monday in January and July and the courts may continue in session until the Sunday next preceding the Monday for the convening of the next regular term of court.

(b) The judges of the County Courts at Law of El Paso County may divide each term of court into as many sessions as they deem necessary for the disposition of business, and may extend a particular term of court whenever practicable for the efficient and justiciable disposition of individual proceedings and matters.

Sec. 5. (a) The judge of each County Court at Law of El Paso County, Texas, shall be a citizen of the United States and of this state, who shall have been a practicing attorney of this state for at least five years next preceding his election or appointment and who shall have resided in the County of El Paso for at least two years next preceding his election or appointment.

(b) The judge of the County Court at Law No. 3 of El Paso County shall receive an annual salary in an amount identical to that received by the judge of each other county court at law in El Paso County. The salary shall be set and paid in the same manner and from the same source as the salaries of the judges of the other County Courts at Law in El Paso County are set and paid. The judge shall not collect any fee from the county for disposing of any criminal case.

Sec. 6. The Commissioners Court of El Paso County, Texas, shall appoint a judge of the County Court at Law No. 3 of El Paso County, Texas, who shall serve beginning September 1, 1969, until the next general election and until his successor is elected and has qualified. Thereafter the office shall be filled at general election as provided by law except in case of vacancy. In case of vacancy the office shall be filled by appointment by the Commissioners Court.

Sec. 7. The judge of the County Court at Law No. 3 of El Paso County, shall execute bond and take the oath of office as required by law relating to county judges.

Sec. 8. The judge of the County Court at Law No. 3 of El Paso County, Texas, shall appoint an official court reporter for the court, who shall be well-skilled in his profession and shall be a sworn officer of the court and shall hold his office at the pleasure of the court and all of the provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended, and as hereafter amended, and all other provisions of the law relating to "official court reporters" shall apply in all their provisions, in so far as they are applicable to the official court reporter herein authorized to be appointed, and in so far as they are not inconsistent with the provisions of this Act, and the official court reporter shall be entitled to the same compensation as applicable to official court reporters in the district courts of El Paso County, Texas, paid in the same manner that compensation of official court reporters of the district courts of El Paso County are paid.

Sec. 9. The county clerk of El Paso County, Texas, shall be the clerk of the County Court at Law No. 3 of El Paso County, Texas, in civil and criminal matters. The county clerk shall receive and collect the same fees which he now receives and collects as clerk of the County Courts at Law No. 1 and No. 2 of El Paso County, Texas. The clerk shall keep separate dockets for each court; and shall tax the official court reporter's fee as costs in civil actions in each court in like manner as the fee is taxed in civil cases in the district courts.

Sec. 10. The sheriff of El Paso County, either in person or by deputy, shall attend the court when required by the judge; and the various sheriffs and constables of this state executing process issued out of said court shall receive the fees now or hereafter fixed by law for executing process issued out of county courts.

Sec. 11. The seal of the County Court at Law No. 3 of El Paso County, Texas, shall be the same as that provided by law for county courts, except that the seal shall contain the words "County Court at Law No. 3 of El Paso County, Texas," and the seal shall be judicially noticed.

Sec. 12. A special judge of the court may be appointed or elected in the manner and instances now or hereafter provided by law relating to county courts and judges thereof.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 13. (a) The judges of the County Courts at Law No. 1, No. 2, and No. 3 shall have the power to make and publish rules as to the docketing and disposition of criminal and civil cases in their courts not inconsistent with the laws of the State of Texas or the Texas Rules of Civil Procedure.

(b) The judges of the County Courts at Law of El Paso County, Texas, with mutual consent may exchange benches with one another or act as presiding judge of the other court in individual proceedings or actions in the absence or disqualification of the other judge.

Sec. 14. In cases transferred to any one of the county courts at law by order of the judge of one of said courts as provided in Section 2 of this Act, all process extant at the time of the transfer shall be returned to and filed in the court to which such transfer is made, and shall be as valid and binding as though originally issued out of the court to which the transfer is made.

Acts 1969, 61st Leg., p. 2289, ch. 771, emerg. eff. June 14, 1969.

Title of Act: County; and declaring an emergency. Acts 1969, 61st Leg., p. 2289, ch. 771.
An Act relating to the establishment of the County Court at Law No. 3 of El Paso

McLENNAN COUNTY

Art. 1970—298b. County Court at Law of McLennan County

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Sec. 12. The Judge of the County Court at Law of McLennan County shall assess the same fees as are or may be established by law relating to County Judges, all of which shall be collected by the clerk of said court and be by him paid monthly into the County Treasury; and the Judge of said County Court at Law shall receive an annual salary of not more than Sixteen Thousand (\$16,000) Dollars, payable monthly, to be paid out of the County Treasury by the Commissioners Court.

Sec. 12 amended by Acts 1969, 61st Leg., p. 2120, ch. 724, § 1, emerg. eff. June 12, 1969.

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BEXAR COUNTY

Art. 1970—301h. Salaries of judges

From and after the effective date of this Act the Judge of the County Court at Law No. 1, of Bexar County, Texas, and the Judge of the County Court at Law No. 2, of Bexar County, Texas, and the Judge of the County Court at Law No. 3, of Bexar County, Texas, and the Judge of the County Civil Court at Law of Bexar County, Texas, shall each receive an annual salary of not less than Eighteen Thousand Five Hundred Dollars (\$18,500) nor more than Twenty-two Thousand, Five Hundred Dollars (\$22,500). Such annual salary to be paid to each of said judges shall be determined and fixed by the Commissioners Court of Bexar County, Texas, and, when so determined and fixed, such annual salary shall be paid to each of said judges in equal monthly installments by warrants drawn on the County Treasury of Bexar County, Texas, upon orders of the Commissioners Court of said county.

Acts 1967, 60th Leg., p. 769, ch. 322, § 1, emerg. eff. May 27, 1967; Acts 1969, 61st Leg., p. 1872, ch. 626, § 1, emerg. eff. June 11, 1969.

CAMERON COUNTY AT LAW

Art. 1970—305. County Court at Law of Cameron County

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Sec. 2. The County Court at Law of Cameron County shall have and exercise the jurisdiction in all matters and cases, civil and criminal, original and appellate, over which by the general laws of the State, the County Court of said County would have jurisdiction except as herein provided in Section 3 of this Act.

Sec. 2 amended by Acts 1969, 61st Leg., p. 1255, ch. 394, § 1, emerg. eff. May 29, 1969.

* * * * *

Sec. 6. The County Court at Law of Cameron County shall also have the general jurisdiction of a probate court, and all jurisdiction now conferred by law over probate matters, within the limits of Cameron County, concurrent with the jurisdiction of the County Court of Cameron County in such matters and proceedings. The County Court at Law of Cameron County shall have no other jurisdiction than that specifically provided by law, and the County Court of Cameron County as now and as heretofore existing shall have all jurisdiction which it now has, save and except that which is given the County Court at Law of Cameron County by this Act, or as may be otherwise specifically given by law to said County Court at Law of Cameron County, but the County Court of Cameron County shall have no other jurisdiction, civil or criminal. The County Judge of Cameron County shall be the Judge of the County Court of said County, and all ex-officio duties of the County Judge shall be exercised by said Judge of the County Court of Cameron County, except insofar as the same shall be herein, or as may be otherwise by law specifically committed to the County Court at Law of Cameron County, or the Judge thereof.

Sec. 6 amended by Acts 1969, 61st Leg., p. 1255, ch. 394, § 2, emerg. eff. May 29, 1969.

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PARTICULAR COUNTY COURTS

Art. 1970—310. Other acts creating or affecting jurisdiction of particular county courts

Morris—Original jurisdiction in matters of eminent domain transferred to district court—Acts 1967, 60th Leg., p. 872, ch. 378, eff. June 8, 1967; amended by Acts 1969, 61st Leg., p. 707, ch. 246, emerg. eff. May 21, 1969.

MARION COUNTY COURT

Art. 1970—322a. County Court of Marion County; concurrent jurisdiction of certain criminal matters

Section 1. In addition to the jurisdiction heretofore conferred by law upon the County Court of Marion County, Texas, and the County Judge of Marion County, Texas, the said County Court shall have jurisdiction within Marion County of all criminal matters and causes of misdemeanor over which the District Court of Marion County, Texas, now has jurisdiction, and the jurisdiction of said Courts over such matters shall be concurrent, provided that the jurisdiction of the District Court of Marion County, Texas, shall be and remain as now fixed by law and be in nowise affected by this Act; and provided further, that the jurisdiction

For Annotations and Historical Notes, see V.A.T.S.

hereby conferred upon the County Judge of Marion County, Texas, shall extend to and only to those cases in which pleas of guilty are entered by the defendant in any cases of misdemeanor filed in said Court.

Sec. 1 amended by Acts 1969, 61st Leg., p. 519, ch. 181, § 1, emerg. eff. May 9, 1969.

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Sec. 4. The County Attorney of Marion County shall represent the state in all misdemeanor cases before the District Court of Marion County, Texas, and shall receive the same compensation to which he would be entitled under the law as county attorney had said cases been tried in the county court.

Sec. 4 added by Acts 1969, 61st Leg., p. 519, ch. 181, § 3, emerg. eff. May 9, 1969.

Section 2 of the amendatory act of 1969 provided:

“(a) All misdemeanor cases, except those in which pleas of guilty were filed, docketed in the County Court of Marion County, Texas, prior to the effective date of this Act shall be transferred to the docket of the District Court of Marion County, Texas. The Judge of the District Court of Marion County, Texas, shall have the power to try all cases and determine all ancillary matters as if the cases had been originally filed in that court.

“(b) All writs and processes issued prior to the effective date of this Act, by the

County Court of Marion County, Texas, in cases transferred to the District Court of Marion County, Texas, shall be returnable to the district court as if issued from that court.

“(c) All bonds returnable to the County Court of Marion County, Texas, in cases transferred to the District Court of Marion County, Texas, shall be returnable to the court to which the case is transferred.”

Marion County juvenile board, see art. 5139AA.

FRANKLIN COUNTY

Art. 1970—331b. Franklin County Court; jurisdiction

Section 1. The County Court of Franklin County shall retain and continue to have and exercise the general jurisdiction of probate courts, and all other jurisdiction now or hereafter conferred by the Constitution and laws of this state, except as is hereinafter provided, and shall retain all jurisdiction and power to issue all writs necessary to the enforcement of its jurisdiction, and to punish contempts; but the county court shall have no civil jurisdiction and no criminal jurisdiction except jurisdiction to receive and enter pleas of guilty in misdemeanor cases, and except as to final judgments referred to in Section 2, hereof, and shall have no general jurisdiction in trial of all matters of eminent domain on appeal from the awards of commissioners.

Sec. 2. The district courts having jurisdiction in Franklin County shall have and exercise jurisdiction in all matters and cases of a civil nature and in all matters of a criminal nature, except as to such jurisdiction that the county court has to receive and enter pleas of guilty in misdemeanor cases as is provided in Section 1 hereof, whether the same be of original jurisdiction or of appellate jurisdiction, and shall have the general jurisdiction in trial of all matters of eminent domain on appeal from the awards of commissioners, over which by the general laws of the State of Texas now existing and hereinafter enacted the county court would have had jurisdiction and all pending civil and criminal cases and eminent domain appeals from the awards of commissioners, be and the same are, hereby transferred to the district courts having jurisdiction in Franklin County, and all writs and process heretofore issued by or out of the county court in all pending civil or criminal cases or eminent domain appeals from the awards of commissioners be, and the same are hereby, made returnable to the district courts sitting in Franklin County. However, there shall not be transferred to said district courts jurisdiction over any judg-

ments, either in civil, criminal or eminent domain cases, rendered prior to the time this amendment takes effect and which have become final, but as to such judgments the county court shall retain jurisdiction for the enforcement thereof by all appropriate process.

Sec. 3. The County Attorney of Franklin County shall represent the state in all misdemeanor cases before the district courts of Franklin County, and shall receive therefor the same fees to which he would be entitled under the law as county attorney had the cases been tried in the county court.

Sec. 4. The clerk of the County Court of Franklin County is, and he is hereby required within 20 days after this amendment takes effect to file with the clerk of the district courts of the county all original papers in cases here transferred to the district courts, and all judges' dockets and certified copies of any interlocutory judgment, or other order entered in the minutes of the county court in said cases so transferred; and the district clerk shall immediately docket all such cases on the docket of the district courts of Franklin County in the same manner and place as each stands on the docket of the county court. It shall not be necessary that the district clerk refile any papers theretofore filed by the county clerk, nor shall he receive any fees for the filing of the same, but papers in said case bearing the file mark of the county clerk, prior to the time of said transfer, shall be held to have been filed in the case as of the date filed without being refiled by the district clerk. The county clerk in cases so transferred shall accompany the papers with a certified bill of cost and against all cost deposits, if any, the county clerk shall charge accrued fees due him, and the remainder of the deposit he shall pay to the district clerk as a deposit in the particular case for which the same was deposited. Credit shall also be given the litigants for all jury fees paid in the county court.

Acts 1967, 60th Leg., p. 722, ch. 302, emerg. eff. May 25, 1967; Amended by Acts 1969, 61st Leg., p. 1112, ch. 361, § 1, emerg. eff. May 27, 1969.

GRAYSON COUNTY

Art. 1970—332. Grayson county; County Court at Law; jurisdiction; terms; judge; prosecutor; writs; clerk and court reporter

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Sec. 16. The Judge of the County Court at Law of Grayson County shall receive a salary of not more than Fourteen Thousand Dollars (\$14,000) per year to be paid out of the County Treasury of Grayson County, Texas, on the order of the Commissioners Court of said County, and said salary shall be paid monthly in equal installments. The Judge of the County Court at Law of Grayson County shall assess the same fees as are now prescribed by law relating to the County Judge's fee, all of which shall be collected by the Clerk of the Court and shall be paid into the County Treasury on collection, no part of which shall be paid to the said Judge, but he shall draw the salary as above specified in this Section.

Sec. 16 amended by Acts 1967, 60th Leg., p. 858, ch. 365, § 1, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 161, ch. 60, § 1, emerg. eff. April 3, 1969.

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Sec. 18A. The Judge of the County Court at Law of Grayson County may appoint an official shorthand reporter for his court in the manner now provided for district courts in this State who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not more than the compensation paid the official shorthand reporters of the district courts of Grayson County, Texas, said salary to be fixed, determined, set and allowed by the commissioners court of Grayson

For Annotations and Historical Notes, see V.A.T.S.

County, and shall be in addition to transcript fees, fees for statement of facts and all other fees. Said salary when so fixed and determined by the commissioners court shall be paid monthly out of the general fund, or the jury fund, or out of any fund available for the purpose as may be determined by the commissioners court, in the same manner as salaries of other county officers are paid. From and after passage of this Act, all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern, except that the salary of the official shorthand reporter as provided for in this Act shall be fixed and determined by the commissioners court of Grayson County.

Sec. 18A added by Acts 1967, 60th Leg., p. 859, ch. 365, § 2, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 161, ch. 60, § 2, emerg. eff. April 3, 1969.

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ELLIS COUNTY COURT

Art. 1970—338. Repealed by Acts 1969, 61st Leg., p. 2135, ch. 739, § 7, emerg. eff. June 12, 1969

Art. 1970—338B. Jurisdiction of courts; transfer of cases; judgments

Section 1. That the County Court of Ellis County, Texas, from and after the effective date of this Act, shall have and exercise jurisdiction in all probate, civil, and criminal matters, as provided in the Constitution of the State of Texas and the general law governing county courts throughout the state.

Sec. 2. The District Court of Ellis County, Texas, shall have and exercise the general jurisdiction, both original and appellate, in all civil and criminal matters and causes, as provided in the Constitution of the State of Texas and in the general law governing the jurisdiction of district courts throughout the state.

Sec. 3. All causes pending in the County Court of Ellis County and in the District Court of Ellis County, the jurisdiction of which is changed by this Act, shall be and the same are hereby transferred in conformity with the provisions of this Act to the court having jurisdiction of such cause under the provisions hereof, and all writs and process relating to such causes which have been issued by or out of either of said courts shall be and the same are hereby made returnable to the next term of the court having jurisdiction of said cause under the provisions of this Act.

Sec. 4. This Act shall not be construed to in anywise or in any manner affect judgments heretofore rendered by the District Court of Ellis County pertaining to matters and causes which by this Act are made returnable to the County Court of Ellis County, and the clerk of the district court of said county shall issue all executions and orders of sale and proceedings thereunder, which shall be as valid and binding to all intents and purposes as though the change had not been made as directed in this Act.

Sec. 5. This Act shall not be construed to in anywise or in any manner affect judgments heretofore rendered by the County Court of Ellis County pertaining to matters and causes which by this Act are made returnable to the District Court of Ellis County, and the clerk of the county court of said county shall issue all executions and orders of sale and proceedings thereunder which shall be as valid and binding to all intents and purposes as though the change had not been made as directed by this Act.

Sec. 6. The clerks of the respective courts shall transfer the dockets of all cases the jurisdiction of which is changed by the provisions of this Act to the court having such jurisdiction after the effective date of this Act, and shall transfer all court papers and do such other things as

may be necessary to fully transfer all said causes and matters to the court having jurisdiction of same under the provisions of this Act.

Sec. 7. Chapter 355, Acts of the 51st Legislature, Regular Session, 1949 (Article 1970—338, Vernon's Texas Civil Statutes), together with any and all other acts or laws and parts of acts or laws in conflict herewith are hereby expressly repealed. Acts 1969, 61st Leg., p. 2135, ch. 739, emerg. eff. June 12, 1969.

Title of Act:

An Act fixing the jurisdiction of the County Court of Ellis County, Texas, and the District Court of Ellis County, Texas; making transfers of all cases on the dockets of said courts to conform to this Act; providing that this Act shall not affect judgments heretofore rendered by said courts, and for issuing executions thereon; describing the duties of clerks of said courts in

making transfers of all cases on the dockets of said courts, and validating all of such acts; repealing Chapter 355, Acts of the 51st Legislature, Regular Session, 1949 (Article 1970—338, Vernon's Texas Civil Statutes); repealing all other laws and parts of laws in conflict herewith; and declaring an emergency. Acts 1969, 61st Leg., p. 2135, ch. 739.

HIDALGO COUNTY

Art. 1970—341. County Court at Law of Hidalgo County

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Sec. 10. The Judge of the County Court at Law shall appoint an official shorthand reporter for such Court who shall be well skilled in his profession, shall be a sworn officer of the Court and shall hold office at the pleasure of said Judge. The duties of such reporter shall be the same as provided by general law for reporters of the District Courts and such reporter shall receive a salary not to exceed Eleven Thousand, Five Hundred Dollars (\$11,500), to be paid monthly by the Commissioners Court out of any funds available for the purpose. The clerk of the Court shall tax as costs in each case, civil, criminal and probate where a record or any part thereof is made of the evidence in said case by the reporter, a stenographer's fee of Three Dollars (\$3). Said fee shall be paid as other costs in the case and paid by the clerk, when collected, into the general fund of the County.

Sec. 10 amended by Acts 1969, 61st Leg., p. 1847, ch. 619, § 1, eff. Sept. 1, 1969.

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GALVESTON COUNTY

Art. 1970—342. County Court No. 2 of Galveston County

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Sec. 4a. Any vacancy occurring in the office of Judge of the County Court at Law No. 2 of Galveston County shall be filled by the Commissioners Court of Galveston County, Texas, and the appointee shall hold office until the next succeeding general election, and until his successor shall be duly elected and qualified.

Sec. 4a added by Acts 1969, 61st Leg., 2nd C.S., p. 133, ch. 31, § 1, eff. Dec. 9, 1969.

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Sec. 9. The Judge of the County Court No. 2 shall be paid an annual salary of not less than \$18,000 and not more than the salary paid the County Judge of Galveston County. The salary shall be paid in equal monthly installments out of the general fund of Galveston County by warrants drawn upon the County Treasury upon the orders of the Commissioners Court of Galveston County.

Sec. 9 amended by Acts 1965, 59th Leg., p. 286, ch. 123, § 1, eff. Aug. 30, 1965; Acts 1969, 61st Leg., p. 2131, ch. 735, § 1, eff. Sept. 1, 1969.

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For Annotations and Historical Notes, see V.A.T.S.

Art. 1970—342a. County Court No. 1 of Galveston County

Section 1. There is hereby created on the effective date of this Act, a Court to be held in Galveston County, Texas, to be known and designated as the "County Court No. 1 of Galveston County."

Sec. 2. (a) The County Court No. 1 of Galveston County shall have, and it is hereby granted, the same jurisdiction over criminal matters that is now or may be vested in county courts having jurisdiction in criminal actions, matters, and proceedings under the constitution and laws of Texas, and shall have appellate jurisdiction in all appeals in criminal cases from justice courts and corporation courts within Galveston County, Texas, and the judge of said court shall have the same powers, rights, and privileges as to criminal matters as are now or may be vested in the judges of county courts having criminal jurisdiction.

(b) The County Court No. 1 of Galveston County shall have, and it is hereby granted, the same jurisdiction and powers in civil actions, matters, and proceedings that are now or may be conferred by law upon and vested in the County Court of Galveston County, Texas, and in the County Court No. 2 of Galveston County, and the judges thereof. Provided, however, that the jurisdiction of said County Court of Galveston County, Texas, the jurisdiction of said County Court No. 2 of Galveston County, and the jurisdiction of the County Court No. 1 of Galveston County, over all such actions, matters, and proceedings, civil and criminal, within Galveston County, shall be concurrent.

Sec. 3. (a) Upon the effective date of this Act, the pending civil and criminal cases on the docket of the County Court of Galveston County and the County Court No. 2 of Galveston County, save and except probate matters, mental illness cases, condemnation cases and alcoholic hearings, shall be automatically transferred to the County Court No. 1 of Galveston County. Thereafter, civil and criminal cases, except matters described in Subsection (b) of this Section, shall be filed and docketed in the County Court No. 1 of Galveston County.

(b) Probate matters, mental illness cases, condemnation cases and alcoholic hearings shall continue to be filed and docketed in the County Court of Galveston County and the County Court No. 2 of Galveston County in the same manner as they have been heretofore filed and docketed.

Sec. 4. The clerk of the County Court No. 1 of Galveston County shall keep a separate docket for the court, in the same manner as now or may be provided by law for the keeping of dockets for the County Court of Galveston County, Texas, and the County Court No. 2 of Galveston County. He shall tax the official court reporter's fee as costs in civil actions in said County Court No. 1 of Galveston County in like manner as the fee is taxed in civil cases in the district courts of this state. The Judge of the County Court of Galveston County, Texas, the Judge of the County Court No. 1 of Galveston County, and the Judge of the County Court No. 2 of Galveston County may, with the consent of the judge of the court to which transfer is to be made, transfer civil or criminal actions, matters, and proceedings from his respective court to any one of the other courts by entry of an order to that effect upon the docket of his court; and the judge of the court to which any such action, matter, or proceeding, civil or criminal, shall have been transferred, shall have jurisdiction to hear and determine said matter or matters and render and enter the necessary and proper orders, decrees and judgments therein, and in the same manner and with the same force and effect as if such case, action, matter, or proceeding had been originally filed in the court to which transferred. Provided, however, that no cause, action, matter, case, or proceeding shall be

transferred without the consent of the judge of the court to which transferred.

Sec. 5. The Judge of the County Court No. 1 of Galveston County, together with the Judges of the County Court of Galveston County, Texas, and the County Court No. 2 of Galveston County, may, at any time, exchange benches and may, at any time, sit and act for and with each other in any civil or criminal case, matter, or proceeding now, or hereafter, pending in their courts; and any and all such acts thus performed by any of said judges shall be valid and binding upon all parties to such cases, matters, and proceedings.

Sec. 6. The practice in said County Court No. 1 of Galveston County shall be the same as prescribed by law relating to county courts and county courts at law. Appeals and writs of error may be taken from judgments and orders of said County Court No. 1 of Galveston County, and from judgments and orders of the judge thereof, in civil and criminal cases, and in the same manner as now is, or may hereafter be, prescribed by law relating to such appeals and writs of error. Appeals may also be taken from interlocutory orders of said County Court No. 1 of Galveston County, appointing a receiver, or from orders overruling a motion to vacate or appointing a receiver; provided, however, that the procedure and manner in which such appeals from interlocutory orders are taken shall be governed by the laws relating to appeals from similar orders of the district courts throughout this state.

Sec. 7. The Judges of the County Court of Galveston County, the County Court No. 1 of Galveston County and the County Court No. 2 of Galveston County shall appoint an official shorthand reporter for the County Court No. 1, who shall be well-skilled in his profession and shall be a sworn officer of the court, and shall hold his office at the pleasure of the court. All of the provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended, and all other applicable provisions of the law relating to "official court reporters" shall apply to the official shorthand reporter herein authorized to be appointed. Such official shorthand reporter shall be entitled to the same compensation, to be paid in the same manner, as provided for the official shorthand reporters of the district courts of Galveston County, Texas. Said court reporter shall be required primarily to report cases in the County Court No. 1 of Galveston County, but shall be made available, when not engaged in a jury trial in said court, to report jury trials in the County Court of Galveston County and the County Court No. 2 of Galveston County and to the District Attorney for examining trials in Justice Courts and trials in the Court of Domestic Relations.

Sec. 8. The County Clerk of Galveston County shall be the Clerk of the County Court No. 1 of Galveston County. The court shall have a seal consisting of a star of five points with the words "County Court No. 1 of Galveston County" engraved thereon. The Sheriff of Galveston County shall appoint a deputy to attend the court when required by the judge thereof.

Sec. 9. The Criminal District Attorney of Galveston County, Texas, shall represent the state in all prosecutions in the County Court No. 1 of Galveston County as provided by law for prosecutions in county courts, and shall be entitled to the same fees as in other cases.

Sec. 10. At the next general election after the effective date of this Act, there shall be elected a Judge of the County Court No. 1 of Galveston County, who shall have been a duly licensed and practicing member of the State Bar of Texas for not less than five years; who shall be well-versed in the laws of the state; who shall have resided in and been actively engaged in the practice of law in Galveston County, Texas, for a period of not less than four years prior to such general

For Annotations and Historical Notes, see V.A.T.S.

election; and who shall hold his office for four years and until his successor shall have been duly elected and qualified. When this Act becomes effective, the Governor shall appoint a Judge of the County Court No. 1 of Galveston County, who shall have the qualifications herein prescribed and who shall serve until the next general election and until his successor shall have been duly elected and qualified. Any vacancy thereafter occurring in the office of the Judge of the County Court at Law No. 1 of Galveston County shall be filled by the Commissioners Court of Galveston County, Texas, and the appointee shall hold office until the next succeeding general election and until his successor shall be duly elected and qualified.

Sec. 11. (a) The Judge of the County Court No. 1 of Galveston County shall take the oath of office prescribed by the Constitution, but no bond shall be required of him.

(b) The Judges of the County Court No. 1 and of the County Court No. 2 shall each be paid an annual salary of not less than \$18,000 and not more than the salary paid the County Judge of Galveston County. The salary shall be paid to each Judge in equal monthly installments out of the general fund of Galveston County, by warrants drawn upon the County Treasury upon orders of the Commissioners Court of Galveston County.

Sec. 12. A special judge may be appointed or elected for the County Court No. 1 of Galveston County in the same manner as may now or hereafter be provided by the General Laws of this state relating to the appointment and election of special judges. Every such special judge thus appointed or elected for said court shall receive for the services he may actually perform the same amount of pay which the regular judge of said court would be entitled to receive for such services; and said amount to be paid to such special judge shall be deducted from or paid out of the salary of the regular judge of said court.

Sec. 13. The County Court No. 1 of Galveston County, or the judge thereof, shall have power to grant all writs necessary to the enforcement of the jurisdiction of the court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of the court, or of any other court in Galveston County of inferior jurisdiction to the County Court No. 1 of Galveston County.

Sec. 14. The County Court No. 1 of Galveston County shall hold six terms of court, commencing on the first Monday in January, March, May, July, September, and November of each year, and each term shall continue until the business of the court is disposed of; provided, however, that no term of the court shall extend beyond the date fixed for the commencement of the succeeding term except pursuant to an order entered upon the minutes during the term to be extended.

Acts 1965, 59th Leg., p. 523, ch. 269, eff. May 28, 1965; Sec. 11 amended by Acts 1969, 61st Leg., p. 2130, ch. 734, § 1, eff. Sept. 1, 1969.

SMITH COUNTY

Art. 1970—348. County Court at Law of Smith County

* * * * *
 Sec. 17. From and after the passage of this Act the Judge of the County Court at Law of Smith County shall receive an annual salary of not less than \$12,000 nor more than \$16,000 as set by the Commissioners Court, to be paid out of the county treasury on the order of the Commissioners Court, and said salary shall be paid monthly in equal installments. The Judge of the County Court at Law of Smith County shall assess the same fees as are now prescribed or may be established by law, relating to the county judge's fees, all of which shall be collected by the clerk of the court and shall be paid into the county treasury on

collection, no part of which shall be paid to the said judge, but he shall draw the salary as above specified in this Section.

Sec. 17 amended by Acts 1969, 61st Leg., p. 1871, ch. 624, § 1, eff. Sept. 1, 1969.

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ORANGE COUNTY

Art. 1970—349. County Court at Law of Orange County

Creation and jurisdiction

Section 1. (a) On the effective date of this Act (as provided in Section 6), the County Court at Law of Orange County is created.

(b) The County Court at Law has the same jurisdiction over all causes and proceedings, civil, criminal, and probate, original and appellate, including eminent domain proceedings, prescribed by law for county courts, and its jurisdiction is concurrent with that of the County Court of Orange County.

(c) The County Court at Law, or its judge, may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, superseas, and all writs necessary for the enforcement of the jurisdiction of the Court; and may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the Court, or of any other court of inferior jurisdiction in the county. The court and judge also have the power to punish for contempt as prescribed by law for county courts.

(d) The County Judge of Orange County is the Judge of the County Court of Orange County. All ex officio duties of the County Judge shall be exercised by the Judge of the County Court of Orange County unless by this Act committed to the Judge of the County Court at Law.

Terms of Court

Sec. 2. The Commissioners Court of Orange County by order duly entered of record, shall prescribe not less than four terms each year for the County Court at Law of Orange County.

Judge

Sec. 3. (a) At the next general election after the effective date of this Act there shall be elected a Judge of the County Court at Law of Orange County who must have been a duly licensed and practicing member of the State Bar of Texas for not less than four years, be well informed in the laws of this State, and who must have resided and been actively engaged in the practice of law in Orange County for a period of not less than two years prior to the general election. The Judge elected holds office for four years and until his successor has been duly elected and qualified. During his term of office the Judge may not appear and plead as an attorney at law in any court of record in this State.

(b) When this Act becomes effective, the Commissioners Court of Orange County shall appoint a Judge to the County Court at Law of Orange County. The Judge appointed must have the qualifications prescribed in Subsection (a) of this Section and serves until January 1st of the year following the next general election and until his successor has been duly elected and qualified. Any vacancy occurring in the office of the Judge of the County Court at Law may be filled in like manner by the Commissioners Court and the appointee holds office until January 1st of the year following the next general election and until his successor has been duly elected and qualified.

For Annotations and Historical Notes, see V.A.T.S.

(c) The Judge of the County Court at Law shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(d) The Judge of the County Court at Law shall receive not less than the same salary prescribed by the Commissioners Court of Orange County for the County Judge of Orange County and not more than \$15,000 per annum. Such salary shall be paid in equal monthly installments out of the county treasury on order of the Commissioners Court. The Judge of the County Court at Law shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury, and which may not be paid to the Judge.

(e) A special judge of the County Court at Law may be appointed in the manner provided by law for the appointment of a special county judge. A special judge must have the same qualifications, and is entitled to the same rate of compensation, as the regular judge.

Court officials

Sec. 4. (a) The County Attorney, County Clerk, and Sheriff of Orange County, Texas, shall serve as County Attorney, Clerk, and Sheriff, respectively, of the County Court at Law of Orange County. The Commissioners Court of Orange County may employ as many additional assistant county attorneys, deputy sheriffs and clerks as are necessary to serve the Court created by this Act. Those serving shall perform the duties, and are entitled to the compensation, fees, and allowances, prescribed by law for their respective offices in Orange County.

(b) The Judge of the County Court at Law may appoint an official court reporter, who must meet the qualifications prescribed by law for that office and who is entitled to the compensation fixed by the Commissioners Court of Orange County.

Practice

Sec. 5. (a) Practice in the County Court at Law of Orange County shall conform to that prescribed by law for the County Court of Orange County.

(b) The Judges of the County Court and the County Court at Law may transfer cases to and from the dockets of their respective courts so that the business may be equally distributed between them. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred; and no case may be transferred to the County Court at Law unless it is within the jurisdiction of that Court.

(c) Jurors regularly impaneled for the week by the District Courts of Orange County, Texas, may, at the request of either the Judge of the County Court or of the County Court at Law, be made available by the District Judges in the numbers requested and shall serve for the week in either or both the County Court or the County Court at Law.

Effective date

Sec. 6. The Act becomes effective upon order of the Commissioners Court of Orange County duly entered in its minutes. Acts 1965, 59th Leg., p. 1012, ch. 498, eff. Aug. 30, 1965; Sec. 3(d) amended by Acts 1969, 61st Leg., p. 2126, ch. 730, § 1, eff. Sept. 1, 1969.

DENTON COUNTY [NEW]

Art. 1970—352. County Court at Law of Denton County**Creation and jurisdiction**

Section 1. (a) The County Court at Law of Denton County, Texas, is created.

(b) The court has the same jurisdiction over all causes and proceedings, civil and criminal, original and appellate, prescribed by law for county courts. However, it does not have jurisdiction over causes and proceedings concerning roads, bridges, and public highways which are now within the jurisdiction of the Commissioners Court of Denton County.

(c) The jurisdiction of the County Court at Law of Denton County extends to all matters of eminent domain and is concurrent with that of the County Court and Commissioners Court of Denton County.

(d) The county court at law has the general jurisdiction of a probate court within the limits of Denton County, and its jurisdiction is concurrent with that of the County Court of Denton County in probate matters and proceedings.

(e) The county court at law, or its judge, has the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court; and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court, or of any other court in the county of inferior jurisdiction. The court and judge also have the power to punish for contempt as prescribed by law for county courts. The judge of the county court at law has all other powers, duties, immunities, and privileges provided by law for county court judges, and he is a magistrate and conservator of the peace.

(f) The County Judge of Denton County is the judge of the County Court of Denton County. All ex officio duties of the county judge shall be exercised by the judge of the County Court of Denton County except insofar as the same are, by this Act, committed to the judge of the County Court at Law of Denton County.

Terms of court

Sec. 2. The terms of the County Court at Law of Denton County are the same as those for the County Court of Denton County, Texas.

Judge

Sec. 3. (a) At the next general election after the effective date of this Act there shall be elected a judge of the County Court at Law of Denton County who must have been a duly licensed and practicing member of the State Bar of Texas for not less than five years, who must be well informed in the laws of this state, and who must have resided and been actively engaged in the practice of law in Denton County, Texas, for a period of not less than two years prior to the general election. The judge elected holds office for four years and until his successor has been duly elected and has qualified.

(b) When this Act becomes effective, the Commissioners Court of Denton County, Texas, shall appoint a judge to the County Court at law of Denton County. The judge appointed must have the qualifications prescribed in Subsection (a) of this section and serves until the next general election and until his successor has been duly elected and has qualified. Any vacancy occurring in the office of the judge of the County Court at Law of Denton County may be filled in like manner by the commissioners court and the appointee holds office until the next general election and until his successor has been duly elected and has qualified.

For Annotations and Historical Notes, see V.A.T.S.

(c) The judge of the County Court at Law of Denton County shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(d) The judge of the County Court at Law of Denton County is entitled to receive the same salary, to be paid from the same fund and in the same manner, as the County Judge of Denton County receives. The judge shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury, and which may not be paid to the judge.

(e) A special judge of the county court at law may be appointed or elected as provided by law for county courts. A special judge is entitled to receive \$30 a day for each day he serves, to be paid out of the general fund of Denton County by the commissioners court.

(f) If a judge of the county court at law is disqualified to try a case pending in his court, the parties or their attorneys may agree on the selection of a special judge for the case. The special judge selected is entitled to the compensation provided by Subsection (e) of this section.

Court officials

Sec. 4. (a) The County Attorney, County Clerk, and Sheriff of Denton County, Texas, shall serve as County Attorney, Clerk, and Sheriff, respectively, of the County Court at Law of Denton County. They shall perform the duties, and are entitled to the compensation, fees, and allowances, prescribed by law for their respective offices.

(b) The judge of the county court at law shall appoint an official court reporter, who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not less than \$7500 per annum, nor more than \$10,600 per annum, and this compensation shall be fixed by the Commissioners Court of Denton County.

(c) The seal of the court shall contain the words "County Court at Law of Denton County", but in other respects is identical with the seal of the County Court of Denton County.

Practice

Sec. 5. (a) Practice in the County Court at Law of Denton County shall conform to that prescribed by law for the County Court of Denton County, Texas.

(b) The judges of the county court and the county court at law may transfer cases to and from the dockets of their respective courts in order that the business may be equally distributed between them. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred; and no case may be transferred to the County Court at Law of Denton County unless it is within the jurisdiction of that court.

(c) The county judge and the judge of the county court at law may freely exchange benches and courtrooms with each other so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the cause or proceeding, civil, criminal, or probate, involved. Either judge may hear all or any part of a cause or proceeding pending in the county court or county court at law; and he may rule and enter orders on and continue, determine, or render judgment on all or any part of the cause or proceeding without the necessity of transferring it to his own docket. However, the judge of the county court at law may not sit or act in any cause or proceeding over which exclusive jurisdiction is vested by this Act in the Denton County Court.

Juries

Sec. 6. (a) The jurisdiction and authority now vested by law in the County Clerk and County Judge of Denton County for the drawing, selection, and service of jurors and talesmen shall also be exercised by the county court at law and its judge. Jurors and talesmen summoned for either court may by order of the judge of the court to which they are summoned be transferred to the other court for service. Upon concurrence of the judge of the county court at law and the county judge, jurors may be summoned for service in both courts and used interchangeably.

(b) Jurors regularly impaneled for a week by the district court or courts may, on request of either the county judge or the judge of the county court at law, be made available and shall serve for the week in either the county court or county court at law.

Acts 1969, 61st Leg., p. 1626, ch. 505, emerg. eff. June 10, 1969.

Title of Act:

An Act creating the County Court at Law of Denton County, Texas; providing for its jurisdiction, terms, personnel, administration, and practice; and declaring an emergency. Acts 1969, 61st Leg., p. 1626, ch. 305.

TITLE 42—COURTS—PRACTICE IN DISTRICT AND COUNTY

CHAPTER ONE—INSTITUTION, PARTIES AND VENUE

Art. 1995. [1830] [1194] [1198] Venue, general rule

No person who is an inhabitant of this State shall be sued out of the county in which he has his domicile except in the following cases:

* * * * *

16. Divorce.—Suits for divorce shall be brought in the county in which the plaintiff shall have resided for six months next preceding the bringing of the suit. However, the hearing may be held and judgment rendered in any other county within the same judicial district if (a) no answer has been filed, or (b) the parties agree to removal of the hearing to the other county.

Subd. 16 amended by Acts 1969, 61st Leg., p. 2009, ch. 687, § 1, emerg. eff. June 12, 1969.

* * * * *

17a. Labor disputes.—Suits to enjoin strikes or picketing for an unlawful purpose or conducted in an unlawful manner shall be brought (1) in the county where the strike or picketing is alleged to have occurred; or (2) if service cannot be had on any of the defendants in the county described in clause (1), in the county of the residence of the defendant or any one of the defendants, if there be more than one; or (3) in Travis County when suit is brought by the State of Texas, and the state, its agencies or a political subdivision thereof is a party to the suit. Provided, however, that where suit is filed in a county authorized by the provisions of clauses (1) or (2) above, any party thereto may, within five (5) days after notice of institution of suit, make written application to the Presiding Judge of the Administrative Judicial District within which the suit is filed for the appointment of a substitute judge in the court where suit is filed, whereupon such Presiding Judge of such Administrative Judicial District immediately shall assign another District Judge from such Administrative Judicial District who shall thereafter hear all proceedings in such suit. The judge of the court in which such suit is filed shall have full power to act in the case until receipt by him of a copy of an order of the Administrative Judge removing the case or appointing a substitute judge, and the provisions of this Act shall be cumulative of existing rights of the parties to a change of venue as authorized by law. For the purpose of enabling all parties to procure the personal attendance of witnesses in any suit in a court of competent jurisdiction under the provisions hereof the clerk of said court where such suit is pending, if the suit is brought in or removed to a county other than the county where the strike or picketing is alleged to have occurred or the county of the residence of the defendant or any one of the defendants and on the application of any party to said suit, shall issue a subpoena for any witness or witnesses who may be represented to reside within any county in the State of Texas or found therein at the time of trial; and the provisions with respect to the issuance of subpoenas, penalties for failure of witnesses to appear, and the tendering of mileage and traveling expenses as provided in Article 7439a of Vernon's Revised Civil Statutes of Texas, 1925, shall apply.

Subd. 17a amended by Acts 1969, 61st Leg., p. 2606, ch. 864, § 1, eff. Sept. 1, 1969.

* * * * *

CHAPTER SIX—CERTAIN DISTRICT COURTS

Art. 2093f. Assignment, docketing and transfer of cases in Dallas County district courts [New].

Art. 2093f. Assignment, docketing and transfer of cases in Dallas County district courts

The district judges of Dallas County shall have authority to adopt by majority vote, rules governing the assignment, docketing, and transfer of all cases in the district courts of Dallas County, including criminal district courts, and in the juvenile and domestic relations courts, subject to jurisdictional limitations. The presiding judge of the district courts of Dallas County, acting in accordance with the Rules, shall have authority to assign and transfer cases and to direct the manner in which they are docketed. The district clerk of Dallas County shall assign, docket, and transfer cases as the presiding judge shall direct.

Acts 1969, 61st Leg., p. 2128, ch. 732, § 1, emerg. eff. June 12, 1969.

Title of Act:

An Act relating to the assignment, docketing, and transfer of cases in the district, criminal district, juvenile, and domestic relations courts in Dallas County; and declaring an emergency. Acts 1969, 61st Leg., p. 2128, ch. 732.

CHAPTER SEVEN—THE JURY

1. JURIES IN CERTAIN COUNTIES

Art. 2100a. Selection in counties having seven or more district courts [New].

1. JURIES IN CERTAIN COUNTIES

Art. 2094. Selecting names for jury wheel

* * * * *

(o) The provisions of Subsection (a) of this Article also apply to a county having a population of at least 23,900 but not more than 24,000. Subsec. (o) added by Acts 1969, 61st Leg., p. 705, ch. 244, § 1, eff. Sept. 1, 1969.

Addition of subsection (o) by Acts 1969, 61st Leg., p. 1593, ch. 487, see subsection (o) post.

(o) The provisions of Subsection (a) of this Article also apply to a county having a population of not less than 19,700 but not more than 19,800.

Subsec. (o) added by Acts 1969, 61st Leg., p. 1593, ch. 487, § 1, eff. June 11, 1969.

Addition of subsection (o) by Acts 1969, 61st Leg., p. 705, ch. 244, see subsection (o) ante.

(p) The provisions of Subsection (a) of this Article also apply to a county having a population of at least 8,450 but not more than 8,550.

Subsec. (p) added by Acts 1969, 61st Leg., p. 705, ch. 244, § 1, eff. Sept. 1, 1969.

(q) The provisions of Subsection (a) of this Article also apply to a county having a population of at least 10,800 but not more than 10,900.

Subsec. (q) added by Acts 1969, 61st Leg., p. 705, ch. 244, § 1, eff. Sept. 1, 1969.

For Annotations and Historical Notes, see V.A.T.S.

(r) The provisions of Subsection (a) of this Article also apply to a county having a population of at least 11,800 but not more than 11,900. Subsec. (r) added by Acts 1969, 61st Leg., p. 705, ch. 244, § 1, eff. Sept. 1, 1969.

(s) The provisions of Subsection (a) of this Article also apply to a county having a population of at least 24,700 but not more than 24,800. Subsec. (s) added by Acts 1969, 61st Leg., p. 705, ch. 244, § 1, eff. Sept. 1, 1969.

(t) The provisions of Subsection (a) of this Article also apply to a county having a population of at least 20,700 but not more than 21,400. Subsec. (t) added by Acts 1969, 61st Leg., p. 705, ch. 244, § 1, eff. Sept. 1, 1969.

(u) The provisions of Subsection (a) of this Article also apply to a county having a population of at least 12,400 but not more than 12,500. Subsec. (u) added by Acts 1969, 61st Leg., p. 705, ch. 244, § 1, eff. Sept. 1, 1969.

Art. 2100a. Selection in counties having seven or more district courts

Section 1. In lieu of any other method of procedure now provided by law, the commissioners court of any county with seven or more district courts including criminal district courts, upon recommendation of a majority of the judges of said courts, may, by order entered upon its minutes, adopt a plan for the selection of persons for jury service with the aid of mechanical or electronic means.

Sec. 2. Any such plan so adopted shall conform to the following requirements:

(a) It shall be proposed in writing to the commissioners court by a majority of the judges of the district courts in such county, including criminal district courts, at a meeting of the district judges called for that purpose.

(b) It shall specify the sources from which names shall be taken, but such sources shall include voter registration lists from all precincts in the county.

(c) It shall provide a fair, impartial, and objective method of selecting persons for jury service with the aid of mechanical or electronic equipment.

(d) It shall designate the clerk of the district courts as the official to be in charge of the selection process and shall define his duties.

(e) It shall specify that a true and complete written list showing the names and addresses of the persons summoned to begin jury service on a particular date shall be filed of record with the county clerk at least 10 days prior to the date such persons are to begin such jury service.

Sec. 3. In any county where such a plan is adopted, as above provided, the laws relating to the selection of petit juries by jury wheel or jury commissioners shall not apply.

Acts 1969, 61st Leg., p. 1666, ch. 529, emerg. eff. June 10, 1969.

Title of Act:

An Act relating to selection of persons for jury service in counties with seven or more district courts; and declaring an emergency. Acts 1969, 61st Leg., p. 1666, ch. 529.

4. THE JURY IN COURT

Art. 2133. [5114-15-16] Qualifications

All persons both male and female over twenty-one (21) years of age are competent jurors, unless disqualified under some provision of this chapter. No person shall be qualified to serve as a juror who does not possess the following qualifications:

1. He must be a citizen of the state and of the county in which he is to serve, and qualified under the Constitution and laws to vote in said

county; provided, that his failure to register to vote as required by law shall not be held to disqualify him for jury service in any instance.

2. He must be of sound mind and good moral character.

3. He must be able to read and write, except as otherwise provided herein.

4. He must not have served as a juror for six (6) days during the preceding six (6) months in the District Court, or during the preceding three (3) months in the County Court.

5. He must not have been convicted of felony.

6. He must not be under indictment or other legal accusation of theft or of any felony.

Whenever it shall be made to appear to the court that the requisite number of jurors able to read and write cannot be found within the county, the court may dispense with the exception provided for in the third subdivision; and the court may in like manner dispense with the exception provided for in the fourth subdivision, when the county is so sparsely populated as to make its enforcement seriously inconvenient.

Where the word 'he' is used in this Section it shall be used in the generic term so as to include both male and female persons.

Amended by Acts 1969, 61st Leg., p. 1364, ch. 412, § 1, eff. Sept. 1, 1969.

CHAPTER THIRTEEN—GENERAL PROVISIONS

1. MISCELLANEOUS

Art.	Art.
2292j. Bailiffs in the 22nd, 70th and 161st district courts [New].	2326j—68. Compensation of reporter for 36th Judicial District [New].
3. OFFICIAL COURT REPORTER	2326j—69. Compensation of reporter for 66th Judicial District [New].
2326j—14. Compensation of reporter in 115th judicial district [New].	2326j—70. Compensation of reporter for 1st Judicial District [New].
2326j—15a. Compensation of reporter for 83rd Judicial District [New].	2326j—71. Compensation of reporters for 25th second 25th Judicial District [New].
2326j—16a. Compensation of reporter for 143rd Judicial District [New].	2326j—72. Compensation of reporters for 103rd, 107th and 138th Judicial Districts [New].
2326j—25a. Compensation of reporters for 92nd, 93rd and 139th Judicial District [New].	2326j—73. Compensation of reporter for 4th Judicial District [New].
2326j—29. Appointment and compensation of reporter for 31st Judicial District [New].	2326j—74. Compensation of reporters for 5th, 71st, 76th and 102nd Judicial Districts [New].
2326j—63. Compensation of reporter for 3rd and 87th Judicial Districts [New].	2326j—75. Compensation of reporter for 26th Judicial District [New].
2326j—64. Compensation of reporter for 155th Judicial District [New].	2326j—76. Compensation of reporters for 30th, 50th, 78th, 89th, 97th, 100th and 110th Judicial Districts [New].
2326j—65. Compensation of reporter for 6th Judicial District [New].	2326o. Shorthand reporters in counties of 1,200,000 or more; appointment; compensation [New].
2326j—66. Compensation of reporter for 62nd Judicial District [New].	
2326j—67. Compensation of reporter for 132nd Judicial District [New].	

1. MISCELLANEOUS

Art. 2292j. Bailiffs in the 22nd, 70th and 161st district courts

Bailiff appointed by judge

Section 1. The judges of the 22nd, 70th and 161st District Courts shall each appoint a person to serve his court as bailiff.

Evidence of appointment

Sec. 2. An order signed by the appointing judge entered upon the minutes of the court, shall be evidence of appointment of a bailiff.

Oath

Sec. 3. The following oath shall be administered each bailiff appointed under this Act: "You solemnly swear that you will faithfully and impartially perform all such duties as may be required of you by Law, so help you God."

Qualifications

Sec. 4. To be eligible for appointment to the office of bailiff, a person must be a resident of the county in which he serves the court and must be at least 21 years old.

Term of office

Sec. 5. A bailiff holds office at the will of the judge of the court served by the bailiff.

Duties; may be deputized

Sec. 6. (a) A person appointed bailiff is an officer of the court. He shall perform in the county of his appointment all duties imposed upon bailiffs under the general laws of Texas, and shall perform other duties required by the judge of the court which he serves.

(b) The sheriff of a county shall, upon request of the judge, deputize a person who is bailiff of any district court or criminal district court in the sheriff's county, in addition to other deputies authorized by law.

Compensation

Sec. 7. A bailiff shall be paid out of the General Fund of the county in which he serves the court a salary in an amount set by the judge, not more than that paid the chief deputy sheriff of the county.
 Acts 1969, 61st Leg., p. 2694, ch. 880, eff. Sept. 1, 1969.

Title of Act:

An Act relating to the appointment and compensation of bailiffs for certain District Courts; and declaring an emergency. Acts 1969, 61st Leg., p. 2694, ch. 880.

2. RECEIVERS

Art. 2320c. Contingent interests; receiver to make mineral, oil or gas lease; pooling

* * * * *

Sec. 2. Where lands or any estate therein, including any contingent future interests described in Section 1 of this Act, are subject to an existing oil, gas and mineral lease which fails to provide for pooling or contains pooling provisions which are ineffective as to the contingent future interests covered by the lease, and it is made to appear that pooling of the contingent future interests is necessary to protect correlative rights, or to prevent the physical or economic waste of oil, gas and other minerals, or any of them, or that pooling of the contingent future interests will inure to the benefit and advantage of the persons entitled thereto, or that pooling is otherwise necessary for the conservation, preservation or protection of the property or estate or of any present or contingent or future interest therein, upon application of any person having a vested, contingent or possible interest in the lands subject to the lease, including the lessee therein and any assignee of the lessee, any district court of the county in which the lands or part thereof lie shall have power, pending the happening of the contingency and the vesting of the future interests, to appoint a receiver for the contingent interests covered by the lease and to authorize and direct the

amendments of the lease to authorize pooling of the contingent future interests, upon the terms and conditions and for additional consideration, if any, as the court may direct; and in such case to authorize a receiver to make such an amendment to the lease and to receive, hold and invest the additional consideration therefor, if any, under the direction of the court for the benefit of the persons entitled or who may become entitled thereto according to their respective rights and interests, and to that end may confer all necessary powers on the receiver.

Sec. 2, amended by Acts 1969, 61st Leg., p. 2543, ch. 847, § 1, emerg. eff. June 18, 1969.

Sec. 2A. Any lease given pursuant to Section 1 of this Act or any amendment of an existing lease made pursuant to Section 2 of this Act may authorize the lessee and his assigns to pool all or any part of the lands subject to the lease with adjacent lands into a unit not to exceed 160 acres for an oil well or 640 acres for a gas well plus 10% tolerance. Provided that should any governmental authority having jurisdiction prescribe or permit larger units, than the units may conform substantially in size with those prescribed or permitted by government regulations.

Sec. 2A added by Acts 1969, 61st Leg., p. 2343, ch. 847, § 2, emerg. eff. June 18, 1969.

Sec. 2B. In any cause commenced pursuant to Section 1 or Section 2 of this Act, all persons in being having a vested, contingent or possible interest in the lands shall be cited in the cause in the manner and for the time provided for in actions concerning title to lands. All persons not in being shall be cited in the manner and for the time provided in actions against unknown owners or claimants of interest in land. Provided in any cause commenced pursuant to Section 2 of this Act, a person shall not be a necessary party in the cause if at the commencement thereof the person's interest in the land is then effectively subject to pooling authority expressed in an existing oil, gas and mineral lease and if enlargement of the pooling authority as to the interest is not sought in the cause.

Sec. 2B added by Acts 1969, 61st Leg., p. 2343, ch. 847, § 2, emerg. eff. June 18, 1969.

Sec. 2C. In any cause commenced pursuant to this Act, the court may authorize and direct that the moneys, if any, paid to the receiver, after payment of the court costs, shall be by him deposited in the registry of the court for the use and benefit of the persons entitled or who may become entitled thereto according to their respective rights and interests, and thereupon the court may immediately discharge the receiver, and any future payments accruing under the lease to the contingent future interests leased or subjected to pooling in the cause shall be paid directly into the registry of the court and impounded for the benefit of the persons entitled or who may become entitled thereto according to their respective rights and interests.

Sec. 2C added by Acts 1969, 61st Leg., p. 2343, ch. 847, § 2, emerg. eff. June 18, 1969.

* * * * *

3. OFFICIAL COURT REPORTER

Art. 2326j—6. Compensation of reporters in Jefferson County

Section 1. The official shorthand reporters for the Judicial District Courts, Civil or Criminal, and the official shorthand reporter for the County Court of Jefferson County at Law and for the Court of Domestic Relations for Jefferson County, Texas, shall each receive a salary of not more than Twelve Thousand Dollars (\$12,000) per annum, in addition to

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compensation for transcripts, statements of facts, and other fees; said salary shall be fixed, determined and allowed by the judges of such Judicial District Courts, Civil or Criminal, and the Judge of the County Court of Jefferson County at Law, and the Judge of the Court of Domestic Relations for Jefferson County, Texas, in which such court reporter serves and shall be evidenced by an order entered in the minutes of each such court, which salary so fixed, determined and allowed shall continue in effect from year to year unless and until changed by order of the judge of the court in which such court reporter serves.

Sec. 1 amended by Acts 1969, 61st Leg., p. 266, ch. 105, § 1, emerg. eff. April 28, 1969.

* * * * *

Art. 2326j—14. Compensation of reporter in 115th judicial district

The official shorthand reporter of the 115th Judicial District of Texas shall receive a salary of not less than \$6,600 per annum nor more than \$9,600 per annum, in addition to the compensation for transcription fees as provided by law. Such salary shall be paid monthly upon approval of the judge of the 115th District Court, and shall be paid by the commissioners court of each of the counties comprising the 115th Judicial District. Such salary shall be payable out of the general fund, officers salary fund, the jury fund, or any fund available for that purpose.

Acts 1969, 61st Leg., p. 1663, ch. 526, § 1, eff. Sept. 1, 1969.

Title of Act:

An Act providing for the compensation of the official shorthand reporter of the 115th

Judicial District of Texas; and declaring an emergency. Acts 1969, 61st Leg., p. 1663, ch. 526.

Art. 2326j—15. Compensation of reporters for 109th and 83rd judicial districts

The provision for compensation of the reporter for the 83rd judicial district was severed from this article and incorporated into art. 2326j—15a by Acts 1969, 61st Leg., p. 2137, ch. 741.

Art. 2326j—15a. Compensation of reporter for 83rd Judicial District

Section 1. From and after the passage of this Act the official shorthand reporter for the 83rd Judicial District of Texas, composed of the counties of Brewster, Jeff Davis, Pecos, Presidio, Reagan, and Upton, shall receive a salary of not less than \$8,500 per annum, nor more than \$11,500 per annum, which shall be determined, fixed, and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each commissioners court of the district, the salary so determined, fixed, and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowance to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 83rd Judicial District shall have been determined, fixed, and set by the judge of said district, in the manner and within the amount limits as in this Act

provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

Acts 1969, 61st Leg., p. 2137, ch. 741, eff. Sept. 1, 1969.

Title of Act:

An Act relating to and fixing minimum and maximum salary of the official shorthand reporter for the 83rd Judicial District of Texas; providing a saving clause; and declaring an emergency. Acts 1969, 61st Leg., p. 2137, ch. 741.

Art. 2326j—16. Compensation of reporters for 142nd and 143rd judicial districts

The provision for compensation of the reporter for the 143rd judicial district was severed from this article and incorporated into art. 2326j—16a by Acts 1969, 61st Leg., p. 1874, ch. 628.

Art. 2326j—16a. Compensation of reporter for 143rd Judicial District

Section 1. From and after the passage of this Act the official shorthand reporter for the 143rd Judicial District of Texas, composed of the Counties of Loving, Reeves and Ward, shall receive a salary of not less than \$8,500 per annum, nor more than \$11,500 per annum, which shall be determined, fixed and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each commissioners court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowance to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 143rd Judicial District shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

Acts 1969, 61st Leg., p. 1874, ch. 628, emerg. eff. June 11, 1969.

Title of Act:

An Act relating to and fixing minimum and maximum salary of the official shorthand reporter for the 143rd Judicial District of Texas; and declaring an emergency. Acts 1969, 61st Leg., p. 1874, ch. 628.

Art. 2326j—17. Compensation of reporter of 18th Judicial District

Section 1. The official shorthand reporter for the 18th Judicial District of Texas, composed of the Counties of Johnson and Somervell, shall receive a salary of not less than Six Thousand, Six Hundred Dollars (\$6,600) per annum, nor more than Ten Thousand, Five Hundred Dollars (\$10,500) per annum, which shall be determined, fixed and set by the Judge of said District; and from and after the time that said Judge shall have entered an order in the minutes of the Court, in each County of said District, which shall be a public record and open for inspection; and shall have filed a copy of said order with each Commissioners Court of the District, the salary so determined, fixed and set, shall be paid monthly, by and in the proportion for each County of the District as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 1 amended by Acts 1969, 61st Leg., p. 71, ch. 29, § 1, emerg. eff. March 26, 1969.

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For Annotations and Historical Notes, see V.A.T.S.

Art. 2326j—22. Compensation of reporters for 34th, 41st, 65th, 120th and 171st Judicial Districts

Section 1. From and after the passage of this Act the official shorthand reporter for the 34th Judicial District of Texas composed of the counties of El Paso, Hudspeth, and Culberson, and the 41st Judicial District of Texas composed of the County of El Paso, and the 65th Judicial District of Texas composed of the County of El Paso, and the 120th Judicial District of Texas composed of the County of El Paso, and the 171st Judicial District of Texas, composed of the County of El Paso, shall receive a salary of not less than Eight Thousand, Five Hundred Dollars (\$8,500) per annum, nor more than Ten Thousand, Five Hundred Dollars (\$10,500) per annum, which shall be determined, fixed and set by the judge of each respective court and at the pleasure of that judge; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each commissioners court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. The official court reporters herein named shall, in addition to their other duties, perform such additional duties as may be assigned to the respective court reporters by the judge of the respective district court; and the judge of each said district herein named may assign the official court reporter of his said district to any other court herein named or into the County Courts at Law of El Paso County, Texas, whenever he deems it proper and expedient.

Sec. 3. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, save and except as herein set forth and save and except that when the salary of the official shorthand reporter for the 34th Judicial District, the 41st Judicial District, the 65th Judicial District, the 120th Judicial District and the 171st Judicial District shall have been determined, fixed and set by the judge of said districts, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

Amended by Acts 1969, 61st Leg., p. 2299, ch. 776, § 3, eff. Sept. 1, 1969.

Cross References

Compensation of reporter for 43rd Judicial District, see art. 2326j—55.

Art. 2326j—23. Compensation of reporters in El Paso county

Section 1. From and after the passage of this Act the official shorthand reporters for each of the county courts at law, civil and criminal, in El Paso County, Texas, shall receive a salary of not less than Eight Thousand, Five Hundred Dollars (\$8,500) per annum, nor more than Ten Thousand, Five Hundred Dollars (\$10,500) per annum, which shall be determined, fixed and set by the judge of each respective court and at the pleasure of such judge; and from and after the time that said judge shall have entered an order in the minutes of the court, in said county, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with the commissioners court of the county, the salary so determined, fixed and set shall be paid monthly by and in the proportion for the county as provided by law out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. The official court reporters herein named shall, in addition to their other duties, perform such additional duties as may be assigned to the respective court reporter by the judge of the respective county at law; and the judge of each said county court at law herein named may assign the official court reporter of his said county court to any other court herein named or into the Judicial District Courts of El Paso County, Texas, whenever he deems it proper and expedient.

Amended by Acts 1969, 61st Leg., p. 2299, ch. 776, § 4, eff. Sept. 1, 1969.

Art. 2326j—25. Appointment and compensation of reporters for 92nd, 93rd, 139th and 111th Judicial Districts

The provision for compensation of the reporters for the 92nd, 93rd and 139th judicial districts was severed from this article and incorporated into art. 2326j—25a by Acts 1969, 61st Leg., p. 1182, ch. 378.

Art. 2326j—25a. Compensation of reporters for 92nd, 93rd and 139th Judicial Districts

Section 1. From and after the passage of this Act, the official shorthand reporters for the 92nd, 93rd, and 139th Judicial Districts of Texas shall each receive a salary not to exceed \$11,500 per annum, which salary shall be determined, fixed, and set by the presiding judge of each such judicial district; and such salary compensation shall be in addition to transcript fees or fees of any character now authorized by law to be paid to official shorthand reporters.

Sec. 2. From and after the passage of this Act, all provisions of law now existing, relating to the appointment of such official shorthand reporters, their qualifications and their duties in district courts shall in all respects govern, except that the salaries of such official shorthand reporters for the 92nd, 93rd, and 139th Judicial Districts of Texas shall be fixed and determined as provided in this Act.

Acts 1969, 61st Leg., p. 1182, ch. 378, eff. Sept. 1, 1969.

Title of Act:

An Act relating to and fixing the maximum salaries of the official shorthand reporters for the 92nd, 93rd, and 139th Judicial Districts of Texas; and declaring an emergency. Acts 1969, 61st Leg., p. 1182, ch. 378.

Art. 2326j—26. Compensation of reporters for 135th and 24th Judicial Districts

Section 1. The official shorthand reporter for the 135th Judicial District and the official shorthand reporter for the 24th Judicial District shall each receive a salary of not less than Six Thousand Six Hundred Dollars (\$6,600) per annum, nor more than Eleven Thousand Five Hundred Dollars (\$11,500) per annum. Subject to the limitations prescribed herein, the salary of the official shorthand reporter for the 135th Judicial District shall be determined, fixed, and set by the judge of the 135th Judicial District Court, and the salary of the official shorthand reporter for the 24th Judicial District shall be determined, fixed, and set by the judge of the 24th Judicial District Court. From and after the time that each of such judges shall have entered an order in the minutes of his court, in each county of the district, stating specifically the amount of salary to be paid to the official shorthand reporter of the district and shall have filed a copy of such order with each Commissioners Court of the district, the salary so determined, fixed, and set shall be paid monthly, by and in proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose; provided, however, that the Commissioners Court of each county shall have the discretion to determine whether or not said county shall contribute its proportion of any salary increase au-

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thorized by this Act. Such order of each district judge shall be a public record and open for inspection.

Sec. 1 amended by Acts 1969, 61st Leg., p. 2034, ch. 698, § 1, emerg. eff. June 12, 1969.

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Art. 2326j—29. Appointment and compensation of reporter for 31st Judicial District

Section 1. The judge of the 31st Judicial District of Texas, composed of the Counties of Gray, Wheeler, Hemphill, Lipscomb and Roberts, shall appoint an official shorthand reporter for such District in the manner now provided for District Courts in this state who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not less than Seventy-five Hundred Dollars (\$7,500.00) per annum, nor more than Ten Thousand, Five Hundred Dollars (\$10,500.00) per annum, said salary to be fixed and determined by the District Judge of the 31st Judicial District, composed of the Counties of Gray, Wheeler, Hemphill, Lipscomb and Roberts, and said salary shall be in addition to the transcript fees, fees for statements of fact, and all other fees as now provided by law. Said salary when so fixed and determined by the District Judge of said Judicial District shall be paid monthly, out of the General Fund, or the Jury Fund, or out of any fund available for the purpose as may be determined by the Commissioners Courts, by the respective counties of the Judicial District in accordance with the proportion fixed, made and determined by the District Judge of said Judicial District as to the amount to be paid monthly by each county in the Judicial District.

Sec. 2. If any section, sentence, clause, phrase or part of this Act be held for any reason to be invalid, such invalidity shall not affect the remainder of this Act.

Sec. 3. Said reporter shall, in addition, receive allowances for his actual and necessary traveling and hotel expenses while actually engaged in the discharge of his duties, not to exceed Eight Dollars (\$8.00) per day for hotel bills, and not to exceed ten cents (10¢) a mile when traveling by private conveyance in going to and returning from the place where such duties are discharged, traveling the nearest practical route. Such expenses shall be paid by the respective counties of the Judicial District for which they are incurred, each county paying the expense incidental to its own regular or special term of court, and said expenses shall be paid to the official shorthand reporter by the Commissioners Court of the county, out of the General Fund of the county upon the sworn statement of the reporter approved by the judge, provided there shall not be paid to any such official shorthand reporter more than Twelve Hundred Fifty Dollars (\$1,250.00) in any one year under the provisions of this Act.

Sec. 4. From and after the passage of this Act all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern except that the salary of the official shorthand reporter as provided for in this Act shall be fixed and determined by the District Judge of said Judicial District and not otherwise; and the transcript fees and allowances for traveling and hotel expenses shall be as provided for in this Act, and not otherwise.

Acts 1969, 61st Leg., p. 571, ch. 190, eff. Sept. 1, 1969.

Art. 2326j—33. Compensation of reporter for 9th Judicial District

Section 1. The official shorthand reporter of the 9th Judicial District of Texas, composed of the Counties of Polk, San Jacinto, Montgomery and Waller, shall receive a salary of not more than Twelve

Thousand Dollars (\$12,000) per annum, in addition to all other expenses and fees now or as hereafter may be provided by law to be paid to such reporter.

Sec. 1 amended by Acts 1969, 61st Leg., p. 1786, ch. 596, eff. Sept. 1, 1969.

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Cross References

District attorney of 9th Judicial District, powers and duties, see art. 331k, § 3.

Art. 2326j—34. Compensation of reporter for Second 9th Judicial District

Section 1. The official shorthand reporter of the Second 9th Judicial District of Texas, composed of the Counties of Montgomery, Polk, San Jacinto and Trinity, shall receive a salary of not more than Twelve Thousand Dollars (\$12,000) per annum, in addition to all other expenses and fees now or as hereafter may be provided by law to be paid to such reporter.

Sec. 1 amended by Acts 1969, 61st Leg., p. 1787, ch. 597, eff. Sept. 1, 1969.

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Art. 2326j—35. Appointment and compensation of reporter for 50th Judicial District

The provisions of this article for compensation of reporters were superseded by art. 2326j—76 as enacted by Acts 1969, 61st Leg., p. 1949, ch. 651.

Art. 2326j—38. Appointment and compensation of reporter for 39th Judicial District

Section 1. The Judge of the 39th Judicial District of Texas, composed of the counties of Haskell, Throckmorton, Stonewall, and Kent, or the judge of the judicial district of which the counties of Haskell, Throckmorton, Stonewall, and Kent are a part, shall appoint an official shorthand reporter for such district in the manner now provided for district courts in this state; who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not less than \$6,000 per annum, nor more than \$11,600 per annum, said salary to be fixed and determined by the District Judge of the 39th Judicial District, composed of the counties of Haskell, Throckmorton, Stonewall, and Kent, or by the district judge of the judicial district of which the counties of Haskell, Throckmorton, Stonewall, and Kent are a part, and said salary shall be in addition to transcript fees as now provided by law. Said salary when so fixed and determined by the district judge of said judicial district shall be paid monthly, out of the general fund, or the jury fund, or out of any fund available for the purpose as may be determined by the commissioners courts, by the respective counties of the judicial district in accordance with the proportion fixed, made and determined by the district judge of said judicial district as to the amount to be paid monthly by each county in the judicial district.

Sec. 2. Said reporter shall, in addition, receive allowances for his actual and necessary travel and hotel expenses while actually engaged in the discharge of his duties, not to exceed \$6 per day for hotel bills, and not to exceed four cents a mile when traveling by railway or bus lines, and not to exceed 10 cents a mile when traveling by private conveyance in going to and returning from the place where such duties are discharged, traveling the nearest practical route. Such expenses shall be paid after the completion of each term of court by the respective counties of the judicial district for which they are incurred, each county paying the expense inci-

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dental to its own regular or special term of court, and said expenses shall be paid to the official shorthand reporter by the commissioners court of the county, out of the general fund of the county upon the sworn statement of the reporter approved by the judge, provided there shall not be paid to any such official shorthand reporter more than \$1,000 in any one year under the provisions of this Act.

Sec. 3. From and after the passage of this Act all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern except that the salary of the official shorthand reporter as provided for in this Act shall be fixed and determined by the district judge of said judicial district and not otherwise; and the transcript fees and allowances for travel and hotel expenses shall be as provided for in this Act, and not otherwise.

Acts 1965, 59th Leg., p. 113, ch. 42, eff. Aug. 30, 1965; Acts 1969, 61st Leg., p. 167, ch. 65, eff. April 3, 1969.

Art. 2326j—40. Compensation of reporter for 97th Judicial District

The provisions of this article for compensation of reporters were superseded by art. 2326j—76 as enacted by Acts 1969, 61st Leg., p. 1949, ch. 651.

Art. 2326j—41. Compensation of reporters for 2nd and 145th Judicial Districts

Section 1. From and after the passage of this Act, the official shorthand reporters for the 2nd and 145th Judicial Districts of Texas shall each receive a salary of not less than \$4,800 per annum, nor more than \$9,600 per annum, which salary shall be determined, fixed and set by the presiding judge of each such judicial district; and such salary compensation shall be in addition to transcript fees or fees of any character now authorized by law to be paid to the official shorthand reporters. From and after the time that said judge shall have entered an order in the minutes of said court, in each county of the district, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with the commissioners court of each county within said district, the salary so determined, fixed and set shall be paid monthly out of the general fund or the jury fund or any fund available for that purpose, by the counties composing the judicial district in accordance with the proportion that the population of each county bears to the total population of the judicial district according to the last preceding federal census.

Sec. 2. From and after the passage of this Act, all provisions of law now existing, relating to the appointment of such official shorthand reporters, their qualifications and their duties in district courts shall in all respects govern, except that the salaries of such official shorthand reporters for the 2nd and 145th Judicial Districts of Texas shall be fixed and determined as provided in this Act.

Acts 1965, 59th Leg., p. 393, ch. 192, eff. Aug. 30, 1965; Acts 1969, 61st Leg., p. 78, ch. 36, emerg. eff. March 26, 1969.

Title of Act:

An Act providing for the compensation of the official shorthand reporters of the 2nd and 145th Judicial Districts of Texas; pro-

viding the manner of payment; and declaring an emergency. Acts 1965, 59th Leg., p. 393, ch. 192; Acts 1969, 61st Leg., p. 78, ch. 36.

Art. 2326j—48. Compensation of reporter for 16th Judicial District

Section 1. The Judge of the 16th Judicial District of Texas, composed of the counties of Cooke and Denton, shall appoint an official shorthand reporter for said judicial district in the manner now provided for appointment of official shorthand reporters in this state; who shall

have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not less than \$8,500 per annum, nor more than \$10,600 per annum, and the amount of such salary shall be determined, fixed, and the payment thereof authorized by the Judge of the 16th Judicial District, composed of the counties of Cooke and Denton, and said salary shall be in addition to transcript fees, and allowance for hotel and traveling expenses as now provided by general law. Said salary when so fixed and determined by the judge of said judicial district shall be paid monthly, out of the general fund, officers' salary fund, or out of any fund available for the purpose as may be determined by the commissioners courts of Cooke and Denton counties, in accordance with the proportion fixed, made, and determined by the judge of said judicial district as to the amount to be paid monthly by each county in said judicial district.

Sec. 2. If any section, sentence, clause, phrase, or part of this Act be held for any reason to be invalid, such invalidity shall not effect the remainder of this Act.

Sec. 3. From and after the passage of this Act all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expenses shall in all respects govern, save and except that the salary of the official shorthand reporter for the 16th Judicial District of Texas, as provided in this Act, shall be determined, fixed, and the payment thereof authorized by the judge of said judicial district, and not otherwise.

Acts 1965, 59th Leg., p. 799, ch. 384, eff. Aug. 30, 1965; Acts 1969, 61st Leg., p. 1624, ch. 504, emerg. eff. June 10, 1969.

Title of Act:

An Act providing for the appointment by the Judge of the 16th Judicial District of Texas, composed of the counties of Cooke and Denton, of an official shorthand reporter for said judicial district; providing his qualifications; providing that the salary of said official shorthand reporter shall be determined, fixed, and the payment there-

of authorized by the judge of said judicial district and not otherwise; providing for the manner of payment of said salary and out of what fund; providing a saving clause; providing for transcript fees and allowance for hotel and traveling expenses; and declaring an emergency. Acts 1965, 59th Leg., p. 799, ch. 384; Acts 1969, 61st Leg., p. 1624, ch. 504.

Art. 2326j—49. Compensation of reporters for 30th, 78th and 89th Judicial Districts

The provisions of this article for compensation of reporters were superseded by art. 2326j—76 as enacted by Acts 1969, 61st Leg., p. 1949, ch. 651.

Art. 2326j—63. Compensation of reporter for 3rd and 87th Judicial Districts

Section 1. From and after the passage of this Act, the official shorthand reporters for the 3rd and 87th Judicial Districts of Texas shall each receive a salary of not less than \$4,800 per annum, nor more than \$9,600 per annum, which salary shall be determined, fixed and set by the presiding judge of each such judicial district; and such salary compensation shall be in addition to transcript fees or fees of any character now authorized by law to be paid to the official shorthand reporters. From and after the time that said Judge shall have entered an order in the minutes of said court, in each county of the district, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with the commissioners court of each county within said district, the salary so determined, fixed and set shall be paid monthly out of the general fund or the jury fund or any fund available for that purpose, by the counties composing the judicial district in accordance with the

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proportion that the population of each county bears to the total population of the judicial district according to the last preceding federal census.

Sec. 2. From and after the passage of this Act, all provisions of law now existing, relating to the appointment of such official shorthand reporters, their qualifications and their duties in district courts shall in all respects govern, except that the salaries of such official shorthand reporters for the 3rd and 87th Judicial Districts of Texas shall be fixed and determined as provided in this Act.

Acts 1969, 61st Leg., p. 73, ch. 31, emerg. eff. March 26, 1969.

Title of Act:

An Act relating to the compensation of the official shorthand reporters for the 3rd and 87th Judicial Districts of Texas; and declaring an emergency. Acts 1969, 61st Leg., p. 73, ch. 31.

Art. 2326j—64. Compensation of reporter for 155th Judicial District

Section 1. The official shorthand reporter for the 155th Judicial District of Texas, composed of Waller, Fayette, and Austin counties, shall receive a salary of not less than \$6,600 per annum, nor more than \$8,000 per annum, which shall be determined, fixed, and set by the judge of the district; and from and after the time that the judge shall have entered an order in the minutes of the court, in each county of the district, which shall be a public record and open for inspection, stating specifically the amount of salary to be paid said reporter, and shall have filed a copy of the order with each commissioners court in the district, the salary so determined, fixed and set, shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose.

Sec. 2. All provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, save and except that when the salary of the official shorthand reporter for the 155th Judicial District shall have been determined, fixed, and set by the judge of the district, in the manner and within the amount limits, as in this Act provided, the salary shall be paid to the official shorthand reporter as in this Act provided, and not otherwise.

Acts 1969, 61st Leg., p. 75, ch. 33, emerg. eff. March 26, 1969.

Title of Act:

An Act relating to and fixing the minimum and maximum salary of the official shorthand reporter for the 155th Judicial District of Texas; providing for severability; and declaring an emergency. Acts 1969, 61st Leg., p. 75, ch. 33, §§ 1, 2, emerg. eff. March 26, 1969.

Art. 2326j—65. Compensation of reporter for 6th Judicial District

The official shorthand reporter of the 6th Judicial District of Texas shall receive a salary of not less than \$6,600 nor more than \$9,000 per annum, said salary to be fixed, determined, and set by the judge of such district court and shall be in addition to transcript fees, fees for statements of facts, and all other fees. From and after the time that said judge shall have entered an order in the minutes of said court, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with the commissioners court of each county within said district, the salary so determined, fixed, and set shall be paid monthly out of the general fund or the jury fund or any fund available for that purpose, by the counties composing the judicial district in accordance with the proportion that the population of each county bears to the total population of the judicial district according to the last preceding federal census.

Acts 1969, 61st Leg., p. 76, ch. 34, § 1, eff. Sept. 1, 1969.

Title of Act:

An Act prescribing the minimum and maximum salary to be paid to the official court reporter for the 6th Judicial District of Texas; prescribing the method of fixing and paying such salary; and declaring an emergency. Acts 1969, 61st Leg., p. 76, ch. 34.

Art. 2326j—66. Compensation of reporter for 62nd Judicial District

The official shorthand reporter of the 62nd Judicial District of Texas shall receive a salary of not less than \$6,600 nor more than \$9,000 per annum, said salary to be fixed, determined and set by the judge of such district court and shall be in addition to transcript fees, fees for statements of facts, and all other fees. From and after the time that said judge shall have entered an order in the minutes of said court, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with the commissioners court of each county within said district, the salary so determined, fixed, and set shall be paid monthly out of the general fund or the jury fund or any fund available for that purpose, by the counties composing the judicial district in accordance with the proportion that the population of each county bears to the total population of the judicial district according to the last preceding federal census.

Acts 1969, 61st Leg., p. 77, ch. 35, § 1, eff. Sept. 1, 1969.

Title of Act:

An Act prescribing the minimum and maximum salary to be paid to the official court reporter for the 62nd Judicial District; prescribing the method of fixing and paying such salary; and declaring an emergency. Acts 1969, 61st Leg., p. 77, ch. 35.

Art. 2326j—67. Compensation of reporter for 132nd Judicial District

Section 1. From and after the passage of this Act the official shorthand reporter for the 132nd Judicial District of Texas shall receive a salary of not more than \$9,600 per annum, which shall be determined, fixed and set by the judge of said district, and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each commissioners court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 132nd Judicial District shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

Acts 1969, 61st Leg., p. 132, ch. 44, emerg. eff. April 1, 1969.

Title of Act:

An Act relating to the salary of the official shorthand reporter of the 132nd Judicial District of Texas; and declaring an emergency. Acts 1969, 61st Leg., p. 132, ch. 44.

Art. 2326j—68. Compensation of reporter for 36th Judicial District

Section 1. From and after the passage of this Act, the official shorthand reporter for the 36th Judicial District of Texas, composed of the counties of Aransas, Bee, Live Oak, McMullen, and San Patricio, shall receive a salary of not less than \$6,600 per annum, nor more than \$8,600 per annum, which shall be determined, fixed, and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a

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copy of said order with each commissioners court of the district, the salary so determined, fixed, and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 36th Judicial District shall have been determined, fixed, and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

Acts 1969, 61st Leg., p. 149, ch. 52, emerg. eff. April 3, 1969.

Title of Act:

An Act relating to and fixing minimum and maximum salary of the official shorthand reporter for the 36th Judicial District of Texas; and declaring an emergency. Acts 1969, 61st Leg., p. 149, ch. 52.

Art. 2326j—69. Compensation of reporter for 66th Judicial District

Section 1. The official shorthand reporter for the 66th Judicial District of Texas shall receive a salary of not less than \$6,600 nor more than \$9,000 per annum, said salary to be fixed, determined and set by the judge of the 66th Judicial District Court and shall be in addition to transcript fees, fees for statements of facts, and all other fees. From and after the time that said judge shall have entered an order in the minutes of said court, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with the Commissioners Court of Hill County, Texas, the salary so determined, fixed, and set shall be paid monthly out of the general fund or the jury fund or any fund available for the purpose, by the county composing the 66th Judicial District.

Sec. 2. In addition to the duties required in the district court, the reporter shall also, when available and required, report cases tried in the County Court of Hill County, Texas.

Sec. 3. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, except that when the salary of the official shorthand reporter for the 66th Judicial District shall have been determined in the manner and within the limits prescribed by this Act, said salary shall be paid to said official shorthand reporter as provided in this Act, and not otherwise.

Acts 1969, 61st Leg., p. 160, ch. 59, emerg. eff. April 3, 1969.

Title of Act:

An Act prescribing the minimum and maximum salary to be paid to the official shorthand reporter for the 66th Judicial District of Texas; prescribing the method of fixing and paying such salary; providing for additional duties by the reporter; and declaring an emergency. Acts 1969, 61st Leg., p. 160, ch. 59.

Art. 2326j—70. Compensation of reporter for 1st Judicial District

Section 1. From and after the passage of this Act, the official shorthand reporter for the First Judicial District of Texas, composed of the counties of Jasper, Newton, Sabine, and San Augustine, shall receive a salary of not less than \$6,000, nor more than \$9,000 per annum, which salary shall be determined, fixed, and set by the judge of the district court of said district; and from and after the time said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating

specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each commissioners court of the district, the salary so determined, fixed, and set shall be paid monthly, by and in proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose.

Sec. 2. All provisions of the law relating to the appointment, qualifications, and duties of the official shorthand reporters in this state, and the allowances to them of transcript fees and hotel and traveling expenses, shall govern.

Acts 1969, 61st Leg., p. 264, ch. 103, eff. Sept. 1, 1969.

Title of Act:

An Act relating to compensation of the official shorthand reporter for the First Judicial District; and declaring an emergency. Acts 1969, 61st Leg., p. 264, ch. 103.

Library references

Courts ~~57~~(2).
C.J.S. Courts Stenographers § 12.

Art. 2326j—71. Compensation of reporters for 25th and Second 25th Judicial Districts

The official shorthand reporters for the 25th and the Second 25th Judicial Districts of Texas shall each receive a salary determined, fixed, and set by the presiding judge of each judicial district, but not to exceed \$7,800 per annum. The portion to be paid by each county shall be determined on a population basis by the judge appointing the shorthand reporter. The salary shall be in addition to transcript fees or fees of any character now authorized by law to be paid to official shorthand reporters. Acts 1969, 61st Leg., p. 710, ch. 250, § 1, emerg. eff. May 21, 1969.

Title of Act:

An Act relating to and fixing the maximum salaries of the official shorthand reporters for the 25th and the Second 25th

Judicial Districts of Texas; and declaring an emergency. Acts 1969, 61st Leg., p. 710, ch. 250.

Art. 2326j—72. Compensation of reporters for 103rd, 107th and 138th Judicial Districts

Section 1. From and after the passage of this Act, the Official Shorthand Reporters of the 103rd, 107th, and 138th Judicial Districts of Texas are authorized to receive a salary of not more than \$11,500 per annum, such salary compensation being in addition to transcript fees or fees of any character now authorized by law to be paid to official shorthand reporters, the specific amount of such salary to be fixed by each of the district judges of the respective judicial districts.

Sec. 2. The salaries of said official shorthand reporters shall be paid in equal monthly installments by the counties composing such judicial districts in accordance with the proportion that the population of each county bears to the total population of the judicial districts as shown by the last preceding federal census. Such salaries may be paid out of the general fund, the jury fund or any other fund lawfully available for such purpose in the respective counties in said judicial districts.

Sec. 3. From and after the passage of this Act, all provisions of law now existing, relating to the appointment of such official shorthand reporters, their qualifications and their duties in district courts shall in all respects govern, except that the salaries of such Official Shorthand Reporters for the 103rd, 107th, and 138th Judicial Districts of Texas shall be fixed and determined as provided in this Act.

Acts 1969, 61st Leg., p. 1183, ch. 379, eff. Sept. 1, 1969.

Title of Act:

An Act relating to and fixing the maximum salaries of the Official Shorthand Reporters for the 103rd, 107th, and 138th Ju-

dicial Districts of Texas; and declaring an emergency. Acts 1969, 61st Leg., p. 1183, ch. 379.

For Annotations and Historical Notes, see V.A.T.S.

Art. 2326j—73. Compensation of reporter for 4th Judicial District

Section 1. The official shorthand reporter for the 4th Judicial District of Texas shall receive a salary of not less than \$4,800 nor more than \$8,000 per annum, said salary to be fixed, determined, and set by the Judge of the 4th District Court and shall be in addition to transcript fees, fees for statements of facts, and all other fees. From and after the time that said judge shall have entered an order in the minutes of said court, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with the Commissioners Court of Rusk County, the salary so determined, fixed and set shall be paid monthly out of the general fund or the jury fund or any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, except that when the salary of the official shorthand reporter for the 4th Judicial District shall have been determined in the manner and within the limits prescribed by this Act, said salary shall be paid to said official shorthand reporter as provided in this Act, and not otherwise.

Acts 1969, 61st Leg., p. 1748, ch. 581, emerg. eff. June 10, 1969.

Title of Act:

An Act prescribing the minimum and maximum salary to be paid to the official shorthand reporter for the 4th Judicial

District; prescribing the method of fixing and paying such salary; and declaring an emergency. Acts 1969, 61st Leg., p. 1748, ch. 581.

Art. 2326j—74. Compensation of reporters for 5th, 71st, 76th and 102nd Judicial Districts

From and after the passage of this Act, the official shorthand reporters for the 5th, 71st, 76th, and 102nd Judicial Districts of Texas shall each receive a salary of not less than \$6,600 nor more than \$9,600 a year, in addition to the compensation for transcription fees as provided by law. The salaries shall be paid monthly upon approval of the Judges of the 5th, 71st, 76th, and 102nd Judicial District Courts, and shall be paid by the commissioners court of each of the counties comprising the 5th, 71st, 76th, and 102nd District Courts of Texas. Such salaries shall be payable out of the general fund, officers' salary fund, the jury fund, or any fund available for that purpose.

Acts 1969, 61st Leg., p. 1861, ch. 622, § 1, emerg. eff. June 11, 1969.

Title of Act:

An Act relating to the compensation of the official shorthand reporters for the 5th,

71st, 76th, and 102nd Judicial Districts of Texas; and declaring an emergency. Acts 1969, 61st Leg., p. 1861, ch. 622.

Art. 2326j—75. Compensation of reporter for 26th Judicial District

Section 1. The Judge of the 26th Judicial District of Texas, composed of Williamson County, shall appoint an official shorthand reporter for the district in the manner provided for district courts.

Sec. 2. The reporter shall have the qualifications and duties provided by general law.

Sec. 3. The reporter is entitled to receive as compensation all transcript fees and an annual salary of not more than \$9,000.00, payable monthly, as authorized by the District Judge with the approval of the Commissioners Court.

Sec. 4. The Commissioners Court in the district shall determine whether to pay the reporter's salary from the general fund, the jury fund, or other fund available for the purpose.

Acts 1969, 61st Leg., p. 1932, ch. 644, eff. Sept. 1, 1969.

Title of Act:

An Act relating to the appointment, compensation and duties of a shorthand re-

porter for the 26th Judicial District of Texas; and declaring an emergency. Acts 1969, 61st Leg., p. 1932, ch. 644.

Art. 2326j—76. Compensation of reporters for 30th, 50th, 78th, 89th, 97th, 100th and 110th Judicial Districts

Section 1. From and after the passage of this Act the official shorthand reporters for the 30th, 50th, 78th, 89th, 97th, 100th, and 110th Judicial Districts of Texas shall each receive a salary of not less than \$6,600 and not more than \$12,000 per annum, which shall be determined, fixed, and set by the judge of the district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of the district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each commissioners court of the district, the salary so determined, fixed, and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and travel expenses, shall govern, save and except that when the salary of the official shorthand reporter for a district named in Section 1 shall have been determined, fixed, and set by the judge of the district, the salary shall be paid to the official shorthand reporter as in this Act provided, and not otherwise.

Acts 1969, 61st Leg., p. 1949, ch. 651, emerg. eff. June 12, 1969.

Title of Act:

An Act relating to the fixing minimum and maximum salaries of the official shorthand reporters for the 30th, 50th, 78th,

89th, 97th, 100th, and 110th Judicial Districts of Texas; and declaring an emergency. Acts 1969, 61st Leg., p. 1949, ch. 651.

Art. 2326o. Shorthand reporters in counties of 1,200,000 or more; appointment; compensation

Section 1. In all counties in the State of Texas having a population of 1,200,000 or more, according to the last preceding Federal Census, the judge of each district court, and the judge of each county court at law, civil or criminal, shall appoint an official shorthand reporter for such court. The compensation of such reporters shall be fixed by the judge of the court in which such reporter serves at not less than Eight Thousand Five Hundred Dollars (\$8,500.00) per annum and not more than Sixteen Thousand Five Hundred Dollars (\$16,500.00) per annum, in addition to compensation for transcripts, statement of facts and other fees. The appointment of each such court reporter and his annual salary as fixed by the judge of the court in which such court reporter serves, shall be evidenced by an order entered in the minutes of each such court, which appointment and the salary so fixed shall continue in effect from year to year unless and until changed by order of the judge of the court in which such court reporter serves.

Sec. 2. A certified copy of the order appointing such reporter and fixing his salary shall be transmitted to the commissioners courts of such counties, who shall annually make provision for the payment thereof, out of the general fund, the officers' salary fund, or out of such other fund as may be available for the purpose. The salaries of such reporters shall be paid in twelve (12) equal monthly installments, and shall be in addition to transcript fees, fees for statement of facts and other fees.

Sec. 3. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict; but nothing contained herein

For Annotations and Historical Notes, see V.A.T.S.

shall be construed to repeal articles 2326a, 2326h, 2327a—1, 2326c and 2326l—1, Vernon's Texas Civil Statutes. The last five mentioned articles shall remain in full force and effect.

Acts 1969, 61st Leg., p. 2119, ch. 723, emerg. eff. June 12, 1969.

Title of Act:

An Act relating to the appointment and compensation of official shorthand reporters of the district courts and county courts at law in all counties in this state having

a population of 1,200,000 or more, according to the last preceding Federal Census; and declaring an emergency. Acts 1969, 61st Leg., p. 2119, ch. 723.

5. ADVISORY JUDICIAL COUNCIL

Art. 2328a. Civil judicial council

Creation; purposes

Section 1. There is hereby created the Texas Civil Judicial Council for the continuous study of and report upon the organization, rules, procedure and practice of the civil judicial system of the State of Texas, the work accomplished and the results produced by that system and its various parts, and methods for its improvement; provided that the Council also may make such statistical and other investigations concerning the criminal judicial system of the State as hereinafter stipulated. Sec. 1 amended by Acts 1969, 61st Leg., p. 2425, ch. 812, § 1, eff. Sept. 1, 1969.

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Ex officio members

Sec. 3. The ex officio members of the Council shall consist of the following: (1) the Chief Justice of the Supreme Court of Texas, who shall remain a member as long as he holds the position of Chief Justice; (2) two Justices of the Courts of Civil Appeals, to be designated by the Governor for overlapping four-year terms, one to be designated in January, 1971, for a four-year term and one to be designated in January, 1973, for a four-year term with the replacement in each case to be designated by the Governor in January of odd-numbered years; (3) two presiding judges of the administrative judicial districts, to be designated by the Governor for four-year terms, one to be designated in January, 1971, for a four-year term and one to be designated in January, 1973, for a four-year term, with the replacement in each case to be designated by the Governor in January of odd-numbered years; (4) the Chairman and the immediate past Chairman of the Senate Jurisprudence Committee; and (5) the Chairman and the immediate past Chairman of the House Judiciary Committee. The Chief Justice of the Supreme Court may from time to time designate some other Justice of that Court to act in his stead, and at his pleasure, as member of the Council. The foregoing references to justices and judges, other than the Chief Justice of the Supreme Court, include respectively such retired justices and judges of the same grade as are legally eligible for assignment to part-time judicial duties. In the event the Chairman of the Senate Jurisprudence Committee or the Chairman of the House Judiciary Committee is reappointed to such position, his immediate predecessor shall continue to serve on the Council as immediate past Chairman, it being the intent of the Legislature that two members of the Senate and two members of the House be at all times members of the Council; provided, however, that in the case of legislative members, cessation of membership in the Legislature shall not terminate their membership on the Council, but they shall continue to serve for their full term notwithstanding their cessation of membership in the Legislature. In the event of a vacancy in a legislative membership, such vacancy shall be filled for the unexpired term only by the presiding officer of the appropriate house of the Legislature, and

vacancies in other official memberships shall be filled in the same manner as the original appointment and for the unexpired term only. Ex officio members of the Council shall be entitled to all the privileges of full membership thereon and shall be regarded and treated in every respect as full members thereon.

Sec. 3 amended by Acts 1969, 61st Leg., p. 2425, ch. 812, § 2, eff. Sept. 1, 1965.

Appointive members; tenure; quorum

Sec. 4. The appointive members of the Council shall consist of nine resident citizens of the State of Texas, seven of whom shall be members of the State Bar of Texas and two of whom shall be persons not licensed to practice law, including at least one who is by profession a journalist. The Governor of Texas shall select the appointive members of the Council for six-year overlapping terms, three to be appointed to serve until July 1, 1975, three to serve until July 1, 1977, and three to serve until July 1, 1979, and thereafter their successors shall be appointed for terms of six years; provided that appointive members of the Council holding office on the effective date of this Act shall continue in office for the balance of the term to which they were appointed, and their successors shall be selected in the manner and for the term herein provided. Vacancies in the appointive membership of the Council shall be filled by appointment of the Governor for the unexpired term only.

All members of the Council shall continue to serve until their successors have been appointed and qualified.

Five members of the Council shall constitute a quorum for the transaction of any business of the Council.

Sec. 4 amended by Acts 1969, 61st Leg., p. 2426, ch. 812, § 3, eff. Sept. 1, 1969.

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Powers of council

Sec. 6. The Council shall have power:

1. To hold public meetings or hearings, by and through committees of three or more of its members, require the production of books and documents, require reports from the several courts of this State, including courts not of record, as may be deemed necessary, to administer oaths and take testimony.

For the purposes of any hearing, any Council officer, in advance of such hearing, or any Council member or officer sitting at such hearing, may issue under his official signature and cause to be served by registered or certified mail or by any adult person upon any prospective witness, a subpoena or like appropriate order. Upon the failure of a witness to testify, or upon his failure to appear or to produce books and documents as so ordered, any district judge of the county of residence of such witness shall, on written motion by, or on behalf of, the Council or Committee conducting said hearing, compel said witness to testify or, as the case may be, to appear and testify, by the same means, including attachment and penalties, whereby said judge may compel the testimony and appearance of witnesses in the trial of a cause pending in his own court.

2. To elect from its membership a president and such other officers as it may deem advisable; provided the secretary need not be a member of the Council; and provided further that the president of the Council may appoint, for and during his term as president, such committees as he may deem necessary for the proper organization of the Council.

3. To make such rules and regulations as it may deem expedient for its government and that of its officers and committees; and to prescribe the duties of its officers and committees.

COURTS—DISTRICT AND COUNTY **Art. 2328a**

For Annotations and Historical Notes, see V.A.T.S.

4. To appoint committees from its membership, and charge such committees with such of its duties and delegate to such committees such of its powers as it may deem proper.

5. To require the supplying of statistical data and other information pertaining to the amount and character of the civil and criminal business transacted by the courts of this State and other information pertaining to their conduct and operation; and to prescribe procedures and forms for the supplying of such statistical data and other information.

It shall be an official duty of every justice, judge, clerk or other officer of every court of this State to comply with the reasonable requirements of the Council for the supplying of statistical data appertaining to the amount and character of the business transacted by his court and of such other information concerning said court or the office of the clerk thereof as may be within the scope of the functions of the Council. Failure to supply such data or information within a reasonable time after request therefor shall be presumptively deemed a willful refusal to supply the same.

Due performance of the duty to supply data and information as aforesaid shall be enforceable by writ of mandamus, the corresponding actions for which shall be brought, and the corresponding courts shall have jurisdiction of the same, as follows: if against a district clerk or a clerk, judge or other officer of a trial court other than a district court, in a district court of the county of residence of the respondent; if against a district judge or clerk of a court of civil appeals, in the Court of Civil Appeals for the Supreme Judicial District in which the respondent resides; in all other cases, in the Supreme Court of Texas. The Attorney General of Texas shall file and prosecute the foregoing actions on behalf of the Council upon its written request, which shall be presumptively taken as the action of the Council if signed by its president or by as many as five of its members; but no such action shall be filed if the attorney general shall in writing certify his opinion that the same is without merit.

Sec. 6 amended by Acts 1969, 61st Leg., p. 2426, ch. 812, § 4, eff. Sept. 1, 1969.

Compensation limited to traveling and necessary expenses

Sec. 7. No member of the Council shall receive any compensation for his services as such member, but shall be paid for actual traveling and other necessary expenses incurred in the discharge of his duties as such member, to be paid upon verified, itemized account approved by the President of the Council or by a Vice President thereof when so authorized in writing by the President. The necessary clerical expenses of the Council and its officers and committees shall be paid in like manner.
Sec. 7 amended by Acts 1969, 61st Leg., p. 2428, ch. 812, § 5, eff. Sept. 1, 1969.

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Sections 6 and 7 of the amendatory act of 1969 provided:

"Sec. 6. All laws and parts of laws in conflict herewith are hereby repealed to the extent of the conflict. Otherwise, this Act shall be cumulative of all other laws relating to the same subject matter.

"Sec. 7. If any section, subsection, sentence, phrase or word of this Act shall be held to be invalid, such invalidity shall not affect the remaining portions of this Act, and the Legislature hereby declares that it would have enacted such remaining portions despite such invalidity."

6. ENFORCEMENT OF SUPPORT

Art. 2328b—4. Uniform Reciprocal Enforcement of Support Act

PART I—GENERAL PROVISIONS

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Definitions

Sec. 2. In this Act, unless the context otherwise requires:

* * * * *

(o) "Prosecuting attorney" means the criminal district attorney or county attorney, or the district attorney where there is no criminal district attorney or county attorney.

Sec. 2(o) amended by Acts 1969, 61st Leg., p. 1698, ch. 553, § 1, emerg. eff. June 10, 1969.

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TITLE 43—COURTS—JUVENILE

<p>Art. 2338—2c. Juvenile Court for Hopkins County; judge [New].</p> <p>2338—9c. Juvenile Court No. 2 of Dallas County [New].</p> <p>2338—11b. Court of Domestic Relations No. 5 for Harris County [New].</p>	<p>Art. 2338—15c. Court of Domestic Relations No. 4 for Tarrant County [New].</p> <p>2338—18a. Juvenile Courts No. 2 and No. 3 for Harris County [New].</p>
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Art. 2330. [2184] “Dependent or neglected child”

The term “dependent child” or “neglected child” includes any child under 18 years of age who is dependent upon the public for support or who is destitute, homeless or abandoned; or who has not proper parental care or guardianship, or who habitually begs or receives alms, or who is found living in any house of ill fame or with any vicious or disreputable person, or whose home, by reason of neglect, cruelty or depravity on the part of its parents, guardian or other person in whose care it may be, is an unfit place for such child; or any such child whose parents or guardian permit it to use intoxicating liquor except for medicinal purposes or to become addicted to the use of such liquors, or permits it in or about any place where intoxicating liquors are sold.

Amended by Acts 1969, 61st Leg., p. 1593, ch. 488, § 1, emerg. eff. June 10, 1969.

Art. 2338—1. Delinquent children; juvenile court established in each county; jurisdiction

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Counsel

Sec. 7—B. (a) Whenever the court determines that the child alleged to be a delinquent child is not represented by counsel and (after giving the parents, guardian, or other person or persons responsible for the care and support of the child a reasonable opportunity to be heard) that the parents, guardian, or other person or persons responsible for the care and support of the child are financially able to employ counsel, the court shall order the parents, guardian, or other person responsible for the care and support of the child to employ counsel to defend the child. The court shall have full power to enforce said orders by contempt proceedings after ten (10) days notice to such parent, guardian, or other person or persons responsible for the care and support of the child.

(b) Whenever the court determines that the child alleged to be a delinquent child is not represented by counsel and that the child, parents, guardian, and other persons responsible for the care and support of the child are too poor to employ counsel, the court shall appoint one or more practicing attorneys to defend the child. In making the determination, the court may require the child, parents, guardian, and other persons responsible for the care and support of the child to file an affidavit, may call witnesses and hear any relevant testimony or other evidence.

(c) The counsel is entitled to ten (10) days to prepare for trial, but may waive the time by written notice, signed by the counsel and the child alleged to be a delinquent child.

(d) A counsel appointed to defend a child alleged to be a delinquent child shall be paid from the general fund of the county in which the prosecution was instituted according to the following schedule:

(1) for each day in trial court representing the child, a fee of not less than Twenty-five Dollars (\$25) nor more than Fifty Dollars (\$50);

(2) for expenses incurred for purposes of investigation and expert testimony, not more than Two Hundred and Fifty Dollars (\$250);

(3) for the prosecution to a final conclusion of a bona fide appeal to the Court of Civil Appeals or Court of Criminal Appeals, a fee of not less than One Hundred Dollars (\$100) nor more than Two Hundred and Fifty Dollars (\$250).

(e) The minimum fee will be automatically allowed unless the trial judge orders more within five (5) days of the judgment. An attorney may not receive more than one fee for each day in court, regardless of the number of cases in which he appears as appointed counsel on the same day. All payments made under the provisions of this Section may be included as costs of court.

Sec. 7-B added by Acts 1969, 61st Leg., p. 505, ch. 171, § 1, emerg. eff. May 9, 1969.

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Records

Sec. 15. Juvenile Court records shall not be inspected by persons other than probation officers or other officers of the Juvenile Court unless otherwise directed by the court but information on juvenile cases in the grade of felony shall be made available by the court to the agencies responsible for the implementation of the federal Omnibus Crime Control and Safe Streets Act of 1968, Pub.Law 90—351 (June 19, 1968).

Sec. 15 amended by Acts 1969, 61st Leg., p. 1598, ch. 492, § 1, emerg. eff. June 10, 1969.

Delinquent charged with felony; court records; open hearing

Sec. 15-A. If a child has been charged with the violation of a penal law of the grade of felony and if the child has previously been declared delinquent, officials concerned with the case shall release upon request information as to the name and address of the child and the alleged offense. Hearings on the case in the juvenile court shall be open to persons having a legitimate interest in the proceeding, including representatives of the news media; and juvenile court records shall be open to inspection by representatives of the news media.

Sec. 15-A added by Acts 1969, 61st Leg., p. 1598, ch. 492, § 2, emerg. eff. June 10, 1969.

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Transcription of reporter's notes

Sec. 21-A. The attorney (representing a child adjudged to be a delinquent child on appeal) desiring to have included in the record on appeal a transcription of notes of the reporter shall have the responsibility of obtaining such transcription and furnishing same to the clerk in duplicate in time for inclusion in the record and shall pay therefor. The court will order the reporter to make such transcription without charge to the attorney if the court finds, after hearing, that the child, parents, guardian, and other persons responsible for the care and support of the child are too poor to pay or give security therefor. Upon certificate of the court that this service has been rendered, payment thereof shall be made from the general funds by the county in which the offense is alleged to have been committed. The court reporter shall report any portion of the proceedings requested by either party or directed by the court.

Sec. 21-A added by Acts 1969, 61st Leg., p. 1963, ch. 663, § 1, emerg. eff. June 12, 1969.

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Historical Note

Acts 1967, 60th Leg., p. 1082, ch. 475, § 8, provided:
"Sec. 8. Severability. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provi-

sion or application, and to this end the provisions of this Act are declared to be severable."

Section 2 of Acts 1969, 61st Leg., p. 1963; ch. 663 provided: "If any provision of this Act or the application thereof to any person

or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Art. 2338—2c. Juvenile Court for Hopkins County; judge

Section 1. The judges of the district courts of Hopkins County and the county judge of such county shall designate one of such district courts having a resident judge as the Juvenile Court for Hopkins County and the court so designated shall exercise such jurisdiction in addition to the duties now imposed upon such court by law; provided, however, that in the event neither of the judges of the district courts of such county is a resident of Hopkins County, the County Court of Hopkins County may be designated as the Juvenile Court of such county.

Sec. 2. The judge of the court so designated shall exercise the duties of Judge of the Juvenile Court of Hopkins County in addition to the duties now imposed upon him by law as District Judge or County Judge of Hopkins County.

Sec. 3. The judge designated as Judge of the Juvenile Court of Hopkins County, in addition to the compensation received as district judge or county judge, shall be paid a salary of not less than \$2,400 nor more than \$3,600 for his services as Judge of the Juvenile Court of Hopkins County, said additional salary to be set by the Commissioners Court of Hopkins County, and the salary so set shall be paid out of the General Fund of Hopkins County, the Salary Fund, or any fund available for the purpose, by the county in equal monthly installments.

Acts 1969, 61st Leg., p. 1592, ch. 486, emerg. eff. June 10, 1969.

Title of Act:

An Act to provide that a resident district judge of Hopkins County shall be the county juvenile judge; providing, however, in event neither of the judges of the district courts is a resident of Hopkins County, the County Judge of Hopkins County may be designated as the County Juvenile Judge;

providing that one of the district courts, or the county court, of Hopkins County, if it be so designated, be the Juvenile Court of Hopkins County; providing for additional salary to be paid said judge for services as juvenile judge; repealing all laws in conflict; and declaring an emergency. Acts 1969, 61st Leg., p. 1592, ch. 486.

Art. 2338—9c. Juvenile Court No. 2 of Dallas County

Creation of Court

Section 1. There is hereby created a Juvenile Court in and for Dallas County, to be known as Juvenile Court No. 2 of Dallas County.

Qualifications of judge; salary

Sec. 2. The Judge of the Juvenile Court No. 2 of Dallas County hereby established, shall be an attorney licensed to practice law in this state. The judge of said court shall be paid a salary which shall be equal to the total salary paid to a District Judge of Dallas County. Said salary shall be paid out of the General Fund of Dallas County in twelve (12) equal monthly installments.

Appointment of judge; term of office; vacancies; disqualification; special judge

Sec. 3. The Judge of the Juvenile Court No. 2 of Dallas County hereby established, shall be appointed by the Governor by and with the advice and consent of the Senate immediately upon the taking effect of this Act; said judge so appointed shall be a suitable person to be judge of said court and shall hold office until the next General Election and until his successor shall be duly elected and qualified. Thereafter, the term of office of the Judge of the Juvenile Court No. 2 of Dallas County

shall be for four (4) years and said judge shall be appointed and elected as provided by the Constitution and laws of the state for the election or appointment of District Judges. Vacancies in the office shall be filled by appointment by the Governor by and with the consent and advice of the Senate. In the event of disqualification of the judge of said court to try a particular case or because of the illness, inability, failure or refusal of said judge to hold court at any time, the Juvenile Board of said county shall select a special judge who shall hold the court and proceed with the business thereof.

**Dependent, neglected, or delinquent children; prosecution or
defense of cases by district attorney**

Sec. 4. The District Attorney of Dallas County shall prosecute or defend all cases involving children alleged to be dependent, neglected or delinquent or in support cases coming under the Reciprocal Support Act.

Concurrent jurisdiction of court

Sec. 5. Jurisdiction. Said Juvenile Court No. 2 shall have jurisdiction concurrent with the District Courts, Juvenile Courts and Courts of Domestic Relations situated in said county of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this state; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said court and the judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction. All cases enumerated or included above may be instituted in or transferred to said court.

Division and transfer of cases

Sec. 6. Immediately after this Act takes effect, the cases now pending in the Juvenile Court of Dallas County shall be equally divided and one-half of such cases shall be transferred to this court. Thereafter the cases shall be filed in numerical order dividing the cases in such way that each court shall have the same number of cases, or said cases shall be assigned according to the rules promulgated by the District Judges of Dallas County. By and with the consent of the Judge of the Juvenile Court No. 2 and the Juvenile Court, cases within the jurisdiction of these respective courts may be transferred from one court to the other, and the Judges of the Court of Domestic Relations, Court of Domestic Relations No. 2, Court of Domestic Relations No. 3, the Juvenile Court and the Juvenile Court No. 2 of Dallas County may sit for each other in cases coming within the jurisdiction of such courts. All District Courts of Dallas County may likewise sit for, hear and decide cases pending in said Juvenile Court No. 2 as the sitting for, hearing and deciding of cases is now and may hereafter be authorized by law for all District Courts of Dallas County.

Court of Record; place of sitting; seal; dockets and records

Sec. 7. The Juvenile Court No. 2 of Dallas County shall be a court of record and shall sit and hold court at the county seat of Dallas County, shall have a seal and maintain all necessary dockets, records and minutes therein.

Probation department, sheriff and constables; performance of duties

Sec. 8. It shall be the duty of the Probation department, the sheriff and constables of Dallas County to furnish said Juvenile Court No. 2 of Dallas County such service in the line of their respective duties as shall be required by said court, and all sheriffs and constables within the State of Texas shall render the same service with reference to process and writs from said Juvenile Court No. 2 of Dallas County as is required of them by law with reference to process and writs from District Courts.

Writs and orders; contempt

Sec. 9. The said Juvenile Court No. 2 of Dallas County and the judge thereof, shall have the power to issue writs of habeas corpus and mandamus, injunctions, restraining orders, orders of sale, executions, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this state by District Courts, when necessary or proper in cases or matters in which said Juvenile Court No. 2 of Dallas County has jurisdiction, and also shall have power to punish for contempt as provided for District Courts of Dallas County.

Terms of court

Sec. 10. The terms of the Juvenile Court No. 2 of Dallas County shall begin on the first Monday in January and July of each year, respectively, and each term of said court shall continue until the convening of the next successive term.

Membership of judge on juvenile board; compensation

Sec. 11. The Judge of the Juvenile Court No. 2 of Dallas County shall be a member of the Juvenile Board of Dallas County, which shall hereafter be composed of the judges of the several District Courts and Criminal District Courts of Dallas County, the Judges of the Courts of Domestic Relations of Dallas County, the Juvenile Courts of Dallas County, and the County Judge of Dallas County.

The Judges of the District Courts and Criminal District Courts shall continue to receive such compensation for their services as members of the Juvenile Board and for such other administrative duties as are now or may hereafter be required, from county funds, as they are entitled to receive under General or Special law. The members of the Juvenile Board shall continue to have the same authority as is now provided by law, and such Juvenile Board may assign the Judge of the Juvenile Court No. 2 of Dallas County to handle the duties of the Juvenile Court and in like manner assign the Judges of the Juvenile Courts to handle the duties of Domestic Relations Courts of Dallas County.

Court reporter; bailiff

Sec. 12. The Judge of the Juvenile Court No. 2 of Dallas County shall have authority to appoint a court reporter, who shall receive the same compensation as provided by law for court reporters of District Courts in Dallas County. A bailiff shall be designated by the sheriff of Dallas County to serve said court as in other courts of the county.

Clerk

Sec. 13. The District Clerk of Dallas County shall also act as District Clerk for the Juvenile Court No. 2 of Dallas County.

Attendance of sheriff; execution of process; fees

Sec. 14. The sheriff of Dallas County shall attend either in person or by deputy the Juvenile Court No. 2 of Dallas County as required by law in Dallas County or when required by the judge thereof; and the sheriffs and constables of the several counties of this state, when executing process out of said court, shall receive fees provided by General law for executing process out of District Courts.

Appeals

Sec. 15. Appeals in all civil cases from judgments and orders of the Juvenile Court No. 2 of Dallas County shall be to the Court of Civil Appeals for the Fifth Supreme Judicial District as now or hereafter provided for appeals from District and County courts and in all criminal cases appeals shall be to the Court of Criminal Appeals.

Practice and procedure

Sec. 16. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in the Juvenile Court No. 2 of Dallas County, shall be governed by provisions of this Act and the laws and rules pertaining to District Courts; provided that juries shall be composed of twelve (12) members.

Partial invalidity

Sec. 17. If any section, clause or part of this Act shall be held invalid, it is hereby declared to be the intention of the Legislature that the remainder thereof not held invalid shall remain in effect, and the validity of the remainder of this Act shall not be affected thereby. Laws relating to the handling of juvenile cases not in conflict with this Act shall govern the investigation of juvenile cases, hearings and disposition of cases.

Acts 1969, 61st Leg., p. 2326, ch. 786, eff. Sept. 1, 1969.

Title of Act:

An Act providing for a Juvenile Court in and for Dallas County to be known as Juvenile Court No. 2 of Dallas County; setting the qualifications of the judge; setting the salary of the judge; providing for appointment, term of office, vacancies, disqualification; setting jurisdiction of said court; providing for a transfer of cases; making it a court of record, and providing for keeping of dockets; providing for duties of Probation Department, sheriff and constables

for said court; setting the terms of the court; providing for judge of said court to be a member of the Juvenile Board; providing for a court reporter, bailiff and clerk; providing for services of a sheriff; providing for appeal from said court; providing that practice and procedure shall be same as any other district courts; providing a severance clause; and declaring an emergency. Acts 1969, 61st Leg., p. 2326, ch. 786.

Art. 2338—11b. Court of Domestic Relations No. 5 for Harris County

Section 1. There is hereby created a Court of Domestic Relations to be known as Court of Domestic Relations No. 5 in and for Harris County, Texas.

Sec. 2. The Judge of the Court of Domestic Relations No. 5 shall be a legally licensed attorney at law in the state. No person shall be elected or appointed judge of said court who has not been a practicing attorney of the State of Texas for at least five (5) years immediately prior to his appointment or election. He shall be paid a salary which shall be equal to the total salary paid to a District Judge of Harris County. His salary

For Annotations and Historical Notes, see V.A.T.S.

shall be paid out of the General Fund of Harris County in twelve (12) equal monthly installments. The Juvenile Board shall be authorized to designate the Court of Domestic Relations No. 5 as a Juvenile Court of Harris County.

Sec. 3. The Court of Domestic Relations No. 5 for Harris County shall have the jurisdiction concurrent with the District Courts in Harris County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judge thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce its jurisdiction.

Sec. 4. The County Court of Harris County, the County Courts at Law of Harris County, and the District Courts of Harris County may transfer to the Court of Domestic Relations or Court of Domestic Relations No. 2 or Court of Domestic Relations No. 3 or Court of Domestic Relations No. 4, or Court of Domestic Relations No. 5, any and all cases, in their respective courts in Harris County, Texas, which said Courts of Domestic Relations are hereby given jurisdiction, including all filed papers and certified copies of all orders theretofore entered in said cases.

Sec. 5. All writs and process issued by or out of a District, Domestic Relation, or County Court prior to the time any case is transferred by any of said courts to the Court of Domestic Relations No. 5 shall be returned and filed in said Domestic Relations Court and shall be as valid and binding upon the parties to such transferred cases as though such writ or process had been issued out of the said Court of Domestic Relations No. 5 and all waivers of process, and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer.

Sec. 6. The said Court of Domestic Relations No. 5 shall be a court of record; shall sit and hold court at the county seat in Harris County; shall have a seal, and maintain all necessary dockets, records and minutes therein. The District Clerk of Harris County shall serve as the clerk of said court. He shall keep a fair record of all acts done and proceedings had in said court and shall perform generally all such duties as are required generally of district clerks insofar as the same may be applicable in these courts. The seal of the Court of Domestic Relations No. 5 shall have a star of five points with the words "Court of Domestic Relations No. 5, Harris County, Texas," engraved thereon.

Sec. 7. The term of office of the Judge of the Court of Domestic Relations No. 5 shall be for a period of four (4) years, the first full term of the Court of Domestic Relations No. 5 to commence on January 1, 1971. Immediately upon passage of this Act, the Governor shall appoint a suitable person as judge of said court, such judge to hold office until the next general election and until his successor shall be duly elected and quali-

fied. Thereafter, the judge shall be elected as provided by the Constitution and laws of the State for the election of District Judges. He shall be subject to removal of office for the same reasons and in the same manner as is provided by the Constitution and laws of the State for the removal of county officers. Vacancies in each office shall be filled by appointment by the Governor. The Juvenile Board and its members shall give counsel and advice to said Judge of the Court of Domestic Relations No. 5 when deemed necessary or when sought by them; and shall cooperate with them in the administration of the affairs of said courts. In the event of disqualification of the judge to try a particular case, or because of the illness, inability, failure or refusal of said judge to hold court at any time the Juvenile Board shall select a special judge who shall hold the court and proceed with the business thereof.

Sec. 8. It shall be the duty of all officers, agents and employees of the Probation Department, Child Welfare Board, County Welfare Office, County Health Officer, Sheriff, and Constable of Harris County to furnish to said court such services in the line of their respective duties as shall be required by said court, and all sheriffs, and constables within the State of Texas, shall render the same service and perform the same duties with reference to process and writs from said court as is required of them by law with reference to process and writs from District Courts.

Sec. 9. The judge of the court created herein shall have authority to appoint a court reporter, who shall receive the same compensation as provided by law for court reporters of District Courts in Harris County and whose salary shall be paid by the Commissioners Court of Harris County. A bailiff shall be designated by the Sheriff of Harris County to serve in the court created herein as in other courts of the county.

Sec. 10. In all suits for divorce where it appears from the petition or otherwise that the parties to such suit have a child or children under the age of eighteen (18) years, and in any other case involving the custody of any such child, the said court or judge thereof, in its discretion, may require any such juvenile officer or investigator to make a thorough and complete investigation as to the necessities, environment and surroundings of such child or children, and to make report thereof to such court, and, if desired by the court, to produce such evidence on any hearing on such case as may have been developed in connection with such examination.

Sec. 11. The said court and the judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this state by District Courts, when necessary or proper in cases or matters in which said Court of Domestic Relations has jurisdiction, and also shall have the power, as in District Courts, to punish for contempt.

Sec. 12. The first term of such court created herein shall begin when the judge of such court is duly selected and qualified, and remain in session until the first day of the following September; and its terms shall thereafter begin on the first day of September of each year and remain in session continuously to and including the thirty-first day of August of the next year.

Sec. 13. Appeals in all civil cases from judgments and orders of said court shall be to the Court of Civil Appeals of the First or Fourteenth Supreme Judicial District as now or hereafter provided for appeals from District and County Courts and in all criminal cases appeals shall be to the Court of Criminal Appeals.

Sec. 14. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in said court shall be governed by provision of this Act and the laws and rules pertaining to District Courts; provided, that juries shall be composed of twelve members.

Sec. 15. The District Attorney of Harris County shall prosecute or defend all cases involving children alleged to be dependent, neglected or

For Annotations and Historical Notes, see V.A.T.S.

delinquent, or in which the Probation Officer, Child Welfare Board, County Welfare Office, County Health Officer or any other welfare agency is interested.

Sec. 16. All cases, complaints and other matters over which the said Court of Domestic Relations No. 5 is herein given jurisdiction, may be transferred, and the judge therein may transfer any such cases or matters, to the county, Domestic Relations or District Court having jurisdiction thereof under the laws of the state, with the consent of the judge of said court, to be tried in such court to which such transfer is made.

Sec. 17. The judge of said Court of Domestic Relations of Harris County, and the judges of the said courts of Domestic Relations Nos. 2, 3, 4, and 5, of Harris County may, in their discretion, exchange benches or courts from time to time, and may transfer cases and other proceedings from one court to another, and any or either of said judges of said courts of Domestic Relations of Harris County may, in his own courtroom, try and determine any case or proceeding pending in either of such other courts of Domestic Relations without having the case transferred, or may sit in any other of such courts and hear and determine any case there pending, and every judgment and order shall be entered in the minutes of the court in which the case is pending and at the time the judgment or order is rendered, and two or more of such judges of such court of Domestic Relations may try different cases in the same court at the same time, and each may occupy his own courtroom or the courtroom of any other such court. The judge of any or either of such court may issue restraining orders and injunctions, or other orders and processes returnable to any other such judge of such court and any such judge may transfer any case or proceeding pending in his court to any other of said courts, and the judge of any such court to which a case or proceeding is transferred shall receive and try the same, and in turn shall have power, in his discretion, to transfer any such case to any other of said courts, and any other such judge may in his courtroom try any case pending in any other of such courts.

Acts 1969, 61st Leg., p. 1531, ch. 465, eff. Sept. 1, 1969.

Title of Act:

An Act creating a Court of Domestic Relations for Harris County, Texas; conforming the jurisdiction of other courts thereto; fixing its term; providing the manner of selection, tenure, and compensation of the judge and other officers of said court; providing the manner of and grounds for the

removal of the judge of said court; providing for appeals to higher courts; providing for the procedure of said court; providing for the services of certain county and district officers to said court; and declaring an emergency. Acts 1969, 61st Leg., p. 1531, ch. 465.

Art. 2338—15c. Court of Domestic Relations No. 4 for Tarrant County

Creation

Section 1. There is hereby created a Court of Domestic Relations No. 4 of Tarrant County, Texas.

Judge

Sec. 2. The judge of the Court of Domestic Relations No. 4 hereby established shall be at least 25 years of age and licensed to practice law in this state, and shall have been a practicing attorney or a judge of a court for four years and a resident of Tarrant County for two years next before his election or appointment. He shall reside in Tarrant County during his term of office. He shall be paid a salary which shall be equal to the total salary paid by the County of Tarrant and State of Texas to any one judge of a district court of Tarrant County. His salary shall be paid out of the general fund of Tarrant County in 12 equal monthly in-

stallments. He shall be a member of the Juvenile Board of Tarrant County, which shall hereafter be composed of the judges of the several district courts and criminal district courts of Tarrant County, the county judge of Tarrant County, and the judges of the courts of domestic relations for Tarrant County, which juvenile board shall be authorized to designate the courts of domestic relations as the Juvenile Court of Tarrant County; judges of the district courts and criminal district courts of Tarrant County shall continue to receive such compensation for all judicial and administrative services required of them, including the services as members of the juvenile board and otherwise from county funds as they are now entitled to receive or may hereafter be authorized to receive under general or special law.

Jurisdiction

Sec. 3. The Court of Domestic Relations No. 4 for Tarrant County shall have the jurisdiction concurrent with the district courts in Tarrant County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected, or dependent child proceedings, Reciprocal Support Act, and all jurisdiction, powers, and authority now or hereafter placed in the district or county courts under the juvenile and child welfare laws of this state; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees, or other legal entities, which are now, or may hereafter be, within the jurisdiction of the district or county courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said court and the judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Transfer of cases

Sec. 4. The district courts of Tarrant County may transfer to said Court of Domestic Relations No. 4 any and all cases, in their respective courts of which cases said Court of Domestic Relations No. 4 is hereby given jurisdiction, including all filed papers, reports, records, and certified copies of all orders theretofore entered in said cases.

Return of writs and process

Sec. 5. All writs and process issued by or out of a district court prior to the time any case is transferred by said court to the Court of Domestic Relations No. 4 shall be returned and filed in the Court of Domestic Relations No. 4 and shall be as valid and binding upon the parties to such transferred cases as though such writ or process had been issued out of the Court of Domestic Relations No. 4, and all waivers of process, and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer.

Court of record; place of sitting; seal; dockets and records; clerk

Sec. 6. The said Court of Domestic Relations No. 4 shall be a court of record, shall sit and hold court at the county seat of Tarrant County, shall have a seal and maintain all necessary dockets, records, and minutes. The district clerk of Tarrant County shall serve as the clerk of said court.

For Annotations and Historical Notes, see V.A.T.S.

He shall keep a fair record of all acts done and proceedings had in said court and shall perform all such duties as are required generally of district clerks insofar as the same may be applicable in this court. The seal of said court shall have a star of five points with the words "Court of Domestic Relations No. 4, Tarrant County, Texas" engraved thereon.

Judge; election and term; removal

Sec. 7. (a) At the next general election following the effective date of this Act there shall be elected the judge of the Court of Domestic Relations No. 4 of Tarrant County. The term of office shall be for a period of four years. The first term shall commence on the first day of January after a general election. The judge is subject to removal from office for the same reasons and in the same manner as is provided by the constitution and laws of this state for the removal of district judges.

(b) When this Act becomes effective, the governor shall appoint a judge to the Court of Domestic Relations No. 4 of Tarrant County, and his appointment shall be effective on January 1, 1970. The judge appointed serves until the next general election and until his successor is duly elected and qualified. Any vacancy in the office is filled in like manner and the appointee holds office until the next general election and until his successor is duly elected and has qualified.

Cooperation of juvenile board; filing of cases

Sec. 8. The juvenile board and its members shall give counsel and advice to the judge of the Court of Domestic Relations No. 4 when deemed necessary or when sought by him, and shall cooperate with him in the administration of the affairs of said court, and shall provide for the filing of any or all cases within the jurisdiction of the courts of domestic relations in either the Court of Domestic Relations No. 1, the Court of Domestic Relations No. 2, the Court of Domestic Relations No. 3, or the Court of Domestic Relations No. 4, or in any one or more of the district courts of Tarrant County. The juvenile board shall designate one of the courts of domestic relations as the juvenile court of Tarrant County. The judge of said juvenile court must give priority to all cases and controversies involving juveniles. Said court so designated as the juvenile court may also be officially styled as the Juvenile Court of Tarrant County, Texas, and said court may have a seal which shall be a star of five points with the words "Juvenile Court of Tarrant County, Texas," engraved thereon.

Transfer of cases; substitution of judges; special judge

Sec. 9. All cases, applications, complaints, and all other matters over which the Court of Domestic Relations No. 4 is herein given jurisdiction may be transferred to or instituted in said court; said court and the judge thereof may transfer any such cases, complaints, or other matters to any district court, criminal district court, or court of domestic relations of Tarrant County having jurisdiction thereof under the laws of the State of Texas, with the consent of the judge of such court, and the judge of such district court, criminal district court, or court of domestic relations may try all such cases, complaints, or other matters which may be so transferred. Any judge of a district court, criminal district court, or court of domestic relations of Tarrant County may preside as judge of the juvenile court and of the Court of Domestic Relations No. 4 and hear and determine all such cases, complaints, or other matters over which the judge of such district courts, criminal district courts, or court of domestic relations has jurisdiction under the laws of the State of Texas, with the same authority to act as presiding judge over all such cases, complaints, or other matters for all purposes, and to the same extent as the judge of the Court of Domestic Relations No. 4, and such judge of a district court, criminal district court, or court of domestic relations of Tarrant County, Texas, may sit in his own courtroom, the juvenile courtroom, the courtroom of any other district court or court of domestic relations within the county, or the

Court of Domestic Relations No. 4 and hear and determine any cases, complaint, or matter pending in the Court of Domestic Relations No. 4. In the event of disqualification of the judge of the Court of Domestic Relations No. 4 to try a particular case or because of illness, inability, failure, or refusal of said judge to hold court at any time, the juvenile board may select a special judge who shall hold the court and proceed with the business thereof, or said juvenile board may request the presiding judge of the Eighth Administrative Judicial District of Texas to assign a judge to handle the business of said court pursuant to the provisions of Article 200a of the Revised Civil Statutes of Texas, 1925, and said judge so selected by the board or assigned by the presiding judge shall be paid for his services in the same manner as provided by the constitution and laws of this state for the payment of district judges assigned to sit for other district judges. The judge of such Court of Domestic Relations No. 4 may, in any case, matter or proceeding pending in any district court or court of domestic relations of Tarrant County, or which case, matter or proceeding said Court of Domestic Relations No. 4 would have potential jurisdiction, in the courtroom of such Court of Domestic Relations No. 4 or in the juvenile courtroom, or in the courtroom of any district court or court of domestic relations of Tarrant County, sit and hear and determine any such case, matter or proceeding pending therein, and enter any order or judgment, or do any other thing, which the judge of such district court or court of domestic relations would have authority under law to do.

Cooperation of boards and officers

Sec. 10. It shall be the duty of all officers, agents, and employees of the probation department, child welfare board, county welfare office, county health officer, and sheriff and constables of Tarrant County to furnish to said court such services in the line of their respective duties as shall be required by said court, and all sheriffs and constables within the State of Texas shall render the same services and perform the same duties with reference to process and writs from said Court of Domestic Relations No. 4 as is required of them by law with reference to process and writs from district courts.

Court reporters

Sec. 11. The judges of the Court of Domestic Relations No. 1, Court of Domestic Relations No. 2, Court of Domestic Relations No. 3, and Court of Domestic Relations No. 4 shall have authority to appoint a total of three court reporters necessary for the operations of the courts of domestic relations, who shall receive the same compensation as provided by law for court reporters of district courts in Tarrant County, and the court reporters' salaries shall be paid by the Commissioners Court of Tarrant County from appropriate county funds. If the said judges of the courts of domestic relations fail to agree upon any appointment within 30 days after a vacancy occurs, the juvenile board shall have authority to appoint a court reporter for said courts of domestic relations. A bailiff shall be designated by the sheriff of Tarrant County to serve the court as in other courts of the county.

Child custody matters; investigation and report

Sec. 12. In all suits for divorce where it appears from the petition or otherwise that the parties to such suit have a child or children under the age of 18 years, and in any other cases involving the custody of any child or children, the said court or judge thereof, in its or his discretion, may require such juvenile officer or investigator to make a thorough and complete investigation as to the necessities, environment, and surroundings of the such child or children, and to make report thereof to the court, and if desired by the court, to produce such evidence on any hearing in such case as may have been developed in connection with such investigation.

For Annotations and Historical Notes, see V.A.T.S.

Power to issue writs

Sec. 13. The said court and the judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, temporary injunctions, restraining orders, orders of sale, execution, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this state by district courts, when necessary or proper in cases or matters in which said Court of Domestic Relations No. 4 has jurisdiction, and also shall have power to punish for contempt.

Terms of court

Sec. 14. The first term of such Court of Domestic Relations No. 4 shall begin when the judge thereof is duly appointed and qualified, and remain in session until the first day of the following September; and its term shall thereafter begin on the first day of September each year and remain in session continuously to and including the 31st day of August of the next year.

Appeals

Sec. 15. Appeals in all civil cases from judgments and orders of said court shall be to the Court of Civil Appeals of the Second Supreme Judicial District as now or hereafter provided for appeals from district and county courts and in all criminal cases appeals shall be to the court of criminal appeals.

Practice and procedure

Sec. 16. The practice and procedure, rules of evidence, selection of juries, issuance of process, and all other matters pertaining to the conduct of trials and hearings in said court shall be governed by provisions of this Act and the laws and rules pertaining to district courts; provided that juries shall be composed of 12 members.

Acts 1969, 61st Leg., p. 2251, ch. 761, eff. Sept. 1, 1969.

Title of Act:

An Act relating to creation of the Court of Domestic Relations No. 4 of Tarrant County; providing for membership of the judge on the juvenile board; and declaring an emergency. Acts 1969, 61st Leg., p. 2251, ch. 761.

Art. 2338—16. Court of Domestic Relations for Galveston County

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Judge; qualifications; salary

Sec. 2. The judge of the Court of Domestic Relations shall be at least twenty-five (25) years of age and licensed to practice law in this state, who has been a practicing attorney for four (4) years and a resident of Galveston County for two (2) years next before his election or appointment. He shall reside in Galveston County during his term of office. He shall be paid a salary of not less than the amount paid District Judges from the general revenue fund of the State of Texas, but in no event more than the total salary, including supplements, paid any District Judge in and for Galveston County. His salary shall be paid out of the General Fund of Galveston County in twelve (12) equal Monthly installments

Sec. 2 amended by Acts 1969, 61st Leg., 2nd C.S., p. 140, ch. 37, § 1, emerg. eff. Sept. 19, 1969.

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Juvenile board; establishment; composition; jurisdiction; citizens juvenile advisory board; juvenile officers; compensation

Sec. 8. (a) There is hereby established a County Juvenile Board in and for the County of Galveston, to be known as the Galveston County Juvenile Board, which Board shall be composed of the County Judge, the Judge of the County Court No. 1, the Judge of the County Court No. 2, the Judges of the several District Courts in and for Galveston County, and the Judge of the Court of Domestic Relations for Galveston County. The said Juvenile Board shall meet at least once monthly to review the work of the Chief Juvenile Officer and the Juvenile Officers and to consider any other matters concerning juveniles and the disposition of cases concerning juveniles pending before the respective courts. The Judge of the County Court No. 1 and the Judge of the County Court No. 2 in and for Galveston County shall have concurrent jurisdiction with the Court of Domestic Relations for Galveston County in all cases involving delinquent child proceedings, neglected and dependent child proceedings, and all jurisdiction, powers and authority now or hereafter placed in the Court of Domestic Relations for Galveston County under the juvenile and child welfare laws of this State; provided, however, that such cases shall be originally filed and docketed with the District Clerk of Galveston County, who shall act as clerk in all the above proceedings and who shall maintain all records and assign rotatively and equally each of the cases to the courts having jurisdiction over such matters.

The Commissioners Court of Galveston County shall appoint a Citizens Juvenile Advisory Board composed of at least fifteen (15) interested citizens who shall consult with the Galveston County Juvenile Board in regard to matters concerning juveniles and may meet at their own discretion as well. The Citizens Juvenile Advisory Board and the Galveston County Juvenile Board shall each elect its own chairman and other officers at the first meeting of each such board following the effective date of this Act, and annually thereafter.

(b) The members of the Galveston County Juvenile Board shall receive no compensation for their services on said Board.

(c) The Galveston County Juvenile Board shall appoint a discreet person of good moral character with at least a bachelor's degree in a related major field of study to serve as Chief Juvenile Officer and shall appoint discreet persons of good moral character to serve as Juvenile Officers for Galveston County. The Board shall fix the salaries of and allowances for the said Chief Juvenile Officer and Juvenile Officers and employ a clerk for said office, and the Commissioners Court shall provide the necessary funds for the payment of such salaries and expenses as may be necessary. All claims for expenses of the Chief Juvenile Officer and Juvenile Officers shall be certified by the Chairman of the Board to the said County Commissioners Court as being necessary in the performance of the duty of such officer. The appointment of said Chief Juvenile Officer and Juvenile Officers shall be filed in the office of the County Clerk of said county, and such officers shall take the oath to perform their duties and file such oaths in the office of the County Clerk of said county. The Galveston County Juvenile Board may remove the Chief Juvenile Officer or Juvenile Officers at any time.

Sec. 8 amended by Acts 1969, 61st Leg., 2nd C.S., p. 140, ch. 37, § 2, emerg. eff. Sept. 19, 1969.

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**Transfer of cases to district court or county courts No. 1 and No. 2;
 special judges**

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Sec. 10. All cases, applications, complaints, and all other matters over which the Court of Domestic Relations is herein given jurisdiction may be instituted in said Court, or assigned or transferred to said Court with the consent of the Judge of said Court; said Court and the Judge thereof may assign or transfer any such cases, complaints, or other matters to any District Court in and for Galveston County, Texas, having jurisdiction, or the County Court No. 1, or the County Court No. 2, where they have jurisdiction; and the Judge of such District Court or the Judge of the County Court No. 1 or the Judge of the County Court No. 2 shall try all cases, complaints, or other matters which may be so assigned or transferred, unless the Judge of such Court assigns or transfers said case or cases, complaints or other matters, by written order to another Court of competent jurisdiction. In the event of disqualification of the Judge of the Court of Domestic Relations to try a particular case or because of illness, inability, failure, or refusal of said Judge to hold court at any time, the Juvenile Board may select a Special Judge who shall hold the court and proceed with the business thereof, or said Juvenile Board may request the Presiding Judge of their Administrative Judicial District of Texas to assign a Judge to handle the business of said court pursuant to the provisions of Chapter 156, Acts of the 40th Legislature, Regular Session, 1927, as amended (Article 200a, Vernon's Texas Civil Statutes), and said Judge so selected by the Board or assigned by the Presiding Judge shall be paid for his services in the same manner as provided by the Constitution and Laws of this state for the payment of District Judges assigned to sit for other District Judges.

Sec. 10 amended by Acts 1969, 61st Leg., p. 140, ch. 37, § 3, emerg. eff. Sept. 19, 1969.

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Art. 2338—17. Court of Domestic Relations for Taylor County

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Juvenile board

Sec. 5a. The Judge of the Court of Domestic Relations in and for Taylor County shall be a member of the Taylor County Juvenile Board and shall receive as additional compensation for his services on the board the same salary as paid by Taylor County to the district judges of Taylor County for acting as members of the Juvenile Board. The Juvenile Board shall consist of the Judge of the 42nd Judicial District Court, the Judge of the 104th Judicial District Court, the County Judge of Taylor County, and the Judge of the Court of Domestic Relations in and for Taylor County, Texas. The Juvenile Board shall continue with the same authority now provided by law, and the existing members shall continue to receive the compensation provided by law for serving on the Juvenile Board. The Juvenile Board of Taylor County may designate the Court of Domestic Relations as the Juvenile Court of Taylor County. The Judge of the Juvenile Court of Taylor County shall appoint the juvenile officer, subject to the approval of the Juvenile Board, for a period not to exceed two (2) years from date of appointment.

Sec. 5a added by Acts 1969, 61st Leg., p. 165, ch. 64, § 2, eff. Sept. 1, 1969.

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Transfer of cases to and from district court; jurisdiction

Sec. 7. All cases and other matters over which the Court of Domestic Relations is herein given jurisdiction may be transferred to or instituted in said Court. The Judges of the District Courts of Taylor County may transfer any case within the jurisdiction of the Court of Domestic Relations created by this Act to said Court of Domestic Relations, and the Judge of the Court of Domestic Relations may transfer any case pending in said Court to any District Court of Taylor County. Said Court of Domestic Relations may also sit for any of the District Courts of Taylor County and hear and decide for such Courts any case coming within the jurisdiction of the Court of Domestic Relations created by this Act. All District Courts of Taylor County may likewise sit for, hear and decide cases pending in the Court of Domestic Relations, as the sitting for, hearing and deciding cases as now or hereafter may be authorized by law for all District Courts of Taylor County.

Sec. 7 Amended by Acts 1969, 61st Leg., p. 165, ch. 64, § 1, eff. Sept. 1, 1969.

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Criminal district attorney; representation of state

Sec. 16. The Criminal District Attorney of Taylor County or his duly and legally qualified assistant, or assistants, shall represent the State in all proceedings in the Taylor County Court of Domestic Relations.

Sec. 16 amended by Acts 1969, 61st Leg., p. 165, ch. 64, § 1, eff. Sept. 1, 1969.

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Art. 2338—18a. Juvenile Courts No. 2 and No. 3 for Harris County

Creation

Section 1. The Juvenile Courts No. 2 and No. 3 of Harris County are established. The courts shall sit at the county seat of Harris County.

Courts of record; dockets and records; seals

Sec. 2. (a) The courts are courts of record. The courts shall maintain all necessary dockets, records, and minutes of their proceedings.

(b) The seals of the courts each have a star of five points in the center and the words "The Juvenile Court of Harris County No. 2" engraved around the star for Court No. 2 and the words "The Juvenile Court of Harris County No. 3" engraved around the star for Court No. 3.

Judges

Sec. 3. The offices of judge of the Juvenile Court of Harris County No. 2 and judge of the Juvenile Court of Harris County No. 3 are established.

Judges; qualifications; election; term; vacancy

Sec. 4. The laws and constitutional provisions relating to qualifications, election, term of office, disqualification, and removal of district judges apply to the judges. If either office of judge becomes vacant before the end of a term, the governor, with the advice and consent of the Senate, shall appoint a judge to fill the unexpired term.

Compensation of judges

Sec. 5. The Commissioners Court of Harris County shall pay each of the judges an annual salary equal to the total annual salary paid by Harris County and the state to a judge of a district court of Harris County.

Appointment of first judges

Sec. 6. The governor, with the advice and consent of the Senate, shall appoint the first judges of the Juvenile Courts No. 2 and No. 3. The appointee to the Juvenile Court No. 2 shall take office on September 1, 1969, and the appointee to the Juvenile Court No. 3 shall take office on January 1, 1971. The appointees serve until the next general election and until a successor is duly elected and qualified.

Jurisdiction

Sec. 7. (a) The Juvenile Courts of Harris County created herein have jurisdiction concurrent with the District Courts in Harris County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this state; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said courts and the judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Transfer of cases; district courts; county courts and county courts at law

Sec. 8. (a) The district courts, the county court, and the county courts at law of Harris County may transfer to the juvenile courts any case, complaint, or other matter of which the juvenile courts have jurisdiction.

(b) The juvenile court may transfer any case, complaint, or other matter to a district court, the county court, or a county court at law having jurisdiction if the judge of the court receiving the matter consents to the transfer.

(c) Any juvenile court judge in Harris County may hear and decide any case filed on the docket of any other juvenile court as if it were filed on the docket of his own court.

(d) Cases may be transferred between the several juvenile courts of Harris County with the consent of the receiving judge.

Transfer of cases; domestic relations courts

Sec. 9. (a) The courts of domestic relations of Harris County may transfer to the juvenile court any case, complaint, or other matter of which the juvenile courts have jurisdiction.

(b) The juvenile courts may transfer any case, complaint, or other matter to a court of domestic relations of Harris County if the judge of the court receiving the matter consents to the transfer.

Domestic relations judge sitting in juvenile court

Sec. 10. A judge of a court of domestic relations of Harris County may preside as judge of the juvenile court. In this event, the judge of

the court of domestic relations may sit in his own courtroom, the courtroom of the juvenile court, or the courtroom of any court of domestic relations of Harris County.

Disqualified or absent judge

Sec. 11. (a) If a juvenile court judge is disqualified in any case or proceeding, he may transfer the case or proceeding to a court of domestic relations of Harris County.

(b) If a juvenile court judge is absent from court for any reason other than disqualification, the juvenile board of Harris County shall select a judge of a court of domestic relations of Harris County to preside over the court during the absence.

Terms of court

Sec. 12. The terms of the court begin on September 1st of each year and continue until August 31st of the next year. The first term of the Juvenile Court No. 3 begins January 1, 1971, and continues until August 31, 1971.

Clerk; reporter; bailiff

Sec. 13. (a) The district clerk shall act as clerk of the juvenile court. The clerk shall keep a fair record of all proceedings in the court. The Commissioners Court of Harris County shall pay the clerk an annual salary equal to the annual salary paid to a clerk of a district court of Harris County.

(b) Each judge shall appoint a court reporter to serve the court. The Commissioners Court of Harris County shall pay the court reporter an annual salary equal to the annual salary of a court reporter of a district court of Harris County.

(c) Upon request of either judge, the sheriff of Harris County shall appoint a bailiff to serve the court.

Sheriff's duties

Sec. 14. (a) The sheriff of Harris County shall perform all the duties and services for the juvenile courts as he normally performs for the district courts of Harris County.

(b) When executing process out of the court, the sheriffs and constables of the counties of Texas are entitled to fees by General Law for executing process out of the district courts.

Probation, welfare and health officers

Sec. 15. The Probation Department, the County Welfare Officer, and the County Health Officer of Harris County shall perform services required by either court which are within the scope of their respective duties.

District attorney

Sec. 16. The District Attorney of Harris County shall prosecute or defend all cases involving children alleged to be dependent, neglected or delinquent, or in which the Probation Officer, County Welfare Department, County Health Officer, or any other welfare agency is interested.

Filing cases

Sec. 17. The district clerk shall file all cases placed on the juvenile docket in Harris County in rotation among the juvenile courts.

Power to issue writs

Sec. 18. (a) Either judge may issue writs of habeas corpus and mandamus, injunctions, temporary injunctions, restraining orders, orders

For Annotations and Historical Notes, see V.A.T.S.

of sale, execution, or writs of possession and restitution, and any other writs which the district courts may issue.

(b) The judges may punish for contempt.

(c) Writs, processes, and orders issued by the transferring court on cases subsequently transferred are returnable to the court to which the case is transferred as if that court had issued the writ, process, or order.

Practice and procedure

Sec. 19. (a) When not in conflict with this Act, the provisions of Chapter 204, Acts of the 48th Legislature, 1943 (Article 2338—1, Vernon's Texas Civil Statutes), as amended, and Articles 2330—2337, Revised Civil Statutes of Texas, 1925, as amended, govern the practice and procedure of the court.

(b) When the provisions of this Act and the laws cited in Subsection (a) do not apply, the laws and rules pertaining to district courts govern the practice and procedure of the court.

Acts 1969, 61st Leg., p. 1981, ch. 673, eff. Sept. 1, 1969.

Title of Act: the Juvenile Court of Harris County No. 3; and declaring an emergency. Acts 1969, Juvenile Court of Harris County No. 2 and 61st Leg., p. 1981, ch. 673.

Art. 2338—19. Court of Domestic Relations for Brazoria County

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Qualifications of judge; salary

Sec. 2. The Judge of the Brazoria County Court of Domestic Relations shall have the qualifications provided by the Constitution and laws of this State for District Judges. He shall be paid an annual salary out of the general fund of the County in twelve (12) equal monthly installments in an amount to be set by the Commissioners Court of Brazoria County, in an amount of not less than Ten Thousand Dollars (\$10,000) per year nor more than Twelve Thousand, Nine Hundred Dollars (\$12,900) per year; but not later than January 1, 1970, the Commissioners Court shall set the salary at an amount not less than Fifteen Thousand, Nine Hundred Dollars (\$15,900) per year.

Sec. 2 amended by Acts 1969, 61st Leg., p. 2656, ch. 875, § 1, eff. Sept. 1, 1969.

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TITLE 44—COURTS—COMMISSIONERS

2. POWERS AND DUTIES

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| <p>Art.
2351f—1. Perpetual trust fund to maintain cemeteries [New].
2351g—2. Disposal facilities [New].
2352f. State association of counties; membership fees and dues [New].
2370b—1. Branch courthouses [New].
2370c—1. Counties of over 900,000; crime detection facilities; certificates of indebtedness [New].
2370e. Sale and lease back of land, buildings, equipment, etc. in counties over 500,000 [New].</p> | <p>Art.
2372d—5. Museums; joint venture by county with city or town [New].
2372f—7. Automobile for each commissioner in counties of 60,000 to 60,400 [New].
2372f—8. Allowance for traveling expenses and automobile depreciation [New].
2372h—4. Payroll deductions; authorized purposes [New].
2372p—1. Furnishing counsel and investigative services for indigents accused of crime [New].</p> |
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1. COMMISSIONERS COURTS

Art. 2350. County commissioners salaries

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Sec. 1a. The Commissioners Court in each county is hereby authorized to pay the actual traveling expenses incurred by each commissioner while traveling outside of the county on official county business.

Sec. 1a amended by Acts 1969, 61st Leg., p. 1624, ch. 503, § 1, eff. Sept. 1, 1969.

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2. POWERS AND DUTIES

Art. 2351f—1. Perpetual trust fund to maintain cemeteries

Section 1. The commissioners court of any county by resolution may authorize creation of a perpetual trust fund to provide for maintenance and upkeep of neglected and unkept public and private cemeteries in the county, and in the event such action is taken by the commissioners court, it shall appoint the county judge as trustee for such perpetual trust fund.

Sec. 2. The trustee may make reasonable rules and regulations relating to gifts, grants, and donations from any source and to amounts necessary for the permanent maintenance and upkeep of the cemeteries.

Sec. 3. (a) Any person interested in the maintenance and upkeep of neglected and unkept public or private cemeteries within the county may make donations to the trust fund, and acceptance of the funds by the trustee constitutes a permanent and perpetual trust fund for maintenance and upkeep of such cemeteries.

(b) On acceptance of the donations, the trustee shall instruct the county treasurer to issue to each donor a certificate which states:

- (1) the purpose of the donation;
- (2) the amount of the donation; and
- (3) any other information the trustee considers necessary.

Sec. 4. The trustee may invest and reinvest funds of the trust in interest-bearing bonds or securities of federal, state, and local governments, including municipalities and political subdivisions of the state.

Sec. 5. Interest, revenue or any other accrual or increase of funds in the trust fund shall be used only for maintenance and upkeep of neglected and unkept public and private cemeteries in the county, but the original amount of the trust fund shall remain intact as a permanent principal trust fund.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 6. The provisions of this Act shall not be construed to prevent any person who has an interest in a grave or burial lot or who has kinship within the third degree of affinity or consanguinity to those interred from caring for a particular grave or burial lot in any cemetery maintained and kept by the trustee under this Act.

Sec. 7. After a trust fund is established under this Act, if the county judge refuses to act as trustee, or if the county judge dies or resigns or renounces the trust, the district judge shall appoint a new trustee to carry out the trust. The new trustee appointed shall be a person other than a county commissioner.

Sec. 8. The trustee, the commissioners court, and other elected public officials of the county are hereby prohibited from paying or using any public funds, or using county employees or county equipment and property for the purpose of maintenance and upkeep of neglected and unkept public and private cemeteries.

Acts 1969, 61st Leg., p. 1652, ch. 516, eff. Sept. 1, 1969.

Title of Act:

An Act authorizing the creation of a perpetual trust fund by the commissioners court of a county for the purpose of the maintenance and upkeep of neglected public and private cemeteries; providing for

the appointment of a trustee and the administration of such trust fund; providing for certain prohibitions relative to the use of public funds, county employees and equipment; and declaring an emergency. Acts 1969, 61st Leg., p. 1652, ch. 516.

Art. 2351g—2. Disposal facilities

Section 1. The Commissioners Court of any County shall have the powers specified in this Act and may acquire, construct, improve, equip, maintain, finance and operate Disposal Facilities within said county.

Sec. 2. Definitions. Words and phrases as used in this Act shall have the following meanings:

(a) "Person" means the United States Government, the State of Texas, any individual, public agency, public or private corporation, political subdivision, governmental agency, municipality, partnership, association, firm, trust, estate or any other entity whatsoever.

(b) "Waste" means garbage, refuse and trash.

(c) "Disposal Facilities" means any plant, composting process plant, incinerator, area devoted to sanitary landfill, or other works not specifically mentioned herein constructed or installed for the purpose of treating, neutralizing, stabilizing or disposing of Waste.

(d) "Bond Order" means an order of the Commissioners Court authorizing the issuance of revenue bonds.

(e) "Trust Indenture" means an instrument of mortgage, deed of trust or other instrument pledging revenues and in addition thereto creating a mortgage or deed of trust lien on properties to secure the revenue bonds authorized by this Act.

(f) "Trustee" means the trustee under a Trust Indenture which shall be a trust company or bank within or without the State of Texas with trust powers.

(g) "Net Revenues" means gross revenues derived from the operation of Disposal Facilities and revenues derived from leases, agreements and contracts the revenues of which have been pledged to support revenue bonds after deduction of the reasonable expenses of operation and maintenance of the Disposal Facilities.

Sec. 3. The Commissioners Court of any County shall have the power and authority to make and enter into all contracts, leases and agreements which said Court shall deem necessary and convenient to carry out any of the purposes and powers granted in this Act. Any such contract, lease or agreement may be entered into, without advertisement, with any Person, and the Court may make contracts, leases and agreements with any such Person for acquiring, constructing, improving, equipping, maintaining, financing, or operation of any Disposal Facility and neces-

sary sites therefor or in any other manner connected with or incident to such Disposal Facilities.

Sec. 4. For the purpose of providing funds for the acquisition, construction, repair, improvement or equipment of Disposal Facilities, and necessary sites therefor, the Commissioners Court of any County shall have the power from time to time and is hereby authorized, without the necessity of an election, to issue its revenue bonds. Said revenue bonds shall be fully negotiable instruments under the laws of the State of Texas and shall be authorized by Bond Order or Trust Indenture adopted or approved by a majority vote of a quorum of the Commissioners Court. Such revenue bonds shall be signed by the County Judge, countersigned by the County Clerk and Ex Officio Clerk of the Commissioners Court of said county and registered by the County Treasurer of said county. Each bond shall have the seal of the Commissioners Court impressed or placed in facsimile thereon, shall mature serially or otherwise in not to exceed forty (40) years and may be sold by the Court at a price and under the terms determined by the Court to be most advantageous and reasonably obtainable, provided that the average interest cost, taking into consideration the maturity date or dates of said bonds calculated by the use of the standard bond interest tables currently in use by insurance companies and investment houses, shall not exceed six and one-half per cent (6-½%) per annum.

The Bond Order or Trust Indenture shall designate the place or places of payment of the bonds, and the interest thereon and may contain provisions, among others, for the calling of said bonds for redemption prior to their respective maturity date at such prices, times and terms as may be prescribed therein; for the establishment of funds and designating the purposes thereof; for the bonds to be registerable as to principal or as to both principal and interest; for the issuance of bonds in one or more series from time to time as required for carrying out the purposes of this Act; for the security of the bonds and preservation of the trust estate; for the issuance of bonds to replace lost or mutilated bonds; for investment of surplus revenues or proceeds; and such other provisions and covenants as the Commissioners Court may determine, not prohibited by the Constitution of Texas or by this Act and said Commissioners Court may adopt, or cause to be executed, any other proceedings or instruments necessary or convenient in the issuance of any such bonds.

The Court may set aside an amount for payment of interest estimated to accrue during the construction period from the proceeds derived from the sale of said revenue bonds, and in addition thereto may set aside a reserve for the interest and sinking fund as may be deemed proper. The expenses necessarily incurred in issuing and selling said revenue bonds shall be paid from the proceeds thereof. The remainder of such proceeds shall be used for the purposes specified in the Bond Order or Trust Indenture and permitted under this Act.

Said bonds shall never be a debt of the County or the State of Texas within the meaning of any Constitutional or statutory provisions, but shall be payable solely from the revenues pledged to their payment. Such bonds shall be a charge solely upon said pledged revenues and shall never be considered in determining the power of the County to incur obligations payable from taxation. Each bond issued under authority of this Act shall contain on its face substantially the following sentence:

"The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

So long as any of the bonds are outstanding, no additional bonds of equal dignity shall be issued against the pledged revenues except to the extent and in the manner expressly permitted in the Bond Order or Trust Indenture. Bonds constituting a junior lien on the Net Revenues or prop-

erties may be issued unless prohibited by the Bond Order or Trust Indenture.

After any bonds have been authorized by the Commissioners Court hereunder, such bonds and the record relating to their issuance shall be submitted to the Attorney General of the State of Texas for his examination as to the validity thereof, and after said Attorney General has approved said bonds they shall be registered by the Comptroller of Public Accounts of the State of Texas. When such bonds have been approved by the Attorney General, registered by the Comptroller of Public Accounts, and delivered to the purchasers, they shall thereafter be incontestable. When any bonds recite that they are secured partially or otherwise by a pledge of the proceeds of a contract or contracts made between the Commissioners Court and another Person, a copy of such contract or contracts and the proceedings authorizing the same may or may not be submitted to the Attorney General along with the bond record and, if so submitted, the approval of the Attorney General of the bonds shall constitute an approval of such contract or contracts, and thereafter the contract or contracts shall be incontestable.

Sec. 5. The Commissioners Court shall have the power and authority to issue revenue refunding bonds to refund bonds issued under this Act (either original bonds or refunding bonds). Said refunding bonds shall be approved by the Attorney General as in the case of original bonds, and shall be registered by the Comptroller of Public Accounts upon the surrender and cancellation of the bonds to be refunded, but in lieu thereof, the orders or resolutions authorizing the issuance of said refunding bonds may provide that they shall be sold and the proceeds thereof deposited in the place or places where the underlying bonds are payable, in which case the refunding bonds may be issued provided an amount sufficient to pay the interest and principal on the underlying bonds to their maturity dates or to their option dates if said bonds have been duly called for payment prior to maturity according to their terms, has been so deposited in the place or places where said underlying bonds are payable, and the Comptroller of Public Accounts shall register them without the surrender and cancellation of the underlying bonds.

Sec. 6. So long as any of the said bonds or the interest thereon remain outstanding the Commissioners Court shall charge or require the payment of fees, tolls and charges for the use of such Disposal Facilities which shall be equal and uniform within classes defined by the Court and which shall yield revenues at least sufficient to pay the expenses of operation and maintenance and to provide for the payments which may be prescribed in the Bond Order or Trust Indenture (which payments may without limitation include the following: the payment into an interest and sinking fund for the payment of the principal of and interest on the bonds as such principal and interest respectively mature, the establishment and maintenance of funds for extensions and improvements, an operating reserve, and an interest and sinking fund reserve).

The Commissioners Court may, subject to the provisions of any Bond Order or Trust Indenture, use any surplus Net Revenues derived in any year for any purpose which it determines would be in furtherance of the purposes of this Act. After all bonds authorized under this Act have matured and provisions made for the payment of all principal and interest thereof, the Commissioners Court may use the revenues derived from the operation of the Disposal Facilities and any operating leases, agreements or other contracts, in furtherance of the purposes of this Act or for any other lawful purpose.

Sec. 7. The Commissioners Court may, within its discretion and for such period of time as it may deem desirable, make contracts or lease agreements with a Person or Persons for the operation of each Disposal Facility or all Disposal Facilities and the consideration for each such con-

tract or lease agreement shall be specified therein or the method of determining such consideration shall be prescribed in such contract or lease agreement. The revenues from any such contract or agreement may be pledged by the Bond Order or Trust Indenture as security or additional security for the bonds authorized by this Act. Such contracts or agreements must provide that the rentals, tolls and charges to be enforced by such lessee for the use of service as provided by such facilities shall be sufficient at least to yield in the aggregate the necessary money to pay reasonable operation and maintenance expenses to assure proper operation and maintenance of such facility or facilities, plus an amount which will assure income to the Court to permit and assure payments into the several funds and accounts in the manner, at the times and in the amounts specified in the Bond Order or Trust Indenture. Any such lease agreement or contract may provide that such rentals, tolls and charges may be sufficient to yield a reasonable profit to the other party to the lease agreement or contract, but to be realized only after payment in full of the obligation to the Court. Said contracts shall provide that failure to pay any required sum when due by the lessee or operating company shall give the Court the right to declare a breach of contract or agreement and entitle the Court, under regulations prescribed in said contracts or agreement, to declare it forfeited and to take over the operation and maintenance of such facility or facilities, and said remedies shall be cumulative of all others therein provided or recognized.

Sec. 8. The Bond Order or Trust Indenture may contain such provisions for protecting or enforcing the rights or remedies of bondholders as may be considered by the Commissioners Court to be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Court in reference to maintenance, operation, repair and insurance of the Disposal Facilities whose revenues are pledged, and the custody, safeguarding and application of all monies received from the sale of the bonds and from revenues to be received from the operation of said facilities and any contracts, leases or agreements relating thereto.

The Bond Order or Trust Indenture may contain all other suitable provisions as the Commissioners Court may deem reasonable and proper for the security of the bondholders, including, in the event of default as defined in the Bond Order or in the Trust Indenture securing said bonds, to apply for and obtain the appointment of a receiver of any of the properties. If such receiver be appointed he shall enter and take possession of the facilities whose revenues have been pledged, and until said default is cured, or relieved by a Court having jurisdiction, retain possession of facilities and properties involved and collect and receive all revenues and tolls arising therefrom and dispose of all such money and apply same in accordance with the provisions of the Bond Order or Trust Indenture. Nothing in this Act shall authorize any bondholder to require the Commissioners Court to use any funds in the payment of the principal of or interest on the bonds authorized by this Act except from the revenues pledged for their payment.

Sec. 9. All bonds and refunding bonds issued pursuant to this Act shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for sinking funds of cities, towns, villages, counties, school districts and other political corporations or subdivisions of the State of Texas and for all public funds in the State of Texas or its agencies, including the State Permanent School Fund. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, cities, towns, villages, counties, school districts or other public corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 10. The Commissioners Court shall have the power to adopt and promulgate all reasonable regulations and rules applicable to the usage of said Disposal Facilities.

Sec. 11. The Commissioners Court is authorized to accept grants and gratuities in any form from any source, including the United States Government, or any agency thereof, the State of Texas, or any agency thereof, any private or public corporation and any other Person for the purpose of promoting, establishing and accomplishing the objectives and purposes and powers herein set forth.

Sec. 12. This Act shall be cumulative of all other laws relating to the powers, purposes and functions of Counties, but this Act shall be wholly sufficient authority within itself for the issuance of the bonds and the performances of other acts and procedures authorized hereby, without reference to any other laws or restrictions or limitations contained therein, except as herein specifically provided; and when any bonds are being issued under this Act, then to the extent of any conflict or inconsistency between the provisions of this Act and any provision of any other law, the provisions of this Act shall prevail and control; provided, however, that the Commissioners Court shall have the right to use the provisions of any other laws, not in conflict with the provisions hereof, to the extent convenient and necessary to carry out any power or authority, expressed or implied, granted by this Act.

Acts 1969, 61st Leg., p. 2557, ch. 854, emerg. eff. June 18, 1969.

Title of Act:

An Act authorizing Commissioners Courts of Counties to acquire, construct, improve, equip, maintain, finance and operate Disposal Facilities; defining terms; authorizing Counties to contract in furtherance of the purposes and powers provided in the Act; authorizing the issuance of revenue bonds for the purpose of providing funds for the acquisition, construction, repair, improvement or equipment of Disposal Facilities, and necessary sites, and related matters; authorizing the issuance of refunding bonds; providing that Commissioners Courts shall charge sufficient fees, tolls and charges for the use of Disposal Facilities; authorizing the Commissioners Courts to contract with Persons for the operation of Disposal Facilities, and related

matters; providing for a receiver in the event of a default; providing that the bonds are eligible investments and securities; granting the power to the Commissioners Courts to promulgate all reasonable regulations and rules applicable to the usage of Disposal Facilities; authorizing the Commissioners Courts to accept grants and gratuities in furtherance of the objectives and purposes of this Act; providing that this Act is cumulative of other laws relating to the subject and that this Act shall take precedence in case of any conflict with other laws; enacting other provisions related to the aforementioned subject; providing a severability clause; and declaring an emergency. Acts 1969, 61st Leg., p. 2557, ch. 854.

Art. 2352f. State association of counties; membership fees and dues

Section 1. The commissioners court of each county within the state is authorized to approve the expenditure of county funds from the general fund for membership fees and dues assessed by a nonprofit state association or organization of counties if:

(1) the membership in such association is approved by majority vote of the commissioners court;

(2) such association is established and designed for the betterment of county government and the benefit of all county officials;

(3) the expenditure authorized by this section is made in the name of the county;

(4) such association is not affiliated in any way with a labor organization;

(5) such association or any employee thereof, does not in any way, directly or indirectly, influence or attempt to influence the outcome of any legislation pending before the Legislature of the State of Texas; provided, however, that nothing herein shall be construed to prevent any agent, servant, or representative of such association from providing information for any member of the Legislature, or from appearing before any committee thereof when requested to do so by said member or committee; and

(6) such association or any employee thereof does not, either directly or indirectly, make any contribution, gift or donation of any money, services or other valuable thing to any political campaign or does not endorse any candidate or group of candidates for public office.

Sec. 2. If any association or organization supported in whole or in part by tax money from a political subdivision engages in any act specified in Subdivision (5) and (6) of Section 1 of this Act, any taxpayer of a political subdivision which pays fees or dues to such association or organization may bring suit to prohibit the political subdivision from making further expenditures to such association or organization and the court upon proof of the violation of any provision hereof shall enjoin any further payments or activity.

Acts 1969, 61st Leg., p. 1120, ch. 365, eff. Sept. 1, 1969.

Title of Act:

An Act authorizing the commissioners court of each county within the state to expend county funds for membership fees and dues to a nonprofit state association or

organization of counties; providing for taxpayer suits against political subdivision in certain cases; providing for severability; and declaring an emergency. Acts 1969, 61st Leg., p. 1120, ch. 365.

Art. 2370b—1. Branch courthouses

Section 1. In counties which have a population of not less than 39,350 nor more than 39,450 or less than 22,100 nor more than 22,200, according to the last preceding federal Census, the commissioners court may provide for, operate, and maintain one or more branch courthouses outside the county seat for any length of time the commissioners court considers necessary.

Sec. 2. (a) If the branch courthouse is maintained in a building which is owned by the county, the commissioners court shall operate and maintain the building in the same manner in which it operates and maintains the county courthouse. The commissioners court shall have care and custody of the building and may place any limitations on the use and maintenance of the building which it finds necessary.

(b) If the commissioners court does not wish to construct a building or purchase office space for the branch courthouse, the commissioners may rent or lease a sufficient amount of office space for the branch courthouse.

Sec. 3. After the commissioners court has authorized the creation of a branch courthouse, any office, department, facility, court, or other agency of the county may open branch offices in the branch courthouse with the approval of the commissioners court.

Sec. 4. Expenses incurred by the county in operating and maintaining the branch courthouse shall be paid from county funds used to maintain and operate other county buildings.

Acts 1969, 61st Leg., p. 2704, ch. 886, emerg. eff. June 21, 1969.

Title of Act:

An Act relating to branch courthouses in certain counties; and declaring an emer-

gency. Acts 1969, 61st Leg., p. 2704, ch. 886.

Art. 2370c—1. Counties of over 900,000; crime detection facilities; certificates of indebtedness

Section 1. The commissioners court of each county having a population in excess of 900,000, according to the most recent federal census, shall be authorized, for and on behalf of the county, to issue negotiable certificates of indebtedness for the purpose of acquiring, purchasing, constructing, repairing, renovating, improving, and/or equipping crime detection facilities, and acquiring any real or personal property in connection therewith, and to levy and pledge annual county ad valorem taxes under Article VIII, Section 9, of the Texas Constitution, sufficient to pay the principal of and interest on said certificates of indebtedness as the

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same come due. When any such certificates of indebtedness are issued, it shall be the duty of the commissioners court annually to levy the aforesaid taxes, and cause the same to be assessed and collected, in an amount sufficient to pay such principal and interest. Such certificates of indebtedness may be issued in one or more series or issues, shall mature serially or otherwise not more than 40 years from their date, and shall bear interest at such rate or rates as shall be determined within the discretion of the commissioners court. Said certificates of indebtedness, and any interest coupons appertaining thereto, shall be negotiable instruments, and they may be made redeemable prior to maturity, may be issued in such form, denominations, and manner, and under such terms, conditions, and details, and shall be signed and executed, as provided by the Commissioners Court in the order authorizing the issuance thereof. Such certificates of indebtedness shall be sold for not less than their par value and accrued interest to date of delivery. Such certificates of indebtedness may be issued by order of the commissioners court without the necessity of an election, but the aggregate principal amount of certificates of indebtedness issued pursuant to this Act shall not exceed \$1,500,000.

Sec. 2. All certificates of indebtedness issued pursuant to this Act, and the appropriate proceedings authorizing their issuance, shall be submitted to the Attorney General of the State of Texas for examination. If he finds that such certificates of indebtedness have been authorized in accordance with law he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas; and after such approval and registration such certificates of indebtedness shall be incontestable in any court, or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes.

Sec. 3. All certificates of indebtedness issued pursuant to this Act shall be legal and authorized investments for all banks, trust companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, fiduciaries, trustees, and guardians, and for all interest and sinking funds and other public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic. Said certificates of indebtedness also shall be eligible and lawful security for all deposits of public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of said certificates of indebtedness, when accompanied by any unmatured interest coupons appurtenant thereto.

Sec. 4. The commissioners court shall be authorized to operate and maintain the county's crime detection facilities and to fix and collect fees and charges for services performed and information furnished to others by the use of said facilities. The commissioners court shall pay the expenses of operation and maintenance of said facilities from such fees and charges and/or from any other available county funds.

Acts 1969, 61st Leg., p. 176, ch. 73, emerg. eff. April 10, 1969.

Title of Act:

An Act authorizing the commissioners court of certain counties to issue negotiable certificates of indebtedness, for and on behalf of the county, for the purpose of acquiring, purchasing, constructing, repairing, renovating, improving, and/or equipping crime detection facilities, and acquiring any real or personal property in connection therewith; authorizing and requiring the levy, assessment, and collection of annual county ad valorem taxes under Article VIII, Section 9, of the Texas Consti-

tution, to pay the principal of and interest on said certificates of indebtedness; prescribing limitations as to the principal amount of said certificates of indebtedness which may be issued and a time limit for such issuance and prescribing the procedure for their issuance and sale; authorizing the commissioners court to fix and collect fees and charges for services performed and information furnished by the use of crime detection facilities; authorizing the payment of operation and maintenance expens-

es of crime detection facilities; prescribing the eligibility of said certificates of indebtedness for investment by certain funds and for security for deposits of public funds;

enacting other provisions related to the subject; and declaring an emergency. Acts 1969, 61st Leg., p. 176, ch. 73.

Art. 2370e. Sale and lease back of land, buildings, equipment, etc. in counties over 500,000

Section 1. The commissioners court of any county in this state having a population in excess of 500,000 inhabitants according to the last preceding federal census is hereby authorized to sell land, buildings, facilities or equipment for the purpose of entering into contracts, to lease or to rent buildings, land, facilities, equipment or services from others for county purposes and to pay the regular monthly utility bills for such land, buildings, facilities, equipment, or services so contracted, leased, or rented, such as electricity, gas, and water; and when in the opinion of a majority of the commissioners court of a county such facilities and equipment are essential to the proper administration of such agencies of the county, said court is hereby specifically authorized to pay for same and for the regular monthly utility bills for such offices out of the county's general fund by warrant as in the payment of other obligations of the county.

Sec. 2. Provided that all construction projects originated or initiated under the term of this Act, shall be let by contract, which contract shall contain the prevailing wage for all mechanics, laborers and persons employed in the construction of such project. The commissioners court of Tarrant County shall determine and set the prevailing wage, which shall be the same prevailing wage set by the commissioners court of Tarrant County on all construction projects involving the expenditure of county funds.

Sec. 3. All actions, proceedings, orders and contracts for such sale, rental, lease, or utility bills for such purposes as stated in Section 1 hereof, made and entered into by any commissioners court of this state, pursuant to which such service has been rendered, are hereby validated, confirmed, and declared to be in full force and effect, notwithstanding any irregularity thereof prior to the enactment of this Act.

Sec. 4. Provided further, that upon or prior to the expiration of the number of terms of years as set forth in any such contract, and when in the opinion of a majority of the commissioners court of such county the stated price is a reasonable price within the judgment of a majority of said court, such facilities may be purchased and become the property of said county and be paid for out of the general fund.

Acts 1969, 61st Leg., 2nd C.S., p. 63, ch. 12, eff. Dec. 9, 1969.

Section 5 of the act of 1969 was a severability provision.

Title of Act:

An Act relating to the sale and lease back and renting or leasing and purchase

of land, buildings, facilities or equipment for county purposes in certain counties; and declaring an emergency. Acts 1969, 61st Leg., p. 63, ch. 12.

Art. 2372d—5. Museums; joint venture by county with city or town

Section 1. In any county in this state having a population of not more than 20,000 and an incorporated city of not less than 10,000 in such county, according to the last federal census, such county acting through its commissioners court and the governing body of such city or town, may jointly erect, equip, maintain and operate a museum. The commissioners court of any such county and the governing board of any such city may, by resolution or proper action, confer upon, delegate to and grant to a board of managers as hereinafter provided, full and complete authority to erect, maintain, own, lease or sublet realty and equip a museum; and such board is authorized to receive in behalf of such county and city,

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gifts, bequests, to borrow and receive, exchange, sell and lend property for the benefit of such museum. Any gift or loan of property shall be administered as designated by the donor. Such joint county and city museum may be financed out of the general revenues of such city and county in such proportions as each shall see fit to contribute.

Sec. 2. The board of managers shall be composed of 9 members, four (4) of this number shall be appointed by the commissioners court of such county, four (4) shall be appointed by the governing body of such city or town, and one (1) shall be appointed by the commissioners court of such county and the governing body of such city or town acting jointly as one body. The commissioners court of such county and the governing body of such city or town shall each appoint one member for a term of office expiring at the end of one (1) year from date of appointment, one member for a term of office expiring two (2) years from date of appointment, one member for a term of three (3) years expiring from date of appointment and one for a term of four (4) years from date of appointment. Thereafter, at the expiration of each term of office of the members so appointed to such board the commissioners court or the governing body of such city or town, acting as appointive bodies, shall each reappoint members or make replacement appointments to board positions as filled by the respective body originally for a term of four (4) years each. The commissioners court and the governing board of such city or town, acting jointly as an appointive body, shall appoint one member for a term of office for four (4) years from date of appointment. Thereafter, at the expiration of each term of office of the member so appointed to such board the commissioners court and the governing body of such city or town acting jointly as an appointive body, shall make, and continue to make, similar appointments to such board for a term of four (4) years each. Any vacancy occurring by death or resignation from such board before expiration of the departing member's term shall be filled for the unexpired portion of such term by the body or bodies making such appointment.

Sec. 3. Such board of managers shall select a chairman or presiding officer from among their number who shall preside over all board meetings of said board, and shall sign all contracts, agreements and other instruments made by such board, on behalf of such county and city or town, and have authority to elect such other officers from their body as they shall see fit. A majority of the board shall constitute a quorum with full power and authority to act.

Sec. 4. Such board shall have full and complete authority to enter into any contract connected with or incident to the establishment, equipping, maintaining and operating of such museum, and shall have authority to pay and dispense funds set aside by such county and city for purposes connected with operating and maintaining same as if such action were taken by the governing body of such county and city.

Sec. 5. Once each year such board shall prepare and present to this county and city governing bodies a complete financial statement as to the condition of said museum, and shall submit to such bodies a proposed budget as to the anticipated financial needs for the ensuing year. On the basis of such financial statement and budget the commissioners court and governing body of the city shall appropriate and set aside for the use of such board in the operation of such museum the amount of money which seems proper and necessary.

Sec. 6. The board of managers shall have authority to hire a superintendent or manager of such museum and such superintendent or manager shall have the right with the consent of the board to hire extra help, but at all times the superintendent or manager and extra help shall be

subject to the bylaws, rules and regulations as prescribed by the board. Acts 1969, 61st Leg., p. 994, ch. 319, emerg. eff. May 19, 1969.

Establishment and operation of museums, cities of 8,500 or more, see art. 1269j—4.1.

Title of Act:

An Act providing for the establishment and operation of museums in certain counties and cities or towns; establishing

boards of managers for such museums and providing for their appointment, tenure and authority; authorizing the boards of managers to allocate revenues, accept gifts, enter into contracts, dispense funds, and hire superintendents; and declaring an emergency. Acts 1969, 61st Leg., p. 994, ch. 319.

Art. 2372f—7. Automobile for each commissioner in counties of 60,000 to 60,400

Section 1. This Act applies to any county having a population of not less than 60,000 nor more than 60,400, according to the last preceding federal census.

Sec. 2. The commissioners court may furnish each county commissioner an automobile for use in official business and the cost of the automobile may be paid out of county funds.

Acts 1969, 61st Leg., p. 282, ch. 110, emerg. eff. May 1, 1969.

Title of Act:

An Act authorizing the commissioners court in certain counties to furnish each county commissioner an automobile for use

in official business; and declaring an emergency. Acts 1969, 61st Leg., p. 282, ch. 110.

Art. 2372f—8. Allowance for traveling expenses and automobile depreciation

In any county having a population of not less than 23,900 nor more than 24,000, according to the last preceding federal census, the commissioners court may allow each county commissioner an amount of not more than \$150 a month to pay the commissioner's traveling expenses and automobile depreciation while he is engaged in official business within the county. Each county commissioner shall pay any expenses in the operation of his automobile and shall keep the automobile repaired without charge to the county.

Acts 1969, 61st Leg., p. 1551, ch. 469, § 1, eff. Sept. 1, 1969.

Title of Act:

An Act relating to travel and expenses and automobile depreciation allowance for

county commissioners in certain counties; and declaring an emergency. Acts 1969, 61st Leg., p. 1551, ch. 469.

Art. 2372h—4. Payroll deductions; authorized purposes

Section 1. (a) The commissioners court of any county of 20,000 or more population may authorize payroll deductions to be made from the wages and salaries of county employees, on each employee's written request, to a credit union, and to pay membership dues in a labor union or a bona fide employees association.

(b) Each employee requesting a deduction under this Act shall submit to the county auditor a written request indicating the amount to be deducted from the employee's wages or salary and to transfer the withheld funds to the credit union, proper labor union or employees association. The request shall remain in effect until the county auditor receives written notice of revocation signed by the employee.

(c) The amount deducted from an employee's wages or salary for the purpose stated in this Act shall not be more than the amount stipulated in the written request.

(d) Participation in the program authorized by this Act is voluntary on the part of any county employee and the county.

Sec. 2. The provisions of this Act shall not alter, amend, modify, or repeal any of the provisions of Chapter 135, Acts of the 50th Legislature, 1947 (Article 5154c, Vernon's Texas Civil Statutes).

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Sec. 3. Public funds shall not be used to defray the administrative cost of making the deductions authorized under this Act. The credit union, labor union or employees association shall pay the full and complete administrative cost, if any, as determined and approved by the commissioners court of the deductions made under this Act. Acts 1969, 61st Leg., p. 1380, ch. 419, eff. Sept. 1, 1969.

Title of Act:

An Act relating to payroll deductions from wages and salaries of county employees in counties having 20,000 or more population; and declaring an emergency. Acts 1969, 61st Leg., p. 1380, ch. 419.

Art. 2372m. Rabies; regulations

Declaration of danger of epizootic; powers; duration of regulations

Section 1. The Commissioners Court of any county in this State is hereby authorized, by an order duly entered in the minutes of proceedings of said court in order to prevent the introduction or spread of rabies, to declare the area of said county to be in danger of a rabies epizootic in the animal population thereof. Upon such order being duly entered, as above described, that the existence of such epizootic would be a menace to the health and safety of the people of each area of the county, said Commissioners Court shall be authorized to promulgate and establish regulations in accordance with this Act, including but not limited to, the requirement for restraint of domestic animals, anti-rabies vaccination of dogs, registration of dogs, quarantining of biting animals and rabies suspects.

The Commissioners Court may declare such emergency to exist after a public hearing held by the Court concerning the proposed regulation. Said regulations shall remain in effect until amended or rescinded by the Court after a public hearing concerning the proposed amendment or rescission.

Regulations authorized

Sec. 2. The regulations necessary for the control of animals of such county as determined by the Commissioners Court shall be set forth in the minutes of the Court. The said Court shall have the power and authority upon the basis of preventing the introduction or spread of rabies in the county to protect public health and safety of the people, to determine and fix any reasonable regulation to control animals, which may include the following but which shall not limit the power of the Court to act:

A. To authorize the County Health Officer or his delegate to enforce a rabies quarantine in the county and cause the removal or disposition of animals which may endanger the public health and safety.

B. Require each and every dog in the county to be registered with the county unless registered with a local municipality within the county. Such registration shall be evidenced by an identification tag to be furnished by the enforcing agency, which tag shall carry the registration number of the dog and, as required by this Act, an anti-rabies vaccination is a condition precedent to the issuance of such a registration, the tag bearing the number and fact of such vaccination shall be securely fastened to a collar or harness worn by such dog. Such registration shall be good for one (1) year from the date of registration and the owner of such dog shall be required to renew the registration each year.

C. To require a current anti-rabies vaccination of dogs by the time they reach 4 months of age with a vaccine (preferably modified live virus) approved by the United States Department of Agriculture as a condition precedent to the issuance of such registration to help prevent the spread of rabies in the animal population, since the existence of a rabies epizootic would be a menace to the health and safety of the

people in such county. A rabies vaccination shall remain current for such period as determined by the court upon due consideration of the specific type of anti-rabies vaccine to be administered and the local rabies situation. Evidence of the current vaccination certified by a licensed veterinarian, shall be furnished to the enforcement agency before issuance of such registration and evidence of such shall be carried on the tag required to be fastened to the collar or harness of the dog.

D. To declare any dog, whether registered and tagged or unregistered and untagged, that is not restrained by the owner within the county to be a public nuisance and require that such animal be detained or impounded by any person or persons designated by the Court. The Commissioners Court shall have authority to direct the holding of such dog until claimed, to charge the owner of such animal for impoundment and board during the period of retention at a rate to be set by the Court, and to dispose of any animals which are unclaimed by their owners.

E. To allow the enforcement agency (whether it be the county or local municipality therein) to collect a fee set by the Commissioners Court order for the registration of any dog. Such fees shall be used only to help defray the expense of administration of these regulations promulgated by the Commissioners Court.

F. To require the reporting to the enforcement agency of all animal bites and the quarantining for a minimum of 10 days under the supervision of a licensed veterinarian of the biting animal suspected of being rabid or being exposed to a possibly rabid animal.

G. The promulgation and establishment of regulations by the Commissioners Court of any county in accordance with this Act shall not prevent or jeopardize a corporate municipality within the county to establish more stringent rules and regulations to prevent the introduction and spread of rabies and the control of animals within their corporate limits, and such ordinances established by said corporate municipalities shall supersede the county order within the municipality so that dual enforcement will not occur.

Punishment for violations

Sec. 3. Any owner who fails to restrain a dog in the county, whether registered and tagged or not, or any owner who fails to vaccinate or register any dog in violation of any order of the Commissioners Court promulgated pursuant to this Act or otherwise violating any provision thereof or any provision of any regulation established by the Court, shall be guilty of a misdemeanor and shall upon conviction be punished by a fine not exceeding Fifty Dollars (\$50) for the first offense; by a fine not exceeding One Hundred Dollars (\$100) for the second offense; and by a fine not exceeding Two Hundred Dollars (\$200) or imprisonment in the County Jail not to exceed sixty (60) days, or both such fine and imprisonment for each subsequent offense. Amended by Acts 1969, 61st Leg., p. 1690, ch. 549, § 1, emerg. eff. June 10, 1969.

Art. 2372p—1. Furnishing counsel and investigative services for indigents accused of crime

Authority to contract

Section 1. For the purpose of providing timely and effective assistance of counsel to those persons accused of crime and who are financially unable to employ counsel on their own, the commissioners court of any county in this state having a population of more than 1,200,000, according to the last preceding federal census, may contract with some already established bar association, nonprofit corporation, nonprofit trust association or any other nonprofit entity (which has for its purpose the provid-

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ing of timely effective assistance of counsel for the indigent accused of crime) to assist the courts in providing the timely and effective assistance of counsel.

Aid to court appointed counsel

Sec. 2. Under the terms of such contract, provision may be made for the contracting entity to provide additional legal counseling and advice to the court appointed counsel as well as the necessary investigative services authorized by Article 26.05, Code of Criminal Procedure, 1965.

Recommendations for release on personal bond

Sec. 3. Likewise, for the purpose of providing the judge before whom a criminal case is pending the information necessary for making a proper determination as to whether or not the accused should be released on personal bond as authorized by Article 17.03, Code of Criminal Procedure, 1965, the commissioners court of any such county may contract with such above named entity to interview the accused, to verify the information given, to make the appropriate recommendation as to release to the judge of the court where the case is pending, and, if the accused is released on his personal bond, to assure the judge of the court that such entity will assist in securing the presence of the accused at his trial.

Duration of contract; renewal

Sec. 4. Such contract may not be entered into for in excess of one year, but may be renewed from time to time. Either party to such contract may terminate the same by giving six months notice of intention to do so.

Compensation for services

Sec. 5. Services provided under said contract shall be compensated for from the general funds of the county, and the commissioners court is empowered to accept grants or other financial assistance from the federal government or other private source to aid and assist in carrying out the purposes of this Act.

Acts 1969, 61st Leg., p. 2454, ch. 821, eff. Sept. 1, 1969.

Compensation of counsel appointed to defend indigent, see Vernon's Ann.C.C.P. art. 26.05.

Personal bond, see Vernon's Ann.C.C.P. art. 17.03.

Right to counsel, see Const. art. 1, § 10; Vernon's Ann.C.C.P. arts. 1.05, 1.13, 15.17, 16.01, 26.04, 52.04.

Title of Act:

An Act relating to furnishing legal counsel for indigents accused of crime in certain counties and to investigating entitlement to release of persons on personal bond; and declaring an emergency. Acts 1969, 61st Leg., p. 2454, ch. 821.

Art. 2372s—1. Regulation of parking in certain courthouse parking lots

Section 1. This Act shall apply in every county having a population of not less than 14,000 nor more than 14,900, and in every county having a population of not less than 25,000 nor more than 26,000, and in every county having a population of not less than 140,000 and not more than 170,000, according to the last preceding Federal Census.

Sec. 1 amended by Acts 1969, 61st Leg., p. 2453, ch. 820, § 1, eff. Sept. 1, 1969.

Sec. 2. The commissioners court is authorized to purchase such equipment as is necessary and make and enforce regulations for parking in county-owned or county-leased parking lots in, under, adjacent to, or near the county courthouse. The commissioners court may in its discretion contract with the city for enforcement of the regulations and likewise the city in its discretion may contract with the county. The Sheriff's Department of such counties is hereby authorized to enforce any and all regulations passed by the Commissioners Court.

Sec. 2 amended by Acts 1969, 61st Leg., p. 2453, ch. 820, § 2, eff. Sept. 1, 1969.

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TITLE 45—COURTS—JUSTICE**CHAPTER THREE—APPEARANCE AND TRIAL****Art. 2428. Pay of jurors.**

Jurors in Justice Courts who serve in the trial of civil cases in such courts shall receive Three Dollars (\$3) in each case in which they sit as jurors, provided that no juror in such court shall receive more than Six Dollars (\$6) for each day or fraction of a day he may so serve as such juror, to be paid out of the jury fund of the county."

Amended by Acts 1969, 61st Leg., p. 290, ch. 115, § 1, eff. Sept. 1, 1969.

CREDIT ORGANIZATIONS
For Annotations and Historical Notes, see V.A.T.S.

TITLE 46—CREDIT ORGANIZATIONS

Art.	2461—	Art.	2461—
	1. CREDIT UNIONS [NEW]		
2461—1.	Definition and purpose.	2461—26.	Dividends.
2461—2.	Organization.	2461—27.	Share reduction.
2461—3.	Amendments.	2461—28.	Merger.
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2461—14.	Credit committee.	2461—39.	Qualification of members.
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2461—19.	Thrift clubs.	2461—44.	Expenses and compensation of members.
2461—20.	Deposits.	2461—45.	Disqualification of members.
2461—21.	Joint accounts.	2461—46.	Meetings.
2461—22.	Minors.	2461—47.	Election; compensation; powers and duties.
2461—23.	Trust accounts.	2461—48.	Transfers to general revenue fund.
2461—24.	Investments.	2461—49.	Special assessment.
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1. CREDIT UNIONS [NEW]

The Credit Union Act, set out in this title as Articles 2461—1 to 2461—49, was enacted by Acts 1969, 61st Leg., p. 540, ch. 186, §§ 1—49. Former articles 2461 to 2484d, dealing with Rural Credit Unions, were repealed by section 50 of the act of 1969. See Table following for disposition of repealed articles.

DISPOSITION TABLE

Showing where subject matter of former articles 2461—2484d of Title 46 is now covered by article 2461—1 et seq., as enacted by Acts 1969, 61st Leg., p. 540, ch. 186.

Former Articles	New Articles	Former Articles	New Articles
2461	2461—1	2470	2461—12
	2461—15,	2471	2461—14
2462	2461—24	2472	2461—35
2463	2461—2	2473	
	2461—2,		2461—18,
2464	2461—4		2461—20,
	2461—30,	2474	2461—23
	to	2475	2461—5
2465	2461—32	2476	2461—15
2466	2461—2	2477	2461—15
2467	2461—2	2478	2461—7
2468	2461—9	2479	2461—7
	2461—10		
	to		
2469	2461—12		

Former Articles	New Articles	Former Articles	New Articles
2480 -----	2461—16	2484a -----	2461—38
2481 -----			to
2482 -----	2461—26		2461—47
	2461—34,	2484b -----	2461—33
2483 -----	2461—36	2484c -----	2461—21
2484 -----	2461—29	2484d -----	

Interest, consumer credit and consumer protection see art. 5069—1.01 et seq.

Art. 2461—1. Definition and purpose

A credit union is a cooperative, nonprofit association, incorporated in accordance with the provisions of this Act for the purpose of encouraging thrift among its members and of creating a source of credit at fair and reasonable rates of interest. A credit union provides an opportunity for its members to use and control their own money and provides all members of the group within which it is organized equal opportunities irrespective of race, color, or creed to improve their economic and social condition. Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Title of Act:

An Act relating to the organization and regulation of credit unions; reducing the interest to be charged on loans secured by real estate; repealing certain laws; and declaring an emergency. Acts 1969, 61st Leg., p. 540, ch. 186.

Art. 2461—2. Organization

(a) Any seven or more persons, of legal age, a majority of whom shall be residents of the State of Texas, who have a common bond referred to in Section 6, may organize a credit union and become charter members thereof by:

(1) executing in duplicate, articles of incorporation by the terms of which they agree to be bound, which articles shall state:

(A) the name, which shall include the words "credit union" and which shall not be the same as that of any other existing credit union;

(B) the town or city wherein the proposed credit union is to have its principal place of business;

(C) the term of existence of the credit union, which shall be perpetual;

(D) the par value of the shares of the credit union, which shall be \$5;

(E) the names and addresses of the subscribers to the articles of incorporation, and the number of shares subscribed by each; and

(F) that the credit union shall have the power to exercise such incidental powers as shall be necessary or requisite to enable it to carry on effectively the business for which it is incorporated;

(2) preparing and adopting bylaws for the general government of the credit union, consistent with the provisions of this Act, and executing the same in duplicate; and

(3) forwarding the required charter fee of \$10 and the articles of incorporation and the bylaws to the Credit Union Commissioner. If they conform to the statute, he shall issue a certificate of approval of the articles and return a copy of the bylaws and the articles to the applicant or its representative which shall be preserved in the permanent files of the credit union. The minimum paid-in capital with which the credit union begins business shall not be less than \$100. The Credit Union Commissioner shall have the authority to investigate the application for charter to determine whether the proposed credit union does meet the requirements of this Act. If the proposed credit union does not meet the requirements, the charter application shall be denied.

(b) The subscribers for a credit union charter shall not transact any business until formal approval of the charter has been received. In order

For Annotations and Historical Notes, see V.A.T.S.

to simplify the organization of credit unions, the Credit Union Department, upon the taking effect of this Act, shall prepare a form of articles of incorporation and a form of bylaws, consistent with this Act, which may be used by credit union incorporators for their guidance.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—3. Amendments

The articles of incorporation or the bylaws may be amended as provided in the bylaws. Amendments to the articles of incorporation or bylaws shall be submitted in writing to the Credit Union Commissioner. Amendments shall become effective upon approval in writing by the Credit Union Commissioner.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—4. Restrictions

Any person, corporation, copartnership, or association, except a credit union or association of credit unions organized under the provisions of this Act or the Federal Credit Union Act, using a name or title containing the words "credit union" or any derivation thereof, or representing themselves in their advertising, or otherwise conducting business as a credit union shall be guilty of a misdemeanor and shall be fined not more than \$5,000 or imprisoned not more than two years, or both, and may be permanently enjoined from using such words in its name.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—5. Corporate powers

A credit union shall have power to:

- (1) make contracts;
- (2) sue and be sued in the name of the credit union;
- (3) adopt and use a common seal and alter same at pleasure;
- (4) purchase, hold, and dispose of property necessary or incidental to its operations;
- (5) require the payment of an entrance or membership fee not to exceed \$1 of any applicant admitted to membership;
- (6) receive from its members payments on shares or deposits, including the right to conduct Christmas clubs, vacation clubs, and other such thrift organizations within the membership;
- (7) lend its funds to its members as hereinafter provided;
- (8) purchase or otherwise provide insurance for the benefit or convenience of its members;
- (9) borrow from any source not to exceed an aggregate amount equal to 25 percent of its shares, deposits, and surplus, unless such loan in excess of such amount be first approved by the Credit Union Commissioner. Approval or disapproval for such borrowing shall be given in writing by the Credit Union Commissioner within 10 days after request by any such credit union;
- (10) invest funds as provided in this Act;
- (11) make deposits in legally chartered banks, trust companies, central-type credit union organizations, and purchase shares and/or invest in savings and loan associations;
- (12) hold membership in other credit unions organized under this Act or other acts upon approval from the Credit Union Commissioner, and hold membership in such other organizations as may be approved by the board of directors;
- (13) declare dividends, pay interest on deposits, and pay interest re-funds to borrowers as hereinafter provided;

(14) impress a lien upon the shares and accumulation of dividends and interest of any member to the extent of any loans made to him directly or indirectly, or on which he is surety, and for any dues or charges payable by him;

(15) change its place of business within the state upon written notice to the Credit Union Department;

(16) collect, receive, and disburse moneys in connection with the sale of travelers checks, money orders, and other money-type instruments, and for such other purposes as may provide benefit or convenience for its members;

(17) exercise the powers granted corporations organized under the laws of the State of Texas and such additional incidental powers as may be necessary or requisite to enable it to promote and carry on effectively its purposes; and

(18) operate as a central credit union, the membership of which shall be defined in its bylaws, in the way and manner as is prescribed in its bylaws; and undertake activities which are consistent with the business of the central credit union.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—6. Membership

(a) The membership of a credit union shall be limited to and consist of the subscribers to the articles of incorporation and such other persons having the common bond set forth in the bylaws as have been duly admitted members, have paid the entrance fee, if any, as provided in the bylaws, have subscribed and paid for one or more shares, and have complied with such other requirements as the articles of incorporation or bylaws may specify.

(b) Credit union organizations shall be limited to groups having a definable community of interest, including but not limited to occupation, association, residence, religion, or the like, and members of the immediate family of such persons. "Members of the immediate family" include parents of a member, if residents of the same household, the spouse, surviving spouse, and children.

(c) Societies and associations composed of individuals who are eligible for membership may be admitted to membership in the same manner and under the same conditions as individuals.

(d) An individual who leaves the field of membership may be permitted to retain his membership in the credit union at the discretion of the board of directors.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—7. Expulsion and/or withdrawal from field of membership

A member of the credit union may be expelled by the board of directors, but only after an opportunity has been given him to be heard for the purpose of such expulsion. A written notice of this hearing setting forth the time, place, and date for such meeting shall be forwarded to the member by the board of directors, together with the charges which serve as the basis for the expulsion. The member may be expelled for failure to meet the conditions of his membership, failure to carry out his obligations to the credit union, conviction of a felony, neglect or refusal to comply with the provisions of the laws under which the credit union operates and the bylaws of the credit union, habitual neglect to pay obligations, insolvency, or bankruptcy. Upon completion of the hearing, and if the board of directors has voted to expel the member, the member shall remain liable for any sums owed to the credit union for loans or other purposes. The credit union may require 60 days' notice to withdraw shares by the member.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—8. Fiscal year

The fiscal year of all credit unions organized under this Act shall end on the last day of December.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—9. Meetings

The annual meeting and special meetings shall be held at the time, place, and in the manner indicated in the bylaws. At all such meetings the member shall have but one vote, irrespective of his shareholdings. No member may vote by proxy, but a society or association having membership in the corporation may be represented and vote by one of its members or shareholders, providing such person has been duly authorized by the governing board of said society or association to represent it.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—10. Official family

(a) The business affairs of the credit union shall be directed by a board of directors of not less than five directors, and an audit committee of not less than three members, all to be elected at an annual members' meeting by and from the members, and by a credit committee of at least three members to be appointed by the board of directors.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

(b) All members of the board of directors and of such committees shall hold office for such terms respectively, as the bylaws may provide. No member of the board of directors or credit committee shall be a member of the audit committee.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—11. Officers

(a) Within 30 days following the organization meeting and each annual meeting, the directors shall elect from their own number a chief executive officer who may be designated as chairman of the board or president, a vice-chairman or vice-presidents, a treasurer, and a secretary, of whom the last two may be the same individual. The board of directors may employ an officer in charge of operations whose title shall be either president or general manager; or, in lieu thereof, the board of directors may designate the treasurer or an assistant treasurer to be in active charge of the affairs of the credit union.

(b) Within 10 days after election to any position, each person so elected or appointed shall execute an oath of office by which he agrees to accept and to diligently and faithfully carry out the duties and responsibilities of the position to which he has been elected and not to negligently or willfully violate, or permit to be violated, any provision of this Act or the bylaws of such credit union.

(c) The chairman of the board and secretary shall execute a certificate of election which shall set forth the names and addresses of the officers, directors, and committee members elected or appointed.

(d) The oath of office and the certificate of election shall be executed on forms prepared by the Credit Union Department, and one copy of each shall be filed with the department within 10 days after such election or appointment.

(e) The terms of the chairman of the board, vice-chairman, treasurer, and secretary shall be for one year, or until their successors are chosen and have been duly qualified.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—12. Board of directors

(a) The board of directors shall have the general direction of the affairs, funds, and records of the credit union and shall meet as often as necessary, but not less than once each month.

(b) It shall be the special duty of the directors to:

(1) act upon applications for membership; appoint a membership officer from among the members of the credit union, other than the treasurer, an assistant treasurer, or a loan officer, who may be authorized by the board to approve applications for membership under such conditions as the board may prescribe; except that such committee or membership officer so authorized shall submit to the board at each monthly meeting a list of approved or pending applications for membership received since the previous monthly meeting, together with such other related information as the bylaws or the board may require; said membership officer shall not have the authority to disapprove any application for membership;

(2) purchase a blanket fidelity bond, as prescribed by the Credit Union Department for all credit unions according to their asset categories, covering the officers, employees, members of official committees, attorneys-at-law, and other agents, with protection against loss caused by dishonesty, burglary, robbery, larceny, theft, holdup, forgery or alteration of instruments, misplacement or mysterious disappearance, and for faithful performance of duty. The Credit Union Department shall prescribe in its rules and regulations the amount of minimum bond coverage required for all credit unions according to their asset categories;

(3) determine from time to time the rate(s) of interest consistent with the provisions of this Act which shall be charged on loans and determine the rate(s) of interest refund, if any, to be paid to borrowing members (from the credit balance of the undistributed earnings account), the qualifications for participation, and the manner of computation and payment;

(4) declare dividends in the way and manner as provided by the bylaws;

(5) determine the rate(s) of interest to be paid on deposits;

(6) limit the number of shares which may be owned by a member;

(7) fill vacancies occurring between annual meetings on the board of directors, credit committee, and audit committee until the election or appointment and qualification of their successors;

(8) fix from time to time the maximum amount, both secured and unsecured, which may be loaned to any one member;

(9) authorize the investment of funds of the credit union;

(10) authorize the employment and compensation of such person or persons as may be necessary to carry on the business of the credit union;

(11) authorize the conveyance of property;

(12) authorize the borrowing or lending of money to carry on the functions of the credit union;

(13) designate a depository or depositories for the funds of the credit union;

(14) upon two-thirds approval, the board of directors may replace any or all members of the credit committee and may suspend any or all members of the audit committee for failure to perform their duties until the next members' meeting, which members' meeting shall not be less than 10 days nor more than 30 days after such suspension and at which meeting such suspensions shall be acted upon by the members;

(15) authorize and provide for compensation of auditing assistance requested by the audit committee;

(16) suspend from his official position any officer or director who fails to attend regular meetings for three consecutive meetings without cause, or who otherwise fails to perform any of the duties required of him as an official;

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(17) appoint from its own number an executive committee to exercise such authority as may be delegated to it by the board of directors between meetings of the board of directors;

(18) perform or authorize any action consistent with this Act not specifically reserved by the bylaws or this Act for the members, and perform such other duties as the members may from time to time require; and

(19) appoint any committees deemed necessary.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—13. Penalties for official misconduct

(a) Any officer, director, committee member, or loan officer of a credit union who knowingly permits a loan to be made, or participates in a loan to a nonmember is guilty of a misdemeanor and shall be primarily liable to the credit union for the amount thus illegally loaned, and the illegality of such a loan shall be no defense in any action of the credit union to recover on the loan; provided, however, extension of credit for the sale of real or personal property owned by the credit union or the sale of assets acquired in liquidation or repossession shall not be construed as a violation of this paragraph.

(b) Any officer, director, committee member, agent, or employee who knowingly makes or subscribes to false entries or exhibits a false or fictitious paper, instrument, or security to a person authorized to examine the credit union books and records shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$1,000 or imprisoned for not more than two years, or both.

(c) Any officer, director, committee member, agent, or employee who receives payments on shares knowing the credit union is insolvent shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$1,000 or imprisoned for not more than two years, or both.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—14. Credit committee

(a) It shall be the duty of the credit committee to review all applications for loans to ascertain whether or not such loan would be for a provident and productive purpose and would benefit the applicant, and to determine whether or not the security offered, in its judgment, is sufficient and the terms of the application proper.

(b) The credit committee shall meet as often as may be required, but not less than once a month.

(c) The credit committee may appoint one or more loan officers to act under the supervision of the credit committee, and such loan officers, when so appointed, may make loans without necessity for a meeting of or approval by any members of the credit committee, as provided in the bylaws.

(d) Each loan officer shall, within seven days of the filing of each loan application received by him from a member or by referral from another officer, furnish to the credit committee a record of such application and his disposition of it.

(e) All applications for loans not approved by a loan officer shall be considered and acted upon by the credit committee no later than 30 days from the date such application is forwarded to the credit committee.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—15. Loans to members

(a) A credit union may loan to members for a provident or productive purpose and upon such security as the bylaws may provide and the credit committee shall approve. A credit union shall not grant unsecured loans

with maturities exceeding five years, nor shall it grant secured loans except as expressly herein otherwise provided with maturities exceeding 10 years; provided, however, these limitations shall not apply to loans made under the National Higher Education Act and guaranteed in whole or in part by the United States Government or any agency of the State of Texas. No loan shall bear an interest rate to exceed one percent per month on the unpaid monthly balance. No credit union shall charge the borrower anything of value in connection or in association with a loan other than repayment of the unpaid principal balance and interest; provided, that the credit union may require the borrower to pay fees and charges prescribed by law which actually¹ are or will be paid to public officials for determining the existence of or for perfecting or releasing or satisfying any security related to the credit transaction, fees or premiums in connection with real estate loans, including fees or premiums for title examination, title insurance or similar purposes, fees for preparation of deeds, settlement statements or other documents, escrows for future payments of taxes and insurance, fees for notarizing deeds and other instruments, appraisal fees, or credit reports. Each application for a loan shall be made upon a form, which the credit committee prescribes and the board of directors approves, which shall state the purpose for which the loan is desired and the security, if any, offered. Every loan shall be evidenced by a written instrument. Loans to any one member shall not exceed \$200 or 10 percent of the shares, deposits, and surplus, whichever shall be the larger.

(b) Loans may be made to members of the board of directors, credit committee, and audit committee under the same general terms and conditions as to other members of the credit union. Any loans made to or co-signed by members of the board of directors, credit committee, or audit committee, shall require the $\frac{2}{3}$ approval of all members of the board of directors and credit committee where such loan exceeds the unencumbered share balance of the borrowing member.

(c) Loans may be granted to members of the credit union, secured by a first mortgage on residential real estate. The term "residential real estate" shall mean land on which is situated a dwelling of not more than four family units, the primary use of which is occupancy as a home. Such loan shall not exceed 80 percent of the appraised value of the real estate plus unencumbered share or deposit balances of the borrowing member, and such loans shall provide additionally regular deposits for the payment of insurance premiums and taxes assessed against the security. No loan shall be made by a credit union on residential real estate for a maturity of more than 25 years.

(d) Loans may be granted to members of the credit union secured by a first mortgage on real estate other than residential real estate, provided that the loan does not exceed 60 percent of the appraised value of such real estate and such loan provides for regular reduction of principal, and provided further that such loan does not exceed a maturity of 15 years. Such loan shall also provide additionally regular deposits for the payment of insurance and taxes assessed against the property unless an amount equivalent to at least the annual insurance payment and annual taxes is maintained in the share account.

(e) The total outstanding balance of all first mortgage loans on real estate shall not exceed 25 percent of the outstanding shares and deposits of the credit union.

(f) A credit union may loan to members under the provisions of Title 1 of the National Housing Act and such insurance on these loans shall be deemed adequate security. The terms of such loans shall be as defined by the credit committee or under the provisions of Title 1 of the National Housing Act.

(g) In addition to generally accepted types of security, the endorsement of a note by a guarantor or assignment of shares, in a manner con-

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sistent with the laws of Texas, shall be deemed security within the meaning of this Act and the adequacy of all securities shall be within the determination of the credit committee or loan officer subject to the provisions of this Act and the bylaws. A member may receive a loan in installments or in one sum, and may pay the whole or any part of his loan on any day in which the credit union office is open for business.

(h) The credit committee or, when authorized, a loan officer may approve in advance upon its or his own motion or upon application by a member, an extension of credit, and loans may be granted to such members within the limits of such extension of credit. Where an extension of credit has been approved, applications for loans need no further consideration as long as the aggregate obligation does not exceed the limits of such extension of credit. The credit committee shall, at least once a year, review, or cause to be reviewed, all such extensions of credit, and any such extension of credit shall expire if the member becomes more than 90 days delinquent in his obligations to the credit union.

(i) No credit union may charge more than ten percent simple interest on loans secured by a mortgage on real estate.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

¹ So in enrolled bill.

Art. 2461—16. Audit committee

(a) The audit committee shall make, or cause to be made, at least semi-annually, an examination of the affairs of the credit union; shall make, or cause to be made, a report of its semiannual examination to the board of directors; and shall make, or cause to be made, an annual audit, a report of which shall be submitted to the members at the next annual meeting of the credit union.

(b) The audit committee shall cause the passbooks and accounts of the members to be verified with the records of the credit union from time to time, and not less frequently than once each year. The term "passbook" shall include any book, statement of accounts, or other pertinent or related record.

(c) The audit committee may suspend by a unanimous vote any officer of the credit union or any member of the board of directors, until the next members' meeting, which members' meeting shall not be less than 10 days nor more than 30 days after such suspension and at which meeting such suspension shall be acted upon by the members; and may call by a majority vote a special meeting of the members to consider any violation of this Act, the charter, or the bylaws, or any practice of the credit union deemed by the audit committee to be unsafe or unauthorized.

(d) Any member of the audit committee may be suspended by the board of directors. The members shall decide, at a meeting held not less than 10 nor more than 30 days after such suspension, whether the suspended committee member shall be removed from or restored to the audit committee.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—17. Compensation

No officer of the corporation, director, or committee member, other than the officer in active charge of the affairs of the credit union, may be compensated, directly or indirectly, for his services as such. This shall not be construed to prevent reimbursement of directors and committee members for actual expenses they may incur in carrying out the duties of their office.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—18. Shares

(a) A share is defined as a term applied to each \$5 standing to the share account of a member. The shares of stock of a credit union shall

all be common shares of one class and shall have a par value of \$5 per share. No certificate shall be issued to denote ownership of a share in a credit union. Shares may be subscribed, paid for, and transferred in such manner as the bylaws may prescribe.

(b) The credit union shall have and may exercise a lien on the shares or deposits of any member for any sum due the credit union from said member or for any loan endorsed by him.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—19. Thrift clubs

Christmas clubs, vacation clubs, and other thrift clubs, if provided for the use of members, shall be operated in accordance with such rules and regulations as the board of directors may prescribe.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—20. Deposits

Deposit accounts shall be operated in accordance with such rules and regulations as the board of directors may prescribe and as approved in writing by the Credit Union Commissioner. Interest rates on deposits shall not exceed 6 percent per annum unless the rate in excess of 6 percent per annum shall have first been approved by the Credit Union Commissioner.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—21. Joint accounts

(a) A member may, subject to approval of the board of directors, designate any person or persons to hold shares, deposits, and thrift club accounts with him in joint tenancy with the right of survivorship, but no joint tenant, unless a member in his own right, shall be permitted to vote, obtain loans, or hold office. Payment of part or all of such accounts to any of the joint tenants shall, to the extent of such payment, discharge the liability to all.

(b) No credit union organized under the laws of this state, nor any federal credit union domiciled in this state shall be required to recognize the claim of any third party to any deposit, or withhold payment of any deposit to the depositor or to his order, unless and until the credit union is served with citation or other appropriate process issuing out of a court of competent jurisdiction in connection with a suit instituted by such third party for the purpose of recovering or establishing an interest in such deposit.

(c) Shares or share accounts issued by, or deposits made with, any credit union organized under the laws of this state, or any federal credit union domiciled in this state, in the name of two or more persons or to two or more persons or the survivor of either, may be withdrawn on the signature of either party to whom such shares or share accounts were issued, or in whose name such deposit was made, and no recovery shall be had against such credit union for amounts so paid. When shares or share accounts are issued or deposits are made in the name of two or more persons or in the name of their survivor, the survivor of either party shall have power to act in all matters relating to such shares or share accounts or deposits whether the other person or persons named in such shares or share accounts or deposits be living or dead. The repurchase or withdrawal value of shares or share accounts or deposits issued in joint names and dividends thereon, or other rights relating thereto, may be paid or delivered, in whole or in part, to any of such persons who shall make requests therefor, whether the other person or persons be living or dead. The payment or delivery to any such person, on a receipt or acquittance signed by any such person, to whom any such payment or any such delivery of rights is made, shall be a valid and sufficient release

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and discharge of any such credit union for the payment or delivery so made.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—22. Minors

Shares or deposits may be issued in the name of a minor, and such shares or deposits may be withdrawn by such minor, and payments made on such withdrawals shall be valid. No such minor under 16 years of age shall be entitled to vote in the meeting of the members either personally or through his parent or guardian, nor may he become a director or committee member until he shall have reached legal age.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—23. Trust accounts

Shares or deposits may be issued in the name of a member in trust for a beneficiary, including a minor, but no beneficiary, unless a member in his own right, may be permitted to vote, obtain loans, hold office or be required to pay an entrance fee. Payment of part or all of such shares or deposits to such member shall, to the extent of such payment, discharge the liability of the credit union to the member and the beneficiary, and the credit union shall be under no obligation to see the application of such payment. In the event of the death of the member, and if shares or deposits are so issued or held and the credit union has been given no other written evidence of the existence or terms of any trust, such shares or deposits and any dividends or interest thereon shall be paid to the beneficiary or to his legal representative.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—24. Investments

Funds not used in loans to members may be invested:

(1) in capital shares, obligations, or preferred stock issues of any agency or association organized either as a stock company, mutual association or membership corporation, provided the membership or stockholdings, as the case may be, of such agency or association are confined or restricted to credit unions, or organizations of credit unions, and provided the purposes for which such agency or association is organized are designed to service or otherwise assist credit union operations;

(2) in obligations of the State of Texas or any subdivision thereof;

(3) in securities, obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the United States government or any agency thereof; or any trust or trusts established for investing directly or collectively in the same;

(4) in loans to other credit unions in an amount not to exceed 25% of the shares, deposits, and surplus of the lending credit union, or any trust or trusts established for lending directly or collectively to credit unions;

(5) in purchases from any liquidating credit union, in accordance with rules and regulations prescribed by the Credit Union Commissioner, notes made by individual members of the liquidating credit union at such prices as may be agreed upon by the board of directors of the liquidating credit union and the board of directors of the purchasing credit union, but no purchase may be made under authority of this paragraph if, upon the making of that purchase, the aggregate of the unpaid balances of notes purchased under authority of this paragraph would exceed five percent of the shares, deposits, and surplus of the credit union;

(6) in an aggregate amount not exceeding two and one-half percent of the credit union's total assets or the amount of its reserve fund, whichever is lesser, in any agency or association of the type described in Subdivision (1) hereof, provided the purposes of any such agency or associa-

tion are designed to assist in establishing and maintaining liquidity, solvency, and security in credit union operations; and

(7) in certificates or passbook-type accounts, insured by the Federal Savings and Loan Insurance Corporation, which are issued by a building and loan association or a savings and loan association domiciled in the United States of America;

(8) in certificates of deposit issued by a state or national bank domiciled in the State of Texas, provided, however, no credit union may purchase, or own at any one time, certificates of deposit totaling in excess of ten (10) percent of the paid-in capital and surplus of such issuing bank. Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—25. Reserve allocations

(a) At the close of each dividend period, the following amounts shall be credited to a reserve designated as the reserve fund: 20 percent of the net earnings for each of the first five fiscal years of the existence of the credit union, and 10 percent for each of the remaining fiscal years until such fund is equal to 10 percent of the outstanding loans of all types. All entrance fees shall be added to such fund.

(b) The reserve fund shall belong to the credit union and shall be used to meet all losses except those resulting from an excess of expenses over income and shall not be distributed except on liquidation of the credit union, or in accordance with a plan approved by the Credit Union Department. The board of directors may increase, or if such fund equals or exceeds 10 percent of the outstanding loans, decrease the proportion of the net earnings to be thus set aside, and may transfer part or all of the undivided earnings to the reserve fund.

(c) In addition to such regular reserve, special reserves to protect the interests of members shall be established when required (1) by regulation, or (2) in any special case, when found by the Credit Union Commissioner to be necessary for that purpose.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—26. Dividends

(a) After allocations to required reserves, a credit union may declare a dividend from undivided earnings at the discretion of its board of directors and as its bylaws may provide. Such dividend shall not exceed the rate of six percent per annum for the dividend period unless the rate in excess of six percent per annum shall have been first approved by the Credit Union Commissioner.

(b) Dividends shall be paid on all fully paid shares outstanding at the beginning of the dividend period, but shares which become fully paid during the dividend period shall be entitled to a proportional part of the dividend calculated from the first day of the month following such payment in full.

(c) Dividend credit for a month may be accrued on shares which are or become fully paid up during the first 10 days of that month. No dividends shall be paid on shares which are withdrawn during the dividend period.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—27. Share reduction

Whenever the losses of any credit union, resulting from a depreciation in value of its loans or investments or otherwise, exceed its undivided earnings and reserve fund so that the estimated value of its assets is less than the total amount due the shareholders, the credit union may by a majority vote of the entire membership order a reduction in the shares of each of its shareholders to divide the loss proportionately among the members. If thereafter the credit union shall realize from such assets a greater

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amount than was fixed by the order of reduction, such excess shall be divided among the shareholders whose assets were reduced, but only to the extent of such reduction.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—28. Merger

(a) Any credit union may, with the approval of the Credit Union Department, merge with any other credit union under the existing charter of the other credit union, pursuant to any plan agreed upon by the majority of the board of directors of each credit union joining in the merger, and approved by the affirmative vote of a majority of the members of each credit union present at the meetings of members duly called for such purpose, unless a special meeting of the members of either of the credit unions has been waived by the Credit Union Commissioner. After agreement by the directors and approval by the members of each credit union, the chairman of the board and secretary of each credit union shall execute a certificate of merger, which shall set forth all of the following:

- (1) the time and place of the meeting of the board of directors at which the plan was agreed upon;
- (2) the vote in favor of adoption of the plan;
- (3) a copy of the resolution or other action by which the plan was agreed upon;
- (4) the time and place of the meeting of the members at which the plan agreed upon was approved; and
- (5) the vote by which the plan was approved by the members.

(b) Such certificates and a copy of the plan of merger agreed upon shall be forwarded to the Credit Union Department and, upon approval, returned to the merging credit unions.

(c) Upon any such merger so effected, all property, property rights, and interests of the merged credit union shall vest in the surviving credit union without deed, endorsement or other instrument of transfer, and all debts, obligations, and liabilities of the merged credit union shall be deemed to have been assumed by the surviving credit union under whose charter the merger was effected.

(d) This section shall be construed, whenever possible, to permit a credit union chartered under any other act to merge with one chartered under this Act.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—29. Reports

Credit unions organized under this Act shall report to the Credit Union Department annually on or before the first day of February on forms supplied by the Credit Union Department for that purpose. Each credit union shall pay to the Credit Union Commissioner at the time of the filing of this report the sum of \$10 as a filing fee, unless said credit union shall have been chartered within the past six months of the calendar year, in which case no filing fee shall be charged. Additional reports may be required by the Credit Union Department as is deemed necessary. If any report remains in arrears for more than 15 days, a fine of \$5 for each day such report remains in arrears shall be levied against such offending credit union unless waived by the commissioner for good cause. If such report is not returned within 30 days of the due date, the Credit Union Department may, after written notice to the chairman of the board of such credit union of its intention to do so, suspend or revoke the certificate of approval, take possession of the business and property of such credit union, and order its dissolution in accordance with Section 35 of this Act. All credit unions chartered under this Act shall be exempt from all franchise or other license tax;

nor shall any intangible property of such associations be taxable by this state or any political subdivision thereof.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—30. Supervision fees

(a) Not later than January 31, 1970, each credit union with assets of \$50,000 or more shall pay to the Credit Union Commissioner, for the preceding calendar year, a supervision fee in accordance with the graduated scale indicated below, based upon its assets as of December 31 of each preceding year.

TOTAL ASSETS	SUPERVISION FEE
\$50,000 to \$100,000	\$ 25
\$100,000 to \$500,000	\$ 50
\$500,000 to \$1,000,000	\$ 100
\$1,000,000 to \$5,000,000	\$ 200
\$5,000,000 to \$10,000,000	\$ 400
\$10,000,000 to \$15,000,000	\$ 800
\$15,000,000 to \$20,000,000	\$ 1,000
\$20,000,000 to \$25,000,000	\$ 1,200
\$25,000,000 to \$30,000,000	\$ 1,400
\$30,000,000 and over	\$ 1,600

(b) The Credit Union Commissioner, after securing approval of the Credit Union Commission, shall, before December 31 of each year, notify each credit union of the amount of the supervision fee due not later than January 31 of the succeeding year. The amount of the supervision fee shall not be in excess of the above schedule, nor shall the total fees collected be in excess of the amount determined by the Credit Union Commission as necessary for the operation of the Credit Union Department for the succeeding year.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—31. Records

All records of a credit union incorporated under this Act shall be kept for a period of four years from the date of making same or from the date of the last entry thereon. No credit union shall be required to receipt for payment except as may be provided in the bylaws, nor shall it be necessary to endorse a note showing date of payments or balance due.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—32. Examinations

(a) The Credit Union Department annually shall examine, or cause to be examined, each credit union. Each credit union and all of its officers and agents shall be required to give to representatives of said department full access to all books, papers, securities, records, and other sources of information under their control; and for the purpose of such examination said representatives shall have power to subpoena witnesses, administer oaths, compel the giving of testimony, and require the submission of documents.

(b) A report of such examination shall be forwarded to the chairman of the board of each credit union. Said report shall contain comments relative to the management of the affairs of the credit union and also as to the general condition of its assets. Within 30 days after the receipt of such report a general meeting of the directors and committeemen shall be called to consider matters contained in the report. A reply to the Credit Union Department shall be forwarded by the board

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of directors if such comments are required by the Credit Union Department.

(c) For the purpose of such examinations each credit union shall pay an examination fee based upon the cost of performing the examination and to bear a proportionate share of the expenses of the Credit Union Department, in accordance with schedules adopted by the Credit Union Commissioner after approval has been secured from the Credit Union Commission, but not to exceed \$75 per day per person engaged in such examination.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—33. False reports

Any person who shall knowingly make, utter, circulate, or transmit to another or others, any statement untrue in fact, derogatory to the financial condition of any credit union in the state, with intent to injure any such credit union, or who shall counsel, aid, procure, or induce another to originate, make, utter, transmit, or circulate any such statement or rumor, with like intent, shall be guilty of a felony and upon conviction shall be punished by a fine of not more than \$5,000 or confined in the state penitentiary not more than five years, or both.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—34. Conversion

The Credit Union Commissioner shall issue regulations to permit the conversion of a credit union organized under this Act to a federal credit union, and the conversion of a federal credit union to a credit union organized under this Act.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—35. Suspension

(a) Whenever the Credit Union Commissioner, through examination finds that the interests of depositors and creditors of a state credit union are seriously jeopardized through insolvency or imminent insolvency and that it is to the best interest of such depositors and creditors that the credit union be closed and its assets liquidated, he may close and liquidate the credit union, unless its board of directors close the credit union and place it in his hands for liquidation.

(b) At any time within five days after the Credit Union Commissioner has closed any credit union under the provisions set out above, such credit union acting through its directors may sue in the district court of the credit union's domicile to enjoin the commissioner from liquidating the credit union, and the court, or the judge thereof if in vacation, may, without notice or hearing, restrain the commissioner from liquidating the assets of such credit union pending hearing on the merits, and shall, in that event, instruct the commissioner to hold the assets of such credit union in his possession pending final disposition of such suit. The Commissioner shall thereupon refrain from liquidating such assets, provided, however, the commissioner may with approval of the district judge, take such actions as may be necessary or proper to prevent loss or depreciation in the value of the assets.

(c) The court shall, as soon as possible, hear the suit upon its merits and shall enter a judgment either enjoining the commissioner from liquidating the assets of the credit union, or refusing to issue such an injunction. Appeal shall lie from such judgment as in other civil cases, but the commissioner, irrespective of the character of judgment entered by the trial court or any supersedeas bond filed, shall retain possession of the assets of such credit union pending final disposition on appeal.

(d) If the Credit Union Commissioner, through examination finds that the capital of a state credit union is seriously impaired, or that it is conducting its affairs in an unsafe, unauthorized or unlawful manner, or that it refuses to submit to examination, or is hindering examination, he may, after a hearing or an opportunity for a hearing given to the board of directors of such credit union, take possession of the property and business of such credit union and retain possession thereof until such time as the commissioner may determine either to permit it to resume business or to order its dissolution. In the event the commissioner shall order its dissolution, such credit union shall be liquidated by a liquidating agent appointed by and subject to the control and supervision of the Credit Union Commissioner. The liquidation shall be performed in the same manner as provided in Section 36 of this Act.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—36. Voluntary and/or involuntary liquidation

(a) At a meeting especially called to consider the matter, a majority of the entire membership may vote to dissolve the credit union, provided a copy was mailed to the members of the credit union at least 10 days prior thereto. Any member not present at such meeting may, within the next 20 days vote in favor of dissolution by signing a statement in form approved by the Credit Union Department and such vote shall have the force and effect as if cast at such meeting. The credit union shall thereupon immediately cease to do business except for the purposes of liquidation, and the chairman of the board and secretary shall, within five days following such meeting, notify the Credit Union Department of intention to liquidate and shall include a list of the names of the directors and officers of the credit union together with their addresses.

(b) If the Credit Union Department, after issuing notice of suspension and providing opportunity for a hearing, rejects the credit union's plan to continue operations, the Credit Union Department may issue a notice of involuntary liquidation and appoint a liquidating agent. The credit union may request a stay of execution of such action by appealing to the appropriate court of the jurisdiction in which the credit union is located. Involuntary liquidation may not be ordered prior to following the suspension procedures outlined in Section 35 of this Act.

(c) The credit union shall continue in existence for the purpose of discharging its debts, collecting and distributing its assets, and doing all acts required in order to wind up its business and may sue and be sued for the purpose of enforcing such debts and obligations until its affairs are fully adjusted. The board of directors, or in the case of involuntary dissolution, the liquidating agent, shall use the assets of the credit union to pay: first, expenses incidental to liquidation including any surety bond that may be required; second, any liability due nonmembers; third, depositors; fourth, savings club accounts as provided in this Act. Assets then remaining shall be distributed to the members proportionately to the shares held by each member as of the date dissolution was voted.

(d) Liquidating agents shall have power and authority, subject to the control and supervision of the Credit Union Commissioner and under such rules and regulations as the commissioner may prescribe:

(1) to receive and take possession of the books, records, assets and property of every description of the credit union in liquidation, to sell, enforce collection of, and liquidate all such assets and property, to compound all bad or doubtful debts, and to sue in his own name or in the name of the credit union in liquidation, and defend such actions as

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may be brought against him as liquidating agent or against the credit union;

(2) to receive, examine, and pass upon all claims against the credit union in liquidation, including claims of members on shares;

(3) to make distribution and payment to creditors and members as their interest may appear; and

(4) to execute such documents and papers and to do such other acts and things which he may deem necessary or desirable to discharge his duties hereunder.

(e) Subject to the control and supervision of the Credit Union Commissioner and under such rules and regulations as the commissioner may prescribe, the liquidating agent of a credit union in involuntary liquidation shall:

(1) cause notice to be given to creditors and members to present their claims and make legal proof thereof, which notice shall be published once a week in each of three successive weeks in a newspaper of general circulation in each county in which the credit union in liquidation maintained an office or branch for the transaction of business on the date it ceased unrestricted operations; except that whenever the aggregate book value of the assets and property of the credit union in involuntary liquidation is less than \$1,000, unless the commissioner shall find that its books and records do not contain a true and accurate record of its liabilities, he shall declare the credit union in liquidation to be a "no publication" liquidation, and publication notice to creditors and members shall not be required in such case;

(2) from time to time make a ratable dividend on all such claims as may have been proved to his satisfaction or adjusted in a court of competent jurisdiction and, after the assets of such credit union have been liquidated, make further dividends on all claims previously proved or adjusted, and he may accept in lieu of a formal proof of claim on behalf of any creditor or member the statement of any amount due to such creditor as shown on the books and records of the credit union; but all claims not filed before payment of the final dividend shall be barred and claims rejected or disallowed by the liquidating agent shall be likewise barred unless suit be instituted thereon within three months after notice of rejection or disallowance; and

(3) in a "no publication" liquidation, determine from all sources available to him, and within the limits of available funds of the credit union, the amounts due to creditors and members, and after 60 days shall have elapsed from the date of his appointment distribute the funds of the credit union to creditors and members ratably and as their interest may appear.

(f) Upon certification by the liquidating agent in the case of an involuntary liquidation, and upon such proof as shall be satisfactory to the commissioner in the case of a voluntary liquidation, that distribution has been made and that liquidation has been completed, as provided herein, the commissioner shall cancel the charter of such credit union; but the corporate existence of the credit union shall continue for a period of three years from the date of such cancellation of its charter, during which period the liquidating agent, or his duly appointed successor, or such persons as the commissioner shall designate, may act on behalf of the credit union for the purpose of paying, satisfying, and discharging any existing liabilities or obligations, collecting and distributing its assets, and doing all other acts required to adjust and wind up its business and affairs, and it may sue and be sued in its corporate name.

(g) The liquidating agent, in his individual capacity, or for his personal benefit, shall not acquire any of the assets of a credit union in liquidation, shall not purchase any loans and, except for the compensation he shall receive as set forth in his contract of employment as

liquidating agent, he shall not obtain from his activity as liquidating agent any compensation or profit for himself or any member of his family or any person associated with him in any business enterprise except the credit union involved. Any person who shall participate in a violation of this provision shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than \$1,000 and not less than \$100 or by confinement in the county jail for not more than six months, or by both such fine and jail sentence.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—37. Subsidiary offices

(a) Subject to the prior written approval of the Credit Union Commissioner, the credit union may establish offices at locations other than its main office if the maintenance of such offices shall be reasonable necessary to furnish services to its membership. No additional offices shall be established to serve persons who are not entitled to membership as defined in the common bond provision of the articles of incorporation and would not be entitled to services of the credit union at its main office. The Credit Union Commissioner shall have the authority to issue notice and hold a public hearing to determine if the establishment of the subsidiary office or offices is necessary and in the best interest of the credit union.

(b) All books of account shall be maintained at the main office of the credit union.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—38. Credit Union Commission

(a) There is hereby established and created the Credit Union Commission which shall consist of six members, a majority of whom shall be from state-chartered credit unions doing business in this state. The Credit Union Commission shall serve as an advisory board to the Credit Union Commissioner as to general policies and shall have such other duties, powers, and authority as may be conferred upon it by law. Upon the effective date of this Act, the jurisdiction, authority, powers, and duties now conferred and imposed by law upon the Banking Commissioner in relation to the management, control, regulation, and general supervision of credit unions, are hereby transferred to, conferred, and imposed upon the Credit Union Commission and Credit Union Commissioner. The books, records, documents, equipment, and supplies of the Banking Commissioner relating to credit unions shall be transferred to the Credit Union Department. This Act shall not be construed to disturb the continuing existence of any credit union heretofore chartered and existing under the law of this state, and all credit unions heretofore organized and existing under the law of this state shall be governed and controlled by the provisions of this Act.

(b) The Credit Union Department shall make a thorough and intensive study of the credit union statutes with a view to so strengthening said statutes as to attain and maintain the maximum degree of protection to shareholders and depositors, and shall report every two years to the legislature by filing with the clerks of the Senate and House of Representatives the results of its study together with its recommendations.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

For Annotations and Historical Notes, see V.A.T.S.

Art. 2461—39. Qualification of members

All members of the Credit Union Commission shall have at least five years' experience in the operation of a credit union.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—40. Residence of members

No two members of the Credit Union Commission shall be residents of the same state senatorial district.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—41. Appointment; term

The Governor of the State of Texas, subject to confirmation by the Senate, shall appoint the members of the Credit Union Commission each of whom, except the initial appointee, shall serve for a term of six years. The Governor shall promptly after the effective date of this Act appoint the members of the Credit Union Commission and shall designate the terms to be served by each appointee. The terms of two members shall expire February 15, 1971; the terms of two members shall expire February 15, 1973; and the terms of two members shall expire February 15, 1975. The terms of each member's successor shall be for a period of six years terminating on the anniversary of the expiration date of each member's term, provided, however, any appointment to fill any vacancy shall only be for the remainder of the term. Members of the Credit Union Commission shall serve until their successors are appointed and qualified.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—42. Vacancies

The office of a member of the commission shall be vacant if the member ceases to have the qualifications which were necessary to his original appointment or in the event he ceases to hold a position in the operation of a credit union operating in this state. In the event of a vacancy on the Credit Union Commission for any cause, the governor shall appoint a qualified person to fill the unexpired term.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—43. Confirmation of appointments

In event of appointment of any member of the Credit Union Commission while the Legislature is in session, the appointment shall be promptly related to the Senate for confirmation, and in event of any such appointment while the Legislature is not in session, such appointment shall be promptly related to the Senate the next meeting of the Legislature. If the Senate should refuse to confirm any appointment, the office shall thereupon become vacant.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—44. Expenses and compensation of members

Each member of the Credit Union Commission shall be reimbursed for all expenses incidental to travel, board, and lodging incurred by him in connection with the performance of his official duties at any regular or special meeting of the commission, but no salary shall be paid to members of the commission.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—45. Disqualification of members

No member shall act at any meeting of the commission when the matter under consideration specifically relates to any credit union in which such member is an officer, director, or shareholder.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—46. Meetings

The Credit Union Commission shall hold at least two regular meetings each year. Special meetings of the commission may be called by the Credit Union Commissioner or by any three members of the commission. The commission may adopt rules and regulations governing the time and place of meetings and character of notice of special meetings, the procedure by which all meetings shall be conducted, and other similar matters. A majority of the membership of the commission shall constitute a quorum for the purpose of transacting any business coming before the commission. The Credit Union Commissioner shall preside at all meetings of the commission but shall not vote except in the case of a tie or when his vote is necessary for effective action; provided that the commissioner shall not preside or vote at any meeting when the Credit Union Commission is considering the election of the commissioner, but the commission shall elect one of its members to act as temporary chairman, who shall be entitled to vote. The commission shall keep adequate minutes of the proceedings of all meetings. Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—47. Election; compensation; powers and duties

(a) By and with the advice and consent of the Senate, the Credit Union Commission shall elect a Commissioner of Credit Unions who shall be an employee of said commission and subject to its orders and directions. The Credit Union Commissioner shall have had not less than five years' practical experience within the 10 years prior to his election in the executive management of a credit union doing business in this state, provided that experience as Credit Union Supervisor or Credit Union Examiner shall be deemed credit union experience within the meaning of this section. The Credit Union Commissioner shall receive such compensation as is fixed by the Credit Union Commission but not in excess of that paid the governor, and such compensation shall be paid from funds of the Credit Union Department.

(b) The Credit Union Commissioner shall appoint Credit Union Examiners in the manner now provided by law, and may, when authorized to do so by the Credit Union Commission and subject to the approval of the Credit Union Commission, appoint a Deputy Credit Union Commissioner having the same qualifications as are required of the Credit Union Commissioner. The Deputy Credit Union Commissioner, if any, shall, during the absence or inability of the Credit Union Commissioner, be vested with all of the powers and perform all of the duties of the Credit Union Commissioner. In the absence of an appointment of a Deputy Credit Union Commissioner, the Credit Union Commissioner may designate a Credit Union Examiner who shall, during the absence or inability of the Credit Union Commissioner, be vested with all of the powers and perform all of the duties of the Credit Union Commissioner. The Deputy Credit Union Commissioner, if any, the Credit Union Examiners, and all other officers and employees of the Credit Union Commission shall receive such compensation as is fixed by the Credit Union Commission which shall be paid from funds of the Credit Union Department.

(c) The Credit Union Commissioner, the Deputy Credit Union Commissioner, if any, each Credit Union Examiner, and every other officer and employee of the Credit Union Commission, shall, before entering upon the duties of his office, take an oath of office and make a fidelity bond in the sum of \$10,000, payable to the Governor of the State of Texas, and his successors in office, in individual, schedule or blanket form, executed by a surety appearing upon the list of approved sureties acceptable to the United States Government. Each bond required under this section shall be in the form approved by the Credit Union Commis-

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sion. The premiums for such bonds shall be paid out of funds of the Credit Union Department.

(d) Upon the appointment and qualification of a Credit Union Commissioner under this Act, such Credit Union Commissioner shall in person or by and through the Deputy Credit Union Commissioner, if any, the Credit Union Examiners, or other officers of the Credit Union Commission, supervise and regulate, in accordance with the rules and regulations promulgated by the Credit Union Commissioner together with the Credit Union Commission, all credit unions doing business in this state (except federal credit unions organized and existing under federal law), and he shall have and perform all of the duties and shall exercise all of the powers theretofore imposed upon the Banking Commissioner and upon the Credit Union Supervisor under and by virtue of the laws of this state with reference to credit unions, and the Banking Commissioner shall be relieved of all responsibility and authority relating to the granting of charters and the regulation and supervision of such credit unions.

(e) The rule-making power of the Credit Union Commissioner and the Credit Union Commission shall not be exercised unless notice of the terms or substance of the proposed rule or regulation or amendment to existing rules or regulations has been given to all credit unions subject to regulation hereunder by certified mail, and, if within 20 days after issuance of such notice, as many as five credit unions request a hearing on such proposal, a public hearing shall be called by the Credit Union Commissioner at which any interested party may present evidence or argument relating to such proposal. After consideration of any relevant matter available from the files and records of the Credit Union Department or presented at any such hearing, any rule, regulation, or amendment approved and adopted pursuant to such hearing shall be promulgated in written form and the effective date thereof fixed by the order of adoption and promulgation.

(f) The Credit Union Commissioner shall collect all fees, penalties, charges and revenues required to be paid by credit unions and shall from time to time as directed by the Credit Union Commission submit to such commission a full and complete report of the receipts and expenditures of the Credit Union Department, and the Credit Union Commission may from time to time examine the financial records of the Credit Union Department or cause them to be examined. In addition, the Credit Union Department shall be audited from time to time by the State Auditor in the same manner as other state departments, and the actual costs of such audits shall be paid to the State Auditor from the funds of the Credit Union Department. Notwithstanding anything to the contrary contained in any other law of this state, all fees, penalties, charges, and revenues collected by the Credit Union Department from every source whatsoever shall be retained and held by said department, and no part of such fees, penalties, charges, and revenues shall ever be paid into the General Revenue Fund of this state. All expenses incurred by the Credit Union Department shall be paid only from such fees, penalties, charges, and revenues, and no such expense shall ever be a charge against the funds of this state. The Credit Union Commission shall adopt, and from time to time amend, budgets which shall direct the purposes, and prescribe the amounts, for which the fees, penalties, charges, and revenues may be expended. The commission shall, as of December 31, 1969, and annually thereafter, report to the Governor of the State of Texas the receipts and disbursements of the Credit Union Department for each calendar year and shall within the first 60 days of each succeeding regular session of the Legislature make a report to the appropriate committees of the House and Senate charged with considering legislation pertaining to credit unions.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—48. Transfers to general revenue fund

The Credit Union Department shall cause to be transferred each year of the biennium the sum of \$1,000 to the General Revenue Fund, to cover the cost of governmental service rendered by other departments.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Art. 2461—49. Special assessment

Within 30 days after the effective date of this Act, each credit union shall pay to the Credit Union Commissioner an assessment equal to the supervision fee paid to the Banking Commissioner for the year ending December 31, 1968; said assessment fee to be used by the Credit Union Commissioner in the initial operation of the Credit Union Department. Thereafter each year, each credit union shall pay the supervision fee in accordance with the schedule set forth in Section 30 of this Act.

Acts 1969, 61st Leg., p. 540, ch. 186, emerg. eff. May 13, 1969.

Arts. 2461—2484d. Repealed by Acts 1969, 61st Leg., p. 540, ch. 186, § 50, eff. May 13, 1969

Prior to repeal, articles 2462, 2465, 2469, 2477 and 2482 were amended by Acts 1965, 59th Leg., p. 161, ch. 66, §§ 1-5.

Repealed article 2484d related to adverse claims of third parties to deposits and sur-

vivorship rights to joint deposits, and was derived from Acts 1965, 59th Leg., p. 161, ch. 66, § 6.

See, now, art. 2461—1 et seq.

TITLE 47—DEPOSITORIES

CHAPTER ONE—STATE DEPOSITORIES

Art.
2543d. Disposition of interest on time de-
posits [New].

Art. 2543d. Disposition of Interest on Time Deposits

Section 1. Interest received on account of time deposits of moneys in funds and accounts in the charge of the State Treasurer shall be allocated as follows: To each constitutional fund there shall be credited the pro rata portion of the interest received due to such fund. The remainder of the interest received, with the exception of that portion required by other statutes to be credited on a pro rata basis to protested tax payments, shall be credited to the General Revenue Fund. The interest received shall be allocated on a monthly basis.

Sec. 2. Whenever a deficit occurs in the General Revenue Fund, the State Treasurer may place with any designated depository bank an offsetting compensating balance in a special depository account known as "Special Demand Account Secured by General Revenue Warrants Only."

Sec. 3. As to the proper interpretation and application of this Article, the State Treasurer is entitled to rely upon the opinion and advice of the Attorney General."

Added by Acts 1969, 61st Leg., p. 2703, ch. 885, § 1, emerg. eff. June 21, 1969.

Title of Act:

An Act amending Chapter 1, Title 47, Revised Civil Statutes of Texas, 1925, as amended, by adding an Article 2543d, relating to depository interest on state funds; permitting the state treasurer to place an

offsetting compensating balance in a special depository account whenever a deficit occurs in the general revenue fund; providing for severability; repealing laws in conflict; and declaring an emergency. Acts 1969, 61st Leg., p. 2703, ch. 885.

CHAPTER TWO—COUNTY DEPOSITORIES

Art. 2549. 2444 Designating depository

(a) As soon as said bond be given and approved by the Commissioners Court, and the Comptroller, an order shall be made and entered upon the minutes of said Court designating such banking corporation, association or individual banker, as a depository for the funds of said county until sixty (60) days after the time fixed for the next selection of a depository; and thereupon, it shall be the duty of the county treasurer of said county immediately upon the making of such order, to transfer to said depository all the funds belonging to said county, as well as all funds belonging to any district or other municipal subdivision thereof not selecting its own depository, and immediately upon receipt of any money thereafter, to deposit the same with said depository to the credit of said county, district and municipalities. It shall also be the duty of the tax collector of such county to deposit all taxes collected by him, or under his authority, for the State and such county and its various districts and other municipal subdivisions, in such depository or depositories, as soon as collected, pending the preparation of his report of such collection and settlement thereon. The bond of such county depository or depositories shall stand as security for all such funds. Upon such funds being deposited as herein required, the tax collector and sureties on his bond, shall thereafter be relieved of responsibility of its safekeeping. All county depositories shall collect all checks, drafts and demands for money so deposited with them by the county and when using due diligence shall not be liable on such collections until the proceeds thereof have been duly received by the depository bank, provided that any expense incurred in collection thereof by the

depository, which the depository is not allowed or permitted to pay or absorb by reason of any act of Congress of the United States or any regulation by either the Board of Governors of the Federal Reserve System or the Board of Directors of the Federal Deposit Insurance Corporation, shall be charged to and paid by the county. All money collected or held by any district, county or precinct officer in such county, or the officers of any defined district or subdivision in such county, including the funds of any municipal or quasi-municipal subdivision or corporation which has the power to select its own depository, but has not done so, shall be governed by this law, and shall be deposited in accordance with its requirements, and shall be considered in fixing the bond of such depository, and shall be protected by such bond; and all warrants, checks, and vouchers evidencing such funds shall be subject to audit and countersignature as now or hereafter provided by law.

(b) If during a school year, a Commissioners Court having control of school district funds elects to transfer the funds from one bank serving as county depository to another bank, the school district affected may require that the Commissioners Court delay the transfer of the district's funds until the end of the school district's fiscal year or until September 1, whichever date follows nearest the date the Commissioners Court took action on the transfer."

Amended by Acts 1969, 61st Leg., p. 1048, ch. 342, § 1, emerg. eff. May 27, 1969.

Art. 2558a. Depositories for trust funds in hands of county and district clerks

* * * * *

Accumulated interest; placing in general fund

Sec. 4b. The Commissioners Court of each county, acting by and through the County Auditor, or if there is no County Auditor then the County Treasurer, of such county, is authorized to place in the proper General Fund of the county any accumulated interest derived from trust funds in the possession of County and District Clerks of such county prior to the enactment of Chapter 270, Acts of the 56th Legislature, Regular Session, 1959, to offset the expenses of handling such trust funds for the benefit of litigants.

Sec. 4b added by Acts 1969, 61st Leg., p. 1961, ch. 660, § 1, eff. Sept. 1, 1969.

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TITLE 49—EDUCATION—PUBLIC

Chap.	Art.
17A. Teachers' Professional Practices [New]	2891-101

CHAPTER ONE—UNIVERSITY OF TEXAS

2. FUNDS AND PROPERTIES	Art.
Art.	2606c—2.1. University of Texas (undergraduate) Nursing School at El Paso [New].
2603f—3. Dental branch of University of Texas System [New].	2606c—3. University of Texas at San Antonio [New].
3. GENERAL PROVISIONS	2606c—3.1. University of Texas at Dallas [New].
2606c—1.1. University of Texas Medical School at Houston [New].	2606c—4. University of Texas of the Permian Basin [New].
2606c—2. University of Texas (Clinical) Nursing School at San Antonio [New].	

1. BOARD OF REGENTS

Art. 2587. Repealed by Acts 1969, 61st Leg., p. 134, ch. 46, § 2, eff. Sept. 1, 1969

Art. 2589d. Texas Union, student fee for

Section 1. The Board of Regents of The University of Texas System is hereby authorized to levy a regular, fixed student fee not to exceed Ten Dollars (\$10) per student for each semester of the long session and not to exceed Five Dollars (\$5) per student for each term of the summer session, or any fractional part thereof, against each student enrolled in said institution as may in their discretion be just and necessary for the purpose of operating, maintaining, improving, and equipping the Texas Union and acquiring or constructing additions to the Texas Union. The activities of the Student Union financed in whole or in part by the Student Union fee shall be limited to those activities in which the entire student body is eligible to participate and in no event shall any of the activities so financed be held outside the territorial limits of The University of Texas at Austin.

Sec. 1 amended by Acts 1969, 61st Leg., p. 265, ch. 104, § 1, eff. Sept. 1, 1969.

Sec. 2. The auditor of The University of Texas at Austin shall collect the fees provided for in Section 1 and shall credit the money received from the fees to an account known as the Student Union Fee Account.

Sec. 2 amended by Acts 1969, 61st Leg., p. 265, ch. 104, § 1, eff. Sept. 1, 1969.

* * * * *

Section 3 of the amendatory act of 1969 Limitation on combined fees, see art. provided that "This act takes effect September 1, 1969." 2589e.

Art. 2589e. Limitation on combined fees

The combined total amount of any fee or fees levied for all Texas Union purposes under Section 1, Chapter 78, Acts of the 49th Legislature, 1945, as amended (Article 2589d, Vernon's Texas Civil Statutes), under Chapter 5, Acts of the 43rd Legislature, Second Called Session, 1934, as amended (Article 2603c, Vernon's Texas Civil Statutes), or under any statute or combination of statutes, shall never exceed Ten Dollars (\$10) per student for each semester of the long session or Five Dollars (\$5) per student for each term of the summer session.

Amended by Acts 1969, 61st Leg., p. 265, ch. 104, § 2, eff. Sept. 1, 1969.

Sec. 3. This Act takes effect September 1, 1969.

2. FUNDS AND PROPERTIES

Construction, acquisition, improvement University of Texas System, see art. 2909 and equipment of utility plants by the c-1.

Art. 2591a. Investment of permanent funds of University

Bonds and obligations

Section 1. The Board of Regents of The University of Texas is authorized to invest the Permanent Fund of The University of Texas in:

1. Bonds of the State of Texas;
2. Bonds of the United States;
3. Bonds of counties of the State of Texas; school bonds of municipalities of the State of Texas; bonds of cities in the State of Texas;
4. Obligations and pledges issued by the Board of Regents of The University of Texas, or secured by such obligations and pledges for the construction of dormitories and other buildings for The University of Texas, in accordance with the terms hereinafter set forth in this Act; and
5. Bonds issued, assumed, or guaranteed by the Inter-American Development Bank.

Sec. 1 amended by Acts 1967, 60th Leg., p. 1829, ch. 707, § 3, eff. Aug. 28, 1967.

* * * * *

Acts 1967, 60th Leg., p. 1829, ch. 707, § 1 amended V.A.T.S. Insurance Code, art. 3.39; section 2 of the act amended article 2669; section 4 thereof provided: "Sec. 4. Section 3 of this Act takes effect only upon the passage of the amendment to the Texas Constitution proposed in either House Joint Resolution No. 20 or Senate Joint Resolution No. 16, 60th Legislature."

Amendment of section 1 of this article by Acts 1967, 60th Leg., p. 1829, ch. 707, § 3, to become effective as a law was conditioned upon adoption by the electors of amendment to Const. art. 7, § 11a, proposed by H.J.R. No. 20, Acts 1967, 60th Leg., p. 2987, which was voted on and approved at election held Nov. 5, 1968.

Art. 2594. Expenditures

All expenditures may be made by the order of the Board of Regents of The University of Texas System, and shall be paid on warrants from the Comptroller based on vouchers approved by the Chairman of the Board, or his delegate, or by the institutional head, or his delegate, of the component institution making the expenditures.

Amended by Acts 1969, 61st Leg., p. 2058, ch. 712, § 1, emerg. eff. June 12, 1969.

Art. 2603a. Board for lease of oil and gas land

* * * * *

Royalty paid to University Permanent Fund; sworn statements by producer

Sec. 11. Royalty as stipulated in the sale shall be paid to the General Land Office at Austin, Texas, for the benefit of the University Permanent Fund on or before the last day of each month for the preceding month during the life of the rights purchased and it shall be accompanied by the sworn statement of the owner, manager or other authorized agent showing the gross amount of oil produced and saved since the last report and the amount of gas produced and sold off the premises and the market value of the oil and gas, together with a copy of gas meter readings, pipeline receipts, gas line receipts, and other checks and memoranda of the amounts produced and put into pipelines, tanks or pools and gas lines or gas storage. The books and accounts, receipt and discharges of all wells, tanks, pools, meters, pipe-

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lines and all contracts and other records pertaining to the production, transportation, sale and marketing of the oil and gas shall at all times be subject to inspection and examination by the Commissioner of the General Land Office, the Attorney General, the Governor, or any member of the Board of Regents of The University of Texas, or the representative of either.

Sec. 11 amended by Acts 1967, 60th Leg., p. 910, ch. 400, § 1, emerg. eff. June 8, 1967; Acts 1969, 61st Leg., p. 1687, ch. 545, § 1, emerg. eff. June 10, 1969.

* * * * *

Art. 2603f—3. Dental branch of University of Texas System

Section 1. The Board of Regents of The University of Texas is hereby authorized and directed to establish and maintain a singular dental branch of The University of Texas System at any location within the State of Texas. The location of the dental school, however, must be determined by the Board to be in the best interests of the people of the State of Texas. The name of the school so established shall be determined by the Board. The Board is prohibited, however, from establishing any dental school in the same county or counties contiguous thereto that maintain or operate either any public or private dental school at the time of the effective date of this Act. The Board is authorized to provide for the training and teaching of dental students, dental technicians, and other technicians related to the practice of dentistry.

Sec. 2. The Board of Regents shall have the authority to prescribe courses leading to such customary degrees as are offered in other leading American dental schools, to award such degrees, and to make such other rules and regulations for the operation, control, and management of the school, including the determination of the number of students that shall be admitted to any degree granting program, as may be necessary for the conduct of a professional school of the first class.

Sec. 3. The Board of Regents shall have the authority to execute and carry out with any entity or institution affiliation or coordinating agreements that are reasonably necessary or desirable for the conduct and operation of a professional school of the first class, and the board is specifically authorized to make joint appointments in other institutions under its governance, the salary of any such person who receives such joint appointment to be apportioned to the appointing institutions on the basis of services rendered.

Sec. 4. The Board of Regents is hereby authorized to accept and administer upon terms and conditions satisfactory to it, grants or gifts of property, including real estate and/or money, that may be tendered to it in aid of the planning, establishment, conduct, and operation of the school hereby authorized, and in aid of research and teaching at the school. The Board of Regents is authorized and empowered to accept from the federal government or any foundation, trust fund, corporation, or individual donations, gifts, and grants, including real estate, buildings, libraries, laboratories, apparatus, equipment, records, or money for the use and benefit of the school.

Acts 1969, 61st Leg., p. 1482, ch. 441, emerg. eff. June 5, 1969.

Title of Act:

An Act authorizing and directing the Board of Regents of The University of Texas System to establish and maintain a dental branch of The University of Texas System; authorizing the board to determine the location and name of the school and to prescribe courses leading to customary degrees, to award such degrees, and to make rules and regulations for the operation, control, and management of the school, including the determination of the

number of students that shall be admitted; authorizing the execution of affiliation or coordinating agreements and joint appointments; authorizing the acceptance of gifts, grants, and donations from any source in aid of the planning, establishment, conduct, and operation of the school authorized by this Act, and in aid of the teaching and research conducted therein; providing for severability; and declaring an emergency. Acts 1969, 61st Leg., p. 1482, ch. 441.

3. GENERAL PROVISIONS

Art. 2606c—1.1. University of Texas Medical School at Houston

Section 1. This Act may be cited as the "Brooks-Bass Medical Training Act of 1969."

Sec. 2. The Board of Regents of The University of Texas System is hereby authorized and directed to establish and maintain a medical branch of The University of Texas System within Harris County, Texas, to be known as The University of Texas Medical School at Houston. The Board of Regents is authorized to provide for the training and teaching of medical students, medical technicians, and other technicians in the practice of medicine.

Sec. 3. The Board of Regents is authorized to transfer the Division of Continuing Education from The University of Texas Graduate School of Biomedical Sciences at Houston to The University of Texas Medical School at Houston. After such transfer, all appropriations, assets, funds, property, and equipment now or hereafter owned or held by the Division of Continuing Education shall thereafter be owned, held and controlled by The University of Texas Medical School at Houston.

Sec. 4. In addition to the medical branch of The University of Texas System authorized to be located in Harris County, Texas, referred to in Section 2 above, the Board of Regents of The University of Texas System is hereby authorized to establish and maintain a medical branch of The University of Texas System at any location within the State of Texas. The location of this medical school, however, must be determined by the Board to be in the best interests of the people of the State of Texas and be approved by the Coordinating Board, Texas College and University System. The school so established shall be known by a name designated by the Board. The Board is prohibited, however, from establishing this medical school in the same county that maintains or operates the main campus of either any public or private medical school at the time of the effective date of this Act.

The Board of Regents is authorized to provide for the teaching and training of medical students, medical technicians and other technicians in the practice of medicine. Wherever the term 'school' is used in the succeeding sections, such term shall be equally applicable to both of the institutions authorized by this Act.

Sec. 5. The Board of Regents shall have the authority to prescribe courses leading to such customary degrees as are offered in other leading American medical schools, to award such degrees, and to make such other rules and regulations for the operation, control, and management of the school, including the determination of the number of students that shall be admitted to any degree-granting program, as may be necessary for the conduct of a professional school of the first class.

Sec. 6. The Board of Regents shall have the authority to execute and carry out with any entity or institution affiliation or coordinating agreements that are reasonably necessary or desirable for the conduct and operation of a professional school of the first class, and the Board is specifically authorized to make joint appointments in other institutions under its governance, the salary of any such person who receives such joint appointment to be apportioned to the appointing institutions on the basis of services rendered.

Sec. 7. The Board of Regents is hereby authorized to accept and administer upon terms and conditions satisfactory to it, grants or gifts of property, including real estate and/or money, that may be tendered to it in aid of the planning, establishment, conduct, and operation of the school hereby authorized, and in aid of research and teaching at the

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school. The Board of Regents is authorized and empowered to accept from the federal government or any foundation, trust fund, corporation, or individual donations, gifts, and grants, including real estate, buildings, libraries, laboratories, apparatus, equipment, records, or money for the use and benefit of the school.

Sec. 8. A complete teaching hospital for the school shall be furnished at no cost or expense to the State of Texas, and the State of Texas shall never contribute any funds for the construction, maintenance, or operation of a teaching hospital for the school.

Acts 1969, 61st Leg., p. 2222, ch. 757, eff. Sept. 1, 1969.

Title of Act:

An Act authorizing and directing the Board of Regents of The University of Texas System to establish and maintain medical branches of The University of Texas System, and to transfer the Division of Continuing Education, including assets, funds, property, and equipment, from The University of Texas Graduate School of Biomedical Sciences at Houston to The University of Texas Medical School to be located at Houston; authorizing the Board to prescribe courses leading to customary degrees, to award such degrees, and to make rules and regulations for the opera-

tion, control, and management of the school, including the determination of the number of students that shall be admitted; authorizing the execution of affiliation or coordinating agreements and joint appointments; authorizing the acceptance of gifts, grants, and donations from any source in aid of the planning, establishment, conduct, and operation of the school authorized by this Act, and in aid of the teaching and research conducted therein; relating to a teaching hospital; providing for severability; and declaring an emergency. Acts 1969, 61st Leg., p. 2222, ch. 757.

Art. 2606c—2. University of Texas (Clinical) Nursing School at San Antonio

Section 1. The Board of Regents of The University of Texas System is authorized to establish and maintain a clinical nursing school of the University of Texas System in Bexar County, Texas, to be known as The University of Texas (Clinical) Nursing School at San Antonio. The Board of Regents is authorized to provide for the education of nursing students; however, all hospital facilities and services required for the operation and maintenance of the nursing school shall be furnished and provided at no cost and expense to the State of Texas at the time of completion of the nursing school and at all times thereafter.

Sec. 2. The Board of Regents is authorized to prescribe courses leading to such customary degrees as are offered in other leading American nursing schools, to award those degrees, and to make rules and regulations for the operation, control, and management of the school as may be necessary for the conduct of a professional school of the first class.

Sec. 3. While the nursing school is being established, students may take the prerequisite liberal arts courses prescribed by the nursing school.

Sec. 4. The Board of Regents shall have the authority to execute and carry out with any entity or institution affiliation or coordinating agreements that are reasonably necessary or desirable for the conduct and operation of a professional school of the first class, not in conflict with Section 1 hereof, and the Board is specifically authorized to make joint appointments in other institutions under its governance, the salary of any such person who receives a joint appointment to be apportioned to the appointing institutions on the basis of services rendered.

Sec. 5. The Board of Regents is authorized to accept and administer upon terms and conditions satisfactory to it, grants or gifts of property, including real estate and money, that may be tendered to it in aid of the planning, establishment, conduct, and operation of the school, and in aid of research and teaching at the school. The Board is authorized to accept from the federal government or any foundation, trust fund, corporation, or individual, donations, gifts, and grants, including real estate, buildings, libraries, laboratories, apparatus, equipment, records or money for the use and benefit of the school.

Acts 1969, 61st Leg., p. 1144, ch. 370, eff. Sept. 1, 1969.

Title of Act:

An Act relating to establishing, maintaining, supporting, and managing the University of Texas (Clinical) Nursing School in Bexar County, Texas; provid-

ing that all hospital facilities and services for such school be provided at no cost and expense to the State of Texas; providing for severability; and declaring an emergency. Acts 1969, 61st Leg., p. 1144, ch. 370.

Art. 2606c—2.1. University of Texas (Undergraduate) Nursing School at El Paso

Section 1. The Board of Regents of The University of Texas System is authorized to establish and maintain a four-year nursing school of The University of Texas System in El Paso County, Texas, to be known as The University of Texas (Undergraduate) Nursing School at El Paso. The Board of Regents is authorized to provide for the education of nursing students; however, all hospital facilities and services required for the operation and maintenance of the nursing school shall be furnished and provided at no cost and expense to the State of Texas at the time of completion of the nursing school, and at all times thereafter.

Sec. 2. The Board of Regents shall have the authority to prescribe courses leading to such customary degrees as are offered in other leading American nursing schools, to award such degrees, and to make such other rules and regulations for the operation, control, and management of the school as may be necessary for the conduct of a professional school of the first class.

Sec. 3. The Board of Regents shall have the authority to execute and carry out with any entity or institution affiliation or coordinating agreements that are reasonably necessary or desirable for the conduct and operation of a professional school of the first class, and the Board is specifically authorized to make joint appointments in other institutions under its governance, the salary of any such person who receives such joint appointment to be apportioned to the appointing institutions on the basis of services rendered.

Sec. 4. The Board of Regents is hereby authorized to accept and administer upon terms and conditions satisfactory to it, grants or gifts of property, including real estate and/or money, that may be tendered to it in aid of the planning, establishment, conduct, and operation of the school hereby authorized, and in aid of research and teaching at the school. The Board of Regents is authorized and empowered to accept from the federal government or any foundation, trust fund, corporation, or individual donations, gifts, and grants, including real estate, buildings, libraries, laboratories, apparatus, equipment, records, or money for the use and benefit of the school.

Acts 1969, 61st Leg., p. 2002, ch. 682, emerg. eff. June 12, 1969.

Title of Act:

An Act relating to establishing, maintaining, supporting, and managing The University of Texas (Undergraduate) Nursing School at El Paso; providing that all

hospital facilities and services for such school be provided at no costs and expense to the State of Texas; providing for severability; and declaring an emergency. Acts 1969, 61st Leg., p. 2002, ch. 682.

Art. 2606c—3. University of Texas at San Antonio

Section 1. This Act establishes in Bexar County, Texas, a coeducational institution of higher education known as The University of Texas at San Antonio, to be conducted, operated, and maintained under the Board of Regents of The University of Texas System. The site for such university shall be on land selected by the Board of Regents and provided or donated for such purpose.

Sec. 2. The organization and control of The University of Texas at San Antonio is vested in the Board of Regents of The University of Texas System. The Board of Regents shall have the authority to prescribe courses leading to such customary degrees as are offered at leading American

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universities and to award all such degrees. It is the intent of the Legislature that such degrees shall include baccalaureate, master's, and doctoral degrees, and their equivalents, and that there be established a standard four-year undergraduate program, but no department, school, or degree program shall be instituted except with the prior approval of the Coordinating Board, Texas College and University System. The Board of Regents shall make such other rules and regulations for the operation, control, and management of the university as may be necessary for the conduct of the university as one of the first class, including the determination of the number of students that shall be admitted to any school, college, or degree-granting program. The Board of Regents is specifically authorized to make joint appointments in the university and in other institutions under its governance, the salary of any such person who receives such joint appointment to be apportioned to the appointing institutions on the basis of services rendered.

Sec. 3. The Board of Regents is hereby authorized to accept and administer upon terms and conditions satisfactory to it grants or gifts of property, including real estate and/or money, that may be tendered to it in aid of the planning, establishment, conduct, and operation of The University of Texas at San Antonio, and in aid of research and teaching at the university. The Board of Regents is authorized and empowered to accept from the federal government or any foundation, trust fund, corporation, or individual donations, gifts, and grants, including real estate, buildings, libraries, laboratories, apparatus, equipment, records, or money for the use and benefit of the university.

Sec. 4. From and after the operative date of this Act, The University of Texas at San Antonio is subject to the obligations and entitled to the benefits of all general laws of the State of Texas applicable to other state institutions of higher education, except where the general laws are in conflict with this Act, and in those instances, this Act shall prevail only to the extent of the conflict.

Acts 1969, 61st Leg., p. 1480, ch. 440, eff. Sept. 1, 1969.

Title of Act:

An Act relating to establishing and maintaining The University of Texas at San Antonio and providing for its management and administration; providing that general laws affecting other state institutions of

higher education that are not in conflict with this Act apply to The University of Texas at San Antonio; providing for severability; and declaring an emergency. Acts 1969, 61st Leg., p. 1480, ch. 440.

Art. 2606c—3.1. University of Texas at Dallas

Section 1. The Board of Regents of The University of Texas System is hereby authorized and directed to establish and maintain a general academic institution as a state-supported institution of higher education to be known as The University of Texas at Dallas and located on a site to be selected in Dallas County, Texas; provided, however, that the site may extend into any county adjacent to Dallas County. The site shall consist of not less than 250 acres of land that shall be donated for such purpose without cost to the State of Texas.

Sec. 2. The Board of Regents shall have the authority to prescribe courses leading to such customary degrees as are offered at leading American universities and to award all such degrees. It is the intent of the Legislature that such degrees shall include baccalaureate, master's, and doctoral degrees, and their equivalents, but no department, school, or degree program shall be instituted except with the prior approval of the Coordinating Board, Texas College and University System, or its successor. Initial programs and departments will be limited to those which now exist in the Southwest Center for Advanced Studies; provided, however, approval of these programs, their expansion, and initiation of other programs shall be recommended by the Board of Regents of The University of Texas System and approved by the Coordinating Board.

The Board of Regents shall make such other rules and regulations for the operation, control, and management of the university as may be necessary for the conduct of the university as one of the first class. The Board of Regents is specifically authorized to make joint appointments in the university and in other institutions under its governance, the salary of any such person who receives such joint appointment to be apportioned to the appointing institutions on the basis of services rendered.

Sec. 3. It is further the intent of the Legislature, and it is so directed, that existing programs leading to undergraduate and graduate degrees at four North Texas area universities, namely, North Texas State University, Texas Woman's University, East Texas State University, and The University of Texas at Arlington, shall never be placed at a disadvantage, curtailed, or restricted from orderly and proper expansion for any cause attributable to the establishment of, or the curricular objectives for, The University of Texas at Dallas, and that the aforementioned four area universities shall not as a result of the establishment of The University of Texas at Dallas be handicapped in realizing their full potentials in quantity or quality for developing such additional undergraduate and graduate programs, as may from time to time be authorized by the Coordinating Board, Texas College and University System, or its successor.

Sec. 4. Notwithstanding the other provisions of this Act, the Board of Regents shall not have authority for or permit the enrollment of freshman or sophomore undergraduate students at any time and shall not provide for or permit the enrollment of junior or senior undergraduate students prior to September 1, 1975. The Board is authorized, however, to provide for the enrollment of graduate students and the awarding of graduate degrees after the effective date of this Act.

Sec. 5. The Board of Regents is hereby authorized to accept and administer upon terms and conditions satisfactory to it grants or gifts of property, including real estate and/or money, that may be tendered to it in aid of the planning, establishment, conduct, and operation of The University of Texas at Dallas, and in aid of the research and teaching at the university. The Board of Regents is authorized and empowered to accept from the federal government or any foundation, trust fund, corporation, or individual donations, gifts, and grants, including real estate, buildings, libraries, laboratories, apparatus, equipment, records, or money for the use and benefit of the university.

Acts 1969, 61st Leg., p. 2225, ch. 758, eff. Sept. 1, 1969.

Title of Act:

An Act authorizing and directing the Board of Regents of The University of Texas System to establish and maintain a general academic institution in Dallas County, Texas, or in any county adjacent to Dallas County, to be known as The University of Texas at Dallas; authorizing the Board to prescribe courses leading to customary degrees, and to award such degrees; stating the intent of the Legislature that such degrees shall include baccalaureate, master's, and doctoral degrees, and their equivalents, and providing that no department, school, or degree program shall be instituted without the prior approval of the Coordinating Board or its

successor; authorizing the Board to make rules and regulations for the operation, control, and management of the university; authorizing joint appointments; prohibiting the enrollment of freshman and sophomore undergraduate students at any time and prohibiting the enrollment of junior and senior undergraduate students prior to September 1, 1975; authorizing the acceptance of gifts, grants, and donations from any source in aid of the planning, establishment, conduct, and operation of the university authorized by this Act, and in aid of the teaching and research conducted therein; providing for severability; and declaring an emergency. Acts 1969, 61st Leg., p. 2225, ch. 758.

Art. 2606c—4. University of Texas of the Permian Basin

Section 1. The Board of Regents of the University of Texas System is hereby authorized and directed to establish and maintain a fully state-supported coeducational institution of higher learning to be known as The University of Texas of the Permian Basin. The site for said institution

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shall be chosen as provided for herein. The institution shall be organized to accept only junior, senior and graduate level students, with at least sixty (60) semester hours of accredited college or university study.

Sec. 2. The Board of Regents shall have the authority to prescribe courses leading to such customary degrees as are offered at leading American universities of this concept and to award such degrees. It is the intent of the Legislature that such degrees shall include baccalaureate and masters degrees and their equivalents, and that there be established a standard program for such type institution, but no department, school or degree program shall be instituted except with the prior approval of the Coordinating Board, Texas College and University System. The Board of Regents shall make such other rules and regulations for the operation, control and management of the university, including the determination of the number of students that shall be admitted to any school, college or degree-granting program, as may be necessary for the conduct of the university as one of the first class. The Board of Regents is specifically authorized to make joint appointments in the university and in other institutions under its governance; the salary of any such person who receives such joint appointment to be apportioned to the appointing institution on the basis of services rendered.

Sec. 3. The Board of Regents is hereby authorized to accept and administer upon terms and conditions satisfactory to it grants or gifts of property, including real estate and/or money, or any part of existing junior college facilities that may be tendered to it in aid of the planning, establishment, conduct and operation of The University of Texas of the Permian Basin, and in aid of research and teaching at the university. The Board of Regents is authorized and empowered to accept from the federal government or any foundation, trust fund, corporation, or individual donations, gifts, and grants, including real estate, buildings, libraries, laboratories, apparatus, equipment, records, or money for the use and benefit of the university.

Sec. 4. The Board is hereby authorized and directed to establish the institution and locate same on a site selected by the Board as follows:

(a) The site shall consist of 200 acres or more, unless otherwise specifically acceptable to the Board, and must be accessible within a reasonable length of time to roads, required utilities to the perimeter of said site, and within a reasonable distance and accessible to the present site of the Odessa College campus in Odessa, Texas.

(b) The Board shall select a site which is in Ector County; provided however, the site may extend into an adjoining county; and provided further, if within the discretion of the Board, those sites made available within the provisions of this Act are not suitable and other sites are suitable, then the Board is authorized to accept and acquire a similar site in whole or part in an adjoining county; provided said site is not more than a 12 mile radius from the present campus of Odessa College in Odessa, Texas.

(c) The Board is authorized to accept and acquire and shall accept and acquire such site for said college within the provisions of this Act and the land for same shall be deeded by proper conveyance free and clear of debt, to the State.

(d) The Board shall in no event delay the acquisition of land for said institution created herein within the provisions of this Act later than the 31st day of December, 1969.

(e) It is further provided that the Board must follow the provisions of this Act with respect to site and any decision reached to the contrary shall be null and void and all laws to the contrary are hereby expressly repealed.

Acts 1969, 61st Leg., p. 1523, ch. 459, eff. Sept. 1, 1969.

Title of Act:

An Act relating to the establishment, maintenance, support and administration of The University of Texas of the Permian

Basin, providing for severability; and declaring an emergency. Acts 1969, 61st Leg., p. 1523, ch. 459.

CHAPTER TWO—TEXAS A & M UNIVERSITY

Art.
2613a—11. Lands and mineral interests; exclusive management and control [New].
2615f—1a. Texas State Technical Institute; board of regents; transfer of powers and duties; role and scope; reciprocal nonresident fee agreements; campuses [New].

Art.
2615f—1b. Texas State Technical Institute; disposition of properties; bonds and notes; pledge of revenue; insurance; workmen's compensation; transfer of retirement program [New].
2615f—2. Unconstitutional.
2615f—3. Polygraph Examiners Act [New].

Art. 2613a—4. Dormitories, office building, additional power and steam plant equipment authorized

* * * * *

Water and sewer systems

Sec. 1b. In addition to the authority granted in Sections 1 and 1a of this Act, the said Board of Directors is authorized to construct, extend and improve, from time to time, the water systems, the sewer systems, or both for any or all of the institutions under its control or management, when the total cost, type of construction, capacity, and plans and specifications therefor have been approved by said Board of Directors.

Sec. 1b added by Acts 1969, 61st Leg., p. 16, ch. 7, § 1, emerg. eff. March 5, 1969.

Section 8 of the Act of 1969 was a severability provision.

Fees, rentals and charges

Sec. 2. Said Board of Directors is authorized to fix rentals, rates, charges and fees for the use of such buildings and other facilities and to make parietal rules to assure maintenance of a maximum percentage of use and occupancy of such buildings. The rental, rates, charges, and fees to be fixed against students and others using any such buildings or other facilities shall be in amounts to be determined by the Board, taking into consideration the cost of providing said buildings or other facilities the use to be made of them, and the advantages to be derived therefrom.

Sec. 2 amended by Acts 1969, 61st Leg., p. 16, ch. 7, § 2, emerg. eff. March 5, 1969.

Bonds authorized; terms; payment

Sec. 3. For the purpose of carrying out any one or more of the aforesaid powers each Board shall be authorized to issue its revenue bonds to be payable from and secured by liens on and pledges of all or any part of any of the revenues from any rentals, rates, charges, fees, or other resources of such Board, in the manner hereinafter provided. Said bonds may be issued to mature serially or otherwise within not to exceed fifty years from their date. In the authorization of any such bonds, each Board may provide for the subsequent issuance of additional parity bonds, or subordinate lien bonds, or other types of bonds, under such terms or conditions as may be set forth in the resolution authorizing the issuance of said bonds, all within the discretion of the Board. Said bonds, and any interest coupons appertaining thereto, shall be negotiable instruments (provided that such bonds may be issued registrable as to principal alone or as to both principal and interest), and shall be executed, and may be made redeemable prior to maturity, and may be issued in such form, de-

For Annotations and Historical Notes, see V.A.T.S.

nominations, and manner, and under such terms, conditions, and details, and may be sold in such manner, at such price, and under such terms, and said bonds shall bear interest at such rates, all as shall be determined and provided by the Board in the resolution authorizing the issuance of said bonds. If so permitted in the bond resolution, any required part of the proceeds from the sale of the bonds may be used for paying interest thereon during the period of the construction of any facilities to be provided through the issuance of said bonds, and for the payment of operation and maintenance expenses of said facilities to the extent, and for the period of time, specified in said bond resolution, and also for the creation of reserves for the payment of the principal of and interest on the bonds; and such moneys may be invested, until needed, to the extent, and in the manner provided, in said bond resolution.

Sec. 3 amended by Acts 1969, 61st Leg., p. 16, ch. 7, § 3, emerg. eff. March 5, 1969.

**Water, steam, power and electricity; furnishing; allocation
of costs; pledge of revenues**

Sec. 4. Said Board is authorized to furnish water, sewer, steam, power, electricity, or any or all of such services from the power and steam plant or plants and other facilities located at each institution, to any or all dormitories, kitchens and dining halls, hospitals, student activity buildings, gymnasias, athletic buildings and stadia, the office building constructed pursuant to Section 5 hereof, the dormitory for help, laundry, and such other buildings or facilities as may have been or may be constructed at each such institution, and to determine the amount to be charged as a part of the maintenance and operation expense of such buildings or facilities for such service or services. The Board is authorized to allocate the cost of furnishing such services to revenue-producing buildings and facilities and to other buildings and facilities at said institutions. The Board is authorized to pledge the net revenues from the amounts thus received for said services to pay the principal and interest of, and to create and maintain the reserve for the negotiable revenue bonds issued for the purpose of constructing, acquiring, improving, extending or equipping said power and steam plants, or additions thereto, or other facilities and may secure said bonds additionally by pledging rentals, rates, charges, and fees for the use or availability of all or any property, buildings, structures, activities, operations, or facilities, of any nature, which may be fixed and collected from all or any designated part of the students enrolled in the institution or institutions or from others in such amounts and in such manner as shall be determined and provided by the Board in the resolution authorizing the issuance of the bonds.

Sec. 4 amended by Acts 1965, 59th Leg., p. 139, ch. 56, § 2, eff. April 2, 1965; Acts 1969, 61st Leg., p. 16, ch. 7, § 4, emerg. eff. March 5, 1969.

* * * * *

Refunding bonds; pledge of revenues

Sec. 6. Said Board is authorized to issue negotiable refunding bonds for the purpose of taking up, at or prior to maturity, all or any part of an issue or issues of revenue bonds issued either under this Act or under other laws, and to refund with a single refunding issue the revenue bonds of several issues. It is authorized to include in a single refunding issue bonds for the purpose of refunding outstanding bonds and new bonds to obtain additional funds for purposes authorized in this Act. All of such refunding bonds, or refunding and new money bonds, shall be secured by a pledge of all or part of the rentals, rates, charges and fees pledged for the payment of said refunded or underlying bonds, and all or part of the rentals, rates, charges and fees authorized to be charged hereunder.

Sec. 6 amended by Acts 1969, 61st Leg., p. 16, ch. 7, § 5, emerg. eff. March 5, 1969.

Priorities between pledges of revenue; parity bonds

Sec. 7. After the revenues of any building or of any facility, constructed, acquired, extended, improved or equipped pursuant to this Act, shall have been pledged to the payment of revenue bonds, any subsequent pledge of such revenues shall be inferior to such pledge or pledges previously made, provided that if the resolution or resolutions making the previous pledge or pledges have so provided, parity bonds may be issued. Sec. 7 amended by Acts 1969, 61st Leg., p. 16, ch. 7, § 6, emerg. eff. March 5, 1969.

Revenue bonds as indebtedness

Sec. 8. The revenue bonds authorized in this Act shall not constitute indebtedness of the State of Texas or of the institutions, and the holders thereof shall never have the right to demand payment of principal or interest out of funds other than those pledged to the payment of such bonds. Sec. 8 amended by Acts 1969, 61st Leg., p. 16, ch. 7, § 7, emerg. eff. March 5, 1969.

* * * * *
Sec. 12. [Emergency clause].

Art. 2613a—11. Lands and mineral interests; exclusive management and control

Section 1. The Board of Directors of Texas A&M University is invested with the sole and exclusive management and control of lands and mineral interest under its jurisdiction and that may be acquired by it. The Board of Directors may convey lands to other units or agencies of government and where not otherwise authorized by existing law so to do, it may sell said lands or lease the surface thereof under such terms and conditions as the Board may deem best in the public interest. The Board of Directors may not, however, sell or otherwise dispose of any land comprising the original main campus of Texas A&M University located at College Station, Brazos County, Texas, except as now authorized by existing law. Proceeds received therefrom may be retained in local funds subject to disposition thereof by the Board of Directors for any lawful purpose.

Sec. 2. This Act is cumulative of existing statutes relating to the authority of the Board of Directors to lease for oil, gas, sulphur, mineral ore and other mineral developments, and otherwise to buy, sell, and lease certain lands under its jurisdiction and supervision.

Sec. 3. This Act shall not cover any lands or minerals held by the General Land Office. Acts 1969, 61st Leg., p. 281, ch. 109, emerg. eff. May 1, 1969.

Title of Act: An Act investing the Board of Directors of Texas A&M University with the sole and exclusive management and control of lands and mineral interests under its jurisdiction and that may be acquired by it; authorizing said Board of Directors to convey lands to other units and agencies of government; where not otherwise authorized by existing law so to do, to sell said lands or lease the surface thereof under such terms and conditions as it may deem best in the public interest; the Board of Directors may not, however, sell or otherwise dispose of any land comprising the original main campus of Texas A&M University located at College Station, Brazos County, Texas except as now authorized by law; providing for retention and disposition of the proceeds; making this Act cumulative; and declaring an emergency. Acts 1969, 61st Leg., p. 281, ch. 109.

For Annotations and Historical Notes, see V.A.T.S.

Art. 2615f—1. James Connally Technical Institute of Texas A & M University

Change of Name and Transfer of Powers

Acts 1969, 61st Leg., p. 515, ch. 179, § 1, changed the name of "James Connally Technical Institute of Texas A & M University" to "Texas State Technical Institute," and section 5 transferred the powers and duties of Texas A & M University respecting the former institute to the latter institute. See article 2615f—1a. See, also, article 2615f—1b, § 4.

Art. 2615f—1a. Texas State Technical Institute; board of regents; transfer of powers and duties; role and scope; reciprocal non-resident fee agreements; campuses

Change of name

Section 1. The name of James Connally Technical Institute of Texas A&M University is changed to the Texas State Technical Institute.

Board of regents; appointment; terms of office; vacancies; meetings

Sec. 2. (a) The organization and control of the Texas State Technical Institute is vested in a board of nine regents, who are appointed by the Governor of Texas with the advice and consent of the Senate. The term of office of each regent is six years, provided that in making the first appointments the Governor shall appoint three members for six years, three members for four years, and three members for two years. Any vacancy that occurs on the board is filled for the unexpired term by appointment of the Governor.

(b) In appointing members of the board, the Governor shall include persons representing agriculture, business, industry and labor.

(c) Each member of the board shall take the constitutional oath of office, and each member shall be a citizen of the State of Texas.

(d) The board shall meet for the first time, after the passage of this Act, at the Texas State Technical Institute campus at Waco, McLennan County, as soon after their appointment as possible. At the first meeting the board shall

(1) elect one of the members chairman;

(2) elect other officers as they deem necessary;

(3) enact bylaws, rules, and regulations as they deem necessary for the successful management and operation of the Institute.

(e) The board shall meet thereafter as prescribed by its bylaws but not less than six times annually.

Suits; venue

Sec. 3. The board may sue, and may be sued, in the name of the Texas State Technical Institute, with venue being in either McLennan County or Travis County.

Compensation of regents; expenses

Sec. 4. Members of the board may not receive salary or compensation for their services, but they may receive reimbursement for their actual expenses incurred in attending to the work of the board, subject to the approval of the board's chairman.

Transfer of powers and duties

Sec. 5. (a) The existing powers and responsibilities of the Board of Directors of Texas A&M University as they relate to James Connally Technical Institute are hereby transferred to the Board of Regents of the Texas State Technical Institute.

(b) Funds appropriated to the James Connally Technical Institute of Texas A&M University are transferred to the Texas State Technical Institute.

Certificates and diplomas

Sec. 6. The board shall prescribe and award certificates and diplomas limited to those common to technical education.

Role and scope of institute

Sec. 7. The role and scope of the Texas State Technical Institute shall be to:

(a) Provide occupationally oriented programs in highly technical and vocational areas to include field or laboratory work and remedial or related academic and technical instruction related thereto. Particular emphasis will be on industrial and technological manpower needs of the state. Technical and vocational programs shall be subject to the approval of the State Board of Vocational Education, and related academic instruction shall be subject to the approval of the Coordinating Board, Texas College and University System;

(1) Before any program may be offered by the Texas State Technical Institute within the district of a public junior college that is operating a vocational and technical program, it must be established that the public junior college is not capable of or unable to offer the program. After the need is established and the program is not locally available, then the Texas State Technical Institute may offer said program when approval is granted as set forth herein;

(2) Such approval as set forth in Subsection 1 above of this section shall not apply to McLennan, Cameron and Potter Counties;

(3) Where there is a county, or a portion of said county, in this state that is not in an operating public junior college district, then the institute may, if requested by the local government and with the approval of the Board of Vocational Education, offer the programs so approved as set forth herein;

(b) Provide training programs for technical teachers, counselors, and supervisors which shall be subject to prior and continuing approval of the State Board of Vocational Education;

(c) Conduct manpower development and utilization research programs for identification of training and retraining needs and projections, and for curriculum development, either individually or in cooperation with other public and private institutions.

Reciprocal cooperative agreements; nonresident fees

Sec. 8. The board may enter into cooperative agreements which exempt technical students from nonresident fees when there are reciprocal privileges granted to Texas residents.

Campus locations

Sec. 9. The Texas State Technical Institute shall be located on only three campuses in McLennan, Cameron and Potter Counties.

(a) The main campuses of the Texas State Technical Institute System shall be located at Waco, McLennan County, Texas;

(b) The board may accept or acquire by purchase in the name of the State of Texas land and facilities in Cameron County and Potter County, Texas, subject to the approval of the Governor;

(c) All other campus locations to be operated by the Texas State Technical Institute System shall require legislative approval, except as provided for herein.

Effective date

Sec. 10. This Act takes effect September 1, 1969.
Acts 1969, 61st Leg., p. 515, ch. 179, emerg. eff. Sept. 1, 1969.

For Annotations and Historical Notes, see V.A.T.S.

Title of Act:

An Act changing the name of James Connally Technical Institute of Texas A & M University to the Texas State Technical Institute; creating the Board of Regents to govern and control the institute and prescribing the board's powers, duties and

functions; providing for transfer of funds; prescribing the scope of activities of the institute; prescribing the location of campuses and providing for their acquisition; providing a severability clause; providing an effective date; and declaring an emergency. Acts 1969, 61st Leg., p. 515, ch. 179.

Art. 2615f—1b. Texas State Technical Institute; disposition of properties; bonds and notes; pledge of revenue; insurance; workmen's compensation; transfer of retirement program

Section 1. (a) The Board of Regents of Texas State Technical Institute is authorized to lease, sell, transfer, or exchange land and permanent improvements of the Texas State Technical Institute or any other properties it may acquire, and that the board determines are not necessary for the establishment or operation of Texas State Technical Institute.

(b) The board is authorized to irrevocably pledge the fees, charges, revenues, and the proceeds of the lease, sale, transfer, or exchange of or from the buildings, land, structures, and the additions to the existing buildings and structures authorized to be constructed, improved, or equipped and to pledge the revenues or the proceeds of the lease, sale, transfer, or exchange of or from any other revenue producing buildings, structures, facilities, and other property to the payment of the interest on and the principal of bonds or notes authorized to be issued by Chapter 368, Acts of the 54th Legislature, Regular Session, 1955, as amended¹, and to enter into agreements regarding the imposition of fees, charges, and other revenue and the collection, pledge, and disposition as the board deems appropriate. However, where land and improvements on the land, the revenue of which has been pledged to pay bonds, are to be sold, the sale is conditioned on the deposit by the board of the proceeds of the sale to the sinking fund created by the bond order of the issuing authority.

¹ Article 2909c.

(c) All income received by the board under the provisions of this section shall be accounted for and used in the same manner as other moneys available to the board for the establishment or operation of Texas State Technical Institute.

(d) The bonds and notes authorized to be issued under Chapter 368, Acts of the 54th Legislature, Regular Session, 1955, as amended, are special obligations of the board of directors issuing the bonds and notes and are payable only from a pledge of the fees, charges, and other revenues authorized by this section and from the proceeds of the lease, sale, transfer, or exchange of land and improvements on the land, the revenue of which is pledged to secure the payment of interest on and principal of the bonds.

(e) The Board of Regents of the Texas State Technical Institute, in addition to the authority herein provided, is hereby authorized to issue revenue bonds for the purposes authorized and in the manner prescribed and under the terms and conditions set forth in Chapter 368, Acts of the 54th Legislature, 1955, as amended.

Sec. 2. The Board may procure the property and liability insurance coverages required by the United States to protect it and its agencies against the possibility of loss or liability in connection with property owned by the United States and loaned to Texas State Technical Institute pursuant to the provisions of the National Industrial Reserve Act of 1948, 50 U.S.C. Secs. 451-462.¹

¹ See 50 U.S.C.A. § 451 et seq.

Sec. 3. The board may provide workmen's compensation insurance for its employees according to the provisions of Chapter 182, Acts of the 42nd Legislature, 1931, as amended (Article 8309b, Vernon's Texas Civil Statutes).

Sec. 4. The existing powers and responsibilities of the Board of Directors of Texas A & M University, as they relate to James Connally Technical Institute, according to the provisions of Chapter 729, Acts of the 60th Legislature, Regular Session, 1967 (Article 2922—1i, Sections 1-8), are hereby transferred to the Board of Regents of the Texas State Technical Institute.

Sec. 5. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Sec. 6. This Act takes effect September 1, 1969.
Acts 1969, 61st Leg., p. 1318, ch. 404, emerg. eff. Sept. 1, 1969.

Title of Act:

An Act relating to the powers and duties of the board of regents of Texas State

Technical Institute; and declaring an emergency. Acts 1969, 61st Leg., p. 1318, ch. 404.

Art. 2615f—2. Unconstitutional

This article, entitled Polygraph Examiners Act, and enacted by Acts 1965, 59th Leg., p. 888, ch. 441, §§ 1-26, was held unconstitutional by Fletcher v. State (Sup.

1969) 439 S.W.2d 656 on ground of insufficiency of the title of the Act under Const. art. 3, § 35. See, now, art. 2615f—3.

Art. 2615f—3. Polygraph Examiners Act

Short title

Section 1. This Act shall be known, and may be cited, as the Polygraph Examiners Act.

Purpose

Sec. 2. It is the purpose of this Act to regulate all persons who purport to be able to detect deception or to verify truth of statements through the use of instrumentation (as lie detectors, polygraphs, deceptographs, and/or similar or related devices and instruments without regard to the nomenclature applied thereto) and this Act shall be liberally construed to regulate all such persons and instruments. No person who purports to be able to detect deception or to verify truth of statements through instrumentation shall be held exempt from the provisions of this Act because of the terminology which he may use to refer to himself, to his instrument, or to his services.

Definitions

Sec. 3. In this Act, unless the context requires a different definition,

- (1) "board" means the Polygraph Examiners Board;
- (2) "secretary" means that member of the Polygraph Examiners Board selected by the board to act as secretary;
- (3) "internship" means the study of polygraph examinations and of the administration of polygraph examinations by a trainee under the personal supervision and control of a polygraph examiner in accordance with a course of study prescribed by the board at the commencement of such internship;
- (4) "person" means any natural person, firm, association, copartnership, or corporation; and
- (5) "polygraph examiner" means any person who purports to be able to detect deception or verify truth of statements through instrumentation or the use of a mechanical device.

Minimum instrumentation required

Sec. 4. Any instrument used to test or question individuals for the purpose of detecting deception or verifying truth of statements shall re-

cord visually, permanently, and simultaneously: (1) a subject's cardiovascular pattern and (2) a subject's respiratory pattern. Patterns of other physiological changes in addition to (1) and (2) may also be recorded. The use of any instrument or device to detect deception or to verify truth of statements which does not meet these minimum instrumentation requirements is hereby prohibited and the operation or use of such equipment shall be subject to penalties and may be enjoined in the manner hereinafter provided.

Creation of the board

Sec. 5. (a) There is hereby established in the Engineering Extension Service, Police Training Division, Texas A & M University System, a Polygraph Examiners Board consisting of six members who shall be citizens of the United States and residents of the state for at least two years prior to appointment, all of whom shall have been engaged for a period of five consecutive years as a polygraph examiner prior to appointment to the board, and at the time of appointment as an active polygraph examiner. No two board members may be employed by the same person or agency. At least two members must be qualified examiners of a governmental law enforcement agency, one of which shall be the supervisor of the polygraph section of the Department of Public Safety, and at least two members must be qualified polygraph examiners in the commercial field. The members shall be appointed by the Governor of the State of Texas with the advice and consent of the Senate for a term of six years. The terms of office of members appointed to the initial board are two for two years; two for four years; and two for six years. Any vacancy in an unexpired term shall be filled by appointment of the Governor with the advice and consent of the Senate for the unexpired term.

(b) The number of employees and the salaries of each, including travel and expense allowance of the members of the Board shall be as fixed in the General Appropriation Bill.

(c) The board shall meet within 30 days after the effective date of this Act and elect a chairman, vice-chairman, and secretary from among its members. At the meeting, the board shall specify dates spaced at three month intervals on which examinations for polygraph examiners' licenses will be held. A copy of those dates shall forthwith be delivered to the secretary.

(d) The vote of a majority of the board members is sufficient for passage of any business or proposal which comes before the board.

Administration and expenses

Sec. 6. (a) The board shall issue regulations consistent with the provisions of this Act for the administration and enforcement of this Act and shall prescribe forms which shall be issued in connection therewith.

(b) An order or a certified copy thereof, over the board seal and purporting to be signed by the board members, shall be prima facie proof that the signatures are the genuine signatures of the board members, and that the board members are fully qualified to act.

(c) All fees collected under the provisions of this Act shall be paid to the Treasurer of the State of Texas. Funds necessary for the enforcement of this Act and the administration of its provisions shall be appropriated by the Legislature, but the funds so appropriated for a biennium shall not exceed the total amount of the fees which it is anticipated will be collected hereunder during such biennium.

Unauthorized practice

Sec. 7. It shall be unlawful for any person, including a city, county or state employee, to administer polygraph or other examinations utilizing

instrumentation for the purpose of detecting deception or verifying truth of statements or to attempt to hold himself out as a polygraph examiner or to refer to himself by any other title which would indicate or which is intended to indicate or calculated to mislead members of the public into believing that he is qualified to apply instrumentation to detect deception or to verify truth of statements without first securing a license as herein provided.

Examiner's license qualifications

Sec. 8. A person is qualified to receive a license as an examiner

- (1) who is at least 21 years of age; and
- (2) who is a citizen of the United States; and
- (3) who establishes that he is a person of honesty, truthfulness, integrity, and moral fitness; and
- (4) who has not been convicted of a felony or a misdemeanor involving moral turpitude; and
- (5) who holds a baccalaureate degree from a college or university accredited by the American Association of Collegiate Registrars and Admissions Officers, or in lieu thereof, has five consecutive years of active investigative experience immediately preceding his application; and
- (6) who is a graduate of a polygraph examiners course approved by the board and has satisfactorily completed not less than six months of internship training, provided that if the applicant is not a graduate of an approved polygraph examiners course, satisfactory completion of not less than 12 months of internship training may satisfy this subdivision; and
- (7) who has passed an examination conducted by the board, or under its supervision, to determine his competency to obtain a license to practice as an examiner.
- (8) Prior to the issuance of a license, the applicant must furnish to the board evidence of a surety bond or insurance policy. Said surety bond or insurance policy shall be in the sum of \$5,000.00 and shall be conditioned that the obligor therein will pay to the extent of the face amount of such surety bond or insurance policy all judgments which may be recovered against the licensee by reason of any wrongful or illegal acts committed by him in the course of his examinations.

Acquisition of license by present examiners

Sec. 9. On the effective date of this Act, any person who held a license issued by the Board established or attempted to be established by Acts, 1965, 59th Leg., R.S., Ch. 441, p. 888, and whose license was in effect on the date on which said Act was held invalid, shall be automatically licensed hereunder until such date as his license under the Act aforesaid has expired and thereafter may renew his license on payment of the fee herein provided. The applicant must also satisfy the provisions of Section 8(8) of this Act.

Applications for original license

Sec. 10. Applications for original licenses shall be made to the secretary of the board in writing under oath on forms prescribed by the board and shall be accompanied by the required fee, which is not refundable. Any such application shall require such information as in the judgment of the board will enable it to pass on the qualifications of the applicant for a license.

Non-resident applicants

Sec. 11. (a) Each non-resident applicant for an original license or a renewal license shall file with the board an irrevocable consent that actions against said applicant may be filed in any appropriate court of any county or municipality of this state in which the plaintiff resides or in

For Annotations and Historical Notes, see V.A.T.S.

which some part of the transaction occurred out of which the alleged cause of action arose and that process on any such action may be served on the applicant by leaving two copies thereof with the secretary. Such consent shall stipulate and agree that such service or process shall be taken and held to be valid and binding for all purposes. The secretary of the board shall send forthwith one copy of the process to the applicant at the address shown on the records of the board by registered or certified mail.

(b) Non-resident applicants must satisfy the requirements of Section 8 of this Act.

Applicant with out-of-state license

Sec. 12. An applicant who is a polygraph examiner licensed under the laws of another state or territory of the United States may be issued a license without examination by the board, in its discretion, upon payment of a fee of \$60 and the production of satisfactory proof that

- (1) he is at least 21 years of age; and
- (2) he is a citizen of the United States; and
- (3) he is of good moral character; and
- (4) the requirements for the licensing of polygraph examiner in such particular state or territory of the United States were at the date of the applicant's licensing therein substantially equivalent to the requirements now in force in this state; and
- (5) the applicant had lawfully engaged in the administration of polygraph examinations under the laws of such state or territory for at least two years prior to his application for license hereunder; and
- (6) such other state or territory grants similar reciprocity to license holders of this state; and
- (7) he has complied with Section 11 of this Act.

Internship license

Sec. 13. (a) Upon approval by the board, the secretary shall issue an internship license to a trainee provided he applies for such license and pays the required fee within ten days prior to the commencement of his internship. The application shall contain such information as may be required by the board.

(b) An internship license shall be valid for the term of 12 months from the date of issue. Such license may be extended or renewed for any term not to exceed 6 months upon good cause shown to the board.

(c) A trainee shall not be entitled to hold an internship license after the expiration of the original 12 month period and 6 month extension, if such extension is granted by the board, until 12 months after the date of expiration of the last internship license held by said trainee.

Examination and license fees

Sec. 14. (a) The fee to be paid by an applicant for an examination to determine his fitness to receive a polygraph examiner's license is \$20, which is not to be credited as payment against the license fee.

(b) The fee to be paid for an original polygraph examiner's license is \$60.

(c) The fee to be paid for an internship license is \$30.

(d) The fee to be paid for the issuance of a duplicate polygraph examiner's license is \$10.

(e) The fee to be paid for a polygraph examiner's renewal license is \$25.

(f) The fee to be paid for the extension or renewal of an internship license is \$25.

(g) The fee to be paid for a duplicate internship license is \$10.

(h) The fees required by this Act may be paid by the governmental agency employing the examiner.

Display of license and signature thereon

Sec. 15. A license or duplicate license must be prominently displayed at the place of business of the polygraph examiner or at the place of internship. Each license shall be signed by the board members and shall be issued under the seal of the board.

Change of business address

Sec. 16. Notice in writing shall be given to the secretary by the licensed examiner of any change of principal business location within 30 days of the time he changes the location. A change of business location without notification to the secretary shall automatically suspend the license theretofore issued.

Termination and renewal of examiner's license

Sec. 17. Each polygraph examiner's license shall be issued for the term of one year and shall, unless suspended or revoked, be renewed annually as prescribed by the board. A polygraph examiner whose license has expired may at any time within two years after the expiration thereof obtain a renewal license without examination by making a renewal application therefor and satisfying Section 8(2), (3), and (4). However, any polygraph examiner whose license expired while he was in the federal service on active duty with the armed forces of the United States, or the national guard called into service or training, or in training or education under the supervision of the United States preliminary to induction into the military service, may have his license renewed without examination if within two years after termination of such service, training, or education except under condition other than honorable, he furnishes the board with an affidavit to the effect that he has been so engaged and that his service, training, or education has been so terminated. Section 8(2), (3), and (4) of this Act must also be satisfied.

License required to maintain suit

Sec. 18. No action or counterclaim shall be maintained by any person in any court in this state with respect to any agreement or service for which a license is required by this Act, or to recover the agreed price or any compensation under such agreement, or for such services for which a license is required by this Act without alleging and proving that such person had a valid license at the time of making such agreement or performing such services.

Refusal, suspension, revocation—grounds

Sec. 19. The board may refuse to issue or may suspend or revoke a license on any one or more of the following grounds:

(1) for failing to inform a subject to be examined as to the nature of the examination;

(2) for failing to inform a subject to be examined that his participation in the examination is voluntary;

(3) material misstatement in the application for original license or in the application for any renewal license under this Act;

(4) wilful disregard or violation of this Act or of any regulation or rule issued pursuant thereto, including, but not limited to, wilfully making a false report concerning an examination for polygraph examination purposes;

(5) if the holder of any license has been adjudged guilty of the commission of a felony or a misdemeanor involving moral turpitude;

(6) making any wilful misrepresentation or false promises or causing to be printed any false or misleading advertisement for the purpose of directly or indirectly obtaining business or trainees;

For Annotations and Historical Notes, see V.A.T.S.

- (7) having demonstrated unworthiness or incompetency to act as a polygraph examiner as defined by this Act;
- (8) allowing one's license under this Act to be used by any unlicensed person in violation of the provisions of this Act;
- (9) wilfully aiding or abetting another in the violation of this Act or any regulation or rule issued pursuant thereto;
- (10) where the license holder has been adjudged as habitual drunkard or mentally incompetent as provided in the Probate Code;
- (11) failing, within a reasonable time, to provide information requested by the secretary as the result of a formal complaint to the board which would indicate a violation of this Act; or
- (12) failing to inform the subject of the results of the examination if so requested.

Violation by one examiner or trainee not to affect employer

Sec. 20. Any unlawful act or violation of any of the provisions of this Act on the part of any polygraph examiner or trainee shall not be cause for revocation of the license of any other polygraph examiner for whom the offending examiner or trainee may have been employed, unless it shall appear to the satisfaction of the board that the polygraph examiner-employer has wilfully or negligently aided or abetted the illegal actions or activities of the offending polygraph examiner or trainee.

Registration of examiners with county clerks

Sec. 21. Each polygraph examiner shall register with the county clerk in the county wherein he maintains a business address. The county clerk of each county shall maintain a list of all polygraph examiners registered in his county.

Board hearing

Sec. 22. (a) When there is cause to refuse an application or to suspend or revoke the license of any polygraph examiner, the board shall, not less than 30 days before refusal, suspension, or revocation action is taken, notify such person in writing, in person or by certified mail at the last address supplied to the board by such person, of such impending refusal, suspension, or revocation, the reasons therefor, and of his right to an administrative hearing for the purpose of determining whether or not the evidence is sufficient to warrant the refusal, suspension, or revocation action proposed to be taken by the board. If, within 20 days after the personal service of such notice or such notice has been deposited in the United States mail, such person has not made a written request to the board for this administrative hearing, the board is authorized to suspend or revoke the polygraph examiner's license of such person without a hearing. Upon receipt by the board of such written request of such person within the 20 day period as set out above, an opportunity for an administrative hearing shall be afforded as early as is practicable. In no case shall the hearing be held less than 10 days after written notification thereof, including a copy of the charges, shall have been given the person by personal service or by certified mail sent to the last address supplied to the board by the applicant or licensee. The administrative hearing in such cases shall be before the board.

(b) The board shall conduct the administrative hearings and it is authorized to administer oaths and issue subpoenas for the attendance of witnesses and the production of relevant books, papers, documents, etc. On the basis of the evidence submitted at the hearing, the board shall take whatever action it deems necessary in refusing the application or suspending or revoking the license.

Judicial review

Sec. 23. Any person dissatisfied with the action of the board in refusing his application or suspending or revoking his license, or any other action of the board, may appeal the action of the board by filing a petition within 30 days thereafter in the district court in the county where the person resides or in the district court of Travis County, Texas. In all appeals prosecuted in any of the courts of this state pursuant to the provisions of this Act, such trials shall be de novo as that term is used and understood in appeals from justice of the peace courts to county courts. When such an appeal is filed and the court thereby acquires jurisdiction, all administrative or executive action taken prior thereto shall be null and void and of no force and effect, and the rights of the parties thereto shall be determined by the court upon a trial of the matters in controversy under rules governing the trial of other civil suits in the same manner and to the same extent as though the matter had been committed to the courts in the first instance and there had been no intervening administrative or executive action or decision. Under no circumstances shall the substantial evidence rule as interpreted and applied by the courts of Texas in other cases ever be used or applied to appeals prosecuted under the provisions of this Act. The Legislature hereby specifically declares that the provisions of this section shall not be severable from the balance of this Act, and further specifically declares that this Act would not have been passed without the inclusion of this section. If this section, or any part thereof, is for any reason ever held by any court to be invalid, unconstitutional or inoperative in any way, such holding shall apply to this entire Act, and in such event this entire Act shall be null, void and of no force and effect.

Surrender of license

Sec. 24. Upon the revocation or suspension of any license, the licensee shall forthwith surrender the license or licenses to the secretary; failure of a licensee to do so shall be a violation of this Act and upon conviction, shall be subject to the penalties hereinafter set forth. At any time after the suspension or revocation of any license, the secretary shall restore it to the former licensee, upon the written recommendations of the board.

Proceedings through the attorney general

Sec. 25. If any person violates any provisions of this Act, the secretary shall, upon direction of a majority of the board, in the name of the State of Texas, through the Attorney General of the State of Texas, apply in any district court of competent jurisdiction, for an order enjoining such violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition in the court, the court or any judge thereof, if satisfied by affidavit or otherwise that the person has violated this Act, may issue a temporary injunction, without notice or bond, enjoining such continued violation and if it is established that the person has violated or is violating this Act, the court, or any judge thereof, may enter a decree perpetually enjoining the violation or enforcing compliance with this Act. In case of violation of any order or decree issued under the provisions of this Section, the court, or any judge thereof, may try and punish the offender for contempt of court. Proceeding under this Section shall be in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

Penalties

Sec. 26. Any person who violates any provision of this Act or any person who falsely states or represents that he has been or is a polygraph examiner or trainee or that he is qualified to apply instrumentation to the

For Annotations and Historical Notes, see V.A.T.S.

detection of deception or verification of truth of statements shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$100 nor more than \$1,000 or by imprisonment in the county jail for a term of not to exceed six months, or both.

Admissibility of results as evidence

Sec. 27. Nothing in this Act shall be construed as permitting the results of truth examinations or polygraph examinations to be introduced or admitted as evidence in a court of law.

Validating clause

Sec. 28. All acts and governmental proceedings performed by the Polygraph Examiners Board and its officers since the creation or attempted creation of such Board by Acts 1965, 59th Leg., R.S. Ch. 441, p. 888, are hereby in all respects validated as of the date of such acts or proceedings.

Savings clause

Sec. 29. The provisions of this Act are severable. If any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act and the application of such provisions to other persons or circumstance shall not be affected thereby.

Emergency clause

Sec. 30. The fact that Acts, 1965, 59th Leg., R.S., Ch. 441, p. 888, has been held by the Texas Supreme Court to be invalid solely because of a defect in the caption to the bill and that this state will have no law licensing and regulating the use of lie detection or polygraph examination techniques and instruments by reason of said decision, and that untrained and unlicensed examiners, and examiners using inadequate techniques and equipment cause great harm to the general public, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three separate days in each House be suspended, and this Rule is hereby suspended; and that this Act take effect and be in force from and after its passage, and it is so enacted.

Acts 1969, 61st Leg., p. 2504, ch. 839, emerg. eff. June 18, 1969.

Title of Act:

An Act regulating persons who purport to be able to detect deception or to verify truth of statements through the use of instrumentation as lie detectors, polygraphs, deceptographs, and/or similar or related devices and instruments; creating as an administrative board, the Polygraph Examiners Board with licensing and/or regulatory powers over all such persons and instruments; providing for administrative proceedings and court review; establishing minimum instrumentation re-

quirements and prohibiting the use of instruments or devices which do not meet minimum instrumentation requirements; providing for injunctions and penalties for violation of the provisions of this Act; validating the acts of the Polygraph Examiners Board established or attempted to be established by Acts 1965, 59th Legislature, Regular Session, Chapter 441, page 888; providing a savings clause; and declaring an emergency. Acts 1969, 61st Leg., p. 2504, ch. 839.

CHAPTER TWO A—UNIVERSITY OF HOUSTON

Art. 2615g. University of Houston

* * * * *

Acquisition and disposal of real property

Sec. 10b. The Board of Regents is hereby vested with the power to acquire by purchase, donation or otherwise for the use of the University of Houston such lands and other real property as may be necessary or

convenient for carrying out its purposes as a state-owned and operated institution of higher learning, and to sell, exchange, lease or otherwise dispose of any lands or other real property now owned or hereafter acquired; provided, however, that the power of acquisition and disposition granted herein shall be restricted to the boundaries of Harris County and the counties whose boundaries are contiguous to Harris County; provided further, that the proceeds from any sale of lands or other real property made pursuant hereto shall be added to the capital funds of the University of Houston; and provided further that no new institutions, branches or other operations of any kind will be developed without specific authorization by the Legislature.

Sec. 10b added by Acts 1969, 61st Leg., p. 2125, ch. 729, § 1, emerg. eff. June 12, 1969.

* * * * *

Acts 1969, 61st Leg., p. 2125, ch. 729, which added section 10b of this article, provided in sections 2 and 3:

"Sec. 2. Any acquisition of property by purchase, donation or otherwise, or any sale, exchange, lease or other disposition of land or real property now owned or hereafter acquired by the Board of Regents of the University of Houston for the use of the University of Houston, under the provisions of Section 10b above shall be separately subject to the approval of the Coordinating Board, Texas College and

University System, and shall be separately described by metes and bounds to the Coordinating Board in seeking approval of that body. All authority granted under provisions of this Section shall expire on June 1, 1971.

"Sec. 3. If any provision of this Act or the application to any person or circumstance shall be held invalid or unconstitutional, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby."

**CHAPTER FIVE—TEXAS WOMAN'S UNIVERSITY
AND TEXAS A & I UNIVERSITY**

TEXAS A & I UNIVERSITY

Art.
2628e. Texas A & I University at Laredo
[New].

TEXAS A & I UNIVERSITY

Art. 2628e. Texas A & I University at Laredo

Section 1. The Board of Regents of Texas A&I University may establish an upper-level educational center of Texas A&I University in the city of Laredo, to be known as Texas A&I University at Laredo, to accept junior- and senior-level students only. This upper-level educational center may be discontinued by the Coordinating Board, Texas College and University System at its discretion.

Sec. 2. The Board of Regents shall make provision for adequate physical facilities for use by the University at Laredo, and may accept and administer, on terms and conditions satisfactory to the board, grants or gifts of money or property which are tendered by any person for the use and benefit of the school.

Sec. 3. The Board of Regents, with approval of the Coordinating Board, Texas College and University System, may prescribe courses leading to customary degrees, and make other rules and regulations for the operation, control, and management of the University at Laredo as necessary for the school to be a first-class upper division institution of higher learning. In prescribing the courses, the board of regents shall give special emphasis to those courses leading to baccalaureate degrees in teacher education and business administration.

Sec. 4. Nothing in this Act shall be construed to limit the powers of the Board of Regents of Texas A&I University as conferred by law. Acts 1969, 61st Leg., p. 2392, ch. 804, eff. Sept. 1, 1969.

For Annotations and Historical Notes, see V.A.T.S.

Title of Act:

An Act relating to the establishment of an upper-level educational center of Texas A & I University to be located in the city

of Laredo, to be known as Texas A & I University at Laredo; and declaring an emergency. Acts 1969, 61st Leg., p. 2392, ch. 804.

CHAPTER SIX—TEXAS TECH UNIVERSITY

Art.

2629a. Change of name [New].

Art.

2632i. School of Medicine at Lubbock [New].

Change of Name

Acts 1969, 61st Leg., p. 1497, ch. 447, § 1, changed the name of "Texas Technological College" to "Texas Tech University." See article 2629a.

Art. 2629a. Change of name

Section 1. The purpose of this Act is to change the name of the Texas Technological College so that it is hereafter known as Texas Tech University.

Sec. 2. Wherever the name "Texas Technological College," or any reference thereto, appears in any legislative Act or appropriation, the name and reference shall hereafter mean and apply to "Texas Tech University."

Acts 1969, 61st Leg., p. 1497, ch. 447, eff. Sept. 1, 1969.

Title of Act:

An Act changing the name of Texas Technological College to Texas Tech Uni-

versity; and declaring an emergency. Acts 1969, 61st Leg., p. 1497, ch. 447.

Art. 2630. Board of Regents

(a) The government, control, and direction of the policies of Texas Technological College¹ shall be vested in a board of nine regents, who shall be appointed by the governor with the advice and consent of the Senate.

(b) Except for the initial appointees, members hold office for terms of six years expiring on January 31 of odd-numbered years. In making the initial appointments, the governor shall designate three for terms expiring in 1971, three for terms expiring in 1973, and three for terms expiring in 1975. Any vacancy shall be filled for the unexpired portion of the term, by appointment by the governor with the advice and consent of the Senate. The governor shall make his initial appointments not later than July 1, 1969. The members of the present board of directors shall remain in office until the new appointees are appointed.

(c) The board of regents shall provide a chief executive officer, who shall devote his attention to the executive management of Texas Technological College and who shall be directly accountable to the board of regents for the conduct thereof. The board of regents, when required by law to be the governing body of any other state educational institution or facility, shall also direct the chief executive officer to be directly responsible for the executive management of that other institution or facility.

(d) Wherever, in any Act of the Legislature, powers, duties, or responsibilities are assigned, or any reference is made to the board of directors of Texas Technological College, that Act shall be deemed to refer to the board of regents of Texas Technological College.

Amended by Acts 1969, 61st Leg., p. 858, ch. 286, § 1, emerg. eff. May 22, 1969.

¹ Name changed to Texas Tech University. See article 2629a.

Art. 2632i. School of Medicine at Lubbock**Creation; separate institution**

Section 1. There is hereby created the Texas Technological College School of Medicine at Lubbock, hereinafter referred to as "the medical school," a separate institution and not a department, school or branch of Texas Technological College,¹ but under the direction, management and control of the Board of Directors of Texas Technological College or its successors.

¹ Name changed to Texas Tech University. See article 2629a.

Powers of board

Sec. 2. The Board of Directors² of Texas Technological College, or its successors, hereinafter referred to as the "board of directors" shall have the same powers of direction, management, and control concerning the medical school as they exercise over Texas Technological College, provided, however, that said board shall act separately and independently on all matters affecting the medical school as a separate institution.

² Changed to Board of Regents. See article 2630.

Courses; rules and regulations

Sec. 3. The board of directors, or its successors, may prescribe courses leading to customary degrees and may make other rules and regulations for the direction, control, and management of the Texas Technological College School of Medicine as is necessary for the school to be a medical school of the first class.

Coordinating agreements with other institutions

Sec. 4. The board of directors, or its successors, shall, when in the best interests of medical education at said medical school, execute and carry out affiliation or coordinating agreements with any entity or institution in the Lubbock area, Amarillo area, El Paso area and the Odessa-Midland area to provide clinical, post-graduate (including internship and residency) and/or other levels of medical educational work for the new school. Additionally, the board of directors, or its successors, may execute and carry out affiliation or coordinating agreements with any other entity or institution necessary to conduct and operate the medical school as a first-class medical school. The board of directors, or its successors, may utilize the facilities and staffs of other state bio-medical units.

Physical facilities

Sec. 5. The board of directors, or its successors, shall make provision for adequate physical facilities for the medical school, including library, auditorium, and animal facilities, for use by the medical school in its teaching and research programs.

Grants or gifts

Sec. 6. The board of directors, or its successors, is hereby authorized to accept and administer upon terms and conditions satisfactory to it, grants or gifts of property, including real estate and/or money, that may be tendered to it in aid of the planning, establishment, conduct, and operation of the school hereby authorized, and in aid of research and teaching at the school. The board of directors, or its successors, is authorized and empowered to accept from the federal government or any foundation, trust fund, corporation, or individual donations, gifts, and grants, including real estate, buildings, libraries, laboratories, apparatus, equipment, records, or money for the use and benefit of the school.

For Annotations and Historical Notes, see V.A.T.S.

Teaching hospital

Sec. 7. A complete teaching hospital for the school shall be furnished at no cost or expense to the State of Texas, and the State of Texas shall never contribute any funds for the construction, maintenance, or operation of a teaching hospital for the school.

Supervision of Coordinating Board

Sec. 8. The medical school is subject to the continuing supervision and the rules and regulations of the Coordinating Board, Texas College and University System, as provided by the Texas Higher Education Coordinating Act of 1965 (Article 2919e—2, Vernon's Texas Civil Statutes). Acts 1969, 61st Leg., p. 1050, ch. 343, eff. Sept. 1, 1969.

Title of Act:

An Act creating a medical school to be known as the Texas Technological College School of Medicine at Lubbock as a separate institution; placing the management and control of the medical school as a separate institution in the Board of Directors of Texas Technological College and its successors; prescribing certain powers and duties of the board of directors or

its successors in relation to the medical school; providing that a teaching hospital will be furnished without cost to the State of Texas and that the state shall not contribute funds for construction, maintenance or operation of the teaching hospital; and declaring an emergency. Acts 1969, 61st Leg., p. 1050, ch. 343.

CHAPTER SEVEN A—LAMAR STATE COLLEGE OF TECHNOLOGY

Art. 2637j. Additional powers and authority; expenses of members of board

* * * * *

Sec. 3. The Board of Regents of Lamar State College of Technology shall have the power to create The Spindletop Memorial Museum and to administer it in accordance with the rules and regulations of the College.

Sec. 3 added by Acts 1969, 61st Leg., p. 685, ch. 231, § 2, eff. Sept. 1, 1969.

Former Section 3 renumbered as Section 4 by Acts 1969, 61st Leg., p. 685, § 1.

Sec. 4. The members of the Board of Regents of the Lamar State College of Technology shall serve without compensation, but shall receive actual expenses incurred in attending the meetings of said Board, or in the transaction of any business of the college imposed by said Board.

(4) Renumbered from Art. 2637j, § 3, and amended by Acts 1969, 61st Leg., p. 685, ch. 231, § 1, eff. Sept. 1, 1969.

Sec. 5. If any word, phrase, clause, sentence, or part of this Act shall be held by any court of competent jurisdiction to be invalid or unconstitutional, it shall not affect any other word, phrase, clause, sentence, or part of this Act.

(5) Renumbered from Art. 2637j, § 4, and amended by Acts 1969, 61st Leg., p. 685, ch. 231, § 1, eff. Sept. 1, 1969.

CHAPTER NINE—STATE COLLEGES AND UNIVERSITIES

1. GENERAL PROVISIONS

Art.
2647d—3. West Texas State University; transfer of control; board of regents; powers [New].
2647f—1. Stephen F. Austin State University; control and management vested in board of regents [New].

Art.
2647h—1. East Texas State University; transfer of control; board of regents; powers [New].

5. ANGELO STATE UNIVERSITY

2654.3. Change of name [New].

1. GENERAL PROVISIONS

Art. 2647c—2. Faculty development leaves of absence

* * * * *

Definitions

Sec. 2. As used in this Act, unless the context otherwise requires:

(a) "Institution of higher education" means an institution of higher education as defined under the provisions of Chapter 12, Acts, Regular Session, 59th Legislature (1965), and including James Connally Technical Institute, except the Rodent and Predatory Animal Control Service.

Sec. 2(a) amended by Acts 1969, 61st Leg., p. 506, ch. 172, § 1, eff. Sept. 1, 1969.

* * * * *

Art. 2647d—3. West Texas State University; transfer of control; board of regents; powers

Section 1. The purpose of this Act is to provide that West Texas State University shall be conducted, operated and maintained under the general direction and supervision of a new and separate Board of Regents as herein provided.

Sec. 2. The organization, control and management of West Texas State University shall be vested in a Board of Regents, West Texas State University. The Board shall be composed of nine (9) members who shall be appointed by the Governor of Texas and confirmed by the Senate. Not more than two (2) members of such Board of Regents, West Texas State University shall be appointed from or be a resident of any one (1) State Senatorial District and not more than one (1) member of such Board may be a resident of the county in which the university is located. Three (3) members of the first Board of Regents, West Texas State University appointed under this Act shall be designated by the Governor to serve for two (2) years, three (3) for four (4) years, and three (3) for six (6) years, and the members appointed thereafter shall serve for six (6) years. The members of the Board shall be removable by the Governor for inefficiency or malfeasance of office. Any vacancy that may occur on such Board shall be filled for the unexpired term by appointment by the Governor. Each member of such Board shall be required to take the Constitutional oath of office before entering upon the duties of his office. The first meeting of such Board shall be held at a time and place designated by the Governor. At this meeting, such Board shall organize by electing a chairman, and such other officers as it may deem necessary. Thereafter the chairman of such Board shall convene the Board of Regents, West Texas State University to consider any business connected with the university whenever he deems it expedient.

Sec. 3. On the effective date of this Act, the management and control of the West Texas State University as now vested in the Board of Regents, State Senior Colleges shall be withdrawn of this Board, and shall be vested in the newly created Board of Regents, West Texas State University, as provided herein. All powers, duties, rights, obligations and functions of the Board of Regents, State Senior Colleges as these relate to West Texas State University shall be vested in and/or performed by the Board of Regents, West Texas State University to be executed and administered by said Board under the provisions of this Act and the laws of Texas.

Sec. 4. Wherever any reference to the Board of Regents of the State Teachers' Colleges insofar as the West Texas State Teachers' College or the West Texas State College is concerned appears in the Revised Civil Statutes of Texas, 1925, or in any amendment thereto, or in any Acts heretofore enacted in regard thereto, including the provisions, and all support

For Annotations and Historical Notes, see V.A.T.S.

and benefits provided said university or college within the provisions of Article VII, Section 17, of the Constitution of the State of Texas, such reference shall on the effective date of this Act, and thereafter, mean and apply to the Board of Regents, West Texas State University, it being the legislative intent that all powers granted to the Board of Regents, State Senior Colleges, insofar as the West Texas State University is concerned, shall be transferred to the Board of Regents, West Texas State University.

Sec. 5. The scope of work and activities of West Texas State University shall be the same as are now being carried on by the existing West Texas State University, and for which it is authorized, said work and activities to be increased or diminished, altered or changed in any manner deemed by the new Governing Board to be conducive to the betterment of the services offered, or which may be offered, by such institution to the people of Texas.

Acts 1969, 61st Leg., p. 101, ch. 39, emerg. eff. March 27, 1969.

Title of Act:

An Act transferring control and management of West Texas State University from the Board of Regents, State Senior Colleges, to a new body to be called Board of Regents, West Texas State University; providing for the creation of a Governing Board to be appointed by the Governor and confirmed by the Senate with residential limitations as to board members and their length of term of office; providing for the filling of vacancies occurring on the Governing Board and removal for certain causes; providing for the qualifying of

appointees to the board, and its organization; providing for the work and activities to be pursued in said university and subject to actions of the Governing Board; providing all powers, duties, rights, obligations, and functions of the Board of Regents, State Senior Colleges as these relate to West Texas State University shall be vested in and/or performed by the new Board of Regents, West Texas State University on the effective date of this Act; providing a repealing clause; and declaring an emergency. Acts 1969, 61st Leg., p. 101, ch. 39.

Art. 2647f. Stephen F. Austin State University; change of name

Section 1. The name of Stephen F. Austin State College is changed to Stephen F. Austin State University.

Sec. 2. All laws and regulations which now pertain to Stephen F. Austin State College and Stephen F. Austin State Teachers College, and all appropriations and benefits to them, are available to and apply to Stephen F. Austin State University.

Amended by Acts 1969, 61st Leg., p. 672, ch. 226, § 1, emerg. eff. May 15, 1969.

Board of Regents

Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 40, vested control and management of Stephen F. Austin State University in a board of regents created by this Act. See Article 2647f—1.

Art. 2647f—1. Stephen F. Austin State University; control and management vested in board of regents

Section 1. (a) The control and management of Stephen F. Austin State University is vested in a board of nine regents, appointed by the governor with the advice and consent of the Senate.

(b) Except for the initial appointees, members hold office for terms of six years expiring on January 31 of odd-numbered years. In making the initial appointments, the governor shall designate three for terms expiring in 1971, three for terms expiring in 1973, and three for terms expiring in 1975. Any vacancy shall be filled by appointment for the unexpired portion of the term.

Sec. 2. Each member of the board shall be a citizen of the State of Texas and shall take the constitutional oath of office.

Sec. 3. The board shall conduct its first meeting at a time and place designated by the governor. At its first meeting, the board shall organize

by electing a chairman and any other officer deemed necessary, and it shall enact bylaws, rules, and regulations necessary for the successful management and operation of the university. As soon as possible after organizing, the board shall select a president.

Sec. 4. The board shall cause accurate and complete minutes of its meetings to be maintained. The minutes shall be open to the public for inspection at the university during regular business hours and certified copies of the minutes shall be furnished to anyone on payment of a fee set by the board.

Sec. 5. The board may sue and be sued in the name of the university. Venue shall be in either Nacogdoches or Travis County. The university may be impleaded by service of citation on its president, and legislative consent to suits against the university is granted.

Sec. 6. Members of the board shall serve without pay, but shall be reimbursed for their actual expenses incurred in attending the work of the board, subject to the approval of the chairman of the board.

Sec. 7. The board shall hold an annual meeting on the campus of the university during the month of April, and at other times and places as scheduled by the board or designated by its chairman.

Sec. 8. The board shall make reports to the coordinating board as required in Section 23 of the Higher Education Coordinating Act of 1965.

Sec. 9. The board of regents created by this Act shall exercise the same powers, duties, and responsibilities concerning Stephen F. Austin State University as were formerly exercised by the Board of Regents, State Senior Colleges.

Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 40, emerg. eff. Sept. 19, 1969.

Title of Act:

An Act vesting the control and management of Stephen F. Austin State University

in a Board of Regents created by this Act; and declaring an emergency. Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 40.

Art. 2647g. Sul Ross State University; change of name

Section 1. The name of Sul Ross State College is changed to Sul Ross State University.

Sec. 2. All laws and regulations which now pertain to Sul Ross State College and Sul Ross State Teachers College, and all appropriations and benefits to them, are available to and apply to Sul Ross State University. Amended by Acts 1969, 61st Leg., p. 672, ch. 226, § 4, emerg. eff. May 15, 1969.

Art. 2647h—1. East Texas State University; transfer of control; board of regents; powers

Section 1. The purpose of this Act is to provide that East Texas State University shall be conducted, operated and maintained under the general direction and supervision of a new and separate board of regents as herein provided.

Sec. 2. The organization, control and management of said university to be composed of nine members who shall be appointed by the Governor of Texas and confirmed by the Senate; not more than two members of said board of regents shall be appointed from or be a resident of any one state senatorial district, and no member of the said board may be appointed from or be a resident of the county in which the university is located. Three members of the first board appointed under this Act shall be designated by the Governor to serve for two years, three for four years, and three for six years, and the members appointed thereafter shall serve for six years. The members of said board shall be removable by the Governor for inefficiency or malfeasance of office. Any vacancy that may occur on the board shall be filled for the unexpired term by appointment of the Governor. Each member of the board shall be required to take the constitutional oath of office before entering upon the duties

For Annotations and Historical Notes, see V.A.T.S.

of his office. The first meeting of the board shall be held at a time and place designated by the Governor. At this meeting the board shall organize by electing a chairman, and such other officers as it may deem necessary. Thereafter the chairman will convene the board of regents to consider any business connected with said university whenever he deems it expedient. The terms of three members of the board of regents shall terminate on February 15, 1971; the terms of three members shall expire on February 15, 1973; the terms of three members shall expire February 15, 1975. The term of each member's successor shall be for a period of six years terminating on the anniversary of the expiration date of each member's term; provided, however, any appointment to fill any vacancy shall only be for the remainder of the term. Members of the board of regents shall serve until their successors are appointed and qualified.

Sec. 3. On the enactment of this bill into law, the management and control of the East Texas State University as now vested in the Board of Regents, State Senior Colleges shall be withdrawn from this board, and shall be invested in the newly created Board of Regents of East Texas State University, as provided herein. All powers, duties, rights, properties, obligations and functions of the Board of Regents, State Senior Colleges as these relate to East Texas State University shall be vested in and/or performed by the Board of Regents of East Texas State University to be executed and administered by said board under the provisions of this Act and the laws of Texas.

Sec. 4. The board may accept donations, gifts, grants and endowments for the university to be held in trust and administered by the board for the purposes and under the directions, limitations and provisions as may be declared in writing in the donation, gift, grant or endowment, not inconsistent with the laws of the State of Texas or with the objectives and proper management of the university.

Sec. 5. The Board of Regents of East Texas State University may lease any part of its property(ies) to any person(s), partnership(s), special partnership(s) and any other business association(s) and institution(s) including governmental entities for the purpose of permitting the university to develop its resources to the greatest extent feasible while realizing a maximum economic benefit thereby.

Sec. 6. Wherever any reference to the Board of Regents of the State Teachers' Colleges insofar as the East Texas State Teachers College is concerned appears in the Revised Civil Statutes of Texas, 1925, or in any amendment thereto, or in any Acts heretofore enacted, including the provisions, and all support and benefits provided said college within the provisions of Article VII, Section 17, of the Constitution of the State of Texas, such reference shall on the enactment of this bill into law, and thereafter, mean and apply to the Board of Regents of the East Texas State University, it being the legislative intent that all powers granted to the Board of Regents, State Senior Colleges, insofar as the East Texas State University is concerned, shall be transferred to the Board of Regents of the East Texas State University.

Sec. 7. The scope of work and activities of the East Texas State University shall be the same as is now being carried on by the existing East Texas State University, and for which it is authorized, said work and activities to be increased or diminished, altered or changed in any manner deemed by the new governing board to be conducive to the betterment of the services offered, or which may be offered, by such institution to the people of Texas. The board of regents shall have the authority to award degrees including the baccalaureate, master's and doctoral degrees, and their equivalents, but no department, school or degree program shall be instituted except with prior approval of the Coordinating Board, Texas College and University System.

Acts 1969, 61st Leg., p. 59, ch. 23, emerg. eff. March 20, 1969.

Title of Act:

An Act transferring control and management of East Texas State University from the Board of Regents, State Senior Colleges to a new body to be called the Board of Regents of East Texas State University; providing for the creation of a governing board to be appointed by the Governor and confirmed by the Senate with residential limitations as to board members and their length of term of office; providing for the qualifying of appointees to the board, and its organization; providing for the

work and activities to be pursued in said college, and subject to actions of the governing board; providing all powers, duties, rights, obligations, and functions of the Board of Regents, State Senior Colleges as these relate to East Texas State University shall be invested in and/or performed by the Board of Regents of East Texas State University on the enactment of this bill into law; providing a repealing clause; and declaring an emergency. Acts 1969, 61st Leg., p. 59, ch. 23.

2. SAM HOUSTON STATE UNIVERSITY

Art. 2648a. Sam Houston State University; change of name

Section 1. The name of Sam Houston State College is changed to Sam Houston State University.

Sec. 2. All laws and regulations which now pertain to Sam Houston State College and Sam Houston State Teachers College, and all appropriations and benefits to them, are available to and apply to Sam Houston State University.

Acts 1965, 59th Leg., p. 197, ch. 81, eff. Sept. 1, 1965. Amended by Acts 1969, 61st Leg., p. 672, ch. 226, § 2, emerg. eff. May 15, 1969.

4. SOUTHWEST TEXAS STATE UNIVERSITY

Art. 2654.1. Change of name

Section 1. The name of Southwest Texas State College is changed to Southwest Texas State University.

Sec. 2. All laws and regulations which now pertain to Southwest Texas State College and Southwest Texas State Teachers College, and all appropriations and benefits to them, are available to and apply to Southwest Texas State University.

Amended by Acts 1969, 61st Leg., p. 672, ch. 226, § 3, emerg. eff. May 15, 1969.

5. ANGELO STATE UNIVERSITY

Art. 2654.2. Angelo State University

Change of Name

Acts 1969, 61st Leg., p. 672, ch. 226, § 5, changed the name of Angelo State College to Angelo State University. See article 2654.3.

Art. 2654.3. Change of name

(a) The name of Angelo State College is changed to Angelo State University.

(b) All laws and regulations which now pertain to Angelo State College, and all appropriations and benefits to it, are available to and apply to Angelo State University.

Acts 1969, 61st Leg., p. 672, ch. 226, § 5, emerg. eff. May 15, 1969.

CHAPTER NINE A—TUITION AND CONTROL OF FUNDS
OF STATE INSTITUTIONS

Art. 2654c. Tuition rates in State institutions of collegiate rank; residence status

Sec. 1.

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(d) The nonresident tuition fee prescribed in this Act does not apply to a nonresident student who is a resident of a state situated adjacent to Texas and who registers in any Texas public junior college situated immediately adjacent to the state in which the nonresident student resides. The nonresident student described in this Subsection shall pay an amount equivalent to the amount charged a Texas student registered at a similar school in the state in which the nonresident student resides.

(e) The term 'residence' as used in this Act means 'domicile.' The term 'resided in' means 'domiciled in.' For the purpose of this Act, the status of a student as a resident or nonresident student is determined in the following manner:

(1) An individual under twenty-one (21) years of age, living away from his family, and whose family resides in another state or has not resided in Texas for the 12-month period immediately preceding the date of registration shall be classified as a nonresident student;

(2) An individual twenty-one (21) years of age or under whose family has not resided in Texas for the 12-month period immediately preceding the date of registration shall be classified as a nonresident student regardless of whether he has become the legal ward of residents of Texas or has been adopted by residents of Texas while he is attending an educational institution in Texas, or within a 12-month period before his attendance, or under circumstances indicating that the guardianship or adoption was for the purpose of obtaining status as a resident student;

(3) An individual twenty-one (21) years of age or over who has come from outside Texas and who is gainfully employed in Texas for a 12-month period immediately preceding registration in an educational institution shall be classified as a resident student as long as he continues to maintain a legal residence in Texas; and

(4) An individual twenty-one (21) years of age or over who resides out of the state or who has come from outside Texas and who registers in an educational institution before having resided in Texas for a 12-month period shall be classified as a nonresident student.

(f) An individual twenty-one (21) years of age or under whose parents were formerly residents of Texas is entitled to pay the resident tuition fee for the 12-month period immediately following the parents' change of legal residence to another state.

(g) The Governing Board of each institution required by this Act to charge a nonresident tuition or registration fee is subject to the rules, regulations, and interpretations issued by the Coordinating Board, Texas College and University System, for the administration of the nonresident tuition provisions of this Act. The rules, regulations, and interpretations promulgated by the Coordinating Board shall be furnished to the presidents or administrative heads of all Texas public senior and junior colleges and universities.

(h) A nonresident student classification is presumed to be correct as long as the residence of the individual in the state is primarily for the purpose of attending an educational institution. After residing in Texas for at least twelve (12) months, a nonresident student may be reclassified as a resident student as provided in the rules and regulations adopted by the Coordinating Board, Texas College and University System. Any in-

dividual reclassified as a resident student is entitled to pay the tuition fee for a resident of Texas at any subsequent registration as long as he continues to maintain his legal residence in Texas.

(i) A nonresident who marries and remains married to a resident of Texas, classified as such under this Act at the time of the marriage and at the time the nonresident registers, is entitled to pay the resident tuition fee regardless of the length of time he has lived in Texas, and any student who is a resident of Texas who marries a nonresident is entitled to pay the resident tuition fee as long as he does not adopt the legal residence of the spouse in another state.

(j) An alien student is classified as a nonresident student; however, an alien who is living in this country under a visa permitting permanent residence or who has filed with the proper Federal immigration authorities a declaration of intention to become a citizen has the same privilege of qualifying for resident status for fee purposes under this Act as has a citizen of the United States. A resident alien residing in a junior college district located immediately adjacent to Texas boundary lines shall be charged the resident tuition by that junior college.

(k) Military personnel are classified in the following manner:

(1) An officer, enlisted man or woman, selectee or draftee of the Army, Army Reserve, Army National Guard, Air National Guard, Texas State Guard, Air Force, Air Force Reserve, Navy, Navy Reserve, Marine Corps, Marine Corps Reserve, Coast Guard, or Coast Guard Reserve of the United States, who is assigned to duty in Texas is entitled to register himself, his spouse, and their children in a state institution of higher education by paying the tuition fee and other fees or charges required of Texas residents, without regard to the length of time he has been assigned to duty or resided within the state; provided, however, that out-of-state Army National Guard or Air National Guard members attending training with Texas Army or Air National Guard units under National Guard Bureau regulations shall not be exempted from nonresident tuition by virtue of such training status nor shall out-of-state Army, Air Force, Navy, Marine Corps, or Coast Guard Reserves training with units in Texas under similar regulations be exempted from nonresident tuition by virtue of such training status. It is the intent of the legislature that only those members of the Army or Air National Guard, Texas State Guard, or other reserve forces mentioned above, be exempted from the nonresident tuition fee and other fees and charges only when they become members of Texas units of the military organizations mentioned above;

(2) As long as they reside continuously in Texas, the spouse and children of a member of the Armed Forces of the United States who has been assigned to duty elsewhere immediately following assignment to duty in Texas are entitled to pay the tuition fees and other fees or charges provided for Texas residents;

(3) If nonresident military personnel are attending an institution of higher education under a contract between the institution and any branch of the Armed Forces of the United States, in which the tuition of the member of the military is paid in full by the United States Government, the student shall pay the nonresident tuition fee;

(4) A Texas institution of higher education may charge to the United States Government the nonresident tuition fee for a veteran enrolled under the provisions of a Federal Law or regulation authorizing educational or training benefits for veterans;

(5) The spouse and children of a member of the Armed Forces of the United States who dies or is killed are entitled to pay the resident tuition fee, if the wife and children become residents of Texas within sixty (60) days of the date of death; and

(6) If a member of the Armed Forces of the United States is stationed outside Texas and his spouse and children establish residence in

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Texas by residing in Texas and by filing with the Texas institution of higher education at which they plan to register a letter of intent to establish residence in Texas, the institution of higher education shall permit the spouse and children to pay the tuition, fees, and other charges provided for Texas residents without regard to length of time that they have resided within the State.

(l) A teacher, professor, or other employee of a Texas institution of higher education is entitled to register himself, his spouse, and their children in a state institution of higher education by paying the tuition fee and other fees or charges required for Texas residents, without regard to the length of time he has resided in Texas. A teacher, professor, or other employee of a Texas institution of higher education is any person employed at least one-half time on a regular monthly salary basis by a state institution of higher education.

(m) The provisions of this Act requiring the Governing Boards of institutions of higher education in Texas to collect tuition fees do not deprive the Boards of the right to collect special fees authorized by law. Laboratory fees or charges shall cover only the cost of actual materials and supplies used by the student.

(n) A Texas institution of higher education shall retain and spend all tuition, local funds, and fees collected and accounted for, as provided in the General Appropriations Act.

(o) The Governing Boards of state-supported institutions of higher education are authorized to assess and collect from each nonresident student failing to comply with the rules and regulations of the Governing Boards concerning nonresident fees a penalty not to exceed Ten Dollars (\$10) a semester.

Sec. 1(h) amended by Acts 1965, 59th Leg., p. 1003, ch. 490, § 1, eff. Aug. 30, 1965; (d) to (o) amended by Acts 1969, 61st Leg., p. 134, ch. 46, § 1, eff. Sept. 1, 1969.

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Art. 2654d. Control of funds by governing boards

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Junior colleges

Sec. 1a. In addition to all those institutions hereinabove set out, the governing boards of all public junior colleges shall be governed by this Act insofar as possible, all laws to the contrary notwithstanding. Sec. 1a added by Acts 1969, 61st Leg., p. 507, ch. 173, § 1, emerg. eff. May 9, 1969.

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Separate accounts; trust funds; interest

Sec. 3. Separate accounts shall be kept on the books of the respective institutions showing the sources of all sums collected, and the purposes for which disbursed. Such separation of accounts shall specifically include all trust funds, including but not limited to, gifts, grants and bequests received, establishing or adding to endowment funds, loan and scholarship funds, and funds for other current restricted purposes. All trust funds administered by the governing bodies of such institutions shall be credited to separate accounts and shall not be commingled with the general income from student fees or other local institutional income. Provided, however, that if the governing bodies so elect, deposits of all funds not specifically required to be deposited to special accounts, may be deposited to a single bank account if the records of the institution clearly reflect the balances attributable to general funds and various categories of trust funds. Interest received from depository banks for

funds on deposit may be credited to an appropriate account in either general funds or trust funds in relation to the sources of temporary investments in time deposits provided that disposition of such earnings was not specified by the grantor. Interest received from such trust funds time deposits shall be available for loans, scholarships, and fellowships, institutional research, faculty aid, and other lawful purposes.

Sec. 3 amended by Acts 1969, 61st Leg., p. 507, ch. 173, § 2, emerg. eff. May 9, 1969.

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Art. 2654g. Loan program for students at institutions of higher education

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ARTICLE II. ISSUANCE OF BONDS

Issuance of Bonds

Section 1. The Board, by appropriate action, is hereby authorized from time to time to provide, by resolution, for the issuance of negotiable bonds in a total aggregate amount not exceeding Two Hundred Eighty-Five Million Dollars (\$285,000,000). All of such bonds shall be on a parity and shall be called the Texas College Student Loan Bonds. The proceeds from the sale of such bonds shall be placed in the Texas Opportunity Plan Fund. To assure the orderly and economical marketing of bonds and reasonable availability of money in the Texas Opportunity Plan Fund, said bonds may be issued in one (1) or several installments. The bonds of each issue shall be dated, and shall bear interest at such rates of interest as shall be prescribed by the Board subject to the limitations imposed by law, which interest may, at the option of the Board, be payable annually or semi-annually; shall mature serially or otherwise, not later than forty (40) years from their date; and may be redeemable before maturity, at the option of the Board, at such price or prices, and under such terms and conditions as may be fixed by the Board in the resolution providing for the issuance of the bonds. The Board shall determine the form of the bonds, including the form of any interest coupon to be attached thereto, and shall fix the denomination or denominations of said bonds and the place or places of the payment of the principal and interest thereon. Said bonds shall be executed on behalf of the Coordinating Board, Texas College and University System or its successor or successors as general obligations of the State of Texas in the following manner: They shall be signed by the Chairman or the Vice-Chairman and the Secretary of the Board, and the seal of the Board shall be impressed thereon, and they shall be signed by the Governor and attested by the Secretary of State of the State of Texas with the seal of the State of Texas impressed thereon. The resolution authorizing the issuance of any installment or series of bonds may prescribe the extent to which facsimile signatures and facsimile seals in lieu of manual signatures and manually impressed seals may be used in executing such bonds and appurtenant coupons. Interest coupons may be signed by the facsimile signatures of the Chairman or Vice-Chairman and the Secretary of the Board. In the event any officer whose manual or facsimile signature appears on any bond, or whose facsimile signature shall appear on any coupon, shall cease to be such officer before the delivery of the bonds, the signature shall, nevertheless, be valid and sufficient for all purposes the same as if he had remained in office until such delivery had been made. The resolution may provide for registration of the bonds as to ownership and for successive conversion and reconversion from registered to bearer bonds and vice versa. Before any such bonds so issued are delivered to the

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purchasers, the record pertaining thereto shall have been examined by the Attorney General of Texas and said records and bonds shall be approved by him. After such approval, the bonds shall be registered in the office of the Comptroller of Public Accounts of Texas. All bonds issued hereunder shall after approval by the Attorney General, registration by the Comptroller of Public Accounts of the State of Texas, and delivery to the purchasers, be incontestable and shall constitute general obligations of the State of Texas. The performance of official duties prescribed by Article III, Section 50b of the Constitution in reference to the provision for the payment and the payment of such bonds may be enforced in any court of competent jurisdiction through mandamus or other appropriate proceedings. All bonds issued in accordance with and under the provisions of this Act shall be, and are hereby declared to be negotiable instruments under the laws of this state. The Board is fully authorized to provide for the replacement of any bond which may be mutilated, lost or destroyed.

Art. II, Sec. 1 amended by Acts 1969, 61st Leg., p. 582, ch. 197, § 1, eff. Sept. 1, 1969.

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CHAPTER NINE B—ADMINISTRATION OF PUBLIC FREE SCHOOLS

Art.	Art.
2654—1d. English as basic language; bilingual instruction [New].	2654—3f. Financial assistance for computer services to school districts through Regional Education Service Centers [New].
2654—1e. Crime and narcotics dangers; course; advisory commission [New].	2654—8. Sick leave program for teachers; state minimum [New].
2654—1f. Deaf children; contracts with private schools [New].	
2654—1g. Advisory council for study of problems of children with learning disabilities [New].	

Acts 1969, 61st Leg., p. —, ch. 889, enacts a new Texas Education Code, and repeals enumerated existing Articles of the Texas Civil Statutes, effective September 1, 1969.

The new Code is published in a separate Special Pamphlet for convenient reference pending publication of a fully annotated edition in bound volume form as a unit of Vernon's Texas Codes Annotated.

Arts. 2654—1 to 2654—1c. Repealed by Acts 1969, 61st Leg. p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Sections 2 and 4 of repealed article 2654—1b were amended by Acts 1969, 61st Leg., p. 2624, ch. 870, §§ 1, 2, to read:

"Sec. 2. The program for non-English speaking children shall cover a period of not to exceed four and one-half (4½) months. Any non-English speaking child who is at least five (5) years of age and who will be eligible to enter the first grade the ensuing school year may be enrolled.

"Sec. 4. a. The cost of operating the special program for non-English speaking children shall be borne by the State and each participating district on the same percentage basis that applies to financing the Minimum Foundation Program within that respective district. The cost of the program shall include monthly salary(s) not to exceed one-half the prevailing minimum

salary schedule with increment as prescribed for classroom teachers in the Foundation School Program Act, and a maintenance and operational allotment of not to exceed Fifty Dollars (\$50) per month for each teacher.

"b. The State's share of the cost shall be paid from the Minimum Foundation Program Fund, and this cost shall be considered by the Foundation Program Committee in estimating the funds needed for Foundation Program purposes; provided, however, that said program shall not be set up in any school district or combination of school districts unless a minimum of fifteen (15) children qualify for same and the extent to which any said school district shall participate in the Minimum Foundation Fund over and above the first unit shall be based on an ADA of twenty (20) qualified pupils. No State funds provided for herein shall be used for any purpose

other than for the non-English speaking program herein referred to."

Repealed article 2654-1c, as enacted by Acts 1967, 60th Leg., p. 1024, ch. 451, and amended by Acts 1969, 61st Leg., p. 228, ch. 90, § 1, provided:

Short title. Section 1. This Act may be cited as the "Barnes-Wright Study Act."

Definitions. Sec. 2. (a) In this Act, unless the context requires a different meaning,

(1) "agency" means the Texas Education Agency;

(2) "commissioner" means the Commissioner of Education of the Texas Education Agency; and

(3) "council" means the Advisory Council for Language-Handicapped Children created by this Act.

(b) In this Act, the term "language-handicapped child" means a child who is deficient in the acquisition of language skills due to language disability where no other handicapping condition exists.

Council. Sec. 3. (a) There is hereby established the Advisory Council for Language-Handicapped Children.

(b) The council consists of 12 members appointed by the Governor.

(c) The Governor shall designate the chairman of the council. A majority of the appointed members, at the call of the chair, shall organize and elect the other officers that the council deems necessary.

(d) A council member serves a term of two years from the date of his appointment, and may be reappointed for more than one term.

(e) A member of the council serves without compensation, but, upon voucher signed by the chairman of the council and approved by the commissioner, is entitled to receive reimbursement for actual expenses incurred while traveling on official council business.

(f) A majority of the council is a quorum for the conduct of business.

(g) The duty of the council is to study the problems of language-handicapped children and to advise the commissioner and the agency in the development of programs designed to diagnose and treat the problems of language-handicapped children.

(h) The council shall report to the 63rd Legislature its findings and recommendations concerning the establishment of state-wide diagnostic and treatment facilities for language-handicapped children.

(i) The Governor shall appoint the members of the council as soon after the effective date of this Act as possible. Because of the diverse nature of the problem of language-handicapped children, the Governor is hereby encouraged by the Legislature to make some appointments from the fields of psychology, medicine, and education.

Powers and duties of the agency. Sec. 4.

(a) The agency, with the advice of the council, shall develop programs designed to diagnose and treat the problems of language handicapped children.

(b) The agency, with the advice of the council, shall establish at least three regional experimental diagnostic facilities.

(c) The agency shall develop rules, regulations, and guidelines governing the operation of the experimental diagnostic facilities.

(d) The agency may make the necessary agreements and contacts to establish the regional diagnostic facilities provided in Subsection (b) of this section.

(e) The agency shall actively seek the advice and cooperation of all appropriate public agencies and private institutions in the development of a program of diagnosis and treatment of language-handicapped children.

(f) The agency is directed to seek and may accept grants from public and private sources to finance research and to develop a program designed to diagnose and treat language-handicapped children.

(g) The agency shall provide necessary staff, offices, and facilities for the council to conduct its business.

Commissioner to report. Sec. 5. The commissioner shall transmit to the 62nd Legislature an interim report on the status of the research into the problem of diagnosing and treating language-handicapped children. He shall include in his report an itemized estimate of the money required to satisfactorily conclude the research project by August 31, 1972.

Council dissolved. Sec. 6. The council created by this Act ceases to exist at midnight August 31, 1972.

Effective date. Sec. 7. The provisions of this Act take effect on September 1, 1968. Acts 1967, 60th Leg., p. 1024, ch 451, eff. Sept. 1, 1968.

Art. 2654—1d. English as basic language; bilingual instruction

Section 1. English shall be the basic language of instruction in all schools. The governing board of any school district and any private or parochial school may determine when, in which grades, and under what circumstances instruction may be given bilingually.

Sec. 2. It is the policy of this state to insure the mastery of English by all pupils in the schools; provided that bilingual instruction may be offered or permitted in those situations when such instruction is educationally advantageous to the pupils. Such bilingual instruction may not be offered or permitted above the sixth grade without the express ap-

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approval by the Texas Education Agency, which approval shall be granted on a three-year basis subject to reapproval at the end of that time. Acts 1969, 61st Leg., p. 871, ch. 289, emerg. eff. May 22, 1969.

The subject matter of this article was formerly covered by Vernon's Ann.P.C. art. 288.

Art. 2654—1e. Crime and narcotics dangers; course; advisory commission

Section 1. The Central Education Agency shall develop curricula and teaching materials for units of study on the dangers of crime and narcotics. The units of study shall be required for all students each academic year for grades five through twelve.

Sec. 2. (a) The Crime and Narcotics Advisory Commission is created. The advisory commission is composed of nine members, who shall serve for terms of two years expiring January 31 of odd-numbered years.

(b) The Governor shall appoint three members of the commission, with the following representation:

- (1) a licensed physician;
- (2) an official of the Department of Public Safety; and
- (3) a narcotics official from the Federal Bureau of Narcotics and Dangerous Drugs.

(c) The Lieutenant Governor shall appoint three members of the commission, with the following representation:

- (1) an official of a local-level law enforcement agency;
- (2) a group social worker; and
- (3) a public school superintendent in a city with a population of over 200,000, according to the last preceding federal census.

(d) The Speaker of the House of Representatives shall appoint three members of the commission, with the following representation:

- (1) a businessman;
- (2) a college student who is either a senior or a graduate student; and
- (3) a juvenile judge who serves in a city with a population of over 200,000, according to the last preceding federal census.

(e) The advisory commission shall meet when the chairman deems necessary. The commission shall elect its chairman, vice chairman, and any other officers it deems necessary. The commission shall adopt rules to govern the conduct of its business.

(f) Members of the commission shall serve without compensation, but each member is entitled to reimbursement for actual and necessary expenses incurred in performing his duties, as provided by legislative appropriation.

Sec. 3. (a) The advisory commission shall:

- (1) advise and assist the Central Education Agency in developing curricula and teaching materials for a course on the dangers of crime and narcotics;
- (2) advise and assist the Central Education Agency in designating the number of hours that the course shall be taught; and
- (3) assist local citizens' groups formed to combat unlawful use of and traffic in drugs and narcotics.

(b) The commission shall develop a research program designed to measure the effectiveness of the commission's activities and shall prepare a research report annually to facilitate planning and development.

(c) The commission shall cooperate and coordinate their activities with any other state agency or legislative committee or commission that is investigating or studying drug and narcotics activity, availability, or use in Texas.

Sec. 4. (a) In order to keep the teachers abreast of the latest developments in the subject matter, the Central Education Agency with

the cooperation of the advisory commission shall provide by regulation for annual instruction sessions.

(b) Every person assigned to teach the course in the public schools shall attend the instruction sessions as required by regulation of the Central Education Agency.

Sec. 5. This Act takes effect September 1, 1970.
Acts 1969, 61st Leg., p. 1589, ch. 484, eff. Sept. 1, 1970.

Title of Act:

An Act relating to the teaching of a course in the public schools on the dangers of crime and narcotics; providing for the creation of The Crime and Narcotics Advisory Commission and prescribing its powers and duties; and declaring an emergency. Acts 1969, 61st Leg., p. 1589, ch. 484.

Art. 2654—1f. Deaf children; contracts with private schools

Section 1. The Central Education Agency may under the rules and regulations of the State Board of Education contract with private schools for the deaf to provide education and training for deaf children who are eligible for admission to the Texas School for the Deaf. Any such contract shall provide for standards of education and training, and standards for buildings, equipment, and facilities at least equal to those provided by the Texas School for the Deaf. The amount paid under a contract on account of each eligible child shall not exceed the average cost per child under the program of countywide day schools for the deaf.

Sec. 2. The cost of this program shall be borne entirely by the state and shall be paid from the Foundation School Program. The total cost of this program shall be considered and included by the Foundation School Fund Budget Committee in estimating the funds needed for Foundation School Program.

Acts 1969, 61st Leg., p. 2697, ch. 882, emerg. eff. June 21, 1969.

Title of Act:

An Act authorizing the Central Education Agency under rules and regulations of the State Board of Education to contract with private schools for the deaf to provide for the education and training for certain deaf children; providing for financing; and declaring an emergency. Acts 1969, 61st Leg., p. 2697, ch. 882.

Art. 2654—1g. Advisory council for study of problems of children with learning disabilities

Section 1. This Act may be cited as the "Brooks Study Act."

Sec. 2. In this Act, unless the context requires a different meaning,

- (1) "agency" means the Texas Education Agency;
- (2) "commissioner" means the Commissioner of Education of the Texas Education Agency; and
- (3) "council" means the Advisory Council for Children with Learning Disabilities created by this Act.

Sec. 3. (a) There is hereby established the Advisory Council for Children with Learning Disabilities.

(b) The council shall consist of 12 members appointed by the Governor. The membership of the council shall include:

- (1) one person engaged in the field of elementary education,
- (2) one person engaged in the field of secondary education,
- (3) one person engaged in the field of post-secondary education,
- (4) one person engaged in the field of pre-school education,
- (5) one person who represents private schools,
- (6) one optometrist,
- (7) one psychologist,
- (8) one physician, and

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(9) four other persons who are familiar with the problems of children with learning disabilities.

(c) The Governor shall designate the chairman of the council. A majority of the appointed members, at the call of the chair, shall organize and elect the other officers that the council deems necessary.

(d) A council member serves a term of two years from the date of his appointment, and may be reappointed for more than one term.

(e) A member of the council serves without compensation, but, upon voucher signed by the chairman of the council and approved by the commissioner, is entitled to receive reimbursement for actual expenses incurred while traveling on official council business.

(f) A majority of the council is a quorum for the conduct of business.

(g) The duty of the council is to study the problems of children with learning disabilities and to advise the commissioner and the agency in the development of programs designed to diagnose and treat the problems of children with learning disabilities.

(h) The council shall report to the 63rd Legislature its findings and recommendations concerning the establishment of state-wide diagnostic and treatment facilities for children with learning disabilities.

(i) The Governor shall appoint the members of the council as soon after the effective date of this Act as possible. Because of the diverse nature of the problem of children with learning disabilities, the Governor is hereby encouraged by the Legislature to make some appointments from the fields of psychology, medicine, and education.

Sec. 4. (a) The agency, with the advice of the council, shall develop programs designed to diagnose and treat the problems of children with learning disabilities.

(b) The agency, with the advice of the council, shall establish at least three regional experimental diagnostic facilities.

(c) The agency shall develop rules, regulations, and guidelines governing the operation of the experimental diagnostic facilities.

(d) The agency may make the necessary agreements and contacts to establish the regional diagnostic facilities provided in Subsection (b) of this section.

(e) The agency shall actively seek the advice and cooperation of all appropriate public agencies and private institutions in the development of a program of diagnosis and treatment of children with learning disabilities.

(f) The agency is directed to seek and may accept grants from public and private sources to finance research and to develop a program designed to diagnose and treat children with learning disabilities.

(g) The agency shall provide necessary staff, offices, and facilities for the council to conduct its business.

Sec. 5. The commissioner shall transmit to the 62nd Legislature an interim report on the status of the research into the problem of diagnosing and treating children with learning disabilities. He shall include in his report an itemized estimate of the money required to satisfactorily conclude the research project by August 31, 1972.

Sec. 6. The council created by this Act ceases to exist at midnight August 31, 1972.

Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 30, emerg. eff. Sept. 19, 1969.

Title of Act:

An Act relating to the establishment of an advisory council for the study and research of the problems of children with learning disabilities and defining the duties of the Texas Education Agency and the commissioner of education concerning

study and research into the problems of children with learning disabilities, and the development and carrying out of diagnostic and treatment programs for such children; and declaring an emergency. Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 30.

Arts. 2654—2 to 2654—3e. Repealed by Acts 1969, 61st Leg. p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Repealed article 2654—3d provided for regional education media centers, and was

derived from Acts 1965, 59th Leg., p. 912, ch. 448.

Repealed article 2654—3e provided for regional education service centers, and was derived from Acts 1967, 60th Leg., p. 105, ch. 49.

Art. 2654—3f. Financial assistance for computer services to school districts through Regional Education Service Centers

Section 1. A program of financial assistance for computer services to school districts of the state through Regional Education Service Centers shall be developed by the State Board of Education to encourage a planned statewide network or system of computer services designed to meet public school educational needs, current and future. Toward achievement of maximum efficiency and to insure a practicable uniformity in services, the State Board of Education, by rules and regulations, shall adopt eligibility requirements for data processing computer services to receive the state financial assistance authorized herein.

Sec. 2. Only such computer services that are provided by or through a Regional Education Service Center to make available computer services required to meet the needs of the school districts of one or more Education Service Center regions shall be eligible for financial assistance hereunder.

Sec. 3. The Central Education Agency annually shall approve a state assistance allotment to be paid to eligible Regional Education Service Centers that qualify therefor as provided herein, and in an amount to be determined under rules and regulations adopted by the State Board of Education for such purpose; provided that such allotment amounts here authorized to be granted by the State Board of Education shall not exceed in any year a sum equal to one dollar multiplied by the average daily attendance in the public schools of Texas as determined for the next preceding school year.

Sec. 4. The state's share of the cost of this program shall be paid from the Foundation School Fund, and this cost shall be considered by the Foundation School Fund Budget Committee in estimating the funds needed for Foundation School Program purposes.

Sec. 5. This Act shall be effective when cited in a General Appropriation Act but in no event shall the effective date be later than September 1, 1970.

Acts 1969, 61st Leg., p. 2616, ch. 866, eff. Sept. 1, 1969.

Sections 6 and 7 of the act of 1969 provided:

"Sec. 6. In addition to the appropriation made from the Foundation School Fund by a General Appropriation Bill enacted by the 61st Legislature, and supplemental thereto there is hereby appropriated for the biennium ending August 31, 1971, all moneys allocated to the Foundation Program Fund by Chapter 335, Acts of the 51st Legislature, Regular Session, 1949, as amended (Article 7083a, Vernon's Texas Civil Statutes), and any balances remaining in the Foundation School Fund at the end of each fiscal year to pay the state's part of the Foundation School Program as provided for in Chapter 334, Acts of the 51st Legislature, Regular Session, 1949, as amended, by this Act.

"There is hereby specifically appropriated out of the moneys in the General Revenue Fund not otherwise appropriated the amount necessary for each month if on a

monthly basis, or each year if on a yearly basis, for the fiscal years of the biennium ending August 31, 1971, to pay the full amounts contemplated and provided by Chapter 335, Acts of the 51st Legislature, Regular Session, 1949, as amended, should there be insufficient money in the fund created by said Chapter 335 to carry out in full the purposes and provisions of said Chapters 335 and 334, Acts of the 51st Legislature, Regular Session, 1949, as amended, by this Act. The above appropriation shall be expended under the terms and provisions of Chapters 334 and 335, as amended, and by the same officers named therein respectively.

"Sec. 7. The fact that presently about fifty school districts are operating their own data processing facilities, three Regional Education Service Centers have established data processing facilities and preliminary studies by Texas Education Agen-

For Annotations and Historical Notes, see V.A.T.S.

cy indicate that the most effective and economical statewide computer network to serve future needs would include no more than seven or eight large facilities out of which numerous terminals could be operated, and the further fact that such a statewide network or system should be designed to provide the capability for expansion to meet future needs of Texas public schools rather than the establishment of enumerable incompatible computers in local school districts, create an emergency and imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and the Rule is hereby suspended; and this Act shall take effect as provided for in Section 5 of this Act, and it is so enacted."

Title of Act:

An Act authorizing the establishment of a program of financial assistance for computer services to school districts of the State through Regional Education Service Centers; providing for the development of the program under rules and regulations adopted by the State Board of Education; providing for the financing of same, the state's share to be paid from the Foundation School Fund and considered a cost in estimating funds needed for Foundation School Program purposes; providing for an effective date; providing an appropriation therefor; and declaring an emergency. Acts 1969, 61st Leg., p. 2616, ch. 866.

Arts. 2654—4 to 2654—7. Repealed by Acts 1969, 61st Leg. p. —, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. —, ch. 889, repealing these Articles, enacts the Texas Education Code.

Art. 2654—8. Sick leave program for teachers; state minimum

Section 1. A state minimum sick leave program consisting of five days per year sick leave with no limit on accumulation and transferable among districts shall be provided for every teacher regularly employed in the public free schools of Texas. Local school districts may provide additional sick leave beyond this minimum.

Sec. 2. Each district shall file, immediately after the regular term of the school year has been completed, a report with the Central Education Agency setting out the total number of days of sick leave utilized by teachers and other professional personnel, excepting excess units, approved and listed for foundation school program benefits. The Central Education Agency, each current scholastic year, shall calculate the cost of providing approved sick leave for each person listed at the rate of \$15 per day and shall reimburse the participating local district on the basis of the percentage relationship between the state and the district in financing the cost of the foundation school program multiplied by the total approved sick leave expenditure for the year. Said reimbursement shall be paid from the Foundation Program Fund and this cost shall be considered by the Foundation School Fund Budget Committee in estimating the funds needed for foundation program purposes.

Sec. 3. A. Each district's local board of education shall establish a sick leave plan, and shall administer the program to assure compliance with the intent of the law that leave shall be approved only for illness of the teacher or because of a death in his or her immediate family.

B. The Central Education Agency shall prescribe rules, regulations and forms necessary to the administration of this minimum sick leave program and the auditing of the state allocations made therefor as part of the foundation school program.

Sec. 4. If any section, subsection, sentence, clause, or phrase of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act.

Sec. 5. This Act shall take effect when House Bill No. 276 has been cited in a general appropriations bill, but in no event shall the Act become effective later than September 1, 1970.

Acts 1969, 61st Leg., p. 2654, ch. 874, eff. Sept. 1, 1969.

Section 5a of the act of 1969 provided: "Sec. 5a. In addition to the appropriation made from the Foundation School Fund by the general appropriation bill (or bills) enacted by the 61st Legislature, and supplemental thereto, there is hereby appropriated for the biennium ending August 31, 1971, all moneys allocated to the Foundation Program Fund by Senate Bill No. 117, Chapter 335, Acts of the 51st Legislature, 1949 (Article 7083a, Section 2(4-a), Vernon's Texas Civil Statutes), as amended, and any balances remaining in the Foundation School Fund at the end of each fiscal year to pay the state's part of the foundation school program as provided for in Senate Bill No. 116, Chapter 334, Acts of the 51st Legislature, Regular Session, 1949, as amended, by this Act.

"There is hereby specifically appropriated out of the moneys in the General Revenue Fund not otherwise appropriated the amount necessary for each month if on a monthly basis, or each year if on a yearly basis, for the fiscal years of the biennium ending August 31, 1971, to pay the full amounts contemplated and provided by

Senate Bill No. 117, Chapter 335, Acts of the 51st Legislature, Regular Session, as amended, should there be insufficient money in the fund created by said Senate Bill No. 117 to carry out in full the purposes and provisions of said Senate Bill No. 117 and Senate Bill No. 116, Supra, as amended, by this Act. The above appropriation shall be expended under the terms and provisions of Senate Bill No. 116 and Senate Bill No. 117, as amended, and by the same officers named therein respectively."

Title of Act:

An Act to provide a sick leave policy for all teachers employed in the Texas public free schools, setting out the minimum sick leave program; providing for reports to and administration through the Central Education Agency; providing for financing from the State Foundation School Fund; determining the effective date of the Act; providing a severability clause; and declaring an emergency. Acts 1969, 61st Leg., p. 2654, ch. 874.

CHAPTER TEN—STATE DEPARTMENT OF EDUCATION

5. REHABILITATION

- Art. 2675l. Commission for rehabilitation [New].
- 2675m. Vocational rehabilitation; extended services [New].

- Art. 2675n. Advisory council for technical-vocational education [New].

Acts 1969, 61st Leg., p. 2735, ch. 889, enacts a new Texas Education Code, and repeals enumerated existing Articles of the Texas Civil Statutes, effective September 1, 1969.

The new Code is published in a separate Special Pamphlet for convenient reference pending publication of a fully annotated edition in bound volume form as a unit of Vernon's Texas Codes Annotated.

1. STATE SUPERINTENDENT

Arts. 2655 to 2663a. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles enacts the Texas Education Code.

Art. 2663b—1. Instruction in constitutions, government or political science

Section 1. [Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2].

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Sec. 3. [Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2].

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Acts 1969, 61st Leg., p. 2735, ch. 889, repealing sections 1 and 3 of this Article effective Sept. 1, 1969, enacts the Texas Education Code.

For Annotations and Historical Notes, see V.A.T.S.

Art. 2663b—3. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Repealed article provided for courses in police and fire protection administration, and was derived from Acts 1967, 60th Leg., p. 469, ch. 213.

2. STATE BOARD

Arts. 2664 to 2668. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Art. 2669. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Repealed article was amended by Acts 1967, 60th Leg., p. 1829, ch. 707, § 2; and by Acts 1969, 61st Leg., p. 220, ch. 88, § 1, to read:

“(a) The State Board of Education is authorized and empowered to invest the Permanent School Fund of the state in securities, bonds or other obligations issued, insured or guaranteed in any manner by the United States Government, or any of its agencies and in bonds issued by the State of Texas, or any county thereof, and the independent or common school districts, road precincts, drainage, irrigation, navigation and levee districts in this state, and the bonds of incorporated cities and towns, the obligations and pledges of The University of Texas, and corporate bonds of United States corporations of at least ‘A’ rating, and bonds issued, assumed or guaranteed by the Inter-American Development Bank and the International Bank of Reconstruction and Development.

“(b) The State Board of Education is further authorized and empowered to invest the Permanent School Fund of the state in such corporation bonds, preferred stocks and common stocks as the State Board of Education may deem to be proper investments for said fund. In making each and all of such investments said Board of Education shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, and discretion, and intelligence exercise

in the management of their own affairs not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital; provided, however, that not more than one per cent of said fund be invested in stock issued by one corporation, nor shall more than five per cent of the voting stock of any one corporation be owned; and provided further, that stocks eligible for purchase shall be restricted to stocks of companies incorporated within the United States which have paid dividends for five consecutive years or longer immediately prior to the date of purchase and which, except for bank stocks and insurance stocks, are listed upon an exchange registered with the Securities and Exchange Commission or its successors.

“(c) Corporation securities of the State Permanent School Fund may, at the discretion of the State Board of Education, be sold and the proceeds reinvested for the Permanent School Fund under the terms of this Act.

“(d) Notwithstanding any other law, or any other provision of this Act, each of the funds may be invested by the Board in first lien real estate mortgage securities insured by the Federal Housing Administration under the National Housing Act of the United States, as amended from time to time, or in any other first lien real estate mortgage securities guaranteed in whole or in part by the United States Government or any agency thereof.”

Arts. 2671 to 2675. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Art. 2675—1. Repealed by Acts 1969, 61st Leg., p. 103, ch. 40, § 16, eff. Sept. 1, 1969; Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Prior to repeal, this article was amended by Acts 1965, 59th Leg., p. 243, ch. 106, § 4, and Acts 1965, 59th Leg., p. 574, ch. 291, § 4. See, now article 2675i.

Arts. 2675b—1 to 2675b—6. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Department of corrections, duty at its schools, see art. 6203b—2, § 5.

Arts. 2675b—8 to 2675b—10. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Art. 2675c—2. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

institutions of collegiate rank, see art. 2654f—2.

Prior to repeal, this article was amended by Acts 1965, 59th Leg., p. 70, ch. 24, § 1.

Jurisdiction and control of State Board of Education over Texas School for the Deaf, see art. 3221c.

Exemption from tuition fees of certain deaf and blind students at state-supported

4. PHYSICAL RESTORATION OF CRIPPLED CHILDREN

Art. 2675j. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

5. REHABILITATION

Art. 2675k. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Acts 1969, 61st Leg., p. 498, ch. 164, which amended sections 6 and 7 of this article, provided in sections 5 and 6:

"Sec. 5. Providing that the amendment set out in Section 1 of this Act shall become effective for the scholastic year beginning September 1, 1968 and thereafter; and that amendments set out in Sections 2, 3, and 4, of this Act shall become effective for the scholastic year beginning September 1, 1969, and thereafter.

"Sec. 6. The fact that the office of general counsel of the education division for policy and procedures of the Health, Education and Welfare Department of the fed-

eral government has ruled that independent rehabilitation districts created under the current law, Article 2675k, Vernon's Texas Civil Statutes, are not free public schools within the meaning of and for the purposes of direct allocations of Title I funds; and that the allowance of vocational teacher units and federal aid directly to such districts will greatly facilitate and enhance support to provide needed services to the persons covered by the Act create an emergency and imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and this Rule is hereby suspended; and this Act shall take effect as herein provided from and after its passage, and it is so enacted."

Art. 2675l. Commission for rehabilitation

Purpose

Section 1. It shall be the policy of the State of Texas to provide rehabilitation and related services to eligible handicapped individuals so that they may prepare for and engage in a gainful occupation or achieve maximum personal independence.

Definitions

Sec. 2. For the purposes of this Act:

(a) The term "agency" or "commission" means the Commission for Rehabilitation.

(b) The term "commissioner" means the chief administrative officer of the agency.

(c) "Handicapped individual" means any individual, except one whose disability is of a visual nature, who has a disability which constitutes a substantial handicap to employment, or to achieving maximum personal independence, but which is of such a nature that rehabilitation services may reasonably be expected to render him fit to engage in a gainful occupation, including a gainful occupation which is more consistent with his capacities and abilities or render him fit for self-care and independent living; and "handicapped individual" includes such an individual for whom rehabilitation services are necessary for the purposes of the determination of rehabilitation potential. "Handicapped individual" shall include individuals disadvantaged by reason of their youth or advanced age, low educational attainments, ethnic or cultural factors, prison or delinquency records, or other conditions which constitute a barrier to employment, as well as members of their families when the provision of rehabilitation services to family members is necessary for the rehabilitation of a handicapped individual.

(d) "Disability" means a physical or mental condition which materially limits, contributes to limiting or, if not corrected, will probably result in limiting an individual's activities or functioning. It includes behavioral disorders characterized by deviant social behavior or impaired ability to carry out normal relationships with family and community which may result from vocational, educational, cultural, social, environmental, or other factors. "Disability" includes the disadvantageous condition resulting from low educational attainment, ethnic or cultural factors, youth or advanced age, or other factors which constitute a barrier to employment or self-care and independent living.

(e) "Substantial handicap to employment" means that a disability impedes an individual's occupational performance by preventing his obtaining, retaining, or preparing for a gainful occupation consistent with his capacities and abilities.

(f) "Rehabilitation services" means any goods and services necessary to render a handicapped individual fit to engage in a gainful occupation, or independent living, or to determine his rehabilitation potential, and to provide work adjustment training or adult social services. To render a handicapped individual fit to engage in a gainful occupation or independent living, may require the agency to engage in or contract for some or all of such activities as outreach, diagnosis and appraisal, treatment, training, job placement or self-employment, guidance and counseling. Services may include maintenance, transportation and training allowances, not exceeding the estimated cost of subsistence during rehabilitation, for the handicapped individual as well as members of his family when necessary for the rehabilitation of the handicapped individual.

(g) "Gainful occupation" includes employment in the competitive labor market; practice of a profession; self-employment; homemaking, farm

or family work (including work for which payment is in kind rather than in cash); sheltered employment; and home industries or other gainful homebound work.

(h) "Establishment of a rehabilitation facility" means (1) the expansion, remodeling, or alteration of existing buildings, necessary to adopt or to increase the effectiveness of such buildings for rehabilitation facility purposes; (2) the acquisition of initial equipment for such purposes; or (3) the initial staffing of a rehabilitation facility.

(i) "Establishment of a workshop" means the expansion, remodeling, or alteration of existing buildings necessary to adapt such buildings to workshop purposes or to increase the employment opportunities in workshops, and the acquisition of initial equipment necessary for new workshops or to increase the employment opportunities in workshops.

(j) "Construct" includes construction of new buildings, acquisition of existing buildings, and expansion, remodeling, alteration, and renovation of existing buildings, and initial equipment of such new, newly acquired, expanded, remodeled, altered, or renovated buildings.

Commission as principal authority

Sec. 3. The Commission for Rehabilitation is the principal authority in the State on matters relating to rehabilitation of handicapped and disabled individuals, except for those matters relating to individuals whose handicaps or disabilities are of a visual nature. All other state agencies engaged in rehabilitation activities and related services to individuals whose handicaps or disabilities are not of a visual nature shall coordinate those activities and services with the Commission.

Appointment of board members and staff

Sec. 4. There is hereby created a Commission for Rehabilitation which shall consist of the Board of the Commission for Rehabilitation, a Commissioner, and such other officers and employees as may be required to efficiently carry out the purposes of this Act. The Board of the Commission for Rehabilitation shall consist of six members appointed by the governor. With the advice and consent of the Senate, the governor shall biennially appoint two members to serve a term of six years, except that when the six initial appointments are made, the governor shall designate two members to serve for two years, two for four years, and two for six years. The governor shall also fill by appointment for the unexpired term any vacancy on the Board caused by death, resignation or inability to serve for any reason. Members shall serve until a successor is appointed and has qualified by taking the oath of office. Appointees shall be outstanding citizens of the state who have demonstrated a constructive interest in rehabilitation services. No paid employee of any agency carrying on work for the commission shall be eligible for appointment, nor shall any person who owns or is employed by an organization providing rehabilitation services or related services through the commission.

The governor shall designate one Board member as chairman. The Board shall meet quarterly in regular session and on call by the chairman when necessary for the transaction of agency business. Board members shall serve without pay except they shall be compensated for actual and necessary expenses incurred in the discharge of their official duties.

Commissioner

Sec. 5. (a) This Act shall be administered by the Commissioner under operational policies established by the Board. The Commissioner shall be appointed by the Board on the basis of his education, training, experience, and demonstrated ability. He shall serve at the pleasure of the Board. He shall be secretary to the Board, as well as chief administrative officer of the agency.

For Annotations and Historical Notes, see V.A.T.S.

(b) The Board is authorized to appoint an advisory committee which shall make recommendations for consideration of the Board concerning any matter which the advisory committee believes to be pertinent to the purposes of this Act. The advisory committee shall have nine members appointed by the Board, each of whom shall serve for three years and until a successor is appointed. However, when the initial appointments are made, the Board shall designate three members who will be appointed for terms of one year, three members who will be appointed for terms of two years, and three members who will be appointed for terms of three years. The advisory committee shall meet at least once in each calendar quarter and may meet on call of the Board. The members of the advisory committee shall serve without pay except that they are entitled to be reimbursed for actual and necessary expenses incurred in attending the official meetings of the advisory committee. The membership of the advisory committee shall be composed of citizens who have demonstrated an active and constructive interest in the rehabilitation of handicapped people. The Board shall also fill, by appointment for the unexpired term, any vacancy on the advisory committee. The Board is also authorized to create from time to time such additional technical advisory committees as it may deem necessary to the purposes of this Act, the members of which shall serve without compensation unless such is specifically provided for by appropriation.

Administration

Sec. 6. In carrying out his duties under this Act, the Commissioner:

(a) shall, with the approval of the Board, make regulations governing personnel standards; the protection of records and confidential information; the manner and form of filing applications, eligibility, investigation, and determination therefor for rehabilitation and other services; procedures for hearings; and such other regulations as he finds necessary to carry out the purposes of this Act;

(b) shall, with the approval of the Board, make long-range and intermediate plans for the scope and development of the program and make decisions regarding the allocation of resources in carrying out such plans;

(c) shall, with the approval of the Board, establish appropriate subordinate administrative units;

(d) shall, under personnel policies adopted by the Board, appoint such personnel as he deems necessary for the efficient performance of the functions of the agency;

(e) shall prepare and submit to the Board annual reports of activities and expenditures and, prior to each Regular Session of the Legislature, estimates of sums required for carrying out the purposes of this Act; and, with the approval of the Board, submit such reports to the governor and the Legislature;

(f) shall make certification for disbursement, in accordance with regulations, of funds available for carrying out the purposes of the Act;

(g) shall take such other action as he deems necessary or appropriate to carry out the purposes of this Act; and

(h) may, with the approval of the Board, delegate to any officer or employee of the agency such of his powers and duties, except the making of regulations and the appointment of personnel, as he finds necessary to carry out the purposes of this Act.

Agency functions

Sec. 7. The agency shall, to the extent of resources available and priorities established by the Board, provide rehabilitation services directly or through public or private resources to individuals determined by the

Commissioner to be eligible therefor, and in carrying out the purposes of this Act, the agency is authorized:

(a) to cooperate with other departments, agencies, political subdivisions, and institutions, both public and private, in providing the services authorized by this Act to eligible individuals, in studying the problems involved therein, and in planning, establishing, developing, and providing such programs, facilities, and services as may be necessary or desirable, including those jointly administered with state agencies;

(b) to enter into reciprocal agreements with other states;

(c) to establish or construct rehabilitation facilities and workshops; to make grants to public agencies; to make contracts or other arrangements with public and other nonprofit agencies, organizations, or institutions for the establishment of workshops and rehabilitation facilities; and to operate facilities for carrying out the purposes of this Act;

(d) to conduct research and compile statistics relating to the provisions of services to or the need for services by disabled individuals;

(e) to provide for the establishment, supervision, management, and control of small business enterprises to be operated by severely handicapped individuals where their operation will be improved through the management and supervision of the agency; and

(f) to contract with schools, hospitals, private industrial firms, and other agencies and with doctors, nurses, technicians, and other persons for training, physical restoration, transportation, and other rehabilitation services.

Cooperation with the federal government

Sec. 8. The agency shall make agreements, arrangements, or plans to cooperate with the federal government in carrying out the purposes of this Act or of any federal statutes pertaining to rehabilitation, and to this end may adopt such methods of administration as are found by the federal government to be necessary, and not contrary to existing state laws, for the proper and efficient operation of such agreements, arrangements, or plans for rehabilitation.

Obtaining federal funds

Sec. 9. The agency is authorized to comply with such requirements as may be necessary to obtain federal funds in the maximum amount and most advantageous proportion possible.

Finances

Sec. 10. The state treasurer is hereby authorized to receive all monies appropriated by Congress and allotted to Texas for carrying out the purposes of this Act or agreements, arrangements, or plans authorized thereby; and to make disbursements therefrom upon the certification of the Commissioner. All public monies available to the agency shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as provided by law for other public funds in the state treasury. The State Auditor shall regularly audit all accounts established by the Commission in local depositories, to assure that non-public funds made available to the Commission through gift or bequest, by local organizations desiring to participate in projects for the handicapped authorized in Subsection (b) of Section 6 of Article XVI of the Texas Constitution, or by endowment or otherwise, are expended in a manner consistent with the purposes of this Act, and the Commission shall comply with such reporting procedures as the State Auditor might prescribe for the Commission's acceptance, holding, investment and use of non-public funds.

Gifts and donations to the commission

Sec. 11. The commission is authorized to receive and use gifts and donations for carrying out the purposes of this Act. No person shall ever receive any payment for solicitation of any funds.

Unlawful use of lists of names

Sec. 12. It shall be unlawful, except for purposes directly connected with the administration of the rehabilitation program and in accordance with regulations, for any person or persons to solicit, disclose, receive, or make use of, or authorize, knowingly permit, participate in, or acquiesce in the use of any list of, or names of, or any information concerning, persons applying for or receiving rehabilitation, directly or indirectly derived from the records.

Transfer from Central Education Agency

Sec. 13. All functions of the Division of Vocational Rehabilitation and the Division of Disability Determination of the Central Education Agency, together with all personnel, property, records, and unexpended balances of appropriations, allocations, and other funds available or to be made available are hereby transferred to the agency on September 1, 1969. Wherever under existing statutes, duties, obligations, and responsibilities are placed upon the Division of Vocational Rehabilitation or the Division of Disability Determination of the Central Education Agency or duties, obligations, and responsibilities relating to vocational rehabilitation of the handicapped individual are imposed upon the State Board for Vocational Education, such duties, obligations and responsibilities shall hereafter be assumed and carried out by the commission. All contracts and agreements between the Central Education Agency and the Social Security Administration relating to the activities of the Division of Vocational Rehabilitation and the Division of Disability Determination of the Central Education Agency shall be continued for the benefit of the commission.

Employees membership in retirement systems

Sec. 14. Personnel of the Division of Vocational Rehabilitation and the Division of Disability Determination of the Central Education Agency hereby transferred to the commission shall have the option of retaining membership in the Teacher Retirement System of Texas or becoming members of the Employees Retirement System of Texas under the provisions of Chapter 75, Acts of the 54th Legislature, Regular Session, 1955, as amended.¹ Employees hired after the transfer shall be members of the Employees Retirement System of Texas.

Severability

Sec. 15. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Repealer

Sec. 16. Chapter 23, Acts of the 41st Legislature, 1st Called Session, 1929, as last amended by Section 4, Chapter 291, Acts of the 59th Legislature, Regular Session, 1965 (Article 2675—1, Vernon's Texas Civil Statutes), is repealed.

Effective date

Sec. 17. This Act takes effect on September 1, 1969.
Acts 1969, 61st Leg., p. 103, ch. 40, eff. Sept. 1, 1969.

Federal grants for rehabilitation of handicapped individuals, approval of state plans, see 29 U.S.C.A. § 31 et seq.

State Commission for the Blind, acceptance of benefits of Federal Statutes for the blind, see art. 3207a, § 2a.

State participation in programs financed with federal funds for rehabilitation of handicapped persons, see Const. art. 16, § 6.

Title of Act:

An Act creating a Commission for Rehabilitation and prescribing its powers, duties, functions, financing and procedures; repealing Chapter 23, Acts of the 41st Legislature, 1st Called Session, 1929, as amended (Article 2675—1, Vernon's Texas Civil Statutes); and declaring an emergency. Acts 1969, 61st Leg., p. 103, ch. 40.

Art. 2675m. Vocational rehabilitation; extended services**Definitions**

Section 1. As used in this Act:

a. "Extended rehabilitation services" means supplying rehabilitation services to (1) a mentally or physically handicapped person beyond a period of 18 months from the initial date that eligibility to receive vocational rehabilitation services was determined, or (2) mentally or physically handicapped persons who were not eligible for vocational rehabilitation services under laws and regulations in effect at the date of enactment of this Act and who could benefit from the provisions of this Act.

b. "Extended sheltered workshop employment" means employment in a sheltered workshop of persons with mental or physical handicaps of such a nature that by reason of such handicap such persons are rendered incapable of competing in the open or customary labor market.

c. "Extended community residence" means a group living arrangement providing the essentials of community living, such as room, board, clothing, evening and nighttime supervision, recreational activities, and transportation to and from work for persons living therein who are in extended sheltered workshop employment as that term is defined herein, or who, while physically or mentally handicapped, are employed in the open or customary labor market.

d. "Sheltered workshop" means an occupation-oriented facility operated by a not-for-profit agency, public or private, which except for its staff, employs only mentally or physically handicapped persons.

Authority

Sec. 2. The state agency vested with authority to administer the general program of vocational rehabilitation is granted the additional authority to plan, institute, support and maintain the programs of extended rehabilitation including extended employment in a sheltered workshop and extended community residence, provided for in this Act.

Administration

Sec. 3. The state agency vested with the authority to administer this Act may contract with any not-for-profit agency, public or private, for the provision of any extended rehabilitation services, including extended sheltered workshop employment or extended community residence for persons participating in vocational rehabilitation and pay for such services purchased for the state.

Participant contributions

Sec. 4. Any handicapped person in vocational rehabilitation and living in an extended community residence facility operated by a not-for-profit

For Annotations and Historical Notes, see V.A.T.S.

agency having a contract under this Act shall contribute to such not-for-profit agency from his personal earnings, if any, such portions of his earnings, after deductions for personal use, as he may be able to contribute and as may be required by rules and regulations of the state agency administering this Act. The earnings contributions made under this section by individuals' participation in vocational rehabilitation shall be credited to the state, in arriving at the net sums due to the not-for-profit agency contracting with the state to furnish services.

Standards

Sec. 5. The state agency administering the Act shall establish standards of staffing, physical plant and services required for the operation of facilities of not-for-profit agencies, furnishing services under this Act by contract with the state. Any contract entered into by the state under this Act shall be subject to cancellation by the state for cause at any time by the issuance of written notice of cancellation by the state to the contracting agency at least 30 days in advance of the date of cancellation.

Quarterly payments

Sec. 6. The state agency responsible for administering the provisions of this Act shall pay, from funds available to it for this program, on a quarterly basis to a not-for-profit agency an amount equal to not less than (a) \$3 per six-hour working day per client to a sheltered workshop as defined in this Act and/or (b) \$85 per client per month to an extended community residence as defined in this Act.

Funds, rules and regulations

Sec. 7. The state agency administering this Act may receive and expend funds from any source, public or private, for the purposes set forth in this Act, and shall establish rules and regulations for the conduct and control of the programs authorized by this Act. Any not-for-profit agency operating an extended community residence facility under this Act shall file annually its budget showing salaries paid and expenditures with the office of the State Auditor of the State of Texas.

Cumulative effect

Sec. 8. This law shall be cumulative of all laws or parts of laws relating to vocational rehabilitation.

Acts 1969, 61st Leg., p. 144, ch. 49, emerg. eff. April 2, 1969.

Title of Act:

An Act concerning vocational rehabilitation, defining certain terms, providing for authority of the state agency administering a program of vocational rehabilitation to supply extended rehabilitation services, including contracting for extended sheltered workshop employment opportunity and extended community residence; providing for contributions by persons participating in vocational rehabilitation; providing for es-

tablishment of standards for service and staffing in contract agencies; providing for the receipt and expenditure of any funds available for implementation of this Act and the submission of annual budgets by certain not-for-profit agencies; declaring the cumulative nature of this Act; declaring the provisions of this Act to be severable; and declaring an emergency. Acts 1969, 61st Leg., p. 144, ch. 49.

Art. 2675n. Advisory council for technical-vocational education

Title and purpose

Section 1. This Act shall be known as the State Technical-Vocational Education Act of 1969. Its purpose is to provide the necessary legal basis to establish a state educational system which will develop trained personnel in the area of technical and vocational skills, and to accommodate the social and economic needs of the people of the State of Texas. Further, it is the purpose of this Act to comply in all respects with the Vocational

Education Act of 1963, as amended,¹ including those advisory functions therein specified. It is further the purpose of this Act to establish as a part of the total educational system of the State of Texas, one council responsible for the development of a program to train manpower, through education, to further industrial and economic development in the State of Texas.

¹ See 20 U.S.C.A. § 35 et seq.

Definitions

Sec. 2. Wherever used in this Act, the following words shall have the following meanings:

(a) "Advisory Council" or "Council" means the Advisory Council for Technical-Vocational Education in Texas as provided for in this Act.

(b) "Secondary Schools" means those schools supported by the Permanent School Fund or as provided for in Article VII, Section 1, of the Constitution of the State of Texas.

(c) "Public Junior Colleges" means any Public Junior College in Texas which may be certified for state appropriations, as provided by Chapter 487, Acts of the 54th Legislature, Regular Session, 1955, as last amended by Chapter 12, Acts of the 59th Legislature, Regular Session, 1965,¹ or as may be subsequently provided for by the Legislature of the State of Texas.

(d) "Public Senior Colleges and Universities" means any general academic teaching institution, as defined by Chapter 487, Acts of the 54th Legislature, Regular Session, 1955, as last amended by Chapter 12, Acts of the 59th Legislature, Regular Session, 1965, or as may be subsequently provided for.

(e) "Associate Commissioner" means the Associate Commissioner for Occupational Education and Technology in Texas.

(f) "Post-secondary Education" means education provided in any public junior college, technical institute, or public senior college and university, as defined hereinabove.

(g) "Apprenticeship" means apprentice training, trade extension and all post-secondary technical and occupational training programs operated by public schools and not being serviced by public junior colleges, technical institutes, senior colleges or universities.

¹ Art. 2919e—2.

Establishment; functions

Sec. 3. There is hereby established by the Legislature of the State of Texas a council known as the Advisory Council for Technical-Vocational Education in Texas, for which offices shall be provided by the Texas Education Agency in Austin, Texas. It is the purpose of the Advisory Council for Technical-Vocational Education in Texas to cause to be established a climate conducive to the development of technical, vocational, and manpower training in educational institutions in the State of Texas to meet the needs of industrial and economic development of the state. The Council is responsible for planning, recommending, and evaluating educational programs in the vocational, technical, adult education, and manpower training areas at the state level in the public secondary and post-secondary educational institutions and other institutions; and other boards or agencies will act upon these matters after receiving recommendations from the council, except as may be precluded by the Constitution or the laws of the State of Texas. The council shall perform only such functions as are herein enumerated and those as may be assigned to it by the Legislature or the governor. It will be the function of this council to recommend the coordination and implementation of programs of training consistent with the purpose of this Act, and subject to the approval of the State Board for Vocational Education.

Members; appointment; terms; officers

Sec. 4. The council shall consist of 21 members who will be appointed by the State Board of Education for six-year terms after recommendation by the governor and subject to confirmation by the Senate. The membership will be constituted as follows:

(a) One member familiar with vocational needs and the problems of management in the state;

(b) One member familiar with vocational needs and the problems of labor in the state;

(c) Two members representing state industrial and economic development agencies;

(d) One member actively engaged in the administration of community or junior college vocational-technical education;

(e) One member actively engaged in technical training institutes;

(f) One member familiar with the administration of state and local technical-vocational education programs;

(g) One member having special knowledge, experience, or qualifications with respect to the administration of state and local technical-vocational education programs but who is not involved directly in the administration of such programs;

(h) One member who represents technical-vocational education at the secondary school level;

(i) One member, representative of local education agencies and school boards;

(j) One member who is familiar with the programs of teachers' training for technical-vocational teachers in the post-secondary institutions;

(k) One member who is familiar with post-secondary baccalaureate technological degree programs;

(l) One member representative of Comprehensive Area Manpower Planning Systems of the State;

(m) One member representative of those school systems with large concentrations of academically, socially, economically, or culturally disadvantaged students;

(n) One member having special knowledge, experience or qualifications with respect to the special educational needs of the physically or mentally handicapped persons;

(o) One member having special knowledge, experience or qualifications with respect to the locally administered manpower programs sponsored by organizations having voting representatives of the socioeconomically disadvantaged in their policy making bodies.

(p) Four members representing a cross section of industrial, business, professional, agricultural, and health service occupations;

(q) One member representing the general public. The membership shall elect, annually, their chairman, and such other officers as may be deemed necessary. Initial appointment of the council shall be made immediately following the effective date of this Act; seven appointments will be made for the term which shall expire August 31, 1971, seven appointments will be made for the term which will expire August 31, 1973, and seven appointments will be made for the term which shall expire August 31, 1975, or at the time their successors are appointed and qualified.

Compensation of members; meetings; quorum; agenda

Sec. 5. Members of the council shall serve without pay, but shall be reimbursed for their actual expenses while attending meetings or for such work of the council as is approved by the chairman of the council. The majority of the membership of the council shall constitute a quorum at meetings. The first meeting of the council shall be called by the governor as soon as the membership of the council is complete. Thereafter, the

council will hold regular quarterly meetings, in the City of Austin, and at other times and places as shall be scheduled by it in formal session, as provided by the statutes of the State of Texas or as shall be called by the chairman of the council. Agenda for the meetings, in sufficient detail to indicate the items on which final action is contemplated, will be made available to the public and interested parties at least 30 days prior to each meeting.

Committees; rules and regulations; hearings

Sec. 6. The chairman of the council may appoint such committees of the council or such advisory committees as the council shall deem necessary, from time to time. The council shall adopt and publish rules of procedure for the orderly transaction of its business and shall establish and publish rules and regulations in accordance with, and under the conditions applied to other agencies, by Chapter 274, Acts of the 57th Legislature, Regular Session, 1961, as amended by Section 1, Chapter 31, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6252—13, Vernon's Texas Civil Statutes), to effectuate the provisions of this Act. The council shall grant any educational institution within its purview, a hearing upon request and after reasonable notice.

Duties

Sec. 7. The Council shall be the advisory council to the State Board for Vocational Education and shall:

(a) Recommend and evaluate the role and scope of secondary institutions, public junior colleges, community colleges, technical training institutes, and public senior colleges and universities in a comprehensive plan for developing manpower education and training in the State of Texas;

(b) Recommend the appropriate subjects to be taught at each level of training and in each of the above types of institutions;

(c) Recommend a state plan designating the method and the criteria to be utilized in establishing area technical schools which will be consistent with the Vocational Educational Act of 1963, as amended,¹ the Manpower Development and Training Act of 1962,² as amended, and other federal statutes;

(d) Recommend and evaluate a list of courses offered by these types of institutions eligible to be funded by the Legislature or through the allocation of federal funds. These courses shall be freely transferable among the public institutions in the State of Texas, with credit for such courses to be given on the same basis as if they had been taken at the receiving institution;

(e) Recommend to the governor and the Legislature methods of funding existing programs and propose methods for funding new programs;

(f) Suggest and evaluate pilot projects and present recommendations to the governor and the Legislature for implementing cooperative programs among the several types of institutions named hereinabove, which will provide a more effective and efficient method of supplying business and industry with trained manpower;

(g) Recommend the establishment of the responsibility of public schools, public junior colleges, community colleges, technical training institutes, and public senior colleges and universities in adult basic education, adult technical education, and adult vocational education;

(h) Recommend, encourage and evaluate cooperative programs between educational institutions and industry, and, with the assistance of industry, assist in the development of new curricula and instructional materials as may be required for new and emerging occupational categories as may be prescribed by industry;

(i) Provide up-to-date statistical data on employment opportunities in the Texas economy to persons trained in these institutions through co-

For Annotations and Historical Notes, see V.A.T.S.

operation with the Texas Employment Commission and other appropriate research agencies at both the state and national levels;

(j) Recommend a state plan for the development of a comprehensive Manpower program in conjunction with the Manpower Development and Training Act of 1962, as amended;

(k) Recommend the state plan, training institutions, and means of coordination of manpower training as provided in the Manpower Development and Training Act of 1962, as amended; and

(l) Recommend research projects as may be necessary to implement and improve a state-wide system of technical, vocational and manpower training from funds provided by appropriations from the United States Congress or private gifts, grants or awards;

(m) Recommend and evaluate a program of teacher certification for instructors of occupational training courses;

(n) Recommend and evaluate a state-wide plan for the development of a comprehensive program of apprenticeship training.

¹ See 20 U.S.C.A. § 35d.

² 42 U.S.C.A. § 2571 et seq.

Professional staff; studies

Sec. 8. (a) The Council shall employ such professional and clerical personnel and consultants as are necessary to perform the duties assigned by this Act.

(b) The Council shall make certain studies on its own initiative regarding a system of technical, vocational, adult education, and manpower training in the State of Texas and shall furnish reports and make such studies as may be requested by the governor or the Legislative Budget Board.

State and federal funds

Sec. 9. The State Board for Vocational Education shall have the authority to allocate, as provided herein, funds appropriated by the Legislature of the State of Texas and funds of the United States Government received by the State of Texas under the Vocational Education Act of 1963, as amended, and the Manpower Development and Training Act of 1962, as amended, or other such federal statutes, as may come under its jurisdiction. Only institutions and programs approved by the State Board of Education or the Coordinating Board, Texas College and University System, will be eligible for the distribution of such funds; such program approvals shall include all those previously approved including Industrial Arts.

Cooperation between institutions

Sec. 10. The Council shall encourage cooperation between public and private institutions wherever possible.

Uniform reporting system

Sec. 11. All financial reporting for post-secondary institutions shall be the same as that prescribed in the Uniform Reporting System provided in Chapter 487, Acts of the 54th Legislature, Regular Session, 1955, as last amended by Chapter 12, Acts of the 59th Legislature, Regular Session, 1965,¹ adopted by the Coordinating Board, Texas College and University System. The council will obtain student enrollment data and instructional data and financial data gathered by the Uniform Reporting System established by the Coordinating Board, Texas College and University System, or by the Texas Education Agency, whichever may be applicable.

¹ Art. 2919e—2, § 22.

Cooperation of other agencies

Sec. 12. The Texas Education Agency, the Coordinating Board, Texas College and University System, the Texas Employment Commission, and all other state boards and agencies are directed to cooperate with the Advisory Council and to supply such information and material as requested by the Council.

Interagency contracts

Sec. 13. In achieving the goals outlined in this Act and the performing of functions assigned to it, the council may contract with any other state governmental agency as authorized by law, with any agency of the United States Government, and with corporations and individuals. The council shall propose, foster, and encourage the use of interagency contracts among the educational institutions to reduce duplication and to achieve better utilization of personnel and facilities.

Gifts, grants or donations

Sec. 14. The Council may accept gifts, grants, or donations of personal property from any individual, group, association, or corporation or the United States Government, subject to such limitations or conditions as may be provided by law, and provided that gifts, grants, or donations of money shall be deposited with the State Treasury and expended in accordance with the specific purpose for which given under such conditions as may be imposed by the donor and as provided by law.

Reports

Sec. 15. The Council shall make a report of its activities to the governor annually, and to the Legislature not later than December 1 prior to the regular session of the Legislature.

Authority of state board for vocational education

Sec. 16. (a) It is recognized that the State Board for Vocational Education is vested with the final authority to accept or reject the recommendations of the State Advisory Council.

(b) Recommendations of the State Advisory Council submitted to the State Board for Vocational Education must be acted upon, and either accepted or rejected.

(c) Any recommendations which are rejected must be returned immediately to the Advisory Council.

State advisory council on vocational education superseded

Sec. 17. The Council replaces and supersedes the State Advisory Council on Vocational Education appointed by the State Board of Education.

Associate commissioner for occupational education and technology

Sec. 18. (a) There is hereby created the position of Associate Commissioner for Occupational Education and Technology within the Texas Education Agency.

(b) The associate commissioner shall be a person of high professional qualifications, having a thorough background of training and experience in the fields of technical, vocational, adult, and manpower education and training, and shall possess such other qualifications as the Commissioner of Education may prescribe.

(c) The associate commissioner shall be selected by the Commissioner of Education with the advice and consent of the State Board of Education.

For Annotations and Historical Notes, see V.A.T.S.

(d) The Associate Commissioner for Occupational Education and Technology will publish annually and make available to public institutions of education provided for in this Act, a certified list of courses for which funds may be made available in accordance with the appropriations of the Legislature of the State of Texas. Only those courses which appear on the certified list will be approved for appropriations or allocations of funds.

Joint committee for coordination

Sec. 19. There is hereby created a joint committee for the purpose of advising the two participating boards, the State Board for Vocational Education and the Coordinating Board, Texas College and University System, in coordinating approval and funding of vocational-technical-occupational programs and vocational-technical teacher education programs offered or proposed to be offered in the colleges and universities of this state.

Membership of joint committee

Sec. 20. Said committee is to be composed of three (3) members from the State Board for Vocational Education appointed by the Chairman of the Board, three (3) members from the Coordinating Board, Texas College and University System, appointed by the Chairman of the Coordinating Board, and three (3) members from the Advisory Council appointed by the Chairman of the Advisory Council, so that program approval and program funding may be compatible endeavors.

Duties of joint committee

Sec. 21. It shall be the duties of this committee to hold regularly scheduled meetings for the purpose of coordinating and developing planning efforts of the two boards, their staffs, and advisory personnel through the exchange of information and through the development of suggestions and recommendations.

Severability

Sec. 22. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Effective date

Sec. 23. This Act takes effect on September 1, 1969.

Conflicting laws; precedence of this act

Sec. 24. To the extent that any other law is in conflict with or inconsistent with the provisions hereof, the provisions of this Act shall take precedence and be effective.

Acts 1969, 61st Leg., p. 222, ch. 89, eff. Sept. 1, 1969.

Title of Act:

An Act creating an Advisory Council for Technical-Vocational Education to coordinate and develop programs for technical

and vocational training in state educational institutions; and declaring an emergency. Acts 1969, 61st Leg., p. 222, ch. 89.

CHAPTER ELEVEN—COUNTY SCHOOLS

2. SUPERINTENDENT

- Art.
2688q. Counties of 8,399 to 8,422; county board of school trustees and ex officio county superintendent; abolition of offices; transfer of duties to board of trustees and superintendent of independent school district [New].
- 2688r. Counties of 17,000 to 17,100; county superintendent; abolition of office; transfer of duties [New].
- 2688s. Counties of 40,500 to 41,000; county superintendent; abolition of office; transfer of duties [New].
- 2688t. Counties of 19,800 to 19,900; county superintendent; abolition of office; transfer of duties [New].
- 2688u. Counties of 20,380 to 20,400; county superintendent; abolition of office; transfer of duties [New].

Art.

- 2696a. Annual transfers of children from resident districts [New].
- 2700e—3. Salaries of assistants in counties of 24,700 to 24,800 [New].
- 2700e—4. Salaries of assistants in counties of 18,500 to 18,800 [New].
- 2700e—5. Salaries of assistants in counties of 35,000 to 36,000 and 20,500 to 20,600 [New].
- 2700e—6. Salaries of assistants in counties of 16,600 to 16,800 and 19,300 to 19,500 [New].
- 2700e—7. Salaries of assistants in counties of 19,500 to 19,600 [New].
- 2700e—8. Salaries of assistants in counties of 47,000 to 58,000 [New].
- 2700e—9. Salaries of assistants in certain counties [New].

Acts 1969, 61st Leg., p. 2735, ch. 889, enacts a new Texas Education Code, and repeals enumerated existing Articles of the Texas Civil Statutes, effective September 1, 1969.

The new Code is published in a separate Special Pamphlet for convenient reference pending publication of a fully annotated edition in bound volume form as a unit of Vernon's Texas Codes Annotated.

1. TRUSTEES

Art. 2676. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Art. 2677. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Arts. 2678a to 2685. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Arts. 2686 to 2687a. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Repealed article 2687 was amended by Acts 1967, 60th Leg., p. 1140, ch. 504, § 1; and by Acts 1969, 61st Leg., p. 997, ch. 321, § 1, to read:

"(c) In all counties in Texas having a population of not less than 18,500 nor more

than 18,800, according to the last preceding federal census, each trustee shall be paid Fifteen Dollars (\$15) per day but not to exceed Two Hundred and Twenty-five Dollars (\$225) in any one year, in the same manner and for the same purposes as trustees are paid under Subdivision (a) of this Article."

2. SUPERINTENDENT

Arts. 2688, 2688a. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Art. 2688e. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Art. 2688h. Counties of 75,000 to 125,000 and 135,000 to 200,000 population; county board of school trustees and county superintendent; abolition of offices; transfer of duties; assistants to county judges

* * * * *

(c) The county judge may name or appoint an assistant to help perform duties formerly performed by the board of school trustees and the county superintendent, and the salary for such assistant and all necessary office expenses relating to the performance of duties by such assistant shall be paid from the County Available School Fund; provided that the total amount of salary and expenses paid from the County Available School Fund shall not exceed \$5,000.

Subsec. (c) added by Acts 1969, 61st Leg., p. 2461, ch. 826, § 1, eff. Sept. 1, 1969.

Art. 2688q. Counties of 8,399 to 8,422; county board of school trustees and ex officio county superintendent; abolition of offices; transfer of duties to board of trustees and superintendent of independent school district

Section 1. In all counties having a population of not less than 8,399 nor more than 8,422, according to the last federal census, the office of county school board and the office of ex officio county school superintendent is abolished upon the effective date of this Act.

Sec. 2. All duties and functions, except as hereafter provided, that are now required by law of the office of ex officio county school superintendent, shall be performed by the superintendent of the independent school district, and all duties that may now be required of the county school board shall be performed by the elected board of trustees of such independent school district. The commissioners court of such counties shall hereafter receive, hear, and pass upon all petitions for the calling of elections for the creation, change, or abolishment of county school districts and all authorized appeals from the independent school board of trustees shall be made directly to the State Board of Education or to the courts as provided by law.

Sec. 3. The independent school district referred to herein shall be the independent school district whose area embraces the county seat of said county.

Acts 1969, 61st Leg., p. 982, ch. 311, emerg. eff. May 23, 1969.

Title of Act:

An Act abolishing the county board of school trustees and the office of ex officio county superintendent in certain counties, transferring the duties to the board of

trustees and the superintendent of the independent school district which includes the county seat; and declaring an emergency. Acts 1969, 61st Leg., p. 982, ch. 311.

Art. 2688r. Counties of 17,000 to 17,100; county superintendent; abolition of office; transfer of duties

Section 1. (a) The office of county superintendent in all counties having a population of not less than 17,000 nor more than 17,100, according to the last preceding Federal Census is abolished, and the duties of the office shall be performed by the county judge as ex officio county superintendent.

(b) The county judge is entitled to \$600 per year for serving as ex officio county superintendent.

(c) Money paid under this section shall be paid from the State Available School Fund.

Sec. 2. The county superintendents holding office in the counties included in this Act on the effective date of this Act shall serve until the expiration of the term for which they were elected. However, if a vacancy occurs before the expiration of the term, the office of county superintendent shall cease to exist and the duties of the office shall be performed by the county judge as ex officio county superintendent after that time.

Sec. 3. Proof of publication of the constitutional notice required in the enactment hereof under the provisions of Article III, Section 57, Constitution of Texas, has been made in the manner and form provided by law pertaining to the enactment of local and special laws and is hereby found and declared to be proper and sufficient to satisfy such requirement.

Acts 1969, 61st Leg., p. 983, ch. 312, eff. Sept. 1, 1969.

Title of Act:

An Act relating to the abolishing of the counties; and declaring an emergency. office of county superintendent in certain Acts 1969, 61st Leg., p. 983, ch. 312.

Art. 2688s. Counties of 40,500 to 41,000; county superintendent; abolition of office; transfer of duties

Section 1. In all counties having a population of not less than 40,500 inhabitants nor more than 41,000 inhabitants, according to the last preceding federal census, and in which there are no common school districts, the office of county superintendent of schools is abolished, and the duties of the office shall be performed by the county judge as ex officio county superintendent.

Sec. 2. (a) The county judge is entitled to receive for performing the duties of county superintendent the compensation fixed by the county board of school trustees.

(b) The county board of school trustees may appoint an assistant to the ex officio county superintendent and fix his compensation.

(c) Compensation fixed by the county board of school trustees for the ex officio county superintendent and the assistant shall not exceed the salary provisions included in Article 3888, Revised Civil Statutes of Texas, 1925, as amended.

Sec. 3. All expenditures made pursuant to the provisions of this Act shall be paid from the State Available School Fund in the manner provided by law.

Sec. 4. No provision of this Act shall affect the term of office of the county superintendents of schools holding office on the effective date of this Act.

Sec. 5. Compensation allowed county judges by this Act shall not be regarded as fees of office.

Acts 1969, 61st Leg., p. 984, ch. 313, eff. Sept. 1, 1969.

Title of Act:

An Act relating to the abolition of the office of county superintendent of schools and the assumption of these duties by the county judge; and declaring an emergency. Acts 1969, 61st Leg., p. 984, ch. 313.

For Annotations and Historical Notes, see V.A.T.S.

Art. 2688t. Counties of 19,800 to 19,900; county superintendent; abolition of office; transfer of duties

Office of county superintendent abolished in certain counties

Section 1. The office of county superintendent in all counties having a population of not less than 19,800 nor more than 19,900, according to the last preceding federal census, is abolished and the duties of the office shall be performed by the county judge as ex officio county superintendent.

Compensation and staff

Sec. 2. (a) The county judge is entitled to additional compensation of \$2,400 a year for serving as ex officio county superintendent.

(b) The county judge may hire a secretary to assist him in his duties as ex officio county superintendent. The secretary is entitled to a salary of \$2,000 a year.

Effective date

Sec. 3. This Act takes effect December 31, 1970, or on the date the office of county superintendent becomes vacant for any reason, whichever occurs earlier.

Acts 1969, 61st Leg., p. 997, ch. 322, eff. Dec. 31, 1970.

Title of Act:

An Act relating to the abolition of the office of county superintendent in certain counties; and declaring an emergency. Acts 1969, 61st Leg., p. 997, ch. 322.

Art. 2688u. Counties of 20,380 to 20,400; county superintendent; abolition of office; transfer of duties

Section 1. In all counties having a population of not less than 20,380 nor more than 20,400, according to the last preceding federal census, the office of county superintendent is abolished. The duties of the office shall be performed by the county judge as ex officio county superintendent.

Sec. 2. This Act takes effect December 31, 1974.

Acts 1969, 61st Leg., p. 1075, ch. 352, eff. Dec. 31, 1974.

Title of Act:

An Act relating to the abolition of the office of county superintendent and transfer of duties to the county judge in certain counties; and declaring an emergency. Acts 1969, 61st Leg., p. 1075, ch. 352.

Arts. 2689 to 2691. Repealed by Acts 1969, 61st Leg. p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Repealed article 2691 was amended by Acts 1969, 61st Leg., p. 616, ch. 211, § 1, to read: "The County Superintendent or ex-officio County Superintendent in each county may call the teachers of the county together for one or more meetings, not exceeding three such meetings in any one school year, the number to be determined by the County Board and the County Superintendent, such meetings to be held on Saturday for one or more hours, not to exceed three on any one day, as the program

arranged may demand. The County Superintendent may require the attendance of the teachers at the meetings and teachers shall not receive pay for such attendance. The Board of Trustees of any independent district having five hundred (500) or more scholastic population may authorize the Superintendent of Schools in such district to hold meetings of the teachers of the district in lieu of the county meetings. Provided further that the Superintendent must call any such meetings to be held at a time when the schools of the county are all in session."

Arts. 2692 to 2695. Repealed by Acts 1969, 61st Leg. p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Art. 2696. Repealed by Acts 1969, 61st Leg., p. 510, ch. 175, § 4, eff. May 9, 1969; Acts 1969, 61st Leg. p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

See, now, art. 2696a.

Art. 2696a. Annual transfers of children from resident districts

Section 1. Any child, other than a high school graduate, who is over six and under 21 years of age at the beginning of any scholastic year may annually transfer from his school district of residence to another Texas district, provided that both the receiving district and the applicant parent or guardian or person having lawful control of the child jointly approve and timely agree in writing to transfer.

Such transfer agreement(s) shall locally be filed and preserved as a receiving district record for audit purposes of the Central Education Agency.

Sec. 2. Upon the filing and certification of the transfer of any such child in the manner timely and in the form prescribed by regulations of the State Board of Education, the state per capita apportionment shall transfer with the child; and for purposes of computing state allotments of districts as are eligible therefor under the Foundation School Program Act, the attendance of the child shall transfer and be counted by the transfer receiving district.

Sec. 3. The receiving district may charge a tuition fee to the extent that the district's actual expenditure per student in average daily attendance, determinable by its Board of Trustees, exceeds the sum the district benefits from state aid sources as provided in Section 2. However, unless a tuition fee is prescribed and set out in transfer agreement prior to its execution by the parties, no increase in tuition charge shall be made for the year of that transfer that exceeds the tuition charge, if any, of the preceding school year.

Acts 1969, 61st Leg., p. 510, ch. 175, emerg. eff. May 9, 1969.

Title of Act:

An Act to authorize and permit transfer annually of any child, other than a high school graduate, who is over six and under 21 years of age, from his resident school district to another Texas district where parent or person having lawful control of child and the receiving district jointly and timely agree in writing to the transfer; providing the State Board of Education shall issue rules and regulations necessary for the administration of this Act and for

transfer of state per capita apportionment and other state aid funds to follow the child; permitting the charge of a reasonable tuition fee; specifically repealing Articles 2696, 2697, 2699, Revised Civil Statutes of Texas, 1925, as amended, and Chapter 127, Acts 44th Legislature, Regular Session, 1935 (codified Article 2922L(1) in V.A.C.S.); repealing all other laws or parts of laws insofar as such conflict with this Act; and declaring an emergency. Acts 1969, 61st Leg., p. 510, ch. 175.

Art. 2697. Repealed by Acts 1969, 61st Leg., p. 510, ch. 175, § 4, eff. May 9, 1969; Acts 1969, 61st Leg. p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Repealed article was amended by Acts 1969, 61st Leg., p. 502, ch. 168, § 1, to read:

"Any child specified in Article 2696, Revised Civil Statutes of Texas, 1925, and

his portion of the school fund, may be transferred to a district in an adjoining county, in the manner provided in Article 2696."

See, now, Art. 2696a.

Art. 2698. Repealed by Acts 1969, 61st Leg. p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

For Annotations and Historical Notes, see V.A.T.S.

Art. 2699. Repealed by Acts 1969, 61st Leg., p. 510, ch. 175, § 4, eff. May 9, 1969; Acts 1969, 61st Leg. p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

See, now, Art. 2696a.

Arts. 2699a, 2700. Repealed by Acts 1969, 61st Leg. p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Section 2 of repealed article 2700 was amended by Acts 1969, 61st Leg., p. 1785, ch. 595, § 1, to provide:

"In making the annual budget for County Administration expense, the County School Trustees shall make an allowance out of the State Available School Fund for the salary and expense of the County Superintendent and the same shall be determined by the resident scholastic population of the county, and the salary schedule as provided for in Section 1 of this Act. It shall be the duty of the County Board of Trustees to file the budget for County Administration expense with the State Department of Education on or before September first of each scholastic year, the budget to be approved and certified to by the County Board of Education and attested to by the County Superintendent. The compensation herein provided for shall be paid monthly upon the order of the County School Trustees; provided that the salary for the month of September shall not be paid until the County Superintendent presents a receipt from the office of the Chief State School Officer showing that he has made all reports required of him. The County Superintendent, with the approval and confirmation of the County Board of Education, may employ a competent assistant to the County Superintendent at an annual salary not to exceed Forty-five Hundred Dollars (\$4,500) and may employ such other assistants as necessary, provided the aggregate amount of the salaries of all assistants

to the County Superintendent shall not exceed Seven Thousand, Two Hundred Dollars (\$7,200) per annum; provided that the counties having a population of more than one hundred thousand (100,000) according to the last Federal Census may employ a competent assistant to the County Superintendent at a salary not to exceed Five Thousand Dollars (\$5,000) and may employ such other assistants as necessary provided that the aggregate amount of the salaries of all assistants shall not exceed Ten Thousand Dollars (\$10,000) annually; and said Board is hereby authorized to fix the salary of such assistants and pay same out of the same funds from which the salary and expense of the County Superintendents are paid; and the County Board of Education may make further provisions as it deems necessary for office and traveling expenses of the County Superintendent; provided that expenditures for office and traveling expenses of the County Superintendent shall not be more than One Thousand, Eighty Dollars (\$1,080) per annum, and shall not be paid except upon notarized claims made upon forms filed by the County School Superintendent, and approved by the County School Board.

"The office and traveling expenses of Supervisors may be paid from County Administration Funds, provided such expenses shall not exceed Fifty Dollars (\$50) per Supervisor per month for Supervisors under the supervision of the County School Superintendent under cooperative agreements within a given county for not to exceed nine (9) months."

Art. 2700e—1. Salaries of assistants in counties of 19,795 to 19,930; 39,300 to 39,400 and 45,400 to 45,600

(a) The first assistant to the county school superintendent is entitled to receive an annual salary of not more than \$6,000 in counties having a population, according to the last preceding federal census of more than 19,795 but less than 19,930, and more than 39,300 but less than 39,400, and more than 45,400 but less than 45,600.

(b) The aggregate annual salaries of all assistants to the county school superintendent shall not exceed \$8,800.

Acts 1967, 60th Leg., p. 135, ch. 69, § 1, eff. Aug. 28, 1967. Amended by Acts 1969, 61st Leg., p. 1800, ch. 603, § 1, emerg. eff. June 12, 1969.

Art. 2700e—3. Salaries of assistants in counties of 24,700 to 24,800

In any county having a population of not less than 24,700 nor more than 24,800, according to the last preceding federal census, the first assistant to the county school superintendent is entitled to receive an annual salary of not more than \$5,500. The aggregate annual salaries of all

assistants to the county school superintendent shall not be more than \$8,800.

Acts 1969, 61st Leg., p. 985, ch. 314, § 1, emerg. eff. May 23, 1969.

Title of Act: ent in certain counties; and declaring an emergency. Acts 1969, 61st Leg., p. 985, ch. 314.
 An Act relating to the annual salaries of assistants to the county school superintendent-

Art. 2700e—4. Salaries of assistants in counties of 18,500 to 18,800

Section 1. In counties having a population of not less than 18,500 nor more than 18,800, according to the last preceding federal census, the first assistant to the county school superintendent is entitled to receive an annual salary of not more than \$6,000.

Sec. 2. The aggregate annual salaries of all assistants to the county school superintendent shall not exceed \$8,800.

Acts 1969, 61st Leg., p. 996, ch. 320, eff. Sept. 1, 1969.

Title of Act: certain counties; and declaring an emergency. Acts 1969, 61st Leg., p. 996, ch. 320.
 An Act relating to compensation for assistants to the county superintendent in

Art. 2700e—5. Salaries of assistants in counties of 35,000 to 36,000 and 20,500 to 20,600

Section 1. (a) The first assistant to the county school superintendent is entitled to receive an annual salary of not more than \$6,000 in counties having a population, according to the last preceding federal census, of more than 35,000 but less than 36,000.

(b) The aggregate annual salaries of all assistants to the county school superintendent shall not exceed \$8,800.

(c) In counties having a population of more than 20,500 and less than 20,600, according to the last preceding federal census, the first assistant to the county school superintendent shall receive a salary not to exceed \$6,500. The aggregate annual salaries of all assistants to the county school superintendent shall not exceed \$13,000.

Acts 1969, 61st Leg., p. 1603, ch. 495, § 1, eff. Sept. 1, 1969.

Title of Act: intendent in certain counties; and declaring an emergency. Acts 1969, 61st Leg., p. 1603, ch. 495.
 An Act relating to the annual salary of assistants to the county school super-

Art. 2700e—6. Salaries of assistants in counties of 16,600 to 16,800 and 19,300 to 19,500

In counties having a population of more than 16,600 and less than 16,800, and in counties having a population of more than 19,300 and less than 19,500, according to the last preceding federal census, the first assistant to the county superintendent of public instruction is entitled to receive an annual salary of not more than \$4,400. However, the aggregate salaries of all assistants to the county superintendents may not exceed \$8,800 a year.

Acts 1969, 61st Leg., p. 1653, ch. 517, § 1, eff. Sept. 1, 1969.

Title of Act: certain counties; and declaring an emergency. Acts 1969, 61st Leg., p. 1653, ch. 517.
 An Act relating to the compensation for assistants to the county superintendent in

Art. 2700e—7. Salaries of assistants in counties of 19,500 to 19,600

The first assistant to the county school superintendent is entitled to receive an annual salary of not more than \$5,500 in counties having a population, according to the last preceding federal census, of more than 19,500 but less than 19,600.

Acts 1969, 61st Leg., p. 1740, ch. 573, § 1, eff. Sept. 1, 1969.

Title of Act: intendent in certain counties; and declaring an emergency. Acts 1969, 61st Leg., p. 1740, ch. 573.
 An Act relating to the annual salaries of first assistants to the county school super-

For Annotations and Historical Notes, see V.A.T.S.

Art. 2700e—8. Salaries of assistants in counties of 47,000 to 58,000

In any county having a population of not less than 47,000 nor more than 58,000, according to the last preceding federal census, the first assistant to the county school superintendent is entitled to receive an annual salary of not more than \$5,600. The aggregate annual salaries of all assistants to the county school superintendent shall not be more than \$7,200.

Acts 1969, 61st Leg., p. 1798, ch. 601, § 1, emerg. eff. June 11, 1969.

Title of Act: intendent in certain counties; and declaring an emergency. Acts 1969, 61st Leg., p. 1798, ch. 601.
An Act relating to the annual salaries of assistants to the county school super-

Art. 2700e—9. Salaries of assistants in certain counties

(a) The first assistant to the county school superintendent is entitled to receive an annual salary of not more than \$5,500 in counties having a population, according to the last preceding federal census, of:

- (1) more than 7,295 but less than 7,320;
- (2) more than 7,700 but less than 7,725;
- (3) more than 10,350 but less than 10,375;
- (4) more than 13,850 but less than 13,875;
- (5) more than 21,775 but less than 21,800;
- (6) more than 28,025 but less than 28,050;
- (7) more than 34,420 but less than 34,445; and
- (8) more than 39,800 but less than 39,825.

(b) The aggregate annual salaries of all assistants to the county school superintendent shall not exceed \$7,200.

Acts 1969, 61st Leg., p. 2455, ch. 822, § 1, emerg. eff. June 16, 1969.

Title of Act: intendent in certain counties; and declaring an emergency. Acts 1969, 61st Leg., p. 2455, ch. 822.
An Act relating to the annual salaries of assistants to the county school super-

Art. 2701. Repealed by Acts 1969, 61st Leg. p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

CHAPTER TWELVE—COUNTY UNIT SYSTEM

Acts 1969, 61st Leg., p. 2735, ch. 889, enacts a new Texas Education Code, and repeals enumerated existing Articles of the Texas Civil Statutes, effective September 1, 1969.

The new Code is published in a separate Special Pamphlet for convenient reference pending publication of a fully annotated edition in bound volume form as a unit of Vernon's Texas Codes Annotated.

Arts. 2703 to 2740. Repealed by Acts 1969, 61st Leg. p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

CHAPTER THIRTEEN—SCHOOL DISTRICTS

3. INDEPENDENT DISTRICTS IN
CITIES

- Art.
2775e—1. Election of trustees in counties of 18,000 to 18,500; terms of office [New].
- 2775e—2. Election of trustees of independent districts in counties of 8,605 to 8,615 [New].
4. TAXES AND BONDS
- 2784e—11. Maintenance tax for school districts in counties of 18,500 to 18,800 [New].
- 2784e—12. Maintenance tax for common school districts in counties of 70,000 to 75,000 [New].
- 2790d—13. Time warrants of independent districts; counties of 11,175 to 11,250 [New].
- 2790d—14. Time warrants of independent districts; counties of 687,000 to 688,000 [New].
- 2790d—15. Time warrants of independent districts in counties of 20,600 to 21,000 [New].

Art.

- 2790d—16. Time warrants of independent districts in counties of 7,380 to 7,450 [New].
- 2790d—17. Time warrants of independent districts containing a city of 5,217 to 5,250 [New].
- 2792c. Assessor-collectors of taxes and boards of equalization in certain common school districts [New].
- 2792d. Assessment and collection of taxes in certain common school districts [New].
7. JUNIOR COLLEGES
- 2815h—1b. Inclusion of territory within junior college district [New].
- 2815h—2a. Establishment of junior college districts by school districts in counties of 1,200,000 or more [New].
- 2815o—1c. Additional regents; appointment and election; terms [New].

1. COMMON SCHOOL DISTRICTS

Acts 1969, 61st Leg., p. 2735, ch. 889, enacts a new Texas Education Code, and repeals enumerated existing Articles of the Texas Civil Statutes, effective September 1, 1969.

The new Code is published in a separate Special Pamphlet for convenient reference pending publication of a fully annotated edition in bound volume form as a unit of Vernon's Texas Codes Annotated.

Arts. 2741 to 2742. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Art. 2742b. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Arts. 2742e—1, 2742f. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Prior to repeal, article 2742f was amended by Acts 1967, 60th Leg., p. 1106, ch. 487, § 1.

Art. 2742j. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

For Annotations and Historical Notes, see V.A.T.S.

Art. 2742m. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Arts. 2743, 2744. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Art. 2744b. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Arts. 2745 to 2753. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Arts. 2754 to 2756. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Arts. 2756b, 2756c. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

2. INDEPENDENT DISTRICTS IN TOWNS

Arts. 2757 to 2761a. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Arts. 2762, 2763. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Art. 2764. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Art. 2766. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Arts. 2767 to 2767f. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Art. 2767—1. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

3. INDEPENDENT DISTRICTS IN CITIES

Arts. 2768 to 2774. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Art. 2774c. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Art. 2775. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Art. 2775e—1. Election of trustees in counties of 18,000 to 18,500; terms of office

Section 1. This Act applies to consolidated independent school districts in any county having a population of not less than 18,000 nor more than 18,500 according to the last preceding federal census.

Sec. 2. All candidates for school trustee in any district to which this Act applies shall be voted upon and elected separately for positions on the board of trustees of the district. Each candidate shall be listed on the official ballot under the number of the position to which he seeks election. The official ballot shall have printed on it the following: "Official Ballot for the purpose of electing trustees," giving the name of the school district together with the designating number of each position to be filled and the list of candidates under the position to which each seeks election. Candidates shall be elected by plurality in accordance with the general election laws.

Sec. 3. Within 10 days from the date this Act takes effect, the trustees of each consolidated independent school district to which this Act applies shall, by lot or in some other mutually agreeable way, determine the position number held by each trustee. After this determination, any person offering himself as a candidate for trustee shall designate in the announcement of his candidacy, and in his request to have his name put on the official ballot, the number of the position for which he desires to become a candidate.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 4. At an election to be held on the first Saturday in April, 1969, positions one, two, and three on any school board to which this Act applies shall be filled for a term of one year; positions four and five shall be filled for a term of two years; and positions six and seven shall be filled for a term of three years. After the election held in 1969, two or three trustees, as applicable, shall be elected on the first Saturday in April of each year for a term of three years.

Sec. 5. The applications of candidates for a position on the ballot shall be filed, not less than 30 days prior to the day of the election, with the secretary of the board of trustees of the district. The application shall be in writing, shall designate the position to which the applicant seeks election, and shall be signed by the applicant. The names of the candidates for each position shall be arranged by lot by the board of trustees.

Sec. 6. The board of trustees of the district shall order and conduct the annual election of trustees. The order shall be made at least 10 days before the date of the election. The board shall post a notice of the order at three different places in the district. At the time of ordering an election, the board shall appoint three persons to hold the election, and shall designate the places where the polls shall be open. Elections shall be held in accordance with the general election laws, and returns shall be made to the board of trustees. The board of trustees shall canvass the returns, declare the result of the election, and issue certificates of election to the persons shown by the returns to be elected. The expenses of the election shall be paid by the school district.

Sec. 7. A board of trustees in a district to which this Act applies may not rescind the action by which it institutes the place system of electing trustees.

Acts 1969, 61st Leg., p. 20, ch. 9, emerg. eff. March 5, 1969.

Title of Act: consolidated independent school districts; and
An Act relating to the election and the declaring an emergency. Acts 1969, 61st
term of office of trustees of certain con- Leg., p. 20, ch. 9.

Art. 2775e—2. Election of trustees of independent districts in counties of 8,605 to 8,615

Section 1. The board of trustees of an independent school district in a county having a population of more than 8,605 but less than 8,615, according to the last preceding federal census, shall order that each trustee position be designated by number and that each candidate be designated on the official ballot by the number of the position sought.

Sec. 2. At least 60 days before an election which is to be governed by the provisions of this Act, the board of trustees must number the positions in the order in which the terms of office expire, the expiring terms which are to be filled at the first election to be numbered position 1, position 2, and so on, and the terms which are to be filled at the next succeeding election to take the next larger numbers, until all of the positions have been numbered. A candidate for a position must indicate the number of the position in his application for a place on the ballot. The names of the candidates for each position shall be arranged by lot on the official ballot. Candidates receiving a majority of the votes cast shall be entitled to serve as trustees.

Acts 1969, 61st Leg., p. 1484, ch. 443, eff. Sept. 1, 1969.

Title of Act: certain counties; and declaring an emergency.
An Act relating to the election of trustees of independent school districts in cer- Acts 1969, 61st Leg., p. 1484, ch. 443.

Arts. 2776. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Art. 2777. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Art. 2777—1. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735 ch. 889, repealing this Article, enacts the Texas Education Code.

Arts. 2778, 2779. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Arts. 2779b to 2781a. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Repealed article 2781a provided for consultation with teachers on matters of edu-

cational policy and conditions of employment, and was derived from Acts 1967, 60th Leg., p. 596, ch. 270.

Art. 2783. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Art. 2783c. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735 ch. 889, repealing this Article, enacts the Texas Education Code.

4. TAXES AND BONDS

Arts. 2784e, 2784e—1. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Art. 2784e—11. Maintenance tax for school districts in counties of 18,500 to 18,800

Section 1. The board of trustees of any school district in any county having a population of not less than 18,500 nor more than 18,800, according to the last preceding federal census, may levy and collect a tax, not to exceed \$2.50 per \$100 of valuation of taxable property, for the maintenance and use of the schools in the district.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 2. No tax may be levied or collected under the provisions of this Act until authorized by a majority of the qualified property taxpaying electors voting at an election held in the district.

Acts 1969, 61st Leg., p. 676, ch. 229, emerg. eff. May 16, 1969.

Title of Act:

An Act relating to the levy and collection of a maintenance tax in school districts in certain counties; and declaring an emergency. Acts 1969, p. 676, ch. 229.

Art. 2784e—12. Maintenance tax for common school districts in counties of 70,000 to 75,000

Section 1. In any county having a population of not less than 70,000 nor more than 75,000, according to the last preceding federal census, the commissioners court, for and on behalf of any common school district under its jurisdiction, may levy and collect a tax, not to exceed \$2.50 per \$100 assessed valuation, on all taxable property in the district for the maintenance and use of the schools in the district.

Sec. 2. No tax may be levied or collected under the provisions of this Act until authorized by a majority of the qualified property taxpaying electors voting at an election held in the district.

Acts 1969, 61st Leg., p. 2162, ch. 748, emerg. eff. June 12, 1969.

Title of Act:

An Act relating to the levy and collection of a maintenance tax in common school districts in certain counties; and declaring an emergency. Acts 1969, 61st Leg., p. 2162, ch. 748.

Arts. 2785 to 2786e. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

1969 Amendments

Article 2786e was both amended and repealed at the 1969 Regular Session. Chapter 245 which does the amending affects only section 3 Chapter 889 which does the repealing enacts the Texas Education Code and provides that any conflicting act passed at the same session prevails. Hence, the amended text, including other earlier amendments is set out, post, for possible use and application.

Section 3 of repealed article was amended by Acts 1969, 61st Leg., p. 706, ch. 245, § 1, to read:

No school district in the State of Texas shall issue such interest-bearing time warrants in excess of two percent (2%) of the assessed valuation of the district, for the year in which such interest-bearing time warrants are issued; nor shall the payment of such interest-bearing time warrants in any one year exceed the anticipated surplus income of the district for the year in which the warrants are issued, based on the budget of the district for said year, such anticipated income to be computed as follows:

The entire expected income of such school district from every source for the year in which such interest-bearing time warrants are issued, less teachers' salaries, bus aid included in the foundation fund, and that part of the local maintenance tax earmarked for salaries and known in the Gilmer-Aikin Law as the economic index or fund assignment. The anticipated income computation as herein defined shall be exclusive of all bond taxes.

No school district shall have outstanding at any one time warrants totaling in excess of Sixty Thousand Dollars (\$60,000) under the provisions of this Act.

Arts. 2787, 2787a. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Art. 2788. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Arts. 2789 to 2790. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Art. 2790d—13. Time warrants of independent districts; counties of 11,175 to 11,250

Section 1. (a) This Act applies to independent school districts with assessed valuations of \$5,000,000 or more in counties with a population of not less than 11,175 nor more than 11,250 according to the last preceding Federal Census.

(b) The board of trustees of an independent school district described in Subsection (a) of this Section, may, upon a determination that there is outstanding indebtedness resulting from general operating costs of the school district, make and enter an order in its minutes directing

(1) the issuing of time warrants sufficient to obtain funds for paying the outstanding indebtedness resulting from general operating costs of the district;

(2) the levying of a tax sufficient to pay the principal and interest on the warrants; and

(3) the creation of an interest and sinking fund.

(c) The board shall deposit in the sinking fund, created by the order referred to in Subsection (b) of this Section, an amount from each year's taxes sufficient to pay the principal of and interest on outstanding warrants when they become due and payable and the funds may only be used to pay the principal of and interest on the warrants.

(d) The board may pay the warrants serially or annually, but it shall pay the warrants not later than 10 years from the date the warrants are issued.

(e) The interest on the warrants is eight percent or less a year; however, the board may pay the interest semiannually.

(f) The president of the board shall sign the warrants and the secretary shall countersign them.

(g) The board may not sell the warrants for less than par value and accrued interest.

Acts 1969, 61st Leg., p. 150, ch. 53, emerg. eff. April 3, 1969.

Title of Act:

An Act relating to issuance of time warrants by certain independent school districts; and declaring an emergency. Acts 1969, 61st Leg., p. 150, ch. 53.

Art. 2790d—14. Time warrants of independent districts; counties of 687,000 to 688,000

Section 1. (a) This Act applies to independent school districts with an assessed valuation (in 1968) of not less than \$9 million nor more than \$10 million, in counties with a population of not less than 687,000 nor more than 688,000 according to the last preceding federal census.

(b) The board of trustees of an independent school district described in Subsection (a) of this section, may, upon a determination that there are insufficient funds to properly operate and maintain the district's schools, make and enter an order in their minutes directing

(1) the issuing of time warrants sufficient to obtain funds for operation and maintenance of the district's schools and payment of existing accounts already obligated for these purposes;

(2) the levying of a tax sufficient to pay the principal and interest on said warrants; and

(3) the creation of an interest and sinking fund.

For Annotations and Historical Notes, see V.A.T.S.

(c) The board shall deposit in the sinking fund, created by the order in Subsection (b) of this section, an amount from each year's taxes sufficient to pay the principal and interest on outstanding warrants when they become due and payable, and the funds may only be used to pay the principal and interest on the warrants.

(d) Said warrants shall be payable serially and annually for a period of years not to exceed 10, and shall bear interest at a rate not to exceed six percent per annum, with the option to call any part or all of said warrants for payment on any interest installment or paying date, and may provide for the payment of interest on a quarterly or semiannual basis.

(e) The president of the board shall sign the warrants and the secretary shall countersign them.

(f) The board may not sell the warrants for less than par value and accrued interest.

(g) The board may not issue warrants exceeding \$180,000.

(h) The board may not issue or execute a warrant after the expiration of two years from the effective date of this Act.

Sec. 2. Upon the issuance of any warrants provided for in this Act the affidavit of the president and secretary of the said board of trustees that said warrants have been issued in conformity with this Act, and the statement on the face of each such warrant so issued or executed that same are made in compliance with and under the authority of this Act, shall be prima facie evidence of the validity of said warrants.

Sec. 3. This Act shall not be construed as repealing any laws now in existence authorizing the issuance of interest-bearing time warrants, but this Act shall be cumulative of all said existing laws and Acts. Acts 1969, 61st Leg., p. 494, ch. 161, emerg. eff. May 8, 1969.

Title of Act:

An Act authorizing certain independent school districts to issue time warrants; and declaring an emergency. Acts 1969, 61st Leg., p. 494, ch. 161.

Art. 2790d—15. Time warrants of independent districts in counties of 20,600 to 21,000

Section 1. This Act shall apply to all independent school districts situated in counties having a population of not less than 20,600 and not more than 21,000 and containing a city within such district boundaries having a population of not less than 2,500 and not more than 2,650 according to the last preceding federal census, and having an approved tax roll assessment for said school district for the year 1968 of not less than \$12,500,000 and not more than \$14,375,000, and having a scholastic population of not less than 840 and not more than 880. If during the scholastic year the board of trustees of any such independent school district determines a need to repair or renovate school buildings; purchase school buildings; cause to be constructed new school buildings; purchase school furniture, furnishings, or equipment; equip school properties with necessary heating, water, sanitation, lunchroom, and electrical facilities; and said school district is financially unable out of available funds to make such repairs, renovations, purchases, or equip such school properties with said facilities, said board is hereby authorized to issue time warrants for the purpose of obtaining funds with which to repair or renovate school buildings; purchase school buildings; cause to be constructed new school buildings; purchase school furniture, furnishings, or equipment; equip school properties with necessary heating, water, sanitation, lunchroom, and electrical facilities. Said board shall authorize the issuance of said time warrants by appropriate order which order shall further create an interest and sinking fund into which there shall be deposited, out of each year's taxes while said

warrants are unpaid and in existence, a sufficient amount of money to pay the principal and interest on said warrants when the same become due and payable, and a tax, within the limits otherwise provided by law, shall be levied for the payment of the interest on and principal of such warrants. Said warrants shall be payable serially and annually for a period of years not to exceed five and shall bear interest at a rate not to exceed six percent per annum, with the option to call any part or all of said warrants for payment on any interest installment or paying date, and may provide for the payment of interest on a quarterly or semiannual basis. Said warrants shall be signed by the president of the board of trustees and countersigned by the secretary; provided, however, that their facsimile signatures may be printed or lithographed on any coupon, if any, attached to said warrants. Said warrants shall not be sold for less than par and accrued interest. Moneys placed in said interest and sinking fund shall be paid out only to pay the interest and principal requirements on said warrants. The aggregate amount of time warrants that may be outstanding as to unpaid principal shall never exceed \$80,000.

Sec. 2. The interest and principal requirements which shall mature during the district's fiscal year shall be reflected in the district's budget for that fiscal year.

Sec. 3. No warrants authorized to be issued or executed under this Act shall be issued or executed after the expiration of two years from the effective date of this Act.

Sec. 4. Upon the issuance of any warrants provided for in this Act the affidavit of the president and secretary of the said board of trustees that said warrants have been issued in conformity with this Act, and the statement on the fact of each such warrant so issued or executed that same are made in compliance with and under the authority of this Act, shall be prima facie evidence of the validity of said warrants.

Sec. 5. This Act shall not be construed as repealing any laws now in existence authorizing the issuance of interest-bearing time warrants, but this Act shall be cumulative of all said existing laws and Acts. Acts 1969, 61st Leg., p. 1742, ch. 575, emerg. eff. June 11, 1969.

Title of Act:

An Act relating to issuance of time warrants by certain independent school districts; and declaring an emergency. Acts 1969, 61st Leg., p. 1742, ch. 575.

Art. 2790d—16. Time warrants of independent districts in counties of 7,380 to 7,450

(a) This Act applies to independent school districts, located partly in three (3) or more counties, the supervision of said schools being located in counties having a population of not less than 7,380 nor more than 7,450 as shown by the last preceding Federal census.

(b) The board of trustees of an independent school district described in Subsection (a) of this Section, may, upon a determination that there is outstanding indebtedness resulting from general operating costs of the school district, make and enter an order in its minutes directing

(1) the issuing of time warrants sufficient to obtain funds for paying the outstanding indebtedness resulting from general operating costs of the district;

(2) the levying of a tax sufficient to pay the principal and interest on the warrants; and

(3) the creation of an interest and sinking fund.

(c) The board shall deposit in the sinking fund, created by the order referred to in Subsection (b) of this Section, an amount from each year's taxes sufficient to pay the principal of and interest on outstanding warrants when they become due and payable and the funds may only be used to pay the principal of and interest on the warrants.

For Annotations and Historical Notes, see V.A.T.S.

(d) The board may pay the warrants serially or annually, but it shall pay the warrants not later than 10 years from the date the warrants are issued.

(e) The interest on the warrants is eight percent or less a year; however, the board may pay the interest semiannually.

(f) The president of the board shall sign the warrants and the secretary shall countersign them.

(g) The board may not sell the warrants for less than par value and accrued interest.

Acts 1969, 61st Leg., p. 2464, ch. 828, § 1, emerg. eff. June 16, 1969.

Title of Act:

An Act relating to issuance of time warrants by certain independent school districts; and declaring an emergency. Acts 1969, 61st Leg., p. 2464, ch. 828.

Art. 2790d—17. Time warrants of independent districts containing a city of 5,217 to 5,250

(a) This Act applies to any independent school district having within its district boundaries a city having a population of not less than 5,217 nor more than 5,250 according to the last preceding federal census.

(b) The board of trustees of an independent school district described in Subsection (a) of this section, may, upon a determination that there is outstanding indebtedness resulting from general operating costs of the school district, make and enter an order in its minutes directing

(1) the issuing of time warrants sufficient to obtain funds for paying the outstanding indebtedness resulting from general operating costs of the district, in a total amount of not more than \$64,000;

(2) the levying of a tax sufficient to pay the principal and interest on the warrants; and

(3) the creation of an interest and sinking fund.

(c) The board shall deposit in the sinking fund, created by the order referred to in Subsection (b) of this section, an amount from each year's taxes sufficient to pay the principal of and interest on outstanding warrants when they become due and payable and the funds may only be used to pay the principal of and interest on the warrants.

(d) The board may pay the warrants serially or annually, but it shall pay the warrants not later than 10 years from the date the warrants are issued.

(e) The interest on the warrants is eight percent or less a year; however, the board may pay the interest semiannually.

(f) The president of the board shall sign the warrants and the secretary shall countersign them.

(g) The board may not sell the warrants for less than par value and accrued interest.

Acts 1969, 61st Leg., 2nd C.S., p. 158, ch. 46, § 1, emerg. eff. Sept. 19, 1969.

Title of Act:

An Act relating to the issuance of time warrants by certain independent school districts; and declaring an emergency. Acts 1969, 61st Leg., 2nd C. S., p. 158, c. 46.

Art. 2790e. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Arts. 2791 to 2792a. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code. Prior to repeal, this article was amended by Acts 1965, 59th Leg., p. 1579, ch. 685, § 1.

Art. 2792c. Assessor-collectors of taxes and boards of equalization in certain common school districts

Section 1. In all common school districts in this state having a scholastic population, according to the last preceding scholastic census, of 40 or more but less than 250 and an assessed valuation of \$100,000 or more but less than \$1,600,000 and located in a county having a total population of 63,000 or more but less than 70,000 according to the last preceding federal census, the board of trustees may, by a majority vote of the qualified property taxpaying electors in the district, at a regular election in the district or at a special election called for that purpose, appoint a tax assessor-collector and a board of equalization for the district.

Sec. 2. The board of trustees of each district may appoint a person they deem qualified to be assessor-collector of taxes, who shall assess the taxable property within the limits of the district within the time and manner provided by existing laws, insofar as they are applicable, and collect the tax. He shall receive compensation for his services as the board of trustees may allow. The assessor-collector shall give bond, to be executed by a surety company authorized to do business in the State of Texas, in an amount to be determined by the board of trustees which will in the opinion of the board be sufficient to adequately protect the funds of the school district. The bond shall be payable to the president of the board of trustees of the district, approved by the board, and conditioned on the assessor-collector depositing in the county depository to the credit of the common school district all funds coming into his hands by virtue of his office, and shall also be conditioned on the faithful discharge of his duties. In all matters regarding the assessment and collection of taxes by a common school district adopting the provisions of this Act, the laws relating to the assessment and collection of taxes in independent school districts shall govern insofar as they are not inconsistent with the provisions of this Act.

Sec. 3. The board of equalization of the common school districts shall be composed of three members appointed by the board of trustees. It shall be composed of legally qualified property taxpaying electors residing in the district and shall have the same power and authority and be subject to the same restrictions that now govern boards in independent school districts.

Acts 1969, 61st Leg., p. 493, ch. 160, emerg. eff. May 8, 1969.

Title of Act:

An Act authorizing boards of trustees of certain common school districts, upon a majority vote of the qualified property taxpaying electors of the district, to appoint an assessor-collector of taxes and a board of equalization for such district; providing the powers and duties of such assessor-collectors and boards of equalization; and declaring an emergency. Acts 1969, 61st Leg., p. 493, ch. 160.

Art. 2792d. Assessment and collection of taxes in certain common school districts

Section 1. In all common school districts in this state having a scholastic population, according to the last preceding scholastic census, of 65 or more but less than 149, and an assessed valuation of \$1,000,000 or more but less than \$2,300,000, and located in a county having a total population of 19,000 or more but less than 20,000, according to the last preceding federal census, the board of trustees shall be authorized, by a majority vote of the qualified property taxpaying voters in the district, at a regular election in the district or at a special election called for that purpose, to appoint a tax assessor-collector and a board of equalization for the district and levy, assess, and collect for maintenance purposes a tax not to exceed \$2.50 per hundred dollars of assessed valuation.

Sec. 2. The board of trustees of each such district may appoint such person as they deem qualified to be assessor-collector of taxes, who shall

For Annotations and Historical Notes, see V.A.T.S.

assess the taxable property within the limits of the district within the time and manner provided by existing laws, insofar as they are applicable, and collect such tax. He shall receive such compensation for his services as the board of trustees may allow. Such assessor-collector shall give bond, to be executed by a surety company authorized to do business in the State of Texas, in an amount to be determined by the board of trustees which will in the opinion of such board be sufficient to adequately protect the funds of the school district. Such bond shall be payable to the president of the board of trustees of the district, approved by the board, and conditioned on such assessor-collector's depositing in the county depository to the credit of such common school district all funds coming into his hands by virtue of his office, and shall also be conditioned on the faithful discharge of his duties. In all matters regarding the assessment and collection of taxes by common school districts adopting the provisions of this Act, the laws relating to the assessment and collection of taxes in independent school districts shall govern insofar as they are not inconsistent with the provisions of this Act.

Sec. 3. The board of equalization of such common school districts shall be composed of three members appointed by the board of trustees. It shall be composed of legally qualified property taxpaying voters residing in said district and shall have the same power and authority and be subject to the same restrictions that now govern such boards in independent school districts.

Acts 1969, 61st Leg., p. 496, ch. 162, emerg. eff. May 8, 1969.

Title of Act:

An Act relating to assessment and collection of taxes in certain common school districts; and declaring an emergency. Acts 1969, 61st Leg., p. 496, ch. 162.

Arts. 2793 to 2796. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code. Prior to repeal, this article was amended by Acts 1965, 59th Leg., p. 1579, ch. 685, § 2.

Arts. 2797 to 2799. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Arts. 2800 to 2802—1. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

1969 Amendments

Article 2802—1 was both amended and repealed at the 1969 Regular Session. Chapter 799 which does the amending affects only section 1. Chapter 889 which does the repealing enacts the Texas Education Code and provides that any conflicting act passed at the same session prevails. Hence, the amended text, including other earlier amendments is set out, post, for possible use and application.

Section 1 of repealed article 2802—1 was amended by Acts 1969, 61st Leg., p. 2361, ch. 799, § 1, to read:

Section 1. (a) Any independent school district of this State may contract with any competent attorney of this State for the collection of delinquent taxes of such independent school district, and he shall

receive for his services an amount not to exceed the same amount as allowed attorneys collecting delinquent taxes for the State and county.

(b) Any independent school district which contracts for the collection of delinquent taxes under Subsection (a) may use the contract form set out in this subsection.

CONTRACT FOR THE COLLECTION OF
DELINQUENT TAXES

THE STATE OF TEXAS

COUNTY OF _____

THIS CONTRACT is made and entered into by and between the _____, acting herein by and through its governing body, hereinafter called First Party, and _____, hereinafter styled Second Party.

I.

First Party agrees to employ and does hereby employ Second Party to enforce by suit or otherwise the collection of all delinquent taxes, penalty and interest owing to First Party, provided current year taxes falling delinquent within the period of this contract shall become subject to its terms on the first day of delinquency.

II.

Second Party is to call to the attention of the collector or other officials any errors, double assessments or other discrepancies coming under his observation during the progress of the work, and is to intervene on behalf of First Party in all suits for taxes hereafter filed by any taxing unit on property located within its corporate limits.

III.

First Party agrees to furnish delinquent tax statements to Second Party on all property within the taxing jurisdiction. Second Party will furnish forms for said statements on request and will assume responsibility for having penalty and interest computed on statements before such statements are mailed to property owners.

IV.

Second Party agrees to file suit on and reduce to judgment and sale the vacant and uninhabited property located within the taxing jurisdiction provided First Party will furnish the necessary data and information as to the name, identity, and location of the necessary parties, and legal description of the property to be sold. Second Party agrees to sue for recovery of the costs as court costs as provided by Article 7345b, Section 6, Revised Civil Statutes of Texas.

V.

Second Party agrees to make progress reports to First Party on request, and to advise First Party of all cases where investigation reveals taxpayers to be financially unable to pay their delinquent taxes.

VI.

First Party agrees to pay to Second Party as compensation for services required hereunder fifteen (15) percent of the amount collected of all delinquent taxes, penalty and interest of the years covered by this contract, actually collected and paid to the collector of taxes during the term of this contract as and when collected. All compensation above provided for shall become the property of the Second Party at the time payment of taxes, penalty and interest is made to the collector. The collector shall pay over said funds monthly by check.

VII.

This contract is drawn to cover a period of two years beginning _____ and ending _____, provided however that Second Party shall have an additional six months to reduce to judgment all suits filed prior to the date last mentioned. In consideration of the terms and compensation herein stated, Second Party hereby accepts said employment and undertakes the performance of this contract as above written.

VIII.

This contract is executed on behalf of First Party by the presiding officer of its governing body who is authorized to execute this instrument by order heretofore passed and duly recorded in its minutes.

WITNESS the signatures of all parties hereto in duplicate originals this the _____ day of _____ A.D. 196____,

THE
BY _____

Licensed Attorney at Law

(c) The Texas Education Agency shall upon request provide copies of the permissive contract set out in Subsection (b), and shall disseminate to all independent school districts information concerning the existence and use of the permissive contract form.

Arts. 2802e, 2802e—1. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Art. 2802e—5. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Repealed article provided for contracts by independent school districts for use of

stadiums and other athletic facilities, and was derived from Acts 1967, 60th Leg., p. 488, ch. 217.

For Annotations and Historical Notes, see V.A.T.S.

Art. 2802f—3. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Art. 2802i—18. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Art. 2802i—24. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Arts. 2802j, 2802k. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

1969 Amendments

Article 2802k was both amended and repealed at the 1969 Regular Session. Chapter 655 which does the amending affects only section 10 subsection c. Chapter 889 which does the repealing enacts the Texas Education Code and provides that any conflicting act passed at the same session prevails. Hence, the amended text, including other earlier amendments is set out, post, for possible use and application.

Repealed article 2802k, as enacted by Acts 1965, 59th Leg., p. 469, ch. 236, and amended by Acts 1969, 61st Leg., p. 1953, ch. 655, § 1, provided:

Application of act; creation of county-wide vocational school districts. Section 1. This Act is applicable to every county of this State. For the purpose of levying, assessing and collecting a County-Wide Vocational School Tax for the county-wide support of area vocational school programs hereinafter set forth and authorized and for such further administrative functions as are set forth herein, the territory of each of such counties is hereby created into a school district, hereinafter described as the County-Wide Vocational School District, this taxing power to be exercised as hereinafter provided.

Taxing power of school districts; election. Sec. 2. There shall be exercised in and for the entire territory of each of such counties to the extent in this Act prescribed, the taxing power conferred on school districts by Article VII, Section 3, Constitution of Texas; provided, such taxing authority shall not be exercised until and unless authorized by the qualified property taxpaying voters residing therein at an election to be held for that purpose as hereinafter provided.

Petition for election; notice; ballots; conduct of election; expenses. Sec. 3. a. Whenever a petition is presented to the county judge of any such county, signed by at least one hundred (100) qualified property taxpaying voters residing there-

in, asking for an election to be ordered for the purpose of determining whether or not a County-Wide Vocational School Tax shall be levied, assessed and collected on taxable property within said county for the support of area vocational school program(s) so designated by the Texas Central Education Agency pursuant to a State Plan for Vocational Education, and operated by local school district(s) in said county, not exceeding twenty cents (20¢) on the One Hundred Dollars (\$100) of assessed valuation of taxable property, it shall be the duty of the county judge immediately to order an election to be held throughout the county to determine said question. The finding of the county judge that such petition is sufficient and signed by the number of taxpaying voters required by this law shall be conclusive.

b. The county judge shall give notice of such election by publication of the election order in a newspaper of general circulation in said county once a week for at least two (2) weeks, the date of the first publication to be not less than twenty (20) days prior to the date fixed for holding said election. Further notice shall be given by the posting of a copy of said election order within the boundaries of each school district having territory in the county, and one copy of said notice shall be posted at county courthouse door, posted at least twenty (20) days prior to the date fixed for said election.

c. The ballots for such election shall have written or printed thereon the words: "For County-wide Vocational School Tax.

"Against County-Wide Vocational School Tax."

d. Except as otherwise provided herein, the manner of holding such election(s) shall be controlled by the General Laws of the State, and only legally qualified property taxpaying voters residing in the county who own taxable property in such county and who have duly rendered the same for taxation shall be qualified to vote at such election. The election shall be held at the regular polling places within the county with duly appointed election officers holding said election. The officers holding the election shall make returns thereof to the county judge within five (5) days after the same is held.

e. All expenses for such election shall be paid from the general fund of the county.

Canvass of returns; authority to levy and assess tax; revocation of tax. Sec. 4.

a. The commissioners court shall, within ten (10) days after holding such election, make a canvass of the results of said election. If a majority of the votes cast shall favor such tax, the court shall declare the results which shall be recorded in the minutes of the commissioners court, and certify same to the county tax assessor-collector. The commissioners court shall thereupon be authorized to levy said tax and the county tax assessor-collector shall be authorized to assess and collect the same.

b. No election to revoke said tax shall be ordered until the expiration of three (3) years from the date of the election at which such tax was adopted.

Annual levy and collection of tax; deposit of funds. Sec. 5.

a. It shall be the duty of the commissioners court, after such tax shall have been voted, at the time other taxes are levied in the county, annually to levy a tax under this law of not to exceed twenty cents (20¢) on the One Hundred Dollars (\$100) valuation in said county at the same rate of valuation as is assessed for State and county purposes. Such taxes shall be assessed by the tax assessor and collected by the tax collector as other taxes are assessed and collected.

b. The county tax assessor-collector shall deposit the money as collected from said tax to a separate fund in the county depository to be known as the County Vocational School District Fund, to be allocated and distributed for the support of area vocational school programs operated by designated school district or districts in the county. He shall have the same authority and the same laws shall apply as in the collection of other county ad valorem tax.

Duties of commissioners court. Sec. 6. As soon as the commissioners court of said county shall determine the total of assessed value of taxable property, which value shall be the same as those fixed by it as the Board of Equalization for State and County purposes, it shall then perform the following duties: (a) determine the estimated total receipts from the levying and collecting of said tax of not exceeding twenty

cents (20¢) on the property in such County-Wide District according to such valuation; (b) determine the estimated amount of money apportionable for the ensuing school year to school district or districts under the jurisdiction of the county, which operate designated area vocational school(s), on the formula basis hereinafter prescribed; (c) transmit a copy of the order fixing the estimated proportioned amount available, to the president of the board of trustees of each such designated school district or districts eligible therefor.

Apportionment of money; formula basis. Sec. 7. The money collected from any taxes levied by the commissioners court under this Act shall be distributed to such designated eligible school district(s) in the county to be apportioned on the following formula basis: The combined average daily membership (ADM) of students in vocational programs of designated area vocational school(s) as determined for the preceding school year divided into the average daily memberships in vocational programs of each such area vocational school; except that for the first year of operation the apportionment will be upon average daily membership (ADM) in grades 9 through 12 inclusive, determined for the preceding year, in all of the school districts operating designated area vocational school programs.

Monthly settlements with eligible independent school districts. Sec. 8. As and when said taxes are collected by the tax collector of the county, he shall make monthly settlements with the independent school districts eligible therefor and situated in such county, said moneys to be received and held by said independent school districts and protected in accordance with the existing depository laws. And the tax collector shall place to the credit of the common or other school districts using the county depository such moneys as are apportioned to them.

Alteration or enlargement of duties and powers of commissioners court. Sec. 9. Until and unless said County-Wide Vocational School Tax has been authorized by an election held in such county, the duties and powers of the commissioners court shall not be considered as having been changed, altered or enlarged by this Act.

Eligibility to attend school district operating vocational school program; tuition average daily attendance. Sec. 10. a. Irrespective of whether a County-Wide School District Tax has been voted: Any resident of the County-Wide Vocational School District who shall have attained the age of fourteen (14) years prior to September 1 shall be considered eligible to attend a school district in his county designated as operating an area vocational school program, provided he is accepted by such district as qualifying under its entrance requirements.

b. No tuition shall be charged any such eligible resident of the county enrolled in said area vocational school program, if the county has voted and collects said county-wide tax in support thereof.

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c. Any pupil under 21 years of age on September 1 and who has not completed the twelfth grade shall be eligible to be counted in average daily attendance (ADA) for Foundation School Program purposes by the designated area school district in accordance with policies of the Central Education Agency.

Provided, however, where such a pupil attends school in his home district a part of a day and attends part of a day in vocational class(es) offered only in a designated area vocational school district, his ADA shall be counted for the entire day in the home district; his state per capita, if any, to remain with the home district. Provided further, that such a pupil shall be eligible to be counted by the designated area vocational school district for purposes of vocational teacher unit allotments pursuant to the policies and formulas adopted by the State Board of Education.

d. Any eligible child residing in a school district which is under agreement with a neighboring school district designated to operate and accept such in its area vocational school program shall, on timely application of his parents for enrollment in the vocational program, be received by the designated area district free of tuition without the necessity of a formal transfer, any existing law to the contrary notwithstanding.

e. Any eligible child residing in a school district which is not listed under any agreement with a school district designated to operate and accept such in its area vocational school program may, on timely application of his parents for enrollment in its vocational program, be received by a

designated area district in his county or in an adjoining county if there is none in his county, on such terms as the receiving district may deem just and proper, without the necessity of a formal transfer, any existing law to the contrary notwithstanding.

f. Upon certification of the acceptance and vocational program enrollment of such children from one district to another, by the superintendent of the receiving district, the State Department of Education shall adjust its records to pay over directly the state per capita apportionment to the respective district in which such children are received and educated.

Changing duties or powers of school district trustees. Sec. 11. This Act shall not have the effect of changing any duties imposed or powers conferred on the trustees of any school district of this State except as expressly provided herein; it being the intention of this law that said respective boards of trustees shall continue to administer their lawful duties and powers as now authorized by law, that the County-Wide Vocational School Tax herein authorized, if voted, shall be levied by the commissioners court and assessed and collected by the county tax assessor-collector to be distributed and used for the purpose expressed herein.

Nor shall this law affect the right and duty of the respective local school districts of the counties to levy, assess and collect local maintenance and/or bond taxes authorized for local school district purposes by the property taxpayers in said respective districts.

5. ADDITIONS AND CONSOLIDATIONS

Art. 2803. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Prior to repeal, this article was amended by Acts 1967, 60th Leg., p. 427, ch. 193, § 1.

Arts. 2803a, 2803b. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Prior to repeal, article 2803b was amended by Acts 1967, 60th Leg., p. 1770, ch. 672, § 1.

Art. 2804. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Arts. 2805 to 2806. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Prior to repeal, article 2806 was amended by Acts 1965, 59th Leg., p. 101, ch. 37, § 1.

Arts. 2806e to 2815—1. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Prior to repeal, article 2806e was amended by Acts 1967, 60th Leg., p. 304, ch. 147, § 1.

6. DISTRICTS IN LARGE COUNTIES

Art. 2815g—60. Validation of districts; resolutions, orders and ordinances for separation from municipal control; bonds; boundaries

Section 1. All school districts of every kind and type whatsoever, including all types of junior and regional college districts, for the creation of which an election was held and at which a majority of the persons voting thereat voted in favor of such creation, are hereby validated in all respects as though they had been duly and legally created, established, and/or organized in the first instance, and the boundary lines and names of all such school districts are likewise validated. Without in any manner limiting the foregoing and in addition thereto, all resolutions, orders, ordinances, and other acts or attempted acts of all county boards of school trustees and county boards of education, commissioners courts, and county judges, in calling elections, declaring such districts created and/or declaring other matters relating to the proceedings in connection with such creations and/or elections, or in changing or attempting to change the boundaries of any school district of any kind or type whatsoever, including all types of junior and regional college districts, whether by rearrangement of boundaries or correction of boundary lines, by subdividing or detachment, by annexation or consolidation of all or part of one or more such school districts to or with all or part of one or more other such school districts, by grouping of such school districts, or otherwise, or in creating or attempting to create any such school district, or in abolishing or attempting to abolish any such school district, or in converting or attempting to convert any such school district into any other type of school district, are hereby validated in all respects, and all such boundary changes, creations, abolitions, and annexations, or attempts thereat, shall be valid as though they had been duly and legally accomplished in the first instance. The election of all members of the board of trustees of such school districts who have received favorable votes of a majority of the qualified electors voting at an election heretofore held is hereby in all things validated.

Sec. 2. All resolutions, orders, ordinances, and other acts or attempted acts of all governing bodies of all municipalities and of all governing bodies of all municipally controlled or assumed school districts and extended municipal school districts, in separating or divorcing or attempting to separate or divorce such schools or school districts from municipal control, jurisdiction, or authority, and/or of the governing bodies of all municipalities in annexing or attempting to annex any territory to any such municipally controlled, assumed, or extended school districts, are hereby validated in all respects, and all such separations or divorcements, and annexations, or attempts thereat, shall be valid as though they had been duly and legally accomplished in the first instance.

Sec. 3. All bonds, including both tax and revenue bonds, and including voted or authorized but undelivered bonds as well as outstanding bonds, and all voted bond taxes and voted maintenance taxes, of and in all school districts of every kind and type whatsoever, including all types of junior and regional college districts, and all bond, maintenance tax, and bond assumption elections heretofore held in all such school districts, together with all proceedings, resolutions, orders, ordinances, and other acts or attempted acts of the governing bodies or bond-issuing authorities of all

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such school districts, pertaining to, or attempting to issue or authorize, any such bonds, bond taxes, maintenance taxes, and bond assumptions, be and are hereby validated in all respects, and all such bonds, bond taxes, maintenance taxes, and bond assumptions shall be valid as though they had been duly and legally issued, authorized, or accomplished in the first instance.

Sec. 4. Nothing in this Act shall be construed as validating any boundary change made or attempted to be made by any ex parte order, resolution, or other act of the board of trustees of any school district, and this Act shall have no application to litigation pending in any court of competent jurisdiction in this state on the effective date hereof questioning the validity of any matters hereby validated if such litigation is ultimately determined against the validity of the same. Nor shall this Act apply to proceedings pending before the county boards of trustees, the State Commissioner of Education, or the State Board of Education on the effective date hereof questioning the validity of any matters hereby validated if such proceedings are ultimately determined against the validity of the same. Nor shall this Act apply to any district which has heretofore been declared invalid by a court of competent jurisdiction in this state or which may have been established and which was later returned to its original status.

Acts 1969, 61st Leg., p. 152, ch. 54, emerg. eff. April 3, 1969.

Title of Act:

An Act validating all school districts, including all types of junior and regional college districts, together with the boundaries and names thereof; validating the creation, abolition, and conversion of all such school districts, and all changes in boundaries in all such school districts; validating the election of certain members to boards of trustees; validating the annexation of territory and the divorcement or separation from municipal control in all municipally controlled school districts; validating all bonds, bond taxes, maintenance taxes, and bond assumptions and the elections authorizing same, of and in all school districts, including all types of junior and regional college districts; providing this Act shall not be construed as validating

any boundary change made or attempted to be made by any ex parte order, resolution, or other act of the board of trustees of any school district; providing that this Act shall have no application to litigation now pending questioning the validity of matters hereby validated, or to proceedings now pending before the county boards of trustees, State Commissioner of Education, or the State Board of Education, or to any district which has heretofore been declared invalid by certain courts, or to districts which may have been established and later returned to original status, providing such litigation or proceedings are ultimately determined against the validity of matters hereby validated; providing a saving clause; and declaring an emergency. Acts 1969, 61st Leg., p. 152, ch. 54.

7. JUNIOR COLLEGES

Art. 2815h. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

1969 Amendments

This article was both amended and repealed at the 1969 Regular Session. Chapters 294 and 770 which do the amending affect only sections 17 and 17(a). Chapter 889 which does the repealing enacts the Texas Education Code and provides that any conflicting act passed at the same session prevails. Hence, the amended text, including other earlier amendments is set out, post, for possible use and application.

Repealed article was amended as follows: Section 17 was amended by Acts 1969, 61st Leg., p. 2288, ch. 770, § 1; section 17(a) was amended by Acts 1969, 61st Leg., p. 880, ch. 294, § 1; section 19a was added by Acts 1965, 59th Leg., p. 296, ch. 129, § 2; section 21 was amended by Acts 1965, 59th Leg., p. 195, ch. 80, § 1, and Acts 1967, 60th Leg., p. 449, ch. 203, § 1; section 21a was repealed by Acts 1965, 59th Leg., p. 195,

ch. 80, § 2; section 21b was added by Acts 1965, 59th Leg., p. 991, ch. 478, § 1; and section 21c was added by Acts 1965, 59th Leg., p. 1091, ch. 523, § 1. As so amended, these sections of repealed article provided:

Maintenance of Union Junior College by contiguous districts. Sec. 17. Two or more contiguous independent school districts or two or more contiguous common school districts, or a combination com-

posed of one or more independent school districts, with one or more common school districts of contiguous territory, having a combined taxable wealth of not less than \$30,000,000.00 and having a scholastic population of not less than 3,000 the next preceding school year, may, by vote of the qualified voters of said territory, establish and maintain a Union Junior College. Any county or combination of contiguous counties in the state, having a taxable property valuation of not less than \$30,000,000.00, and having a scholastic population of not less than 3,000 the next preceding school year, may, by vote of the qualified voters of the proposed territory, establish and maintain a County or Joint County Junior College.

Scholastic enrollment of proposed district; waiver. Sec. 17(a). (1) Provided the proposed district may have less than seven thousand (7,000) scholastic enrollment, but not less than five thousand (5,000) in the next preceding school year, and where The Coordinating Board, Texas College and University System finds that the proposed district is in a growing section, and that there is a public convenience and necessity for such Junior College. Provided, further, that as to counties having a population of not less than twenty thousand (20,000) nor more than thirty thousand (30,000) inhabitants according to the last preceding Federal Census and having either (1) an existing Junior College which has been created, operated and maintained for at least twenty-five (25) years, or (2) a taxable property evaluation of One Hundred Million Dollars (\$100,000,000) or more, The Coordinating Board, Texas College and University System may waive the five thousand (5,000) scholastic enrollment requirement of this section, but in no case shall a proposed district qualify with less than four thousand, five hundred (4,500) scholastics.

(2) The proposed district may have less than seven thousand (7,000) scholastics but not less than two thousand (2,000) in the next preceding school year, if it is to consist of a county which does not have within its boundaries a state-supported senior college or university, or a public junior college district or portion of a district, and which has an assessed valuation of at least Sixty Million Dollars (\$60,000,000), and which has a population of not less than eight thousand (8,000) nor more than eight thousand, five hundred (8,500), according to the last preceding Federal Census, and which The Coordinating Board, Texas College and University System finds is in a growing section, and that there is a public convenience and necessity for such Junior College.

Removal of territory of school district from union junior college district lying wholly within one county. Sec. 19a. (a) Before the first election to authorize the levy of a tax for any purpose is held in a union junior college district lying wholly within one county, which district was created prior to the effective date of this Act, the territory of a school district lying

within the college district shall be removed therefrom, if

(1) a majority of the persons in any school district constituting a part of the union college district signing the petition praying for the creation of the college district filed a written request with the county board of education or, if none, with the commissioners court, asking that their names be removed from the petition, or otherwise signified their desire to nullify their signatures on the petition, prior to the date on which the election to create the college district was ordered; and

(2) the majority of the voters in the school district where the request for removal was requested, voting at the election to create the college district, voted against its creation.

(b) When the territory of a school district is removed from a college district as provided in Subsection (a) of this Section, the board of trustees of the college district, prior to entering an order calling an election to authorize the levy of a tax for any purpose, shall prepare an order redefining the boundaries of the college district and present the order to the commissioners court. The court, if satisfied with the accuracy of the order, shall enter the order in its minutes. The board of trustees shall send a copy of this order to the State Board of Education.

(c) The revised metes and bounds description of the boundary of the district shall be included in the order calling the following elections:

(1) each election on the question of levying a tax for any authorized purpose ordered within five years after the creation of the district;

(2) the first election on the question of levying a tax for any authorized purpose if that election is called more than five years after the creation of the district.

(d) Where the territory of a school district is removed under Section 19a of this Act, no review of feasibility and desirability shall be made and the college district shall be effective as created except with respect to its boundaries.

Annexation of adjacent territory to Junior College District. Sec. 21. Territory consisting of school districts or parts of school districts adjoining or lying adjacent to any Junior College District may be annexed to such Junior College District for Junior College purposes only by either of the following methods, to-wit:

(a) **By Contract:** Upon petition presented to the governing board of any Junior College District executed by all property owners of all property situated in the territory proposed for annexation, which petition shall contain a legally sufficient description of such territory proposed for annexation, the governing board of such Junior College District, if such board deems such annexation to be in the best interest of the District, shall enter an order authorizing the annexation of such territory by contract and, thereupon, shall enter into a

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written agreement duly executed and acknowledged by all persons, corporations, and entities owning property within such territory thereby effecting such annexation.

(b) By Election: Any such territory may be annexed to a Junior College District for Junior College purposes only by an election called upon petition of five percent (5%) of the property tax paying voters in the territory seeking to be annexed, said petition to contain a legally sufficient description of the territory proposed for annexation and to be presented to The County School Trustees of such County, or the County Board of Education, or to the County Commissioners Court of the County in case there be no County School Trustees or County Board of Education, together with a certified copy of an order by the governing board of the Junior College District affected approving the proposed annexation of such territory to the Junior College District for Junior College purposes only. The County School Trustees, or the County Board of Education, or the County Commissioners Court, shall issue an order for an election to be held in such territory proposed for annexation, said election to be held not less than twenty (20) days nor more than thirty (30) days from the date of said order and shall give notice of the date of such election by posting notices of such election in three (3) public places within such territory proposed for annexation. Only those legally qualified voters residing in such territory proposed for annexation shall be permitted to vote. The County School Trustees, or the County Board of Education, or the County Commissioners Court, shall, at a meeting held not more than five (5) days after said election, canvass the returns of such election, and if the votes cast therein show a majority in favor of such annexation, then the County School Trustees, the County Board of Education, or the County Commissioners Court, shall declare such territory annexed to the Junior College District for Junior College purposes only, and the said County School Trustees, or County Board of Education, or County Commissioners Court, shall cause a certified copy of such order to be transmitted to the governing board of said Junior College District.

At the next regular or special meeting of the governing board of the Junior College District to which territory has been annexed, such governing board shall, in the event of annexation by election, enter an order concurring in the order of the County School Trustees, County Board of Education, or County Commissioners Court, and, in any event, shall enter an order re-defining the boundary lines of the Junior College District as enlarged and extended and shall cause the same to be recorded upon the minutes of the governing board of said Junior College District.

Annexation of territory in counties of less than 10,000 population. Sec. 21b. (1) This Section applies to any junior college district

which is located wholly within a county having a population of less than 10,000 according to the last preceding federal census.

(2) By election upon a petition of five per cent of the property taxpaying voters of the county, all of the territory within the county, not lying within the boundaries of the district, may be annexed to the district for junior college purposes only.

(3) The petition shall be presented to the commissioners court of the county, together with a certified copy of an order by the board of trustees of the district approving the proposed annexation. Within 30 days after the petition is presented, the commissioners court shall issue an order for an election to be held in the county, and the election shall be held not less than 20 nor more than 30 days after the date of the order. The commissioners court shall give notice of the date of the election by posting notices at least 10 days before the date of the election. All legally qualified voters residing in the county shall be permitted to vote.

(4) At a meeting not less than five days after the election, the commissioners court shall canvass the returns of the election. If a majority of the votes cast are in favor of the annexation, then the commissioners court shall declare the territory annexed for junior college purposes only, and shall transmit certified copies of the order to the board of trustees of the district. The board of trustees shall make concurring orders and shall re-define the boundary lines of the district as enlarged and cause these to be recorded on the minutes of the board of trustees.

(5) Within 30 days after the annexation, the board of trustees shall order an election to be held in the district as enlarged, on the question of the levy and collection of taxes for the support and maintenance of the district as enlarged. No petition is required, and Chapter 70, Acts of the 50th Legislature, 1947, applies. If the district issued bonds prior to the annexation, and any of the bonds are outstanding at the time of the annexation, then the question of the assumption of the bonded indebtedness by the district as enlarged and the levy and collection of taxes in payment of the indebtedness shall also be submitted at the same election. The election for the levy and collection of taxes and assumption of bonded indebtedness shall be in accord with the general law relative to independent school districts, but no petition is necessary.

(6) If less than a majority of the votes cast at the election are in favor of the annexation, then the boundaries of the district remain the same as before the election, and no subsequent election may be held on the question within 30 days after the date of the election.

Annexation of territory in counties of less than 65,000 population. Sec. 21c. (1) This Section applies to any Junior College District which is located wholly within a county having a population of less than 65,000, according to the last preceding Fed-

eral Census, but only after reclassification of the Junior College as a public senior college has been approved by the Coordinating Board, Texas College and University System.

(2) By election upon a petition of 51 percent of the property taxpaying voters of the county who reside outside the Junior College District, all of the territory within the county, not lying within the boundaries of the District, may be annexed to the District for Junior College purposes only.

(3) The petition shall be presented to the Commissioners Court of the county, together with a certified copy of an order by the Board of Trustees of the District approving the proposed annexation. Within 30 days after the petition is presented, the Commissioners Court shall issue an order for an election to be held in the county, and the election shall be held not less than 20 nor more than 30 days after the date of the order. The Commissioners Court shall give notice of the date of the election by posting notices at least 10 days before the date of the election. All legally qualified voters residing in the county but outside the District shall be permitted to vote.

(4) At a meeting not less than five days after the election, the Commissioners Court shall canvass the returns of the election. If a majority of the votes cast are in favor of the annexation, then the Commissioners Court shall declare the territory

annexed for Junior College purposes only, and shall transmit certified copies of the order to the Board of Trustees of the District. The Board of Trustees shall make concurring orders and shall redefine the boundary lines of the District as enlarged and cause these to be recorded on the minutes of the Board of Trustees.

(5) Within 30 days after the annexation, the Board of Trustees shall order an election to be held in the District as enlarged, on the question of the levy and collection of taxes for the support and maintenance of the District as enlarged. No petition is required, and Chapter 70, Acts of the 50th Legislature, 1947, applies. If the District issued bonds prior to the annexation, and any of the bonds are outstanding at the time of the annexation, then the question of the assumption of the bonded indebtedness by the District as enlarged and the levy and collection of taxes in payment of the indebtedness shall also be submitted at the same election. The election for the levy and collection of taxes and assumption of bonded indebtedness shall be in accord with the General Law relative to Independent School Districts, but no petition is necessary.

(6) If less than a majority of the votes cast at the election are in favor of the annexation, then the boundaries of the District remain the same as before the election, and no subsequent election may be held on the question within six months after the date of the election.

Art. 2815h—1a. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Repealed article defined governing bodies of junior colleges, and was derived from Acts 1967, 60th Leg., p. 1107, ch. 488, § 1.

Art. 2815h—1b. Inclusion of territory within junior college district

Section 1. Any territory may be included within the boundaries of a junior college district, herein called "district," for junior college purposes, in the manner hereinafter specified; provided, the territory to be included is contiguous to the district in which such territory is to be included and has been laid out by the Coordinating Board, Texas College and University System, as a service area for assisting junior colleges.

Sec. 2. (a) Upon presentation of a petition, signed by 50, or a majority, whichever number is smaller, of the qualified electors residing in the territory proposed for inclusion in a district, to the governing body of the district requesting that the boundaries of the district be changed to include the territory described in said petition, such governing body may, in its discretion, order an election to be held within the boundaries of the entire district as proposed to be changed on the question of whether the boundaries of the district shall be changed to include the proposed territory. The ballots for such election shall have printed thereon "For" and "Against" boundary change.

(b) All qualified electors residing within the boundaries of the entire district as proposed to be changed shall be qualified to vote at such an election. The returns of any such election shall be canvassed by the governing body of the district and if a majority of persons residing in the district and voting at the election and a majority of the persons residing

in the territory proposed to be annexed and voting at the election vote for the boundary change, the governing body of the district shall, in its order canvassing such returns, declare the boundaries of the district changed to include the territory described in the petition theretofore presented to them. Such order may also include the name by which the district as changed shall be known.

Sec. 3. Except as otherwise provided herein, all elections held hereunder shall be governed by the provisions relating to bond elections held by independent school districts. The governing body of the district calling an election hereunder shall give notice of any such election by causing a substantial copy of its order calling the election to be posted in at least three public places within the boundaries of the district as proposed to be changed and published at least one time in a newspaper of general circulation within such boundaries. Provided, however, if any railroad right-of-way or other property is located within such territory, additional notice shall be given by certified mail, to the railroad company, at the address shown on the latest county tax roll. Such posting, such publication and such certified mail notice shall be done at least 30 days prior to the date on which the election is to be held. The order calling the election may provide that the entire district as proposed to be changed shall constitute one election precinct or such order may provide for more than one election precinct.

Sec. 4. At the next regular election held in the junior college district after territory is added to the district under this Act, the qualified electors shall elect a new board of trustees. To continue in office, members of the present board of trustees must be reelected at this election.

Sec. 5. This Act shall be cumulative of all other laws on the subject, but this Act shall be wholly sufficient authority within itself for the inclusion of territory in the boundaries of a district and the performance of the other acts and procedures authorized hereby, without reference to any other laws or any restrictions or limitations contained therein, except as herein specifically provided; provided, however, that the governing body of any district shall have the right to use the provisions of any other laws, not in conflict with the provisions hereof, to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this Act.

Acts 1969, 61st Leg., p. 2332, ch. 788, eff. Sept. 1, 1969.

Title of Act:

An Act authorizing territory to be included within the boundaries of a junior college district; providing a method to accomplish

such inclusion; enacting other provisions relating to the subject; prescribing a severability provision; and declaring an emergency. Acts 1969, 61st Leg., p. 2332, ch. 788.

Art. 2815h—2a. Establishment of junior college districts by school districts in counties of 1,200,000 or more

Establishment

Section 1. A school district having an assessed valuation of more than \$3,868,000,000 and located in a county having a population of 1,200,000 or more according to the last preceding federal census, may establish a junior college district as provided by this Act.

Petition; approval; election; bonds and taxes

Sec. 2. Upon petition by at least 10 percent of the qualified taxpaying voters of the school district and upon approval by the Coordinating Board, Texas College and University System, the board of trustees of the school district shall call an election to be held in the district on the proposition of whether the board shall be authorized to create a junior college district coextensive with the boundaries of the school district. At the same

election, the board shall submit the proposition of whether the junior college district may issue bonds and levy a tax of not to exceed 10 cents per \$100 on the assessed valuation of all taxable property situated within the district subject to school district taxation, to be used for the construction and equipping of junior college buildings and facilities, or the acquisition, refurbishing, remodeling, and equipping of existing buildings and facilities for junior college purposes, and to be used for the purpose of operating the junior college district.

Notice and conduct of election; divisions of district

Sec. 3. The board shall give notice of the election in the same manner as notice is given for other elections in the district. The notice shall specify the propositions to be voted on. The board shall form the election precincts, designate the polling places, appoint the election officers, provide for ballots, hold the election, canvass the returns, and declare the results in the same manner as in other district elections. Prior to such elections the board shall divide such Junior College District into seven (7) geographical divisions of equal population insofar as is practical and shall number each division.

The initial board of trustees shall be elected at large but each must reside in his geographical division.

Approval; resolution

Sec. 4. If both propositions submitted at the election are approved by majority votes, the board of trustees may by resolution establish a junior college district coextensive with the boundaries of the school district in the manner provided in Section 3 hereof.

Board of trustees; election; terms; vacancies; chairman

Sec. 5. (a) At the election provided for in Section 2 of this Act, seven trustees shall be elected to govern the junior college district. The seven candidates receiving a majority of votes shall be elected as trustees.

(b) A person seeking to be elected as a junior college trustee may have his name placed on the ballot in the same manner and according to the same rules that apply to candidates for the office of trustee of the school district. To be qualified for election to the office of junior college trustee, a person must have the same qualifications that are required for election to the office of trustee of the school district.

(c) Each person elected to the initial board of trustees of the junior college district holds office until the first Saturday in April of the third year following the year in which the junior college district is created. On that date the district shall hold the first regular election of trustees, and seven trustees shall be elected from the junior college district. Successors hold office for terms of four years. Each trustee holds office until his successor is elected and has qualified. Any vacancies shall be filled by a special election to be called by the board not more than 60 days after said vacancies occur, or if the next regular election is less than one (1) year from the date when the vacancy occurred, the vacancy or vacancies shall be filled at that election.

(d) At its first meeting after each election, the board shall elect a chairman from among its members.

Powers of board of trustees

Sec. 6. The board of trustees of a junior college district established under this Act has all the powers provided by law for boards of trustees of junior college districts except as otherwise provided by this Act.

Bonds

Sec. 7. Bonds may be issued by the district to cover the cost of acquiring land and constructing and equipping junior college buildings and

For Annotations and Historical Notes, see V.A.T.S.

facilities, or acquiring, refurbishing, remodeling, equipping existing buildings and facilities, and operating the junior college. Payment of principal and interest on the bonds may be made and guaranteed by the pledge of revenue derived from a tax levied by the district, not to exceed 10 cents on the \$100 assessed valuation, on all taxable property situated within the junior college district subject to school district taxation.

Funds or property

Sec. 8. The school district may provide funds or property for the purpose of operating the junior college.

General laws; application

Sec. 9. Except as otherwise provided by this Act, all general laws regulating junior college districts apply to junior college districts created under this Act.

Technical and vocational programs

Sec. 10. Any junior college created under the provisions of this Act may establish programs in technical and vocational education.

Higher Education Coordinating Act; application

Sec. 11. A junior college district created under this Act is subject to the provisions of the Higher Education Coordinating Act of 1965 and any future amendments of that Act (Article 2919e—2, Vernon's Texas Civil Statutes), except that the junior college may not be reclassified as a general academic teaching institution under that Act.

Acts 1969, 61st Leg., p. 2462, ch. 827, eff. Sept. 1, 1969.

Title of Act:

An Act relating to establishment of junior college districts by school districts or combinations of districts in certain counties;

providing for the powers of the governing board; providing for financing; and declaring an emergency. Acts 1969, 61st Leg., p. 2462, ch. 827.

Art. 2815h—3b. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Art. 2815h—5. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Arts. 2815h—8, 2815h—9. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Arts. 2815j—1, 2815j—2. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Art. 2815m. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

1969 Amendments

This article was both amended and repealed at the 1969 Regular Session. Chapter 702 which does the amending affects only section 1a. Chapter 889 which does the repealing enacts the Texas Education Code and provides that any conflicting act passed at the same session prevails. Hence, the amended text, including other earlier amendments is set out, post, for possible use and application.

Section 1a, added by Acts 1969, 61st Leg., p. 2046, ch. 702, § 1, provided:

Sec. 1a. (a) The Board of Trustees of a district may, by a majority vote of the Trustees, if a quorum is present and voting, adopt a numbered position system of electing members to the board.

(b) If the board adopts a numbered position system, candidates are voted on and elected separately for positions on the board according to the number of the position to which they seek election. The official ballots shall contain

(1) the phrase "Official Ballot for the Purpose of Electing Trustees";

(2) the name of the junior college district;

(3) the number of each position to be filled; and

(4) the list of candidates under the position to which they seek election.

(c) Within 10 days from the date of adoption of the numbered position system, the Trustees shall determine by lot which position each will hold on the board. The members in Class 1 shall draw for positions one and two; the members in Class 2 shall draw for positions three and four; and the members in Class 3 shall draw for positions five, six, and seven.

(d) A person desiring election to a numbered position on the board must, at least 30 days before the election, file with the Board of Trustees a written notice of his candidacy, designating the number of the position on the Board of Trustees for which he desires to become a candidate and requesting that his name be placed on the ballot. Each candidate who files notice is entitled to have his name printed on the official ballot beneath the number of the position designated in his notice. A person who fails to file the notice required by this section may not have his name printed on the official ballot. A candidate is eligible to have his name printed on the ballot under only one position to be filled at the election.

(e) In the election each voter may vote for only one candidate for each numbered position. The candidate receiving the most votes for each numbered position voted on in the election is entitled to serve as a Trustee on the board, in the position to which he is elected.

(f) Notice of an election in a district must be given in the manner and for the time required under the law authorizing the creation of the district, except where there is a conflict with the provisions of this Act, then this Act is controlling.

Art. 2815n—1. Administration of certain junior college districts with annexed school districts

Apportionment of trustees

Sec. 2. Members of the Board of Trustees of such Junior College District shall be elected from the original Junior College District and from a common and/or independent school district annexed thereto for Junior College purposes only on the following basis:

* * * * *

(2) Repealed by Acts 1969, 61st Leg., p. 58, ch. 22, § 2, eff. March 20, 1969.

Number of trustees

Sec. 3. Whenever the Board of Trustees of the Junior College District shall, under the provisions of Section 2 of this Act, reach a total number of eleven (11), additional members of said Board of Trustees shall not be elected until such time as the assessed valuation of the original Junior College District shall amount to the sum of Three Hundred Million Dollars (\$300,000,000), or the assessed valuation of the annexed areas shall amount to One Hundred and Fifty Million Dollars (\$150,000,000); thereafter, additional members of said Board of Trustees shall con-

For Annotations and Historical Notes, see V.A.T.S.

tinue to be selected from the original Junior College District and from an annexed district and from any annexed combination of districts included in the Junior College District at the time of the effective date of this amendment, by the use of the formula provided for in Section 2 of this Act; except, however, that Twenty-five Million Dollars (\$25,000,000) of taxable assessed value of property shall be used in said formula instead of the Ten Million Dollars (\$10,000,000) of assessed valuation provided for in Section 2 hereof; provided, however, that additional members of said Board of Trustees may be elected by the use of the formula provided in this Act from a district or a combination of districts which may be annexed to the junior college district after the effective date of this amendment, regardless of the assessed valuation of the original junior college district or the assessed valuation of the annexed areas.

Sec. 3 amended by Acts 1969, 61st Leg., p. 58, ch. 22, § 1, emerg. eff. March 20, 1969.

* * * * *
 Acts 1969, 61st Leg., p. 11, ch. 4 [S.B. No. 67], repealing subsec. (2) of section 2 and amending section 3 of this article, was repealed by Acts 1969, 61st Leg., p. 58, ch. 22, § 3, eff. March 20, 1969.

Arts. 2815o, 2815o—1. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Art. 2815o—1b. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Art. 2815o—1c. Additional regents; appointment and election; terms

Board of regents; districts operating under Article 2815o—1b

Section 1. From and after the effective date of this Act, those junior college districts now operating under Article 2815o—1b (Acts, 1963, 58th Legislature, Page 21, Chapter 15) and to which one, or more, school districts has been annexed for junior college purposes only, may, by a majority vote of the Board of Regents of the junior college district, choose to operate and be governed by a Board of Regents.

Additional regents; representation; vacancies; appointment

Sec. 2. Each school district which has been annexed to the junior college district for junior college purposes only shall be represented by at least one member of the Board of Regents. If the assessed tax rolls exceed \$67,500,000, the school district shall be represented by one member of the Board of Regents for each \$67,500,000 of assessed value, or a major fraction thereof, on the junior college tax roll, located within the school district. All new regents added to the Board of Regents under the provisions of this Act shall be appointed by the Board of Regents which orders the enlargement of the membership of such Board, and shall serve until election specified in Section 6 below. All vacancies on the Board of Regents shall be filled at once for the unexpired term only by appointments made by the remaining members of such Board.

Original district; representation

Sec. 3. The original junior college district shall be represented on the Board of Regents by a number of regents arrived at according to the same formula set out in Section 2.

Maximum number of regents

Sec. 4. The total number of members of the Board of Regents of the junior college district shall never exceed fourteen. When the valuation of the enlarged district increases to the point that the number of regents exceeds fourteen under the formula described in Sections 2 and 3, then the Board of Regents of the junior college district shall set a formula, based on proportional tax values, of representation, which will produce a total of fourteen members of the Board of Regents.

Terms of office; continuation in office; time of election

Sec. 5. The terms of office of the regents authorized by this Act shall be six (6) years. Those regents serving as regents at the effective date of this Act shall continue in office for the remainder of their respective terms and then until such time as their successors shall have been elected and qualified, and thereafter in each even-numbered year three (3) regents shall be elected from the area originally forming the junior college district to succeed those regents whose terms are expiring, but if the number of regents becomes more or less than nine, the formula set out in Section 6 shall be followed.

Terms of additional regents; election

Sec. 6. Where additional regents positions are provided under the terms of this Act the Board of Regents at the time of such authorization shall designate by resolution duly recorded in the minutes of such Board the term to be served by each such additional regent, provided that the first regent authorized and appointed shall serve only until the next regular regent election, the second such regent shall serve until the regent election two (2) years after the next regular regent election, and the third regent shall serve until the regent election four (4) years after the next regular regent election, with additional regents which may be authorized to follow the same rotation of terms until all terms of additional regents provided under the terms of this Act have been fixed to expire at the next regular regent election, or at the regent election two (2) years after the next regular regent election, or at the regent election four (4) years after the next regular election. Additional regents appointed to such terms and until such times as their successors shall have been elected and qualified, and thereafter the terms of such regents shall be for six (6) years.

Regent elections

Sec. 7. Regent elections in all parts of the districts affected by the provisions of this Act shall be held at the times and in the manner now provided for public junior colleges by General Law. The qualified voters residing in the school district represented shall be entitled to vote in such elections. Each regent to be elected shall be a resident of the school district he is to represent and each regent to represent the original College District shall be a resident of the original college district.

Cumulative effect

Sec. 8. The provisions of this Act shall be cumulative of existing laws governing elections of regents in public junior college districts. Acts 1969, 61st Leg., p. 842, ch. 279, emerg. eff. May 22, 1969.

Title of Act:

An Act authorizing additional regents for public and junior college districts presently operating under the provisions of Article 2815_o-1b (Acts of the 58th Legislature, Page 21, Chapter 15, Acts, 1963), which have been or may be enlarged by the addition of one or more school districts from

adjacent counties, fixing terms of regents; providing for election and appointment of regents; authorizing appointment to fill vacancies; providing said Act shall be cumulative of the existing laws; providing partial invalidity shall not affect remainder of Acts; and declaring an emergency. Acts 1969, 61st Leg., p. 842, ch. 279.

For Annotations and Historical Notes, see V.A.T.S.

Arts. 2815p—1 to 2815s—1. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Repealed article 2815q—2 provided for transfer of properties, etc. of county junior college districts upon creation of senior college, and was derived from Acts 1965, 59th Leg., p. 885, ch. 439.

Section 2 of repealed article 2815r was amended by Acts 1965, 59th Leg., p. 103, ch. 38, § 1.

Repealed article 2815r—2 authorized governing boards of junior college districts to construct and equip buildings and to acquire land therefor, and was derived from Acts 1959, 59th Leg., p. 420, ch. 207.

8. REGIONAL COLLEGE DISTRICTS

Arts. 2815t—1 to 2815t—3. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Repealed article 2815t—2 provided for abolition of a regional college district upon transfer of its properties to a senior college or university located in such district, and

was derived from Acts 1965, 59th Leg., p. 114, ch. 43.

Repealed article 2815t—3 authorized regional college districts which converted to fully state supported institutions of higher learning to transfer all assets to such institutions, and was derived from Acts 1967, 60th Leg., p. 81, ch. 41, § 1.

CHAPTER FOURTEEN—SCHOLASTIC CENSUS

Acts 1969, 61st Leg., p. 2735, ch. 889, enacts a new Texas Education Code, and repeals enumerated existing Articles of the Texas Civil Statutes, effective September 1, 1969.

The new Code is published in a separate Special Pamphlet for convenient reference pending publication of a fully annotated edition in bound volume form as a unit of Vernon's Texas Codes Annotated.

Art. 2816. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889 § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

1969 Amendments

This article was both amended and repealed at the 1969 Regular Session. Chapter 75 does the amending, and Chapter 889 which does the repealing enacts the Texas Education Code and provides that any conflicting act passed at the same session prevails. Hence, the amended text is set out, post, for possible use and application.

Repealed article was amended by Acts 1969, 61st Leg., p. 179, ch. 75, § 2, to read:

"A census of all children of scholastic age shall be taken by each school district of the state in January, 1970. The State Board of Education shall develop standards, regulations, and procedures for conducting a systematic census of all children of scholastic age resident in the several school districts of the state each five years beginning with 1970. Such rules and standards, regulations, and procedures shall provide for

the appointment of a census trustee in each district of the state on the first day of each November or as soon thereafter as is practicable in the year immediately preceding the year in which the census is to be taken. The census trustee, between the first day of January and the first day of February after his appointment, shall take a census of all children of scholastic age who are residents in the school district on said first day of February."

Arts. 2816a to 2818. Repealed by Acts 1969, 61st Leg., p. 179, ch. 75, § 4, eff. Sept. 1, 1969; Acts 1969, 61st Leg., p. 3042, ch. 889 § 2, eff. Sept. 1, 1969

1969 Amendments

Article 2817 was both amended and repealed at the 1969 Regular Session. Chapter 377 does the amending, and Chapter 889 which does the repealing enacts the Texas Education Code and provides that any conflicting act passed at the same session prevails. Hence, the amended text, including other earlier amendments is set out, post, for possible use and application.

Repealed article 2817 was amended by Acts 1969, 61st Leg., p. 1181, ch. 377, § 1, to read: Only children of the same family shall be listed on one form; and, if one person has under his control children of different family name, he shall use a separate form for each family name. The census trustee shall arrange the forms in alphabetical order, according to the family name of the children reported thereon. He shall also make, on a prescribed form, census rolls for the children of his district, showing the name, age, and sex of each child,

and the name of the parent, guardian or person having control of said child, by whom it is reported. He shall also make a summary of his rolls showing the number of such children of scholastic age. He shall make oath to all his rolls and summaries, and to the faithful and accurate discharge of his duties, and deliver said rolls, with the forms arranged in alphabetical order, to the county superintendent on or before April first next after his appointment.

Arts. 2819 to 2821. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

1969 Amendments

Article 2819 was both amended and repealed at the 1969 Regular Session. Chapter 75 does the amending, and Chapter 889 which does the repealing enacts the Texas Education Code and provides that any conflicting act passed at the same session prevails. Hence, the amended text, including other earlier amendments is set out, post, for possible use and application.

Repealed article 2819 was amended by Acts 1969, 61st Leg., p. 179, ch. 75, § 3, to read: The superintendent of schools in each school district of the state shall prepare an abstract copy of the census under oath on a form prescribed and provided by the Central Education Agency showing such

data, statistical and informational, concerning the census taken as may be requested by the agency. He shall, on or before May 1 following taking of the census, forward to the State Commissioner of Education such abstract.

Art. 2822. Repealed by Acts 1969, 61st Leg., p. 179, ch. 75, § 4, eff. Sept. 1, 1969; Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Art. 2822a. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

CHAPTER FIFTEEN—SCHOOL FUNDS

Acts 1969, 61st Leg., p. 2735, ch. 889, enacts a new Texas Education Code, and repeals enumerated existing Articles of the Texas Civil Statutes, effective September 1, 1969.

The new Code is published in a separate Special Pamphlet for convenient reference pending publication of a fully annotated edition in bound volume form as a unit of Vernon's Texas Codes Annotated.

Arts. 2823, 2824. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889 § 2, eff. Sept. 1, 1969

1969 Amendments

Articles 2823 and 2824 were both amended and repealed at the 1969 Legislative Sessions. Chapter 889 which does the repealing enacts the Texas Education Code and provides that any conflicting act passed at the same session prevails. Hence, the amended text, including other earlier amendments is set out, post, for possible use and application.

Repealed article 2823 was amended by Acts 1969, 61st Leg., p. 179, ch. 75, § 1 to read:

"a. Besides other available school funds provided by law, one-fourth of all occupation taxes levied and collected for the use of public free schools, exclusive of the delinquencies and cost of collections; the interest arising from any bonds or funds belonging to the permanent school fund, and all the interest derivable from the proceeds of the sale of land heretofore set apart for the permanent school fund which may come into the State Treasury; all moneys arising from the lease of school lands, and such an amount of state tax not to exceed 35 cents on the \$100 valuation of property, as may be from time to time levied by the Legislature, shall constitute the available school fund, which fund shall be apportioned annually to the several counties of this state, according to the scholastic population of each, for the support and maintenance of the public free schools.

b. Scholastic population defined. The term 'scholastic population' in Subsection a of this Act and when and wherever found in the several laws governing the apportionment, distribution and transfer of the state available school fund is hereby defined to mean and include all pupils within scholastic age enrolled in average daily at-

tendance the next preceding scholastic year in the public elementary and high school grades of school districts within or under the jurisdiction of a county of this state.

"c. The basis provided herein for the apportionment, distribution and transfers of the state available school fund shall be applicable to such fund to be apportioned for the year beginning September 1, 1969, and annually thereafter."

Repealed article 2824 was amended by Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 32, § 1, to read: "Each county may sell or dispose of the lands granted to it for educational purposes in such manner as may be provided by the commissioners court of such county and the proceeds of any such sale shall be invested in bonds of the United States, the State of Texas, the bonds of the counties of the state, and the independent or common school districts, road precinct, drainage, irrigation, navigation and levee districts in this state, the bonds of incorporated cities and towns, and in interest bearing bank time deposits with the bank having been designated the depository for any such county under the terms and conditions of said depository contract, and held by the county alone as a trust for the benefit of public free schools therein, only the interest thereon to be used and expended annually."

Arts. 2825 to 2827a. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Ex officio school superintendent and county school board in counties of 20,000 to 20,100, abolition of office and transfer of duties, see art. 2688m.

Art. 2827c. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Arts. 2828 to 2831. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Arts. 2832c to 2838. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Repealed article 2832c which constituted the School Depository Act of 1967 was derived from Acts 1967, 60th Leg., p. 1040, ch. 456.

CHAPTER SIXTEEN—FREE TEXTBOOKS

Acts 1969, 61st Leg., p. 2735, ch. 889, enacts a new Texas Education Code, and repeals enumerated existing Articles of the Texas Civil Statutes, effective September 1, 1969.

The new Code is published in a separate Special Pamphlet for convenient reference pending publication of a fully annotated edition in bound volume form as a unit of Vernon's Texas Codes Annotated.

Arts. 2839 to 2843a. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Arts. 2845 to 2858. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Arts. 2860 to 2876l. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Prior to repeal article 2876k had been amended by Acts 1965, 59th Leg., p. 223, ch. 94, § 1.

CHAPTER SEVENTEEN—TEACHERS' CERTIFICATES, SALARIES AND CONTRACTS

2A. CERTIFICATION OF TEACHERS

Art.

2891d. Student teaching centers [New].

1. ISSUANCE OF CERTIFICATES

Acts 1969, 61st Leg., p. 2735, ch. 889, enacts a new Texas Education Code, and repeals enumerated existing Articles of the Texas Civil Statutes, effective September 1, 1969.

The new Code is published in a separate Special Pamphlet for convenient reference pending publication of a fully annotated edition in bound volume form as a unit of Vernon's Texas Codes Annotated.

For Annotations and Historical Notes, see V.A.T.S.

Arts. 2877 to 2880. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Art. 2881. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Arts. 2883a, 2884. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Art. 2885. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

2. CLASSES OF CERTIFICATES

Arts. 2886 to 2889b. Repealed by Acts 1969, 61st Leg. p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Art. 2891a. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

2A. CERTIFICATION OF TEACHERS

Arts. 2891b, 2891c. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Prior to repeal, subsec. b of section 13 of article 2891b was amended by Acts 1967, 60th Leg., p. 562, ch. 250, § 1.

Repealed article 2891c provided for a program to encourage entry into teaching and teacher-training programs, and was derived from Acts 1967, 60th Leg., p. 874, ch. 379.

Art. 2891d. Student teaching centers

Section 1. To provide college students, facilities, and supervision for student teaching experience required by law as a prerequisite to the issuance of a valid Texas Teaching Certificate, it is necessary that joint responsibility among the colleges or universities approved for teacher education by the State Board of Education of this state, the Texas Public School districts, and the State of Texas be hereby established.

Sec. 2. The Central Education Agency, with the assistance of colleges, universities, and public school personnel, shall establish standards

for approval of public school districts to serve as Student Teacher Centers, and define the cooperative relationship between the college or university and the public school which serves the student teaching program.

Sec. 3. The approved public school district serving as a Student Teacher Center and the college or university using its facilities shall jointly approve or select the supervising teachers, employees of the district, to serve in the program and adopt an agreed continuing in service improvement program for said supervising teachers.

Sec. 4. There shall be paid to the public school district serving as a Student Teacher Center the sum of Two Hundred Dollars (\$200) for each supervising teacher, to be an additional increment for such additional services to the annual salary of each such supervising teacher. In addition there shall be paid to the district the sum of Fifty Dollars (\$50) per each supervising teacher usable to assist in meeting the costs incurred in providing facilities for student teaching. This total, Two Hundred Fifty Dollars (\$250) per supervising teacher, shall be paid from the Minimum Foundation Program Fund; this cost shall be considered by the Foundation School Fund Budget Committee in estimating the funds needed for Foundation School Program purposes. The total number of supervising teachers to receive the additional increment herein provided shall never exceed seventy per cent (70%) of the total number of student teachers enrolled in the practice teaching program.

Sec. 5. This Act shall take effect when Senate Bill No. 8 has been cited in a General Appropriations Bill, but in no event shall the Act become effective later than September 1, 1970.

Acts 1969, 61st Leg., p. 2587, ch. 861, eff. Sept. 1, 1969.

Sections 5a and 6 of the act of 1969 provided:

"Sec. 5a. In addition to the appropriation made from the Foundation School Fund by the General Appropriation Bill (or Bills) enacted by the 61st Legislature, and supplemental thereto, there is hereby appropriated for the biennium ending August 31, 1971, all moneys allocated to the Foundation Program Fund by Senate Bill No. 117, Chapter 335, Acts of the 51st Legislature, 1949 (Article 7083a, Section 2(4-a) V.T.C.S.), as amended, and any balances remaining in the Foundation School Fund at the end of each fiscal year to pay the state's part of the Foundation School Program as provided for in Senate Bill No. 116, Chapter 334, Acts of the 51st Legislature, Regular Session, 1949, as amended, by this Act.

"There is hereby specifically appropriated out of the moneys in the General Revenue Fund not otherwise appropriated the amount necessary for each month if on a monthly basis, or each year if on a yearly basis, for the fiscal years of the biennium ending August 31, 1971, to pay the full

amounts contemplated and provided by Senate Bill No. 117, Chapter 335, Acts of the 51st Legislature, Regular Session, as amended, should there be insufficient money in the Fund created by said Senate Bill No. 117 to carry out in full the purposes and provisions of said Senate Bill No. 117 and Senate Bill No. 116, *Supra*, as amended, by this Act. The above appropriation shall be expended under the terms and provisions of Senate Bill No. 116 and Senate Bill No. 117, as amended, and by the same officers named therein respectively.

"Sec. 6. If any section, subsection, sentence, clause, or phrase of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act."

Title of Act:

An Act providing for the implementation of a program of student teaching; providing for administration of program; financing of program; an effective date; a severability clause; and an emergency clause. Acts 1969, 61st Leg., p. 2587, ch. 861.

3. SALARIES

Arts. 2891—1, 2891—2. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Repealed article 2891—2 provided for salaries of teachers holding bachelor of laws

or doctor of jurisprudence degrees, and was derived from Acts 1967, 60th Leg., p. 1817, ch. 698, § 1.

Arts. 2891—3 to 2891—49. Reserved

4. CONTRACTS

Art. 2891—50. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

CHAPTER SEVENTEEN A—TEACHERS' PROFESSIONAL PRACTICES [NEW]

<p>Art. 2891—101. Responsibilities of the Teaching Profession.</p> <p>2891—102. Definitions.</p> <p>2891—103. Professional Practices Commission.</p> <p>2891—104. Powers and Duties of Commission; Adoption and Enforcement of Professional Standards.</p>	<p>Art. 2891—105. Powers and Duties of Commissioner of Education Regarding Complaints.</p> <p>2891—106. Hiring and Dismissal of Teachers; Standards of Conduct; Notice to Commission.</p> <p>2891—107. Appeals.</p>
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Art. 2891—101. Responsibilities of the Teaching Profession

Teaching is hereby declared to be and is recognized as a profession. The members of such profession shall accept responsibilities in development and promotion of high standards of ethics, conduct, and professional performance and practices of persons engaged in the practice of such profession in this state.

Acts 1969, 61st Leg., p. 1500, ch. 451, § 1, eff. Sept. 1, 1969.

Applicants for teachers' certificates, traffic in examination questions, see Vernon's Ann.P.C., art. 292.

Certification of teachers, see art. 2877 et seq.

Commissioner of education, see art. 2654—5.

State board of education, see arts. 2654—2, 2654—3.

Title of Act:

An Act declaring teaching to be a profession and providing for regulation of the conduct of persons engaged therein; defining certain terms; establishing the "Teachers' Professional Practices Commission"; authorizing said Commission to adopt and promulgate a "Code of Ethics and Standard Practices," regulating persons engaged in the profession of teaching; providing the Act shall not abridge the right of any cer-

tified teacher to become or decline to become a member of any professional association or organization; prescribing penalties for violation of the Code of Ethics and Standard Practices, and providing for hearings of charges and complaints of alleged violations thereof; providing for appeals from judgments and orders of the Commissioner of Education in such matters to the State Board of Education, and for judicial review of actions and orders of the State Board of Education; providing for trial de novo; providing for certain rights and duties of any duly elected Board of Education of any independent school district; providing that Commission members shall be privileged in utterances in discharge of their duties; declaring the Act to be severable; and declaring an emergency. Acts 1969, 61st Leg., p. 1500, ch. 451.

Art. 2891—102. Definitions

For the purpose of this Act, the following words, phrases, and terms shall have the meanings defined in this section.

"Teacher" means a superintendent, principal, supervisor, classroom teacher, counselor, or other professional employee who is required to hold a valid certificate or teaching permit.

"Commission" means the Teachers' Professional Practices Commission established by this Act.

"Code of Ethics and Standard Practices" means the rules, regulations and standards of conduct which have been adopted and promulgated by the Commission pursuant to Section 4 of this Act.

Acts 1969, 61st Leg., p. 1500, ch. 451, § 2, eff. Sept. 1, 1969.

Art. 2891—103. Professional Practices Commission

Subsection 1. There is hereby created a Teachers' Professional Practices Commission consisting of 15 members selected from the several professional groups, as follows:

- 3—elementary classroom teachers
- 3—secondary classroom teachers
- 2—counselors
- 1—elementary principal
- 1—secondary principal
- 1—supervisor
- 1—superintendent (1,000 or more teachers)
- 1—superintendent (less than 1,000 teachers)
- 1—junior college teacher
- 1—senior college teacher (engaged in teacher education)

To be eligible for membership on the Commission, a person must be actively engaged in teaching, fully certified for the position he holds, and must have at least five years teaching experience in Texas, including the two years immediately preceding nomination and appointment.

The members of the Commission shall be appointed by the Governor, subject to confirmation by the State Senate. The Governor shall request appropriate statewide professional organizations of teachers and/or school administrators to submit a list of three qualified nominees for vacancies within their respective professional groups on the Commission; such nominations shall be advisory.

Subsection 2. One-third of the members of the Commission first appointed shall be selected to serve for a term of one year; one-third to serve for a term of two years, and the remaining one-third for a term of three years; and members appointed for succeeding terms shall serve for terms of three years. No person shall serve for more than two consecutive terms as a member of the Commission. Members of the Commission shall serve without pay, but shall be reimbursed for their actual and reasonable traveling expenses in attendance on Commission meetings, and in attending meetings of committees of such Commission.

Subsection 3. The Commission shall annually select a chairman, vice chairman, and secretary. The Commission shall meet not less than three times each year in Austin at a place, time, and hour determined by the Commission (at least ten days notice in writing by chairman shall constitute proper notice). A majority shall constitute a quorum, and a majority of such quorum shall have authority to act upon any matter properly before the Commission. The Commission shall adopt its own rules of order and procedure not inconsistent with the Act and shall hold meetings pursuant to the provisions of this Act.

Acts 1969, 61st Leg., p. 1500, ch. 451, § 3, eff. Sept. 1, 1969.

Art. 2891—104. Powers and Duties of Commission; Adoption and Enforcement of Professional Standards

Subsection 1. After public hearings at which associations and individuals representing the teaching profession and other interested persons shall have full opportunity to submit and request adoption of all or part of the provisions of unofficial codes of ethics that have been adopted by state and national associations of members of the teaching profession, and to support, oppose, or request amendments to proposals, the Commission shall develop and adopt a "Code of Ethics and Standard Practices" which shall regulate and govern the conduct of members of the profession. The Code of Ethics and Standard Practices adopted by the Commission shall include standards of professional teaching practices and professional performance, and standards of ethical conduct of members of the teaching profession toward other members of the profession, parents, students, and the community. The professional stand-

For Annotations and Historical Notes, see V.A.T.S.

ards developed by the Commission shall be submitted by the Texas Education Agency to all active certificated professional personnel in a referendum to determine approval or disapproval of each individual standard and the Commission shall have available the results of the referendum and give them consideration before finally adopting the standards. The Commission shall likewise have power to revise or adopt amendments to the Code of Ethics and Standard Practices. The Code of Ethics and Standard Practices originally adopted by the Commission, and in like manner any amendment thereto or revision thereof, shall become effective on the first day of September following the expiration of 90 days after the full text of the professional standards so adopted by the Commission or the amendment or revision so adopted shall have been filed with the Commissioner of Education of the State of Texas. No professional standards disapproved in the referendum vote shall be adopted.

It shall be the duty of the Commissioner of Education on request of any member of the profession, licensed in this state, to furnish him a copy of the Code of Ethics and Standard Practices, together with amendments then in effect.

Subsection 2. A violation of any rule or provision of the Code of Ethics and Standard Practices adopted in conformity with this Act shall be deemed to be "unprofessional practice," which shall constitute grounds for suspension or revocation of the teaching certificate of the member, which grounds shall be additional to those specified in Article 2884, Revised Civil Statutes of Texas, 1925; or the member may be warned or reprimanded for such violation, if in the judgment of the Commissioner of Education the violation is not of sufficient gravity to require suspension or revocation of the teaching certificate.

Subsection 3. The Commission shall act in an advisory capacity to the State Commissioner of Education and to the State Board of Education in matters of interpretation and enforcement of the Code of Ethics and Standard Practices.

The Commission shall be authorized to receive written complaints from any certified teacher of alleged violation by any member of the profession of any rule or provision of the Code of Ethics and Standard Practices, and may hear the matter en banc, or may refer the matter to a committee of the Commission, composed of three of its members, for hearing, as it may order. Upon receipt of a complaint, the Commission shall give to the member against whom the complaint is made at least 15 days notice of the nature of the complaint, and the time and place at which the Commission, or a panel thereof, will hear the matter, such notice to be given by registered mail addressed to the member. At any hearing before the Commission, or before a panel of the Commission, the member complained of shall be entitled to produce witnesses in his behalf, and shall have a right to be represented by counsel. After hearing (which shall be private unless the party affected requests a public hearing), the Commission, or the hearing panel, shall make findings and recommendations whether the complaint shall be dismissed or whether the complaint shall be heard by the Commissioner of Education. The Commission or panel thereof hearing the matter shall file its recommendations with the Commissioner of Education and shall also file with him a transcript of any evidence presented before it.

Subsection 4. Members of the Commission shall be privileged in their utterances while acting in good faith in the course of their duties.

Subsection 5. Any certified teacher who violates the provisions of Chapter 135, Acts of the 50th Legislature, Regular Session, 1947,¹ shall be suspended by the Commissioner of Education.

Subsection 6. Nothing in this Act shall abridge the right of any certified teacher to join any professional association or organization, or to refuse to join any professional association or organization.

Acts 1969, 61st Leg., p. 1500, ch. 451, § 4, eff. Sept. 1, 1969.

¹ Article 5154c.

Art. 2891—105. Powers and Duties of Commissioner of Education Regarding Complaints

Subsection 1. In cases wherein the Commission, or the panel thereof hearing the matter, has recommended dismissal of the complaint, the Commissioner of Education may dismiss the complaint without further hearing. No appeal shall lie from the action of the Commissioner of Education in dismissing a complaint hereunder.

Subsection 2. In cases where the Commission, or the panel thereof hearing the matter, shall recommend suspension or revocation of the certificate of any member, the Commissioner of Education may dismiss the complaint on the basis of the record certified to him, or may set the matter for hearing and disposition by the Commissioner of Education; and from his final decision in the matter, after hearing, appeal shall lie to the State Board of Education. The party charged by the complaint may appeal the decision of the State Board of Education to the district court of the county of his residence. The trial on appeal in the district court shall be conducted de novo.

Subsection 3. Nothing in this section contained is intended to bind the Commissioner of Education to adopt the findings and recommendations of the Commission, or any panel thereof.

Subsection 4. The Commissioner of Education shall have power to adopt rules of procedure (subject to approval of the State Board of Education) for the conduct of hearings before him pursuant to this Act.

Acts 1969, 61st Leg., p. 1500, ch. 451, § 5, eff. Sept. 1, 1969.

Art. 2891—106. Hiring and Dismissal of Teachers; Standards of Conduct; Notice to Commission

Nothing in this Act shall abridge the right of any duly elected Board of Education of any independent school district to hire or dismiss any teacher, nor shall a board be prohibited from establishing any standard of conduct to be expected of any teacher. Provided, however, the superintendent or other person designated by the school board shall notify the Commission of any teacher dismissed for the violation of the Code of Ethics and Standard Practices established by a school board.

Acts 1969, 61st Leg., p. 1500, ch. 451, § 6, eff. Sept. 1, 1969.

Art. 2891—107. Appeals

In all appeals prosecuted in any of the courts of this state pursuant to the provisions of this Act, such trials shall be de novo as that term is used and understood in appeals from justice of the peace courts to county courts. When such an appeal is filed and the court thereby acquires jurisdiction, all administrative or executive action taken prior thereto shall be null and void and of no force and effect, and the rights of the parties thereto shall be determined by the court upon a trial of the matters in controversy under rules governing the trial of other civil suits in the same manner and to the same extent as though the matter had been committed to the courts in the first instance and there had been no intervening administrative or executive action or decision. Under no circumstances shall the substantial evidence rule as interpreted and applied by the courts of Texas in other cases ever be used or applied to appeals prosecuted under the provisions of this Act.

Acts 1969, 61st Leg., p. 1500, ch. 451, § 7, eff. Sept. 1, 1969.

For Annotations and Historical Notes, see V.A.T.S.

CHAPTER EIGHTEEN—COMPULSORY EDUCATION

Acts 1969, 61st Leg., p. 2735, ch. 889, enacts a new Texas Education Code, and repeals enumerated existing Articles of the Texas Civil Statutes, effective September 1, 1969.

The new Code is published in a separate Special Pamphlet for convenient reference pending publication of a fully annotated edition in bound volume form as a unit of Vernon's Texas Codes Annotated.

Art. 2892. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Prior to repeal article 2892 had been amended by Acts 1965, 59th Leg., p. 183, ch. 75, § 1.

Art. 2893. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

1969 Amendments

This article was both amended and repealed at the 1969 Regular Session. Chapters 289, 532 and 664 do the amending, and Chapter 889 which does the repealing enacts the Texas Education Code and provides that any conflicting act passed at the same session prevails. Hence, the amended text is set out, post, for possible use and application.

Prior to repeal article 2893 had been amended by Acts 1965, 59th Leg., p. 1020, ch. 504, § 1.

Repealed article was amended by Acts 1969, 61st Leg., p. 871, ch. 289, § 3, to read:

The following classes of children are exempt from the requirements of this law:

1. Any child in attendance upon a private or parochial school which shall include in its course a study of good citizenship.

2. Any child whose bodily or mental condition is such as to render attendance inadvisable, and who holds definite certificate of a reputable physician specifying this condition and covering the period of absence.

3. Any child who is blind, dumb or feeble-minded, for the instruction of whom no adequate provision has been made by the school district.

4. Any child living more than two and one-half miles by direct and traveled road from the nearest public school supported for the children of the same race and color of such child and with no free transportation provided.

5. Any child more than seventeen (17) years of age who has satisfactorily completed the work of the ninth grade, and whose services are needed in support of a parent or other person standing in parental relationship to the child, may, on presentation of proper evidence to the county superintendent, be exempted from further attendance at school.

Repealed article was amended by Acts 1969, 61st Leg., p. 1669, ch. 532, § 1, to read:

The following classes of children are exempt from the requirements of this law:

1. Any child in attendance upon a private or parochial school which shall include in its course of study of good citizenship, and shall make the English language the basis of instruction in all subjects.

2. Any child whose bodily or mental condition is such as to render attendance inadvisable, and who holds definite certificate of a reputable physician specifying this condition and covering the period of absence.

3. Any child who is blind, dumb or feeble-minded, for the instruction of whom no adequate provision has been made by the school district.

4. Any child living more than two and one-half miles by direct and traveled road from the nearest public school and with no free transportation provided.

5. Any child more than seventeen (17) years of age who has satisfactorily completed the work of the ninth grade, and whose services are needed in support of a parent or other person standing in parental relationship to the child, may, on presentation of proper evidence to the county superintendent, be exempted from further attendance at school.

Repealed article was amended by Acts 1969, 61st Leg., p. 1964, ch. 664, § 1, to read:

(a) The following classes of children are exempt from the requirements of this law:

1. Any child in attendance upon a private or parochial school which shall include in its course a study of good citizenship, and shall make the English language the basis of instruction in all subjects.

2. Any child whose physical or mental condition is such that attendance in regular classrooms or in special education facilities supported with tax funds is not feasible, and who holds definite certificate of a qualified physician specifying this condition and covering the period of absence.

3. Any child more than seventeen (17) years of age who has satisfactorily completed the work of the ninth grade, and

whose services are needed in support of a parent or other person standing in parental relationship to the child, may, on presentation of proper evidence to the county superintendent or to the superintendent of the school district in which the child resides, be exempted from further attendance at school.

(b) A child who is blind or deaf and who does not have adequate or appropriate educational facilities available in the area in which he resides shall be referred by the superintendent of the school district in which he resides to the Texas School for the Blind or the Texas School for the Deaf, for admission as appropriate to the child's disability. The governing board of every school district referring blind or deaf children to the Texas School for the Blind or the Texas School for the Deaf shall promptly notify the Central Education Agency of each referral made, and notice of referral shall include a statement setting forth the basis for the determination that the child could not be served adequately or appropriately in the area in which the child resides.

(c) On or before October 30 of each year preceding a regular session of the Legislature, the Central Education Agency shall furnish the Governor and the budget office of the Legislature with statistics relating to the number of children referred to or applying for admission to the Texas School for the Blind and the Texas School for the Deaf, the number of blind or deaf children actually being served by these schools, and the number of blind or deaf children who might be eligible for admission to these schools but whose admission has been delayed because of inadequate facilities at these schools.

(d) The governing board of any school district which contains children who are blind, deaf, mute or mentally retarded and which has failed to provide adequate services for these children shall report this fact, the number of children and the type of disability to the Central Education Agency each year at the time required by that agency.

Arts. 2894 to 2898a. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Repealed article 2898a, providing for appointment of liaison officers for court-related children, was derived from Acts 1967, 60th Leg., p. 1176, ch. 527, § 1.

CHAPTER NINETEEN—MISCELLANEOUS PROVISIONS

Art.

2906a. Hours of daily instruction; planning and preparation time for teachers [New].

2909c—3. Revenue bonds for permanent improvements at institutions of higher learning [New].

Art.

2919e—2.1 Medical and dental undergraduate education; contracts with Baylor University [New].

Acts 1969, 61st Leg., p. 2735, ch. 889, enacts a new Texas Education Code, and repeals enumerated existing Articles of the Texas Civil Statutes, effective September 1, 1969.

The new Code is published in a separate Special Pamphlet for convenient reference pending publication of a fully annotated edition in bound volume form as a unit of Vernon's Texas Codes Annotated.

Arts. 2899, 2899a. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Art. 2900. Repealed by Acts 1969, 61st Leg., p. 361, ch. 129, § 1, eff. Sept. 1, 1969; Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

For Annotations and Historical Notes, see V.A.T.S.

Art. 2900a. Repealed by Acts 1969, 61st Leg., p. 1669, ch. 532, § 2, eff. June 10, 1969; Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Arts. 2901 to 2904a. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Art. 2905. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Transfer of vocational rehabilitation functions of central education agency to commission for rehabilitation, see art. 2675I, § 13.

Arts. 2905b to 2906. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Repealed article 2905b, which related to vocational and other educational programs, was derived from Acts 1965, 59th Leg., p. 381, ch. 184.

Art. 2906a. Hours of daily instruction; planning and preparation time for teachers

Section 1. Public Schools shall be taught for not less than seven (7) hours each day including intermissions and recesses. Each teacher actively engaged in the instruction of children shall have at least one period of not less than forty-five (45) minutes within the scheduled school day for planning and preparation.

Sec. 2. The implementation of the provisions of this Act shall not result in a lengthened school day.

Acts 1969, 61st Leg., p. 1962, ch. 661, eff. Sept. 1, 1969.

Title of Act:

An Act providing that every teacher actively engaged in the instruction of children shall have planning and preparation time as defined herein; provided that imple-

mentation of this Act shall not result in a lengthened school day; and declaring an emergency. Acts 1969, 61st Leg., p. 1962, ch. 661.

Arts. 2906—1 to 2906—3. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Arts. 2908, 2908a. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Art. 2909. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Art. 2909b. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Art. 2909c—3. Revenue bonds for permanent improvements at institutions of higher learning

Section 1. The governing board (hereinafter called the "Board") of each state-supported Senior College and University of higher learning of the State of Texas shall be authorized and have the power to issue its revenue bonds for the purpose of providing funds to acquire, purchase, construct, improve, enlarge, and/or equip any property, buildings, structures, or other facilities, for and on behalf of its institution or institutions, or any branch or branches thereof, with said revenue bonds to be payable from and secured by liens on and pledges of all or any part of any of the revenues from any rentals, rates, charges, fees, or other resources of such Board, in the manner hereinafter provided. Said bonds may be issued to mature serially or otherwise within not to exceed fifty years from their date, and each Board may provide for the subsequent issuance of additional parity bonds, or subordinate lien bonds, under such terms or conditions as may be set forth in the resolution authorizing the issuance of said bonds. Said bonds, and any interest coupons appertaining thereto, shall be negotiable instruments (provided that such bonds may be issued registrable as to principal alone or as to both principal and interest), and shall be executed, and may be made redeemable prior to maturity, and may be issued in such form, denominations, and manner, and under such terms, conditions, and details, and may be sold in such manner, at such price, and under such terms, and said bonds shall bear interest at such rate or rates, all as shall be determined and provided by the Board in the resolution authorizing the issuance of said bonds. Proceeds from the sale of the bonds may be used for paying interest on the bonds during the period of the acquisition or construction of any facilities to be provided through the issuance of said bonds and for providing a reserve for the payment of the principal of and interest on the bonds. Such proceeds may be placed on time deposit or invested, until needed, to the extent, and in the manner provided, in the bond resolution. Each Board shall be authorized and required to fix and collect rentals, rates, charges, and/or fees from students or others for the occupancy, use and/or availability of all or any of its property, buildings, structures, or other facilities, in such amounts as will be sufficient, together with any other pledged resources, to provide for all payments of principal, interest, and any other amounts required in connection with any bonds issued under this Act, and, to the extent required by the resolution authorizing the issuance of said bonds, to provide for the payment of expenses in connection with said bonds and for the payment of operation, maintenance, and other expenses in connection with said property, buildings, structures, or facilities. Each Board shall be authorized to establish and enforce such parietal rules for students and others, and to enter into such agreements regarding occupancy, use, and availability, and the amounts and collection of pledged revenues, fees, or other resources, as will assure making all said required payments. Fees for the use or availability of all or any property, buildings, structures, or facilities, may be pledged to the payment of said bonds, and shall be fixed and collected from all or any designated part of the students enrolled in the institution or institutions, or any branch or branches thereof, in such manner as shall be determined and provided by the Board in the resolution authorizing the issuance of the bonds, and said fees may be collected in the amounts required herein, without regard to actual use or availability, commencing at the time designated by the Board. The aforesaid fees may be fixed and collected for the use by or availability to the

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students of any specifically described property, buildings, structures, or facilities; or said fees may be fixed and collected as general fees for the general use by or availability to the students of the institution or institutions, or any branch or branches thereof. Such specific and/or general fees may be fixed and collected, and pledged to the payment of any issue or series of bonds issued hereunder, in the amounts required herein, in addition to, and regardless of the existence of, any other specific or general fees at the institution or institutions, or any branch or branches thereof; provided that each Board may restrict its power to pledge such additional specific or general fees in any manner that may be provided in the resolution authorizing the issuance of any bonds issued hereunder, and provided that no such additional specific fees shall be pledged if prohibited by any resolution which authorized the issuance of any then outstanding bonds issued pursuant to any Texas statute. Each Board further shall be authorized to pledge to the payment of bonds issued under this Act all or any part of any resources of said Board, including tuition fees and charges at its institution or institutions, or any branch or branches thereof, to the extent that such resources, including tuition, are permitted to be pledged to the payment of revenue bonds authorized to be issued by the Board by any Texas statute other than this Act; and each Board shall be authorized to pledge to the payment of bonds issued under this Act all or any part of any grant, donation, or income received or to be received from the United States government or any other public or private source, whether pursuant to an agreement or otherwise.

Sec. 1-A. The bonds authorized by this Act are to be paid solely from the revenues received from the facilities or from funds specifically provided for that purpose from other sources and shall never be an obligation of the state.

Sec. 2. Any revenue bonds issued by any such Board under this Act, and any revenue bonds or notes issued by any such Board under any other Texas statute and payable from tuition fees and charges and/or any part of the use fees from or revenues of any property, buildings, structures, or facilities at the institution or institutions, or any branch or branches thereof, may be refunded or otherwise refinanced by such governing Board, and in such case all pertinent and appropriate provisions of this Act shall be applicable to such refunding bonds. In refunding or otherwise refinancing any such bonds or notes the governing Board may, in the same authorizing proceedings, refund or refinance bonds issued under this Act and bonds or notes issued pursuant to any other such Texas statute and combine all said refunding bonds and any other additional new bonds to be issued under this Act into one or more issues or series of bonds, and may provide for the subsequent issuance of additional parity bonds, or subordinate lien bonds, under such terms and conditions as may be set forth in said authorizing proceedings.

Sec. 3. All bonds permitted to be issued under this Act, and the appropriate proceedings authorizing their issuance, shall be submitted to the Attorney General of the State of Texas for examination. If he finds that such bonds have been authorized in accordance with this Act he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas; and after such approval and registration such bonds shall be incontestable in any court, or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes.

Sec. 4. All bonds issued under this Act shall be legal and authorized investments for all banks, trust companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, fiduciaries, trustees, and guardians, and for all interest and sinking funds and other public funds of the State of Texas and all

agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies and bodies politic. Said bonds also shall be eligible and lawful security for all deposits of public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of said bonds, when accompanied by any unmatured interest coupons appurtenant thereto.

Sec. 5. All revenue bonds heretofore approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas, which were issued, sold, and delivered by any Board, and which are payable from or secured by a pledge of any revenues, use fees, or other resources of such Board, together with all proceedings authorizing the issuance thereof, are hereby validated in all respects, and said bonds and proceedings shall be valid and binding obligations in accordance with their terms and conditions for all purposes.

Sec. 6. This Act shall be cumulative of all other laws on the subject, but this Act shall be wholly sufficient authority within itself for the issuance of the bonds and the performance of the other acts and procedures authorized hereby, without reference to any other laws or any restrictions or limitations contained therein, except as herein specifically provided; and when any bonds are being issued under this Act, then to the extent of any conflict or inconsistency between any provisions of this Act and any provision of any other law, the provisions of this Act shall prevail and control; provided, however, that any Board shall have the right to use the provisions of any other laws, not in conflict with the provisions hereof, to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this Act. Acts 1969, 61st Leg., p. 2264, ch. 763, eff. Sept. 1, 1969.

Title of Act:

An Act authorizing the governing board of each state-supported Senior College and University of higher learning of the State of Texas to issue its revenue bonds for the purpose of providing funds to acquire, purchase, construct, improve, enlarge, and/or equip any property, buildings, structures, or other facilities, for and on behalf of its institution or institutions, or any branch or branches thereof, with said revenue bonds to be payable from and secured by liens on and pledges of revenues, fees, or

other resources of such governing board; providing for revenue refunding bonds; providing that bonds are payable from revenues received from facilities or from funds specifically provided for that purpose from other sources; providing bonds will never be an obligation of the state; enacting other provisions relating to the subject; validating certain outstanding revenue bonds; prescribing a severability provision; and declaring an emergency. Acts 1969, 61st Leg., p. 2264, ch. 763.

Arts. 2910 to 2913. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

mute students. It was derived from Acts 1967, 60th Leg., p. 563, ch. 251, § 1.

Repealed article 2911b related to methods of instruction in teaching deaf and deaf-

Arts. 2915 to 2919. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Art. 2919e—2. Higher Education Coordinating Act of 1965

* * * * *

Secretary of board

Sec. 4a. The Board shall appoint a Secretary of the Board whose duties may be prescribed by law and by the Board.

Sec. 4a added by Acts 1969, 61st Leg., p. 537, ch. 184, § 1, emerg. eff. May 9, 1969.

* * * * *

Art. 2919e—2.1. Medical and dental undergraduate education; contracts with Baylor University

Section 1. Wherever used in this Act, the respective terms shall have the indicated meaning, unless context otherwise requires:

(a) "Coordinating Board"—the Coordinating Board, Texas College and University System.

(b) "bona fide Texas resident"—a person defined as a "resident student" by Article 2654c, Vernon's Texas Civil Statutes, as amended, and rules, regulations, and interpretations promulgated thereunder by the Coordinating Board or the Commission on Higher Education.

(c) "established public medical schools"—University of Texas Medical Branch and Southwestern Medical School.

(d) "undergraduate medical student"—a person enrolled for a regular schedule of courses in pursuit of a Doctor of Medicine degree.

(e) "scholastic year of disbursement"—a period of time commencing on September 1 of each calendar year and terminating on August 31 of the next succeeding calendar year. The first scholastic year of disbursement shall commence on September 1, 1970, and shall terminate on August 31, 1971.

(f) "average annual state tax support per undergraduate medical student enrolled at the established public medical schools"—an amount calculated by dividing the net general revenue appropriations to the established public medical schools for the fiscal year next preceding the scholastic year of disbursement by the total number of undergraduate medical students enrolled in those schools on October 15 of said fiscal year.

Sec. 2. The Coordinating Board is hereby vested with the right, power, and authority to contract with Baylor College of Medicine for the administration, direction, and performance of all services and provision, maintenance, operation and repair of all buildings, facilities, structures, equipment or materials necessary or proper to the education, training, preparation or instruction of bona fide Texas resident undergraduate medical students; provided, however, that nothing herein shall be construed to empower the Coordinating Board to limit, alter, modify, or in any other manner change or approve, or negotiate for changes in or approval of the administration, direction, and performance of such services or provision, maintenance, operation and repair of such buildings, facilities, structures, equipment or materials.

Sec. 3. A. In the exercise of the rights, powers, and authority described in Section 2 of this Act, the Coordinating Board may disburse to Baylor College of Medicine, during each scholastic year of disbursement, an amount equal to the average annual state tax support per undergraduate medical student at the established public medical schools multiplied by the number of bona fide Texas resident undergraduate medical students enrolled at Baylor College of Medicine; provided, however, that the Coordinating Board shall never disburse an amount exceeding the amount appropriated by the Legislature for this purpose.

B. Subject to the limitations described in Section 3A of this Act, the Coordinating Board is hereby granted the right, power, and authority to establish, by contract with Baylor College of Medicine, the method by

which the above-described disbursement shall be accomplished, and may prescribe such reasonable rules and regulations as are necessary to ascertain the average annual state tax support per undergraduate medical student at the established public medical schools.

Sec. 4. The Coordinating Board is also hereby vested with the right, power, and authority to contract with the Baylor University College of Dentistry to the extent it is owned by a nonprofit corporation distinct from the Baptist Church for the education, training, preparation or instruction of bona fide Texas resident undergraduate dental students enrolled for a regular schedule of courses in pursuit of a Doctor of Dentistry degree in the same manner as provided herein for medical students, including all powers with respect to the Coordinating Board and the Baylor University College of Medicine granted in this Act. For the purposes of this section The University of Texas Dental Branch at Houston shall be used to calculate the average annual state tax support per undergraduate dental student.

Sec. 5. The rights, powers, and authority granted herein shall not be subject to restriction, limitation, obligation or requirement provided in Section 15 of Article 2919e—2, or Articles 665 through 678—m, inclusive, of Vernon's Texas Civil Statutes, notwithstanding any other provision hereof.

Sec. 6. Nothing in this Act shall be construed to violate any provision of the Constitution of the United States of America or the Constitution of the State of Texas and all acts done hereunder shall be done in such manner as may conform thereto. If any word, phrase, clause, paragraph, sentence, part, portion or provision of this Act or the application thereof to any person or circumstances is held to be invalid or unconstitutional, the remainder of this Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion or provision. All of the terms and provisions of this Act are to be liberally construed to effectuate the purposes, powers, rights, functions, and authorities herein set forth.

Acts 1969, 61st Leg., p. 2227, ch. 759, eff. Sept. 1, 1969.

Title of Act:

An Act relating to the right, power, and authority of the Coordinating Board, Texas College and University System, to contract with the Baylor University College of Medicine to provide for the education of certain medical students, or to contract with

the Baylor University College of Dentistry to provide for the education of certain dental students, or to contract with both such institutions; providing for severability; and declaring an emergency. Acts 1969, 61st Leg., p. 2227, ch. 759.

Art. 2919e—3. Western Information Network Association and other regional information network associations

* * * * *

SUBCHAPTER B. THE WESTERN INFORMATION NETWORK ASSOCIATION

* * * * *

Powers and duties

Sec. 11. (a) The association may acquire, operate, and maintain, or obtain by contracting with any communications common carrier in accordance with its tariffs, a multichannel, two-way communications system, including closed-circuit television, linking classrooms, libraries, computer facilities, information retrieval systems, and communications facilities located at the member institutions.

For Annotations and Historical Notes, see V.A.T.S.

(b) The association may lease, acquire, operate, and maintain, or obtain by contracting with any communications common carrier in accordance with its tariffs, any facilities in addition to those described in Subsection (a) of this section, which the board considers necessary or desirable in carrying out the purposes of this Act.

(c) The association is authorized to lease (as lessor or lessee), acquire, operate, maintain, and equip a dormitory or dormitories located on or near the campus of any member institution of the association that is a state-supported institution of higher education, and to issue its revenue bonds therefor as hereinafter provided in this Act.

(d) The association may interchange educational information with private educational institutions, school districts, the United States Government and other parties engaged in education or participating in educational projects, and use the facilities of the association only in the exchange, retrieval, and transfer of information and the interchange of approval course offering and instruction between member-institutions and other parties engaged in education or participating in educational projects. Any dormitories leased, acquired, operated, and maintained by the association shall not be subject to the use limitation of this subsection that applies to all other facilities of the association.

Sec. 11 amended by Acts 1969, 61st Leg., p. 1699, ch. 555, § 1, eff. Sept. 1, 1969.

* * * * *

Principal office

Sec. 15. The board for Western Information Network Association shall maintain its principal office in Lubbock, Texas, at or near Texas Technological College. The boards for other regional information network associations created by the Coordinating Board, Texas College and University System, shall maintain their principal offices at locations designated by the Coordinating Board, Texas College and University System.

Sec. 15 amended by Acts 1969, 61st Leg., p. 1699, ch. 555, § 2, eff. Sept. 1, 1969.

Facilities

Sec. 16. Each member-institution shall furnish suitable space to the association for a classroom-studio, a lecture studio, and a control room. It may also furnish any additional physical plant facility needed by the association in carrying on its functions at the institution. Such facilities may with the approval of the association board and the governing body of the state-supported member institutions be located in a dormitory owned and operated by the association.

Sec. 16 amended by Acts 1969, 61st Leg., p. 1699, ch. 555, § 3, eff. Sept. 1, 1969.

* * * * *

SUBCHAPTER D. REVENUE BONDS AND RELATED MATTERS

Revenue bonds

Sec. 20. The board shall be authorized and have the power to issue its revenue bonds for the purpose of providing funds to lease (as lessor or lessee), acquire, purchase, construct, improve, enlarge, and/or equip any property, buildings, structures, or other facilities, including but not limited to dormitories, for and on behalf of said association, with said revenue bonds to be payable from and secured by liens on and pledges of all or any part of the revenues from any lease rentals, rentals, charges, fees, or other resources of such board or association in the manner here-

inafter provided. Said bonds may be issued to mature serially or otherwise within not to exceed 40 years from their date, and such board may provide for the subsequent issuance of additional parity bonds, or subordinate lien bonds, under such terms and conditions as may be set forth in the resolution authorizing the issuance of said bonds. Said bonds, and any interest coupons appertaining thereto, shall be negotiable instruments (provided that such bonds may be issued registrable as to principal alone or as to both principal and interest), and shall be executed, and may be made redeemable prior to maturity and may be issued in such form, denominations, and manner, and under such terms, conditions, and details, and may be sold in such manner, at such price, and under such terms, and said bonds shall bear interest at such rate or rates, all as shall be determined and provided by the board in the resolution authorizing the issuance of said bonds. Proceeds from the sale of the bonds may be used for paying interest on the bonds during the period of the acquisition or construction of any facilities to be provided through the issuance of said bonds and providing a reserve for the payment of the principal of and interest on the bonds. Such proceeds may be placed on time deposit or invested, until needed, to the extent, and in the manner provided, in the bond resolution. Such board shall be authorized and required to fix and collect lease rentals, rentals, rates, charges, and/or fees from students or others for the occupancy, use, and/or availability of all or any of its said property, buildings, structures, or other facilities, in such amounts as will be sufficient, together with any other pledged resources, to provide for all payments of principal, interest, and any other amounts required in connection with any bonds issued under this Act, and, to the extent required by the resolution authorizing the issuance of said bonds, to provide for the payment of expenses in connection with the issuance of said bonds and for the payment of operation, maintenance, and other expenses in connection with said property, buildings, structures, or facilities. Fees for the use or availability of all or any property, buildings, structures, or facilities, may be pledged to the payment of said bonds, and shall be fixed and collected in such manner as shall be determined and provided by the board in the resolution authorizing the issuance of the bonds. Such board further shall be authorized to pledge to the payment of bonds issued under this Act all or any part of any resources of said board or association to the extent that such resources are permitted to be pledged to the payment of such revenue bonds, and each board shall be authorized to pledge to the payment of bonds issued under this Act all or any part of any grant; donation, or income received or to be received from the United States Government or any other public or private source, whether pursuant to an agreement or otherwise.

Revenue refunding bonds

Sec. 21. Any revenue bonds issued by such board under this Act may be refunded, and in such case all pertinent and appropriate provisions of this Act shall be applicable to such refunding bonds. In refunding any such bonds the board may, in the same authorizing proceedings, refund bonds issued under this Act and may combine all said refunding bonds with any other additional new bonds to be issued under this Act into one or more issues or series of bonds, and may provide for the subsequent issuance of additional parity bonds, or subordinate lien bonds, under such terms and conditions as may be set forth in said authorizing proceedings.

Approval of bonds by Attorney General

Sec. 22. All bonds permitted to be issued under this Act shall be submitted to the Attorney General of the State of Texas for examination. If he finds that such bonds have been authorized in accordance

For Annotations and Historical Notes, see V.A.T.S.

with law, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas. After such approval and registration such bonds shall be incontestable for any reason and shall be valid and binding obligations in accordance with their terms for all purposes. If any of said bonds recite that they are secured partially or otherwise by a pledge of the proceeds of a contract or lease made between the board and another party or parties (public agencies or otherwise), a copy of such contract or lease and of the proceedings authorizing same may or may not be submitted to the attorney general along with the bond records, and, if so submitted, then the approval by the attorney general of the bonds shall constitute an approval of such contract or lease, and thereafter such contract or lease shall be incontestable.

Bonds are eligible investments

Sec. 23. All bonds issued under this Act shall be legal and authorized investments for all banks, trust companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, fiduciaries, trustees, and guardians, and for all interest and sinking funds and other public funds of the State of Texas, and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic. Said bonds also shall be eligible and lawful security for all deposits of public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of said bonds, when accompanied by any unmatured interest coupons appurtenant thereto."

Secs. 20–23 added by Acts 1969, 61st Leg., p. 1699, ch. 555, § 4, eff. Sept. 1, 1969.

Arts. 2919f, 2919g. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Arts. 2919h, 2919i. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

It was derived from Acts 1965, 59th Leg., p. 142, ch. 58, and Acts 1967, 60th Leg., p. 333, ch. 156, § 1.

Repealed article 2919i related to the use of protective eye devices in public schools.

CHAPTER NINETEEN A—RURAL HIGH SCHOOLS

Acts 1969, 61st Leg., p. 2735, ch. 889, enacts a new Texas Education Code, and repeals enumerated existing Articles of the Texas Civil Statutes, effective September 1, 1969.

The new Code is published in a separate Special Pamphlet for convenient reference pending publication of a fully annotated edition in bound volume form as a unit of Vernon's Texas Codes Annotated.

Art. 2922a. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Prior to repeal article had been amended by Acts 1967, 60th Leg., p. 545, ch. 240, § 1.

Art. 2922aa to 2922l. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Art. 2922l(1). Repealed by Acts 1969, 61st Leg., p. 510, ch. 175, § 4, eff. May 9, 1969; Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

See, now, art. 2696a.

Arts. 2922l(4) to 2922l(7). Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

CHAPTER NINETEEN B—STATE AID FOR RURAL AND SMALL TOWN SCHOOLS

Acts 1969, 61st Leg., p. 2735, ch. 889, enacts a new Texas Education Code, and repeals enumerated existing Articles of the Texas Civil Statutes, effective September 1, 1969.

The new Code is published in a separate Special Pamphlet for convenient reference pending publication of a fully annotated edition in bound volume form as a unit of Vernon's Texas Codes Annotated.

Art. 2922zz—1. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

CHAPTER TWENTY—TEACHERS' RETIREMENT

Art.

2922—1j. Uniform retirement age [New].
2922—1k. Microfilming of records [New].

TEACHERS' RETIREMENT SYSTEM [NEW]

Section 1. General Provisions

2922—1.01. Establishment and general provisions.
2922—1.02. Definitions and qualifications of terms.
2922—1.03. Membership.
2922—1.04. Termination of membership.
2922—1.05. Reciprocal service.
2922—1.06. Offenses against the retirement system.
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Section 2. Creditable Service

2922—2.01. Determination.
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Art.

2922—2.04. Military leave credits.
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Section 3. Benefits
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Section 4. Administration and Organization

2922—4.01. Establishment of accounts.
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Art.		Section 5. Severability
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2922—4.05.	Interest account.	2922—5.01. General application.
2922—4.06.	Expense account.	2922—5.02. Application to persons.
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Acts 1969, 61st Leg., p. 2735, ch. 889, enacts a new Texas Education Code, and repeals enumerated existing Articles of the Texas Civil Statutes, effective September 1, 1969.

The new Code is published in a separate Special Pamphlet for convenient reference pending publication of a fully annotated edition in bound volume form as a unit of Vernon's Texas Codes Annotated.

Art. 2922—1. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Acts 1967, 60th Leg., p. 525, ch. 229, § 1; Acts 1967, 60th Leg., p. 1833, ch. 710, §§ 1, 2.

Prior to repeal, this article was amended by Acts 1967, 60th Leg., p. 83, ch. 43, § 1; Acts 1967, 60th Leg., p. 134, ch. 68, § 1;

This article was amended by Acts 1969, 61st Leg., p. 109, ch. 41, § 1, to read as now set out in arts. 2922—1.01 to 2922—5.02.

Arts. 2922—1a to 2922—1h. Repealed by Acts 1969, 61st Leg., p. 127, ch. 41, § 2, eff. March 31, 1969; Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

and was derived from Acts 1967, 60th Leg., p. 33, ch. 14.

Repealed article 2922—1b was amended by Acts 1967, 60th Leg., p. 2055, ch. 759, § 1.

Repealed article 2922—1h provided for current membership service credit for military service during World War II and was derived from Acts 1967, 60th Leg., p. 1104, ch. 485.

Repealed article 2922—1g provided for supplemental service retirement benefits

See, now, art. 2922—1.01 et seq.

Art. 2922—1i. Optional retirement program for teachers and administrative personnel employed by state-supported institutions of higher education

* * * * *

Definitions

Sec. 2. As used in this Act, unless the context otherwise requires:

* * * * *

(c) "Institution of higher education" means an institution of higher education as defined under the provisions of Chapter 12, Acts, Regular Session, 59th Legislature (1965),¹ and including the Coordinating Board, Texas College and University System and James Connally Technical Institute, except the Rodent and Predatory Animal Control Service.

Sec. 2, subsec. (c) amended by Acts 1969, 61st Leg., p. 2297, ch. 774, § 1.

* * * * *

Withdrawal of Contribution to Retirement System

Sec. 6. A faculty member who elects or who has elected to participate in the Optional Retirement Program as provided under Section 5 may further elect to withdraw from the Retirement System his ac-

cumulated contributions as defined in Section 1, Chapter 470, Acts of the 45th Legislature, Regular Session, 1937, as amended (Article 2922—1, Vernon's Texas Civil Statutes), upon application in writing as prescribed by the State Board of Trustees and the applicable amounts shall be paid within twelve (12) months from date such application is received. Upon such withdrawal of funds, the faculty member shall thereby forfeit and relinquish all accrued rights as a member of the Retirement System.

Sec. 6 amended by Acts 1969, 61st Leg., p. 573, ch. 192, § 1, emerg. eff. May 14, 1969; Sec. 8 amended by Acts 1969, 61st Leg., p. 689, ch. 235, § 1, eff. Sept. 1, 1969.

* * * * *

¹ Article 2919e—2.

Art. 2922—1j. Uniform retirement age

The Board of Trustees of each public school district in Texas shall have full authority to establish a uniform retirement age for its professional and supportive personnel and notwithstanding any provision to the contrary. No district shall be required to retain any person in its employment after he reaches such prescribed age.

Acts 1969, 61st Leg., p. 512, ch. 176, § 1, emerg. eff. May 9, 1969.

Title of Act:

An Act providing that local school boards of all public school districts of Texas shall have authority to set a retirement age for its professional and supportive personnel; and declaring an emergency. Acts 1969, 61st Leg., p. 512, ch. 176.

Art. 2922—1k. Microfilming of records

Section 1. The Teacher Retirement System of Texas is hereby authorized to photograph, microphotograph or film all records pertaining to a member's individual file, accounting records, district report records and investment records, and whenever the Teacher Retirement System shall have photographed, microphotographed or filmed such records and whenever such photographs, microphotographs or films have been placed in conveniently accessible files and provisions made for preserving, examining and using the same, the Teacher Retirement System may cause the original record from which the photographs, microphotographs or films have been made to be disposed of or destroyed.

Sec. 2. (a) Photographs or microphotographs or films of any record photographed, microphotographed or filmed, as herein provided, shall have the same force and effect as the originals thereof would have had, and shall be deemed to be an original record for all purposes, including introduction in evidence in all courts or administrative agencies. Duly certified or authenticated copies of such photographs or microphotographs or films shall be admitted in evidence equally with the original photographs or microphotographs or films.

(b) The Executive Secretary of the Teacher Retirement System or his duly authorized representative is hereby authorized to certify to the authenticity of any photograph, microphotograph or film herein authorized and shall make such charges therefor as may be authorized by law. Such certified records shall be furnished to any person who is authorized by law.

Acts 1969, 61st Leg., p. 856, ch. 285, emerg. eff. May 22, 1969.

Title of Act:

An Act authorizing the Teacher Retirement System to photograph, microphotograph or film certain of its records; authorizing the destruction of original records; providing that such photographs, microphotographs or films shall be deemed original records for all purposes; authorizing the Executive Secretary or his designated representative to certify to the authenticity of any photograph, microphotograph or film herein authorized and to make such charges therefor as may be authorized by law; providing a savings clause; and declaring an emergency. Acts 1969, 61st Leg., p. 856, ch. 285.

TEACHERS' RETIREMENT SYSTEM [NEW]

SECTION 1. GENERAL PROVISIONS

Art. 2922—1.01 Establishment and general provisions

(a) The Teacher Retirement System of Texas established under the laws of this state shall be continued in corporate existence.

(b) Rights of membership in the Retirement System, its retirement privileges and benefits, and its management and operation shall be governed by the provisions of this Act.

(c) The Retirement System shall continue to be known as the Teacher Retirement System of Texas, and by this name all its business transacted, all its funds invested, and all its cash, securities, and other properties held.

(d) The Retirement System shall provide for the payment of retirement annuities and other benefits to employees and to beneficiaries of employees of the several departments, institutions, subdivisions and agencies now or hereafter comprising the public school system of this state.

(e) The Retirement System shall have the powers and privileges of a corporation as well as the powers, privileges and immunities conferred. Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

Art. 2922—1.02 Definitions and qualifications of terms

(a) In this Act, unless the context requires a different definition:

(1) "Retirement System" means the Teacher Retirement System of Texas as defined in Section 1.01 of this Act;

(2) "public school" means any educational institution or organization in this state which under the laws of Texas is entitled to be supported wholly or partly by state, county, school district, or other municipal corporation funds;

(3) "teacher" means any person employed to render teaching service on a full-time, regular salary basis by the governing board of any school district created under the laws of this state, by any county school board, by the State Board of Trustees of the Retirement System, by the State Board of Education, by the Central Education Agency, by the board of regents of any college or university, or by any other legally constituted board or agency of any public school;

(4) "teaching service" means service rendered in organized public education in this state in professional or business administration, or in supervision or instruction;

(5) "auxiliary employee" means a person other than a "teacher" employed on a full-time, regular salary basis by the boards or agencies listed in Subsection (a) (3) of this section;

(6) "teaching" or "taught" means all regular services rendered by teachers and auxiliary employees which contribute directly or indirectly to instruction offered in the public schools of this state;

(7) "employer" means the State of Texas or any of its designated agents or agencies responsible for public education, to include those boards and agencies listed in Subsection (a) (3) of this section;

(8) "member" means any teacher or auxiliary employee included in the membership of the Retirement System in accordance with this Act;

(9) "State Board of Trustees" means the board established to administer the Retirement System under the terms of this Act;

(10) "service" means service as a teacher or auxiliary employee in the public schools of this state, or in one of the other departments, institutions, or agencies of the public school system of Texas;

(11) "prior service" means service by such person as a teacher or auxiliary employee prior to

(A) September 1, 1937, as relates to any person who became a member or who at any time on or before August 31, 1949, was eligible for membership in the Teacher Retirement System; or

(B) September 1, 1949, as relates to any person who for the first time became eligible for membership in the Teacher Retirement System on or after September 1, 1949;

(12) "membership service" means service rendered as a teacher or auxiliary employee while a member of the Retirement System;

(13) "creditable service" means the prior service, membership service, and military leave service for which a member of the Retirement System is entitled to credit under the provisions of this Act;

(14) "accumulated contributions" means the sum of all the amounts deducted from the compensation of a member and credited with the authorized interest to his individual account in the member savings account;

(15) "annual compensation" means the compensation that is paid or payable to a teacher or auxiliary employee by his employers for service during a school year, except that compensation in excess of \$25,000 for school years after September 1, 1969, and compensation in excess of \$8,400 for the school years prior to September 1, 1969, shall not be included as annual compensation;

(16) "military duty" means

(A) active duty in the Armed Forces of the United States during World War I or a period within 12 months thereafter;

(B) active duty in the Armed Forces of the United States during World War II or a period within 12 months thereafter; and

(C) any active duty, while a member of the Retirement System, in the Armed Forces or Reserve Components of the United States or any of their auxiliaries, or the American Red Cross, or the Federal Bureau of Investigation, or as a civil service librarian under a war-service appointment, and during either a period when the United States was or is at war or involved in a police action with foreign powers, as defined by the State Board of Trustees in accordance with this Act, or a period within 12 months thereafter;

(17) "retirement" means withdrawal from service with a retirement benefit or allowance granted under the provisions of this Act;

(18) "beneficiary" means any person receiving an annuity, retirement benefit or allowance, or other benefit provided in this Act;

(19) "designated beneficiary" means any person nominated by a member to receive in case of the member's death any benefit payable after such death under the provisions of this Act;

(20) "standard annuity" means an annuity payable in equal monthly installments, aggregating in 12 months:

(A) one and sixty-five one-hundredths percent (1.65%) for each year of prior service credit multiplied by the member's "best-ten-years-average compensation"; plus

(B) one and sixty-five one-hundredths percent (1.65%) for each year of membership service multiplied by the member's "best-ten-years-average compensation";

(21) "best-ten-years-average compensation" means the average annual compensation received by the member as a teacher or as an auxiliary employee during the ten years of creditable service (whether or not consecutive) in which the member earned the highest annual compensation. For school years prior to September 1, 1969, compensation in excess of \$8,400 shall be excluded in calculating the best-ten-years-average compensation, and for school years after September 1, 1969, compensation in excess of \$25,000 shall be excluded in calculating the best-ten-years-average compensation;

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(22) "school year" means the year beginning on or about September 1 of any calendar year and ending August 31 of the following calendar year; and

(23) "actuarial equivalent" of any benefit means a benefit of equal monetary value when computed upon the basis of annuity or mortality tables adopted by the State Board of Trustees and interest or discount at the rate of three percent per annum compounded annually.

(b) In case of doubt, the State Board of Trustees of the Retirement System shall determine whether a person is a "teacher" or "auxiliary employee" within the contemplation of this Act.

(c) In cases where the annual compensation includes maintenance, the State Board of Trustees shall fix the value of that part of the compensation not paid in money.

Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

Art. 2922—1.03 Membership

(a) All persons who on the effective date of this Act were members of the Teacher Retirement System of Texas shall continue as members subject to the provisions of this Act except as provided in Chapter 729 (S. B. 292), 60th Texas Legislature, Regular Session, 1967.

(b) Every person who may be employed as a teacher or auxiliary employee in any public school or other branch or unit of the public school system of this state shall become a member of the Retirement System as a condition of his employment. This subsection shall not apply to require membership of any person who

(1) has heretofore, pursuant to authority of former laws, executed and filed a waiver of membership in the Retirement System; however, any such person may elect to become a member at the beginning of any school year, but shall not be entitled to credit for prior service unless payments for the waived service are made as provided in Section 2.05 of this Act; or

(2) was or may be for the first time employed as a teacher or auxiliary employee, and who at such time was or may be more than 60 years of age; however, such person may elect to become a member of the Retirement System as of the effective date of employment by notifying his employer and the State Board of Trustees within 90 days from the effective date of employment; or

(3) elects to participate in the retirement program provided by Chapter 729 (S. B. 292), 60th Texas Legislature, Regular Session, 1967.

Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

Art. 2922—1.04 Termination of membership

(a) Membership in the Retirement System shall terminate if the member

(1) dies;

(2) withdraws his accumulated contributions while absent from service;

(3) accepts retirement under this Act; or

(4) is absent from service more than five consecutive years within any period of six consecutive years, except as provided in Subsections (b) and (c) of this section.

(b) Absence from service shall not terminate membership if the member does not withdraw his accumulated contributions and has 10 or more years of creditable service, regardless of age, at or before the time he ceases to be employed in the public schools of Texas.

(c) A member is not considered to be absent from service while rendering active military duty.

(d) If the membership of any member shall terminate, except by death or retirement, all his creditable service theretofore allowed or earned shall be forfeited.

(e) Should a person whose membership has terminated again become a member, he shall enter the Retirement System upon the same terms as a person entering service for the first time on that date and shall not be entitled to credit for prior service or other terminated service, unless it is reinstated upon the terms and conditions set out in Section 2.05 of this Act.

Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

Art. 2922—1.05 Reciprocal service

Any member of the Teacher Retirement System may claim credit with the Teacher Retirement System for service rendered as a state employee as provided in Chapter 230, 56th Legislature, Regular Session, 1959 (Article 6228a-2, Vernon's Texas Civil Statutes).

Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

Art. 2922—1.06 Offenses against the retirement system

(a) Any person convicted of confiscation, misappropriation, or conversion of money representing deductions from members' salaries, and/or belonging to the Retirement System; or intentional falsification, or acquiescence therein, of any statement or record in order to defraud the Retirement System, is guilty of a felony and for each offense shall be confined in the state penitentiary for any term of years not less than one nor more than five.

(b) Any person convicted of violating any provision of this Act (excluding those felonies set out in Subsection (a) of this section) is guilty of a misdemeanor and shall be fined not less than \$100 nor more than \$1,000.

(c) A member of the Retirement System convicted of intentionally receiving money which should have been deducted from his salary in accordance with this Act is guilty of a misdemeanor and shall be fined not less than \$100 nor more than \$500.

(d) The state commissioner of education may cancel the teacher certificate of any person committing any offense set out above in this section when notified thereof by the State Board of Trustees and after giving the person opportunity for a fair hearing. Actual prosecution of any person committing any of the offenses named in this section is not prerequisite to the commissioner's cancellation action. Appeal from the commissioner's action lies with the State Board of Education whose decision in the matter is final.

Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

Art. 2922—1.07 Exemptions from execution

Retirement allowances, annuities, refunded contributions, optional benefits, money in the various accounts created by this Act, or any other right accrued or accruing to any person under the provisions of this Act are exempt from any state or municipal tax, levy, sale, garnishment, attachment, or any other process whatsoever, and shall be unassignable except as provided in this Act.

Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

SECTION 2. CREDITABLE SERVICE**Art. 2922—2.01 Determination**

(a) The State Board of Trustees shall determine by appropriate rules and regulations how much service in any year is equivalent to one creditable year of service, but in no case shall more than one creditable year of service be given for all service in one school year.

(b) Years of creditable service at retirement, on which the amounts of retirement benefit or allowance of a member is based, shall consist of

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the number of years of membership service credits, prior service credits, and military leave credits to which he is entitled. Such service credits shall be determined and regulated by Sections 2.02—2.05 of this Act. Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

Art. 2922—2.02 Prior service credits

(a) Under the rules and regulations adopted by the State Board of Trustees, each person on becoming a member of the Retirement System for the first time shall file a detailed statement of all his prior service as a teacher or auxiliary employee in Texas.

(b) Subject to the restrictions in Subsection (a) of this section and to such other rules and regulations as they may adopt, the State Board of Trustees, as soon as practicable after the filing of the statements of service, shall verify and adjust the service claimed and shall grant one year of prior service credit for each year of prior service approved.

(c) After verification and adjustment, the State Board of Trustees shall notify each member of the number of years of prior service credits which have been granted.

(d) Nothing in this section shall require the filing of new claims for credits by members who have previously verified and had prior service credits approved.

(e) In addition to teachers who became members in 1937, and auxiliaries who became members in 1949, any member who has credit for five consecutive years of membership service and who has no unpaid, waived, withdrawn, or delinquent service shall be entitled to credit for prior service.

(f) Any member shall be entitled to one year of prior service credit for each year of military duty performed during World War I or within a period of 12 months thereafter.

Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

Art. 2922—2.03 Membership service credits

(a) Under such rules and regulations as the State Board of Trustees may adopt, a member shall be allowed membership service credit for each year of service rendered in accordance with the provisions of this Act if he has made and maintained with the Retirement System all deposits and payments required by this Act or prior existing laws.

(b) Any member who performed one or more years of military duty while a member of the Retirement System shall be permitted to deposit to his individual account in the member savings account for each year of duty an amount equal to his deposits made with the Retirement System during the last preceding full year of service as a teacher or auxiliary employee. He shall then be entitled to one year of membership service credit for each year of military duty.

(c) Any member who performed one or more years of military duty during World War II and within a period of 12 months thereafter shall be permitted to deposit to his individual account in the member savings account for each year of such military duty, but not to exceed five years, an amount equal to his deposits made with the Retirement System during the first full year of service as a teacher or auxiliary employee after becoming a member of the Retirement System. He shall then be entitled to one year of membership service credit for each year of military duty.

Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

Art. 2922—2.04 Military leave credits

Military leave credit shall be granted to any member who has performed, or may perform, a period of military duty, but who failed or fails to make deposits entitling him under this Act to membership service credit. The member shall be credited with a year of service for each year

of military duty in determining his eligibility for retirement under this Act, but military leave credit shall not be included in calculating the amount of benefits payable to the member upon retirement.
Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

Art. 2922—2.05 Reinstatement of service credits

(a) Any teacher or auxiliary employee who has executed a waiver of membership in the Retirement System shall have the privilege of electing to receive full membership service credit, provided such teacher or auxiliary employee after becoming a member of the Retirement System shall deposit all back deposits, assessments and dues which he would have paid or deposited had he been a member of the Retirement System during each of the years he actually taught or was employed as an auxiliary employee in the public schools following the date on which he first became eligible for membership in the Retirement System, together with interest from the date each amount was payable at the rate of five percent per annum. One-half of the interest shall be credited to the state contribution account.

(b) Any person who terminates or has terminated membership in the Retirement System by withdrawal of deposits or by absence from service shall have the privilege of reinstating such terminated membership by rendering service for five subsequent consecutive creditable years and depositing the amount withdrawn plus membership fees for the years during which membership was terminated plus a reinstatement fee of two and one-half percent per annum from the date of withdrawal to date of redeposit. The reinstatement fee shall be credited to the state contribution account.

(c) The amounts to be deposited shall be determined in each case by the State Board of Trustees and no person shall be granted retirement upon such service credits until the amount so determined is paid in full.
Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

Art. 2922—2.06 Purchase of credit for out-of-state teaching

(a) Any member of the Retirement System who has been employed as a teacher in any public school system maintained in whole or in part by any other state or territory of the United States or by the United States for children of United States citizens may purchase equivalent membership service credits under this retirement system for such teaching.

(b) For each year that out-of-state service credit is desired, the member shall deposit to his individual account with the Retirement System 12 percent of the annual compensation received during his first year as a teacher of this state which is both after the out-of-state teaching and September 1, 1956, or, in the event the member has no creditable service in Texas after September 1, 1956, 12 percent of his rate of annual compensation during his last creditable year of service in Texas prior to that date and subsequent to the out-of-state teaching. A deposit for at least one year's credit must be made with the initial application and all payments for out-of-state service for which credit is desired must be made before retirement.

(c) For each year that deposits are made, the member shall be granted immediately upon payment of the required deposit one year's membership service credit subject, however, to the special conditions which are:

(1) no person shall be allowed to acquire credits on the basis of teaching employment outside this state in excess of one year for each two years of service in Texas;

(2) in the event credits for employment outside this state must be disallowed in part because of the member's failure to qualify the non-Texas service under the provisions of this section, his deposits made for

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the years disallowed (considered to be those last purchased) will be refunded to him; and

(3) no more than 10 years' total credit can be purchased under the provisions of this section.

(d) No member by reason of any credits purchased for non-Texas teaching employment shall be entitled to service retirement benefits under this Act until he has actually rendered at least 10 years of creditable service in Texas, excluding any credit for non-Texas employment. Equivalent membership service credits granted for out-of-state teaching shall not be used in computing the member's "best-ten-years-average compensation."

(e) All such deposits shall be credited, pending retirement, to the member's individual account in the member savings account.

Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

SECTION 3. BENEFITS

Art. 2922—3.01 Service retirement benefits

(a) The date of retirement for any eligible member shall be the last day of any month in which he makes written application to the State Board of Trustees, or in which he satisfies the age and service requirements of this subsection, whichever is later. A member who retires after the effective date of this Act shall be eligible to retire

(1) with a standard service retirement benefit consisting of a standard annuity (calculated as provided in Section 1.02(a) (20) of this Act) payable in monthly installments during such retired member's life, provided he has completed 10 or more years of creditable service and has attained the age of 65 years;

(2) with a service retirement allowance consisting of the actuarial equivalent of the standard service retirement benefit allowable under Subsection (a) (1) of this section for a like amount of creditable service reduced for early retirement from age 65, provided he has completed at least 15 years of creditable service and has attained the age of 55 years;

(3) with a standard service retirement benefit consisting of a standard annuity (calculated as provided in Section 1.02(a) (20) of this Act) payable in monthly installments during such retired member's life, provided he has completed 20 or more years of creditable service and has attained the age of 60 years;

(4) with a service retirement allowance consisting of the actuarial equivalent of the standard service retirement benefit allowable under Subsection (a) (3) of this section for a like amount of service reduced for early retirement from age 60, provided he has completed at least 20 years of creditable service and has attained the age of 55 years; or

(5) with a service retirement allowance consisting of the actuarial equivalent of the standard service retirement benefit allowable under Subsection (a) (3) of this section for a like amount of creditable service reduced for early retirement from age 60, provided he has completed 30 or more years of creditable service.

(b) In lieu of any service retirement benefit allowable under Subsection (a) of this section, a member may elect, by giving notice to the State Board of Trustees at least 30 days before the date fixed for retirement, to receive the actuarial equivalent of the benefit in the form of a reduced monthly amount payable throughout his lifetime, with provision for

(1) Option One: on his death, the same monthly payments shall be made to and continued throughout the life of the person nominated by the member's written designation filed with the State Board of Trustees prior to his retirement; or

(2) Option Two: on his death, one-half of the same monthly payments shall be made to and continued throughout the life of the person

nominated by the member's written designation filed with the State Board of Trustees prior to his retirement; or

(3) Option Three: on his death before 60 monthly payments have been made, they shall continue to the person nominated by the member in writing, or to such person's executor or administrator, until the remainder of the 60 payments have been made; or

(4) Option Four: on his death before 120 monthly payments have been made, they shall continue to the person nominated by the member in writing, or to such person's executor or administrator, until the remainder of the 120 payments have been made; or

(5) Option Five: any other benefit arrangement approved by the State Board of Trustees and certified by the actuary to constitute the actuarial equivalent of the standard annuity retirement benefit to which the member is entitled under Subsection (a) of this section.

(c) A teacher member who retires from service upon or after attaining 60 years of age and after completing 20 or more years of creditable service shall in any event be entitled to receive a minimum standard service retirement benefit of \$1,200 per year or its actuarial equivalent. A teacher member who takes service retirement upon or after attaining 65 years of age and completing 10 or more but less than 20 years of creditable service shall in any event be entitled to receive a minimum standard service retirement benefit of \$900 per year or its actuarial equivalent.

(d) An auxiliary member who retires upon or after attaining 60 years of age and completing 20 or more years of creditable service shall in any event be entitled to receive a minimum standard service retirement benefit of \$85 per month or its actuarial equivalent. An auxiliary member who takes service retirement on or after attaining 65 years of age and completing 10 or more but less than 20 years of creditable service shall in any event be entitled to receive a minimum standard service retirement benefit of \$55 per month or its actuarial equivalent.

(e) A teacher member who has retired or who retires from service after attaining 60 years of age and after having completed 25 or more years of creditable service shall in any event be entitled to receive the actuarial equivalent of a minimum standard service retirement benefit aggregating in 12 months the sum of \$50 multiplied by each year of prior service credit and membership service credit to which such member is entitled; provided, however, that no standard service benefit shall be increased by reason of the provisions of this subsection to an amount exceeding the sum of \$1,800 per year.

(f) No annuity payment authorized under the provisions of this Act shall be made for any fraction of a month in which the annuitant dies. Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

Art. 2922—3.02 Disability benefits

(a) Upon application of a member, or (where the member is unable to make application) of his employer or legal representative acting in behalf of the member, the State Board of Trustees may, after the filing of said application, retire such member upon the applicable disability benefit set out below if the medical board, after a medical examination, certifies that the member is mentally or physically disabled from further performance of duty and that such disability is probably permanent.

(b) If the member has less than 10 years of creditable service at the date of his retirement, he shall be paid a monthly disability benefit of \$50 for the duration of such disability, or for life, or for a period equal to the number of months of creditable service rendered by such member prior to date of such retirement, whichever term is shortest.

(c) If the member has more than 10 years of creditable service, but is not eligible for service retirement, he shall receive for the duration of his disability the standard annuity calculated on the basis of his creditable

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service to date of retirement, or the sum of \$50 per month, whichever is greater. In the event the disability retirement occurs after or continues until he attains 60 years of age, his disability shall be conclusively presumed continuous for the remainder of his life.

(d) Once each year during the first five years following disability retirement and once every three years thereafter, the State Board of Trustees may require any member who retired on a disability benefit and who has not yet attained age 60 to undergo a medical examination by a physician or physicians designated by the State Board of Trustees at the retired member's residence or any other place mutually agreed upon. Should he refuse to submit to at least one such medical examination during any authorized examination period, his allowance shall be discontinued until he consents to an examination; if his refusal continues for one year, all his rights to his allowance shall be revoked by the State Board of Trustees.

(e) If a person under 60 years of age who is receiving a disability retirement benefit is restored to active service, or if the medical board certifies to the State Board of Trustees that he is no longer physically or mentally disabled from further performance of duty and the State Board of Trustees concurs, his allowance shall be discontinued, he shall again become a member of the Retirement System and the sum in his account before disability retirement, less all disability benefits paid to him, shall be transferred from the retired reserve account to his individual account in the member savings account. On restoration to membership, any creditable service used to compute a member's benefit when he retired shall be restored to full force and effect.

(f) If a person receiving a disability retirement benefit is gainfully employed, his allowance shall be suspended or reduced to an amount by which his salary earned during his last year of creditable service exceeds his present earnings. Should his earnings later change, his allowance may be further modified, but shall never exceed his original allowance.

(g) No member eligible for service retirement without reduction shall be allowed to retire on a disability allowance.

Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

Art. 2922—3.03 Beneficiary designation

(a) Any member may provide in writing on a form the State Board of Trustees prescribes that the benefits payable under this Act in the event of his death shall be paid to the designated beneficiary. The member may change or revoke a designation previously made by filing with the State Board of Trustees, on a form it prescribes, a notice of change or revocation.

(b) In the event a member fails to designate a beneficiary, or the designated beneficiary predeceases the member and there is no designation effective at the date of death, the death benefits and election right to survivor benefits shall vest (in the order listed) with

(1) the surviving widow or surviving dependent widower of the deceased; or

(2) the children of the deceased in equal portions; or

(3) the dependent parent or parents of the deceased in equal portions.

(c) If none of the persons named in Subsection (b) (1) (2) and (3) of this section survive, then, to the member's estate, or to his heirs, in complete discharge of all claims for death and survivor benefits under this Act, there shall be paid

(1) the return of the accumulated contributions of the member; or

(2) a \$500 lump sum if death occurs after retirement.

Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

Art. 2922—3.04 Death benefits

(a) If a member dies before retirement and during any school year in which he is in service, his eligible designated beneficiary shall be paid, at the beneficiary's election, the greatest of the following amounts in the manner the State Board of Trustees by rule may prescribe:

(1) the annual compensation of the member for the preceding school year; or

(2) the rate of annual compensation of the member for the current school year; or

(3) 60 monthly payments equal to the monthly installments of a standard annuity (calculated as provided in Section 1.02(a) (20) of this Act); or

(4) an annuity payable for the designated beneficiary's life with payments equal to those under Option One in Section 3.01(b) (1) of this Act had the member retired at the end of the month preceding his death; or

(5) the accumulated contributions of the member's member savings account.

(b) In the event the designated beneficiary is other than a surviving widow, dependent widower, child, brother, sister, or dependent parent of the deceased, or other person financially dependent on the deceased, the death benefits payable to the beneficiary under the provisions of this Act shall be limited to the accumulated contributions in the member's member savings account.

(c) If a member dies during an absence from service, his designated beneficiary shall be paid

(1) the same benefits payable upon the member's death in active service if the absence of the member from service was due to sickness, accident, or other cause which the State Board of Trustees determines to be involuntary or in furtherance of the objectives or welfare of the public school system, or during a period when he was eligible to retire or would become eligible without further service to retire within five years of his last covered employment; or

(2) the accumulated contributions in the member's individual account if the absence of the member from service was not the result of sickness, accident, or other justifiable cause determined in this Act.

Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

Art. 2922—3.05 Survivor benefits

(a) If a teacher member dies before retirement, his designated beneficiary (if entitled to a death benefit other than the accumulated contributions of the member) may elect, in lieu of the applicable death benefit authorized under Section 3.04 of this Act, to receive a lump sum payment of \$500 plus the following applicable survivor benefits:

(1) if the designated beneficiary is the widow, dependent widower, or dependent parent of the deceased member, he may elect to receive for life a monthly benefit of \$75 commencing at age 65 or immediately if the beneficiary has already attained that age; or

(2) if the designated beneficiary is the widow or dependent widower of the deceased and has one or more children under 18 years of age or has the custody of one or more children of the deceased under 18 years of age, he may elect to receive a monthly benefit of \$150 until the youngest child attains the age of 18 years, and at that time all payments shall cease until the beneficiary attains age 65 when he shall receive for life a monthly benefit of \$75; or

(3) if the designated beneficiary or beneficiaries are the deceased's dependent children under the age of 18 years, they may, upon election of

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their guardian, receive a total monthly benefit of \$150 so long as there are two or more such children under 18 years of age; thereafter, when there is only one child remaining under 18 years of age, he may receive \$75 per month until attaining 18 years.

(b) If the designated beneficiary is a widow, dependent widower, or dependent parent of the deceased, the benefits payable under Subsection (a) (1) and (2) of this section shall cease upon the beneficiary's death or remarriage; in that event, however, payment of the benefits provided in Subsection (a) (3) of this section will commence if applicable.

(c) If an auxiliary member dies before retirement, his designated beneficiary or beneficiaries shall be entitled to the same elections provided in Subsection (a) of this section except that the monthly benefits shall be two-thirds of the amount payable to the beneficiary or beneficiaries of a deceased teacher member if his rate of compensation for his last year of employment was less than \$3,800.

Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

Art. 2922—3.06 Benefits payable upon death after retirement

(a) If a retired member dies while receiving a retirement benefit, his eligible designated beneficiary shall be entitled to the same survivor benefits provided for designated beneficiaries of members in active service at death. Any benefit payable to the designated beneficiary under a service retirement option previously elected by the deceased shall not be affected by the beneficiary's eligibility for survivor benefits. The lump sum payment of \$500 shall be made regardless of the beneficiary's eligibility for any other survivor benefit.

(b) If a member retires upon a disability retirement benefit and dies while drawing his benefit, his beneficiary may elect to receive, in lieu of the benefit provided in Subsection (a) of this section, the same death benefit to which he would have been entitled had the deceased been in active service at death, less all disability payments made to the deceased.

(c) An unremarried widow or widower, as designated beneficiary of a member of the Retirement System with 25 or more years of creditable service who died prior to April 8, 1957, shall be entitled to receive survivor benefits provided in this Act for beneficiaries of members with a creditable year of service, except that the \$500 lump sum amount shall not be payable, and provided that such beneficiary did not receive or is not receiving a death benefit other than the return of the member's deposits plus accumulated interest.

(d) An unremarried widow or widower, as designated beneficiary of a retired member who did not have a creditable year of service after November 23, 1956, and who died prior to August 23, 1963, while receiving a retirement annuity from the Retirement System, shall be entitled to receive survivor benefits provided elsewhere in this Act, except that the lump sum amount shall not be payable.

(e) Benefits provided in Subsections (c) and (d) of this section shall become effective on the last day of the month in which the qualified beneficiary applies to the Retirement System in such form as may be prescribed by the State Board of Trustees and payments shall be due from and after that date only, and the same age requirements specified elsewhere in this Act shall apply to the provisions of these subsections.

Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

Art. 2922—3.07 Employment after retirement

(a) Any person receiving a service retirement benefit from the Retirement System may be employed in the public schools of Texas

(1) on a part-time day-to-day basis only not to exceed 80 school days in any one school year as a substitute for an employee who is absent from duty;

(2) as a substitute in a vacant position until such position can be filled, but not to exceed 30 days, but any substitute employment in a vacant position shall be deducted from the 80 days permitted as a substitute for an absent employee; or

(3) on as much as a one-third time basis if the retired member is over age 60.

(b) This employment will not affect any person's rights to any benefits under the Retirement System. However, it will not entitle a person to additional creditable service under the Retirement System and the person so employed shall not be required to make further contributions to the System.

(c) A person who reports for duty as a substitute during any day and works any portion of that day, shall be considered to have worked one day. The State Board of Trustees of the Retirement System shall by rule define "one-third time basis" and shall adopt rules governing the employment of a substitute.

(d) A person receiving a service retirement from the Retirement System who is employed in any position in the public schools of Texas except as provided in this section, shall forfeit all retirement benefits for any month in which such employment occurs. Employment which begins as substituting may become permanent employment. A person who substitutes on a day-to-day basis in a regular position for an absent employee for more than 80 school days or for more than 30 school days in a vacant position and then continues in the same position shall be considered to have been a regular employee since the first day of employment and forfeits his retirement benefits for all months of employment in that position. Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

Art. 2922—3.08 Limited adjustment of benefits in effect

(a) Except as provided in Subsections (b) and (c) of this Section 3.08, nothing in this Act is intended to affect benefits allowed under laws in effect prior to the effective date of this amendment by reason of retirement or death, prior to such date, of members of the System.

(b) Beginning with the first day of the month following the month in which this amendatory Act becomes effective, a retired member shall have his monthly benefit increased by 10% of the amount he received during the preceding month.

(c) Beginning with the first day of the month following the month in which this amendatory Act becomes effective, any person who, as beneficiary of a member, is receiving a benefit under the provisions of Section 3.01(b) or Section 3.04(a) (3) or Section 3.04(a) (4) shall have his monthly benefit increased by 10% of the amount he received during the preceding month.

Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

SECTION 4. ADMINISTRATION AND ORGANIZATION

Art. 2922—4.01 Establishment of accounts

According to the purpose for which they are held, all assets of the Retirement System shall be credited to one of five accounts, namely: the member savings account, the state contribution account, the retired reserve account, the interest account and the expense account.

Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

Art. 2922—4.02 Member savings account

(a) In the member savings account shall be accumulated the regular percentage contributions made by members from their compensation to-

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gether with interest allowable thereon. Interest on members' contributions shall be credited annually on August 31 at the rate of two and one-half percent of the balance in the account on the preceding September 1.

(b) Whenever any person ceases to be a member of the Retirement System, except by death or retirement under the terms of this Act, he shall be paid, after applying in writing on a form prescribed by the State Board of Trustees, all accumulated contributions in his individual account in the member savings account; his account shall be closed, and his membership (if not previously ended) shall be terminated.

(c) Accumulated contributions in any member's account at the date of termination of membership shall bear no interest thereafter.

(d) Seven years after cessation of service of a member with less than 10 years of service, and if no previous demand has been made, all accumulated contributions of a member shall be returned to him or his heirs. If the member or his heirs cannot be found, his accumulated contributions shall escheat to the Retirement System and be credited to the retired reserve account.

Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

Art. 2922—4.03 State contribution account

In the state contribution account shall be accumulated all contributions hereafter made to the Retirement System by the State of Texas as provided in Section 4.08 of this Act, interest as provided in Section 4.05(b) (4) of the Act, the retirement annuities forfeited by members who return to employment under the provisions of Section 3.07(d) of this Act, and reinstatement fees and interest as provided in Section 2.05 of this Act.

Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

Art. 2922—4.04 Retired reserve account

(a) In the retired reserve account shall be held all reserves for benefits heretofore or hereafter granted under the Retirement System. From this account shall be paid all retirement annuities and all death or survivor benefits provided in this Act. This account shall consist of transfers previously authorized by law and of future transfers made.

(b) To the retired reserve account shall be transferred

(1) the accumulated contributions in the member's individual account in the member savings account on his retirement or approval for payment of any benefit authorized under this Act (except for the return of his accumulated contributions); plus, additional reserves from the state contribution account which are certified by the actuary as necessary to provide for the payment of the approved benefit as it becomes due;

(2) interest as specified in Section 4.05(b) (2) of this Act; and

(3) accounts as specified in Section 4.02(d) of this Act.

Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

Art. 2922—4.05 Interest account

(a) Into the interest account shall be paid all income, interest, and dividends derived from deposits and investments authorized by this Act. Net capital gains realized from the sale of securities will be accumulated in the interest account until a reserve equal to 10 percent total common stock investments has been established. Annually, the excess over 10 percent will be transferred to the state contribution account together with any other balance remaining in the interest account.

(b) Once each year on August 31, transfers from the interest account shall be made

(1) to the member savings account in an amount sufficient to credit the members' contributions with interest at the rate of two and one-half percent;

(2) to the retired reserve account in an amount sufficient to credit the average balance of the reserve account with interest at the rate of four percent per annum;

(3) to the expense account in an amount designated by the State Board of Trustees pursuant to Section 4.06(d) of this Act; and

(4) to the state contribution account any balance remaining in the interest account.

Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

Art. 2922—4.06 Expense account

(a) From the expense account shall be paid all expenses of administration and maintenance of the Retirement System.

(b) The executive secretary shall prepare annually an itemized expense budget for the ensuing fiscal year and submit it to the State Board of Trustees for review and adoption.

(c) All membership fees required by provisions of this Act shall be credited to the expense account. This fee payment shall be made to the State Board of Trustees each year with the member's first payment to the member savings account in the same manner provided in this Act for payments to the member savings account. If the member is inactive, he shall pay the membership fee directly to the Teacher Retirement System. If this fee payment is not made, however, the State Board of Trustees may deduct it from the member's first payment, or from the member's accumulated contributions in his member savings account before a refund is made.

(d) If the amount budgeted for expenses exceeds \$2 per contributor per year, the State Board of Trustees by a resolution recorded in its minutes shall transfer to the expense account from the interest account an amount necessary to cover the expenses as estimated for the year including the expense of servicing mortgages insured by the Federal Housing Administration under the National Housing Act. But the amount transferred in any one year shall never exceed one percent of the interest account on the date of transfer.

Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

Art. 2922—4.07 Member contributions

(a) "Member Contributions": The rate of contributions required of each member of the Retirement System shall be five percent of his annual compensation or \$180, whichever is the lesser, for service rendered by teachers between September 1, 1937, and September 1, 1957, or by auxiliaries for service rendered between September 1, 1949, and September 1, 1957, and for any member six percent of the first \$8,400 of his annual compensation for service rendered on or from September 1, 1957 to September 1, 1969. The rate of contribution required of each member after September 1, 1969, shall be six percent of his annual compensation. Every member shall also pay for operation of the System, an annual membership fee of \$5 which shall be credited to the expense account.

(b) Each employer shall deduct from the salary of each member, six percent of his compensation for each payroll period.

(c) These deductions shall be made although they reduce a member's minimum compensation provided by law. Every member shall be deemed to consent to the deductions made and the payment of his compensation, less said deductions, shall constitute a complete release of all claims, except for benefits provided under this Act for service rendered by him during the payment period.

(d) Each employer or his designated disbursing officer shall send all deductions and a certification of earnings of the member to the executive secretary, at such time and in such form as the State Board of Trustees may prescribe. All deductions received shall be deposited with the state treasurer whereupon they shall be deemed appropriated for use according to the provisions of this Act.

(e) For the purpose of collecting contributions of members employed in common school or other school districts under his jurisdiction, the

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county superintendent or ex-officio county superintendent is designated to perform the duties listed in this Act.

(f) Any other educational institution supported in whole or part by the state shall have contributions deducted from the funds regularly appropriated by the state for its current maintenance.

(g) If deductions which should have been made from any member's salary were not in fact made, the member must pay these deductions, on terms prescribed by the State Board of Trustees. The member shall thereupon receive credit for the prior service to which he may be entitled under this Act.

(h) The records of the State Board of Trustees shall be open to public inspection and any member shall be furnished, upon written request, no more often than once each year, with a statement of the amount in his individual account.

Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

Art. 2922—4.08 State contributions

(a) "State Contributions": The State of Texas shall contribute during each year an amount equal to the collective deposits paid by all members of the Retirement System during the same year. All assets heretofore contributed by the state to the Retirement System, together with the contributions hereafter made, shall be held, credited, transferred, and expended for payment of authorized benefits as provided in this Act.

(b) On or before November 1 preceding each Regular Session of the Legislature, the State Board of Trustees shall certify to the state comptroller for his review and adoption the amount necessary to pay the state's matching contributions to the Teacher Retirement System for the ensuing biennium. This amount shall be included in the budget of the state which the Governor submits to the Legislature. The State Board of Trustees shall certify on or before August 31 of each year to the state comptroller and treasurer the estimated amount of contributions to be received from members during the ensuing year.

(c) All money appropriated by the state for the Teacher Retirement System shall be paid in monthly installments as provided in Chapter 3, Acts of the 57th Legislature, 2nd Called Session, 1961 (Article 7083a, Section 2(3), Vernon's Texas Civil Statutes). Each monthly installment shall be paid into the state contribution account.

Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

Art. 2922—4.09 General administration

(a) General administration of and responsibility for proper operation of the Retirement System in accordance with the provisions of this chapter are vested in a State Board of Trustees which shall consist of seven persons appointed as specified in Subsections (b), (c) and (d) of this section.

(b) Three members shall be appointed by the Governor, with the advice and consent of the Senate, one to hold office for the term of two years ending August 31, 1957, one to hold office for the term of four years ending August 31, 1959, and the third to hold office for the term of six years ending August 31, 1961.

(c) One member shall be nominated by the State Board of Education subject to confirmation by two-thirds of the Senate, for a term of six years ending August 31, 1961.

(d) The remaining three members shall be appointed by the Governor, with the advice and consent of the Senate, from a slate of three teacher members nominated by written ballot by the membership of the Retirement System at an election conducted under the rules and regulations adopted by the State Board of Trustees.

(e) After expiration of the original terms, all appointments of trustees shall be for a term of six years. A vacancy in the office of a trustee shall be filled for the unexpired term in the same manner as the office was previously filled.

(f) The trustees shall serve without compensation, but shall be reimbursed from the expense account for all necessary expenses they may incur because of service on the board.

(g) Within 10 days after his appointment, each trustee, in addition to the constitutional oath, shall subscribe to the following: "I do solemnly swear that I shall, to the best of my ability, discharge the duties of a trustee of the Teacher Retirement System and shall diligently and honestly administer the affairs of its State Board of Trustees and that I shall not knowingly violate or willingly permit to be violated any provision of law applicable to the Retirement System." Trustees shall subscribe to this oath before any officer qualified to administer oaths in Texas and file it in the office of the secretary of state.

(h) Each trustee shall be entitled to one vote and a majority of trustees present shall constitute the quorum necessary for a board decision at any meeting.

(i) Subject to the limitations of this Act, the State Board of Trustees shall, from time to time, establish rules and regulations for membership eligibility, administration of the funds created by this Act, and for transaction of its business.

(j) The State Board of Trustees shall elect from its membership a chairman. By a majority vote of all its members, the board shall appoint an executive secretary who is not one of its members but who has been a Texas citizen three years immediately preceding his appointment. The executive secretary shall recommend to the State Board of Trustees actuarial and other services necessary to administer the Retirement System. The rate of compensation of all persons employed by the State Board of Trustees, as well as the amounts necessary for other expenses for the operation of the Retirement System, shall be approved by the State Board of Trustees, provided they shall be no greater than those for similar services performed for the State of Texas.

(k) The State Board of Trustees shall keep in convenient form data necessary for actuarial valuation of the various accounts of the Retirement System and for checking the expenses of the System.

(l) The State Board of Trustees shall keep and open to public inspection a record of all of its proceedings. It shall publish annually a report showing the fiscal transactions of the Retirement System for the preceding school year, the amount of the accumulated cash and securities of the System, and the last balance sheet presenting an actuarial valuation of the assets and liabilities of the Retirement System.

(m) The Attorney General of the State of Texas shall be legal advisor to the State Board of Trustees and represent it in all litigation.

(n) The State Board of Trustees shall appoint a medical board to be composed of three physicians not eligible to participate in the Retirement System. They shall be legally qualified to practice medicine in Texas and shall be physicians in good standing in the medical profession. If required, other physicians may be employed to report on special cases. The medical board shall pass upon all medical examinations required by the provisions of this Act, investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement, and report in writing to the State Board of Trustees its conclusions and recommendations upon the matters referred to it.

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(o) The State Board of Trustees shall designate an actuary as its technical advisor. At least once every five years the actuary, on the authorization of the State Board of Trustees, shall

(1) investigate the mortality, service, and compensation experience of members and beneficiaries of the Retirement System;

(2) recommend, on the basis of this investigation to the State Board of Trustees such tables and rates as are required; and

(3) make a valuation of all assets in and liabilities of the accounts created by this Act based on tables and rates adopted by the State Board of Trustees.

(p) If by error in the records a member or beneficiary received more or less from the Retirement System than he was entitled to receive, the State Board of Trustees shall correct the error and, so far as practical, adjust future payments so that he receives the actuarial equivalent of the benefit to which he was entitled.

Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

Art. 2922—4.10 Management and investment of funds

(a) The State Board of Trustees shall be the trustee of all funds, securities, money and other assets of the Retirement System with full power to invest and reinvest them, as authorized by Article III, Section 48b of the Texas Constitution.

(b) All assets belonging to the Retirement System from whatever source derived, shall be invested as a single fund and all securities acquired shall be held collectively for the proportionate benefit of all accounts of the System.

(c) The state treasurer shall be custodian of all securities and cash. All payments from the accounts shall be made by him on warrants drawn by the state comptroller and authorized by vouchers signed by the executive secretary or such persons as the State Board of Trustees may designate. An attested copy of the board's resolution designating such persons shall be filed with the comptroller as his authority for issuing these warrants. The state treasurer shall furnish annually to the State Board of Trustees a sworn statement of the amount of funds in his custody belonging to the Teacher Retirement System.

(d) For meeting annuity and other disbursements, available cash not exceeding 10 percent of the combined assets in the Retirement System, may be kept on deposit with the state treasurer.

(e) No trustee or employee of the State Board of Trustees shall have any direct or indirect interest in the gains from investments made with System assets, nor as trustee or employee receive any compensation for his service other than designated salary and authorized expenses. Any interest a person may have in the retirement funds as a member of the Retirement System, however, is excluded from the preceding prohibition.

(f) Income from investments of funds shall be credited and expended as provided in this Act.

Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

Art. 2922—4.11 Bonds

(a) Bonds in the following amounts shall be required of: the state treasurer, upon becoming custodian of the Teacher Retirement fund, \$50,000; the executive secretary, \$25,000; and any other employees and trustees of the board, in an amount the board deems necessary and sufficient.

(b) All bonds shall be made with a solvent surety company authorized to do business in Texas, shall be payable to the State Board of Trustees, shall be approved by the board and the attorney general, and

shall be conditioned upon the bonded person's faithful performance of all his duties.

(c) Expenses incident to execution of the bonds, including premiums thereon, shall be paid by the State Board of Trustees from the expense account.

Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

SECTION 5. SEVERABILITY

Art. 2922—5.01 General application

If any section, subsection or provision of this Act shall be adjudged unconstitutional and invalid for any reason, the remainder of the Act shall not be affected, but shall remain in full force and effect.

Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

Art. 2922—5.02 Application to persons

If the application of any section, subsection or provision of this Act to any person or group of persons be adjudged unconstitutional and invalid, its application to other persons differently situated shall not be affected thereby.

Acts 1969, 61st Leg., p. 109, ch. 41, § 1, emerg. eff. March 31, 1969.

[SECTION 10. REPEALERS]

Art. 2922—10.01 Articles repealed

The following Acts shall be and the same are hereby repealed:

(a) Chapter 29, Acts of the Regular Session, 58th Legislature (compiled as Article 2922—1d, Vernon's Texas Civil Statutes);

(b) Chapter 190, Acts of the Regular Session, 58th Legislature (compiled as Article 2922—1e, Vernon's Texas Civil Statutes);

(c) Chapter 483, Acts of the Regular Session, 58th Legislature (compiled as Article 2922—1f, Vernon's Texas Civil Statutes);

(d) Chapter 22, Acts of the Regular Session, 57th Legislature (compiled as Article 6228a—4, Vernon's Texas Civil Statutes);

(e) Chapter 485, Acts of the Regular Session, 60th Legislature (compiled as Article 2922—1h, Vernon's Texas Civil Statutes);

(f) Chapter 458, Acts of the Regular Session, 56th Legislature (compiled as Article 2922—1c, Vernon's Texas Civil Statutes);

(g) Chapter 28, Acts of the Regular Session, 56th Legislature, together with its amendments, Chapter 318, Acts of the Regular Session, 57th Legislature, and Chapter 759, Acts of the Regular Session, 60th Legislature (compiled as Article 2922—1b, Vernon's Texas Civil Statutes);

(h) Chapter 417, Acts of the Regular Session, 53rd Legislature (compiled as Article 2922—1a, Vernon's Texas Civil Statutes); and

(i) Chapter 14, Acts of the Regular Session, 60th Legislature (compiled as Article 2922—1g, Vernon's Texas Civil Statutes).

Acts 1969, 61st Leg., p. 109, ch. 41, § 2, emerg. eff. March 31, 1969.

CHAPTER TWENTY-TWO—FOUNDATION SCHOOL PROGRAM

<p>Art. 2922—11a. Program eligibility [New]. 2922—11b. Professional units; optional method of allocation [New]. 2922—11c. Professional units; allocation formula for certain school districts [New]. 2922—14d. Teacher aides; salary [New]. 2922—15a. Transportation for resident college students by school districts; contracts [New].</p>	<p>Art. 2922—16f. County financial support; economic index [New]. 2922—25a. Governor's Committee on financing of Minimum Foundation Program [New]. 2922—26. Repealed. 2922—27. Three-semester pilot programs [New].</p>
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Acts 1969, 61st Leg., p. 2735, ch. 889, enacts a new Texas Education Code, and repeals enumerated existing Articles of the Texas Civil Statutes, effective September 1, 1969.

The new Code is published in a separate Special Pamphlet for convenient reference pending publication of a fully annotated edition in bound volume form as a unit of Vernon's Texas Codes Annotated.

Art. 2922—11. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Art. 2922—11a. Program eligibility

(a) Beginning with the school year 1977-78, any child in this state over five and under 21 years of age at the beginning of the school year, who has not yet graduated from high school, shall be entitled to the benefits of the Basic Foundation School Program for the ensuing school year. Such eligible child shall be admitted tuition-free to the public schools of the district in which he, his parents or legal guardian, resides. Provided, however, that for the school years 1969-70 through 1976-77, the qualifying age limits at the beginning of each school year shall be in accord with the following table:

QUALIFYING AGE LIMITS AS OF BEGINNING OF SCHOOL YEAR:			
	1969-70 through 1972-73	1973-74 and 1974-75	1975-76 and 1976-77
Beginning Age:			
Years	6	5	5
Months	0	7	4
Highest Age:			
Years	20	20	20

(b) Notwithstanding the provisions of Paragraph (a) of this Section, the program of preschool education shall be extended first to "educationally handicapped" children as preparation for the regular school pro-

gram in which such children will participate in subsequent years. For purposes of this Section, a child is "educationally handicapped" if he cannot speak, read and comprehend the English language or if he is from a family whose income, according to standards promulgated by the State Board of Education, is at or below a subsistence level. The program shall include an appreciation for the cultural and familial traditions of the child's parents and also an awareness and appreciation of the broader world in which the child must live; assist the child in developing appropriate language skills; prepare the child to participate in the world of his peers and the broader cultural stream into which he will progressively move as he matures; begin the development of the mental and physical skills and cooperative attitudes needed for adequate performance in a school setting; and begin the development of his unique character and personality traits.

The benefits of this program for preschool education shall be extended on a first priority basis to "educationally handicapped" children below existing age limits as shown in the following table:

**QUALIFYING AGE LIMITS
AS OF BEGINNING OF SCHOOL YEAR:**

	1970-71	1971-72	1972-73 and Thereafter
Beginning Age:			
Years	5	5	5
Months	5	2	0
Highest Age:			
Years	21	21	21

(c) A scholastic is a student in average daily attendance within the age limits prescribed in this Section.

Acts 1969, 61st Leg., p. 2634, ch. 872, § 4, eff. Sept. 1, 1969.

Acts 1969, 61st Leg., p. 2634, ch. 872, amending various articles of this chapter, provided for repeal of conflicting laws and severability in section 10 and for effective dates in section 10A, which are set out in full as notes under art. 2922—13.

Art. 2922—11b. Professional units; optional method of allocation

In addition to the method of allocating Professional Units under the Minimum Foundation Program on the basis of current Average Daily Attendance, any school district may choose to utilize the preceding year's Average Daily Attendance to establish the basis for allocation of Professional Units in compliance with formulas in the Foundation School Program Act.

Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 44, § 1, emerg. eff. Sept. 19, 1969.

Title of Act: An Act providing an optional method of determining allocation of Foundation Program Professional Units under the Foundation School Program Act; and declaring an emergency. Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 44.

Art. 2922—11c. Professional units; allocation formula for certain school districts

The number of professional units allotted under the Foundation School Program Act to school districts which operate and have operated for at least three consecutive years a four-year accredited high school and having an average daily attendance range between eighty-four (84) and

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one hundred fifty-six (156) for the immediate preceding year shall be based on the following formula:

a. A school district having from eighty-four (84) to one hundred six (106) pupils, inclusive, in average daily attendance shall be allotted six (6) classroom teacher units and a superintendent unit.

b. A school district having one hundred seven (107) to one hundred fifty-six (156) pupils, inclusive, shall be allotted seven (7) classroom teacher units and a superintendent unit.

Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 45, § 1, eff. Dec. 9, 1969.

Title of Act:

An Act providing an allocation formula for certain school districts under the Foun-

ation School Program Act; and declaring an emergency. Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 45.

Arts. 2922—12 to 2922—14c. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

1969 Amendments

Article 2922—13 was both amended and repealed at the 1969 Regular Session. Chapters 95, 863, 867, 872 and 873 which do the amending affect only section 1.

Article 2922—14 was both amended and repealed at the 1969 Regular Session. Chapters 872 and 873 do the amending. Chapter 889 which does the repealing enacts the Texas Education Code and provides that any conflicting act passed at the same session prevails. Hence, the amended text is set out, post, for possible use and application.

Repealed article 2922—13

Section 1 of this article was amended as follows: First paragraph of section 1 was amended by Acts 1969, 61st Leg., p. 2634, ch. 872, § 9; subsection (1) was amended by Acts 1969, 61st Leg., p. 2634, ch. 872, § 2A; subsection (2) was amended by Acts 1969, 61st Leg., p. 2651, ch. 873, § 1; subsection (4)a was amended by Acts 1965, 59th Leg., p. 910, ch. 447, § 1, Acts 1969, 61st Leg., p. 248, ch. 95, § 1, and Acts 1969, 61st Leg., p. 2602, ch. 863, § 1; subsection (4A) was added by Acts 1965, 59th Leg., p. 905, ch. 444, § 1, and par. a thereof was amended by Acts 1969, 61st Leg., p. 2618, ch. 867, § 1. As so amended, these provisions of this article read:

Professional Units. Section 1. Beginning in the school year 1969-70, all personnel allotted under the Foundation School Program shall be allocated to school districts on the basis of current average daily attendance without regard to race, creed or color of students.

(1) **Classroom teacher units.** Classroom teacher professional units for each school district, separate for whites and separate for negroes, shall be determined, and teachers allotted in the following manner:

a. School districts having fewer than fifteen (15) pupils in average daily attendance shall not be eligible for any classroom teacher units, except that in cases of extreme hardship, such districts may be allotted on a year to year basis one classroom teacher unit if so recommended by

the County Board of Education and approved by the State Commissioner of Education;

b. School districts having from fifteen (15) to twenty-five (25) pupils, inclusive, in average daily attendance, one (1) classroom teacher unit;

(c). School districts having from twenty-six (26) to one hundred nine (109) pupils, inclusive, in average daily attendance, two (2) classroom teacher units for the first twenty-six (26) pupils and one (1) classroom teacher unit for each additional twenty-one (21) pupils (no credit for fractions);

d. School districts having from one hundred ten (110) to one hundred fifty-six (156) pupils, inclusive, in average daily attendance, six (6) classroom teacher units;

e. School districts having from one hundred fifty-seven (157) to four hundred forty-four (444) pupils, inclusive, in average daily attendance, one (1) classroom teacher unit for each twenty-four (24) pupils, or a fractional part thereof in excess of one-half ($\frac{1}{2}$);

f. School districts having from four hundred forty-five (445) pupils to four hundred eighty-seven (487) pupils, inclusive, in average daily attendance, nineteen (19) classroom teacher units;

g. School districts having four hundred eighty-eight (488) or more pupils in average daily attendance, one (1) classroom teacher unit for each twenty-five (25) pu-

pils or a fractional part thereof in excess of one half ($\frac{1}{2}$).

(2) Vocational units. Vocational teacher professional units, vocational supervisor professional units, and vocational counselor professional units for each school district shall be determined and allotted in the following manner:

a. Each school district having a four-year accredited high school shall be eligible, under rules and regulations of the State Board of Education, for two (2) vocational teacher units to teach one or more vocational programs provided there is a need thereof, and provided the programs shall have been approved by the State Commissioner of Education.

b. Additional vocational teacher units for four-year accredited high schools may be allotted according to needs determined by a survey of the community and approved by the State Commissioner of Education.

c. Provided that a district, having an accredited high school which qualifies, according to the rules and regulations of the State Board of Education, for less than one (1) vocational teacher unit, may be allotted by the State Commissioner of Education a fractional part of a vocational teacher professional unit. A fractional part of a vocational teacher professional unit shall entitle a district to employ a part-time vocational teacher or assign a classroom teacher to serve as part-time vocational teacher.

d. Each school district having a four-year accredited high school shall be eligible, under rules and regulations as approved by the State Board of Education, for such specialized vocational supervisor units and vocational counselor units as there is a need thereof, and in the number determined by application of formulas adopted by the State Board of Education and subject to approval by the State Commissioner of Education.

e. Provided that vocational professional unit allotments, except classroom teachers who also served as part-time vocational teachers, shall be made in addition to other professional unit allotments.

f. School districts which, because of limited enrollments, tax resources, or facilities, are unable to offer appropriate vocational education in all occupational areas needed may enter into contracts with post-secondary public institutions, as defined by the State Board of Education, to provide for such appropriate vocational education instruction provided the instructors and instructional materials and equipment utilized meet secondary school program requirements.

Such contracts shall be executed pursuant to rules and regulations of the State Board for Vocational Education (State Board of Education) and the cost to the State shall not exceed the cost that would result if said programs were operated by the respective school districts entering into such contracts.

* * * * *

Subsection (4)a, as amended by Acts 1969, 61st Leg., p. 2602, ch. 863, § 1, provided:

(4) Comprehensive Special Education Program for Exceptional Children. (a) It is the intention of this Act to provide for a comprehensive special education program for exceptional children in Texas. For purposes hereof:

"Exceptional children" means children between the ages of three (3) and twenty-one (21) inclusive with educational handicaps (physical, retarded, emotionally disturbed, and/or children with language and/or learning disabilities) as hereinafter more specifically defined; and children leaving and not attending public school for a time because of pregnancy—which disabilities render regular services and classes of the public schools inconsistent with their educational needs.

"Physically handicapped children" means children of educable mind whose body functions or members are so impaired from any cause that they cannot be adequately or safely educated in the regular classes of the public schools without the provision of special services.

"Mentally retarded children" means children whose mental capacity is such that they cannot be adequately educated in the regular classes of the public schools without the provision of special services.

"Emotionally disturbed children" means children whose emotional condition is medically and/or psychologically determined to be such that they cannot be adequately and safely educated in the regular classes of the public schools without the provision of special services.

"Language and/or learning disabled children" means children who are so deficient in the acquisition of language and/or learning skills including, but not limited to, the ability to reason, think, speak, read, write, spell, or to make mathematical calculations, as identified by educational and/or psychological and/or medical diagnosis that they must be provided special services for educational progress. The term "language and/or learning disabled children" shall also apply to children diagnosed as having specific developmental dyslexia.

"Special services" required for the instruction of or program for exceptional children means special teaching in the public school curriculum within and/or without the regular classroom; corrective teaching, such as lipreading, speech correction, sight conservation, corrective health habits; transportation, special seats, books, instructional media and supplies; professional counseling with students and parents; supervision of professional services and pupil evaluation services; established teaching techniques for children with language and/or learning disabilities.

(a-1) Under rules, regulations and/or formulae adopted by the State Board of Education subject to the provisions of this Act, exceptional children teacher units, in addition to other professional and paraprofessional unit allotments herein authorized, shall be allotted to any eligible school dis-

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trict in the number determinable thereunder. Exceptional children teacher units for pupils who are both severely physically handicapped and mentally retarded shall be allocated on a separate formula from other type units.

(A) Professional personnel. Professional personnel for the operation and maintenance of a program of special education shall be:

- (i) Exceptional children teachers;
- (ii) Special education supervisors;
- (iii) Special education counselors;
- (iv) Special service teachers, such as

itinerant teachers of the homebound and visiting teachers, whose duties may or may not be performed in whole or in part on the campus of any school;

(v) Psychologists and other pupil evaluation specialists.

The minimum salary for such specialist to be used in computing salary allotment for purposes of this Act shall be established by the State Commissioner of Education.

(B) Paraprofessional personnel. Paraprofessional personnel for the operation and maintenance of a program of special education shall consist of persons engaged as teacher aides, who may or may not hold a teacher certificate. The qualifications and minimum salary levels of paraprofessional personnel for salary allotment purposes of this Act shall be established by the State Commissioner of Education.

(a-2) Quantitative bases for the allotment of all special education unit personnel under Subdivision (a-1) shall be established by the State Commissioner of Education under rules adopted by the State Board of Education. Any school district, at its expense, may employ any special education personnel in excess of its state allotment, may supplement the minimum salary allotted by the state for any special education personnel, and any district is authorized at local expense to pay for all or part of further or continuing training or education of its special education personnel.

(a-3) Special education unit personnel may be employed and/or utilized on a full time, part-time, or upon a consultative basis, or may be allotted by the State Commissioner of Education, pursuant to cooperative districts' agreement, jointly to serve two (2) or more school districts. Two (2) or more school districts may operate jointly their special education program and any school district may contract where feasible with any other school district for all or any part of the program of special education for the children of either district, under rules and regulations established by the State Commissioner of Education.

(a-4) To each school district operating an approved special education program there shall also be allotted a special service allowance in an amount to be determined by the State Commissioner of Education for pupil evaluation, special seats, books, instructional media and other supplies required for quality instruction.

To each school district operating an approved special education program, there shall be allotted also a transportation al-

lowance for transporting of children in special education programs who are unable to attend the special education program for exceptional children in public school unless such special transportation is provided. The annual transportation allotment shall be One Hundred and Fifty Dollars (\$150) per exceptional child pupil receiving such transportation. Such allocated transportation funds shall be used only for transportation purposes for children who are enrolled in a program of special education or who are eligible for such enrollment.

(a-5) The minimum monthly base pay and increments for teaching experience for an exceptional children teacher or a special service teacher conducting a nine (9), ten (10), eleven (11), or twelve (12) months special education program approved by the State Commissioner of Education shall be the same as that of a classroom teacher as provided in the Foundation Program Act; provided that special education teachers shall have qualifications approved by the State Commissioner of Education.

The annual salary of special education teachers shall be the monthly based salary, plus increments, multiplied by nine (9), ten (10), eleven (11), or twelve (12), as applicable.

(a-6) The minimum monthly base pay and increments for teaching experience for special education counselors and supervisors engaged in a nine (9), ten (10), eleven (11), or twelve (12) months special education program approved by the State Commissioner of Education shall be the same as that of a counselor and/or supervisor as provided in the Foundation Program Act; provided that such counselors and supervisors shall have qualifications approved by the State Commissioner of Education.

The annual salary of special education counselors and supervisors shall be the monthly base salary, plus increments, multiplied by nine (9), ten (10), eleven (11), or twelve (12), as applicable.

(a-7) The salary costs of special education teacher units, other professional and paraprofessional units authorized in Subdivision (a-1), operating costs as provided in Subdivision (a-4), and transportation costs as provided in Subdivision (a-4), computed as other costs of the Foundation School Program Act for local fund assignment purposes thereof, shall be paid from the Foundation Program School Fund. Provided further, that any school district may supplement any part of the comprehensive special education program it operates or participates in with funds or sources available to it from local source, public and/or private.

(a-8) Under rules and regulations of the State Board of Education, eligible school districts may contract with nonprofit community mental health and/or mental retardation centers, public or private, or any other nonprofit organization, institution, or agency approved by the State Board of Education, for the provision of services to exceptional children as defined by this Act, who reside with their parents or guardians.

(a-9) Special education program units shall be included in determining the total current operating cost for each district.

Subsection (4)a, as amended by Acts 1969, 61st Leg., p. 248, ch. 95, § 1, provided:

a. It is the purpose of this allotment of exceptional children teacher units to provide competent educational services for the exceptional children in Texas between and including the ages of six (6) and twenty-one (21) for whom the regular school facilities are inadequate or are not available.

In interpreting and carrying out the provisions of this Act, the words "exceptional children," wherever used, will be construed to mean physically handicapped children, mentally retarded children, emotionally disturbed children, and pregnant girls who are residents of or under the care of licensed maternity homes. The words "physically handicapped children," wherever used will be construed to include any child of educable mind whose body functions or members are so impaired that he cannot be safely or adequately educated in the regular classes of the public schools, without the provisions of special services; the words "mentally retarded children," wherever used, will be construed to include any child whose mental condition is such that he cannot be adequately educated in the regular classes of the public schools, without the provision of special services, and the words "emotionally disturbed children," wherever used, will be construed to include any child whose emotional condition is medically determined and psychologically determined to be such that he cannot be adequately educated in the regular classes of the public schools, without the provision of special services. The term "special services" may be interpreted to mean transportation; special teaching in the public school curriculum; corrective teaching, such as lipreading, speech correction, sight conservation, and corrective health habits; and the provision of special seats, books and teaching supplies, and equipment required for the instruction of exceptional children. Provided, no child shall receive special services permitted by law as an emotionally disturbed child without the consent of his parent or guardian, and provided that said child is seventeen (17) years of age or under. Provided further, that the statewide total of all classroom teacher units allocated for emotionally disturbed children under this Article in each year beginning September 1, 1965, shall be limited to twenty (20) classroom teacher units per year. It is the intent of the Legislature that these twenty (20) classroom teacher units per year be allocated as a pilot study only, to ascertain the most practical and effective means of educating emotionally disturbed children.

(4A) Annual Transportation Cost Allotment. An annual transportation cost allotment for each district operating an approved exceptional children program shall be computed as part of the Foundation School Program and paid from the Foundation

School Fund on a per capita pupil formula basis as follows:

a. For physically and/or orthopedically handicapped, visually handicapped children with conditions making impracticable the use of public transportation, deaf, trainable mentally retarded, and/or educable mentally retarded: The transportation allotment shall be One Hundred Fifty Dollars (\$150) per exceptional child pupil receiving such transportation, provided the district locally determines and certifies subject to the approval of the State Commissioner of Education that:

(1) Such a pupil is unable to utilize existing regular transportation services; and

(2) Such a pupil would be unable to attend the exceptional children class unless such special transportation is provided.

b. Allotments granted hereunder shall be used only for transportation purposes of children enrolled in a district-operated exceptional children program. Allotments received shall be deposited in the district's Exceptional Transportation Fund created hereby and are to be accountable separate from regular transportation funds.

Repealed article 2922—13d

This article provided for combining of district's average daily attendance to determine professional units allotment, and was derived from Acts 1965, 59th Leg., p. 1029, ch. 509.

Repealed article 2922—14

This article was amended by Acts 1965, 59th Leg., p. 880, ch. 438, § 1; Acts 1967, 60th Leg., p. 1849, ch. 721, § 1; Acts 1969, 61st Leg., p. 2634, ch. 872, § 1; Acts 1969, 61st Leg., p. 2651, ch. 873, §§ 2, 3. As so amended, this article provided:

Section 1. The board of trustees of each and every school district in the State of Texas shall pay their teachers upon a salary schedule providing a minimum beginning base salary, plus increments above the minimum for additional experience in teaching as hereinafter prescribed. The salaries fixed herein shall be regarded as minimum salaries only and each district may supplement such salaries.

All teachers and administrators shall have a valid Texas certificate. Salary increments for college training shall be based upon training received at a college recognized by the State Commissioner of Education for the preparation of teachers.

Provided that payment of at least the minimum salary schedule provided herein shall be a condition precedent: (1) to a school's participation in the Foundation School Fund; and (2) to its name being placed or continued upon the official list of affiliated or accredited schools. The annual salaries as provided herein may be paid in twelve (12) equal payments at the discretion of the local school boards.

The salary of each professional position listed in Section 2 of Article II of this Act 1 shall be determined as follows:

(1) Classroom teachers. For the 1969-70 school year the annual salary of classroom teachers shall be the monthly base salary,

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plus increments, multiplied by nine (9). For the 1970-71 school year the annual salary of classroom teachers shall be the monthly base salary plus increments multiplied by ten (10).

a. Classroom teachers shall be paid for the school year 1969-70 on the basis of the following salary schedules:

SALARY SCHEDULE 1969-70

		YEARS OF TEACHING EXPERIENCE							
		Salary	0-1	2-3	4-5	6-8	9 or		
		Month	600	630	662	695	More		
Teacher, B.A.							730		
		Salary	0-3	4-5	6-7	8-10	11-13	14-15	16 or
Teacher, M.A.		Month	660	695	730	767	805	845	More
									866

The above schedule reduced by Seven Dollars (\$7) per month at each step shall apply to all teaching positions and special service positions authorized under the Minimum Foundation Program, with the provision that all teaching positions authorized for more than nine (9) months shall receive the monthly salary multiplied by the number of months allowed.

Non-degree teachers shall receive .80 of the monthly salary for B.A. degree teachers multiplied by the number of months allowed for the position in which they are employed.

Salaries for the following positions shall be based on the monthly salaries for teachers with the same experience and degree and shall be computed as indicated below: SUPERVISORS AND COUNSELORS shall receive 1.06 of the monthly teacher salary multiplied by 10.

HEAD TEACHERS shall receive 1.08 of the monthly teacher salary multiplied by 9.

PART-TIME PRINCIPALS shall receive 1.15 of the monthly teacher salary multiplied by 9-½.

FULL-TIME PRINCIPALS shall receive 1.20 of the monthly teacher salary multiplied by 11.

SUPERINTENDENTS in districts with 600 ADA or less shall receive 1.25 of the monthly teacher salary multiplied by 12. Superintendents in districts with 601-5,000 ADA shall receive 1.50 of the monthly teacher salary multiplied by 12. Superintendents in districts with 5,001 or more ADA shall receive 1.75 of the monthly salary multiplied by 12.

b. For the 1970-71 school year classroom teachers shall be paid on a monthly basis as provided in the schedule below:

SALARY SCHEDULE 1970-71

		SALARY BY STEPS ABOVE BASE							
		Base salary	1	2	3	4	5		
		Month 600	630	662	695	730	767		
Teacher, B.A.		Base Salary	1	2	3	4	5	6	7
Teacher, M.A.		Month 660	695	730	767	805	845	866	888

Beginning teachers shall be paid the base salary. Other teachers shall be placed at the monthly salary step immediately above the monthly salary step in the 1969-70 salary schedule nearest the monthly salary received by the teacher in 1969-70. The annual salary for each teacher shall be the appropriate monthly salary multiplied by 10. The above schedule shall apply to all teaching positions and special service positions authorized under the Minimum Foundation Program, with the provision that all teaching positions authorized for more than 10 months shall receive the monthly salary multiplied by the number of months allowed.

Non-degree teachers shall receive .80 of the monthly salary for B.A. degree teachers multiplied by the number of months allowed for the position in which they are employed.

Salaries for the following positions shall be based on the monthly salaries for teachers with the same experience and

degree and shall be computed as indicated below:

SUPERVISORS and COUNSELORS shall receive 1.20 of the monthly teacher salary multiplied by 10.

HEAD TEACHERS shall receive 1.08 of the monthly teacher salary multiplied by 10.

PART-TIME PRINCIPALS shall receive 1.15 of the monthly teacher salary multiplied by 10.

FULL-TIME PRINCIPALS shall receive 1.25 of the monthly teacher salary multiplied by 11.

SUPERINTENDENTS in districts with 600 or less ADA shall receive 1.30 of the monthly teacher salary multiplied by 12. Superintendents in districts with 601-5,000 ADA shall receive 1.50 of the monthly teacher salary multiplied by 12. Superintendents in districts with 5,000-50,000 ADA shall receive 1.75 of the monthly teacher salary multiplied by 12. Superintendents in districts with 50,001 or more ADA shall re-

ceive 2.25 of the monthly teacher salary multiplied by 12.

Section 1(2), as amended by Acts 1969, 61st Leg., p. 2634, ch. 872, § 1, provided:

(2) Vocational Teachers.

a. The minimum monthly base pay and increments for teaching experience for a vocational teacher conducting a nine (9), ten (10), or twelve (12) months' vocational program approved by the State Commissioner of Education shall be the same as that of a classroom teacher as provided herein; provided that vocational trade and industrial teachers having qualifications approved by the State Board of Vocational Education shall be eligible for the minimum monthly base pay for a classroom teacher who holds a recognized bachelor's degree and a valid teacher's certificate.

The annual salary of vocational teachers shall be the monthly base salary, plus increments, multiplied by nine (9), ten (10), or twelve (12) as applicable for 1969-70, and by ten (10), eleven (11), or twelve (12) as applicable for 1970-71.

Provided that the minimum salaries hereinabove prescribed for vocational teachers mean total salaries of such teachers to be received for public school instruction, whether they be paid out of state and/or federal funds. Provided, further, that none of the provisions of this Act shall apply to teachers in distributive adult education.

Expenses where allowable shall be paid from a separate Vocational Fund. No such expense shall be counted as part of the cost of the Minimum Foundation School Program.

Section 1(2), as amended by Acts 1969, 61st Leg., p. 2651, ch. 873, § 2, provided:

(2) Vocational unit(s) salary.

a. The minimum monthly base pay and increments for teaching experience for a vocational teacher conducting a nine (9), ten (10), or twelve (12) months vocational program approved by the State Commissioner of Education shall be the same as that of a classroom teacher as provided herein; provided that vocational teachers having qualifications approved by the State Board of Education shall be eligible for the minimum monthly base pay for a classroom teacher who holds a recognized Bachelor's Degree and a valid teacher's certificate.

The annual salary of vocational teachers shall be the monthly base salary, plus increments, multiplied by nine (9), ten (10), or twelve (12) as applicable.

Provided that the minimum salaries hereinabove prescribed for vocational teachers mean total salaries of such teachers to be received for public school instruction, whether they be paid out of State and/or Federal funds.

b. The minimum monthly base salary and increments for teaching experience for vocational supervisors and vocational counselors shall be the same as that prescribed in the Foundation Program salary schedule for supervisors and counselors. The annual salary for such vocational supervisors and vocational counselors shall be the monthly base salary plus increments multi-

plied by ten (10) in the case of vocational counselors and eleven (11) in the case of vocational supervisors.

c. Expenses where allowable shall be paid from a separate vocational fund. No such expense shall be counted as part of the cost of the Minimum Foundation School Program.

Total current operating cost; inclusion of vocational teacher units. (2-A) Vocational teacher units shall be included in determining the total current operating cost for each district. In addition to this allowance, there shall be an additional allocation of \$400 for each vocational teacher unit.

(3) Special Service Teachers. The minimum monthly base salary and increments for teaching experience for special service teachers shall be the same as those provided herein for classroom teachers. The annual salary of such teachers shall be the monthly base salary, plus increments, multiplied by nine (9) for 1969-70, and by ten (10) for 1970-71.

Provided that a registered nurse shall be considered, for the purpose of computing salaries, as having a bachelor's degree, and that a librarian having a recognized certificate or degree based upon five (5) years of recognized college training therefor shall be considered as having a master's degree.

(4) Teachers of Exceptional Children. The minimum monthly base salary and increments for teaching experience for teachers of exceptional children shall be the same as that prescribed in this Act for classroom teachers. The annual salary of such teachers shall be the monthly base salary, plus increments, multiplied by nine (9), in 1969-70, and by ten (10) in 1970-71, except that in cases where the State Commissioner of Education approves such a unit for more than nine (9) months, the annual salary shall be the monthly base salary, plus increments, multiplied by the number of months approved by the State Commissioner of Education.

(5) Supervisors and/or Counselors. The minimum monthly base salary and increments for teaching experience for supervisors and counselors shall be that prescribed in the salary schedules as printed above for 1969-70 and 1970-71, respectively.

(6) Principals.

a. The minimum monthly base salary and increments for teaching experience for full-time principals shall be in compliance with the provisions set out in the above printed salary schedules for 1969-70 and 1970-71, respectively.

b. The classroom teacher who serves as part-time principal on the campus to which are assigned seven (7) or more classroom teacher units shall receive the salary prescribed for a part-time principal in the 1969-70 and 1970-71 schedules for each of these respective years.

c. The classroom teacher who serves as a part-time principal on a campus to which are assigned three (3) to six (6) classroom teacher units shall receive the salary prescribed for the head teacher in the above

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printed salary schedules for 1969-70 and 1970-71, respectively. In addition to the allotment of part-time principals as provided in Article III, Section 1, Subsection 6, districts containing an accredited high school and having fewer than nine (9) classroom teacher units shall be granted one (1) head teacher.

(7) Superintendents. The minimum monthly base salary and increments for teaching experience for superintendents shall be as prescribed in the salary schedules for 1969-70 and 1970-71, respectively.

Positions of less than 10 months' service; annual rate. Sec. 2. Beginning with the school year 1970-71, all classroom teaching positions and all other positions previously authorized for less than ten (10) months shall be paid at an annual rate calculated on the basis of ten (10) months' compensation for ten (10) months' service. Such service shall include the one hundred eighty (180) day school term providing instruction for pupils plus not to exceed ten (10) days of inservice education and preparation for

the beginning and ending of the school term.

Total cost of professional salaries. Sec. 3. The total cost of professional salaries of positions allowable for purposes of this Act shall be determined by application of the salary schedule to the total number of approved professional units, provided that such professional units are serviced by approved professional position employments.

Texas State Public Education Compensation Plan. Sec. 4. The annual salary of personnel authorized for employment under the Minimum Foundation Program for the school year 1971-72 and for each year thereafter shall be the monthly base salary, plus increments, shown in the schedule (entitled "Texas State Public Education Compensation Plan") below, multiplied by the number of months prescribed in the position description herein for each respective position. The salaries fixed in this schedule are minimum salaries only, and each district may supplement such salaries.

(1) The following schedule constitutes the Texas State Public Education Compensation Plan effective 1971-72, and thereafter:

Pay Grade	Base Monthly Salary	SALARY BY STEPS ABOVE BASE									
		1	2	3	4	5	6	7	8	9	10
1	\$ 300	\$ 315	\$ 331	\$ 348	\$ 365	\$ 383	\$ 402	\$ 422	\$ 443	\$ 465	\$ 488
2	360	378	397	417	438	460	483	507	532	559	587
3	450	473	497	522	548	575	604	634	666	699	734
4	480	504	529	555	583	612	643	675	709	744	781
5	540	567	595	625	656	689	723	759	797	837	879
6	570	599	629	660	693	728	764	802	842	884	928
7	600	630	662	695	730	767	805	845	887	931	978
8	660	695	730	767	805	845	887	931	978	1027	1078
9	690	725	761	799	839	881	925	971	1020	1071	1125
10	720	756	794	834	876	920	966	1014	1065	1118	1174
11	750	788	827	868	911	957	1005	1055	1108	1163	1221
12	780	819	860	903	948	995	1045	1097	1152	1210	1270
13	840	882	926	972	1021	1072	1126	1182	1241	1303	1368
14	900	945	992	1042	1094	1149	1206	1266	1329	1395	1465
15	1050	1103	1158	1216	1277	1341	1408	1478	1552	1630	1712
16	1200	1260	1323	1389	1458	1531	1608	1688	1772	1861	1954
17	1350	1418	1489	1563	1641	1723	1809	1899	1994	2094	2199
18	1500	1575	1654	1737	1824	1915	2011	2112	2218	2329	2445

Each individual will move to the step in this schedule immediately above the monthly rate received in 1970-71 and shall advance thereafter one (1) additional step with each added year of experience until the maximum is attained.

(2) The position descriptions, required preparation and education, and number of monthly payments authorized for each position under the Texas State Public Education Compensation Plan are as follows:

Pay Grade	No. Mos. Paid	Class Title	Description of Positions Assigned To Class Title	Required Preparation and Education
1	10	Aide I	Assist Teacher by duplicating materials; performing clerical operations; supervising students in routine drills or in P.T. drills or lunchroom supervision.	Some High School, Community ties.
			Assist in office procedures at file clerk level.	High School graduate.
2	10	Aide II	Assist Teacher in class drill exercises, in spotting student problems or problem students; perform functions of Aide I, as needed.	High School graduate.
			Perform stenographic, bookkeeping, and other clerical functions.	High School graduate and business college training.
3	10	Aide III	Relieve Teacher of most routine drill of students; work in Team Teaching productively. Perform as an "Assistant Teacher" under direction of qualified teacher.	2 years College or experience equivalent.
			Perform secretarial, high level receptionist; junior accounting, personnel assistant, campus principal secretary, etc.	2 years College plus business training.
4	10	*Teacher Trainee I	Emergency Permit Teacher without degree, but with personal traits needed to function in the classroom. Teaches students under frequent supervisory check by principal, grade-level or department head.	Minimum 2 years college, normally no less than 3 years college.
5	10	*Teacher Trainee II	Emergency Permit Teacher with college degree but deficiencies in educational preparation in professional or academic background. Teaches students under frequent supervisory check by principal, grade-level or department head.	College degree but certain educational deficiencies.
5	10	*Certified Non-degree Teacher	Teach at grade level or in teaching field for which prepared, under general supervision only.	Fully certified as teacher, but no college degree.
6	10	*Nurse, R. N.	School Nurse <u>without degree.</u>	R. N. (only)
7	10	*Teacher, B. A.	Teach at grade level or in teaching field for which prepared, under general supervision only.	Degree, no deficiency in professional education or in teaching field. Fully certified.

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Pay Grade	No. Mos. Paid	Class Title	Description of Positions Assigned to Class Title	Required Preparation and Education
7	10	*Vocational Trades and Industries Teacher	Teach in an approved vocational trades and industries program.	Approved by State Board of Vocational Education.
7	10 11 12	*Vocational Teachers	Teach in approved Vocational Program.	Bachelor degree; certified.
7	10	*Librarian I	Supervise school library or function as one of several librarians on a major campus.	Degree; certified.
7	10	*Visiting Teacher I	Works on personal, educational, family, and community problems with children, parents, school personnel and community agencies.	Degree; certified.
7	10	*Nurse, B. A.	School nurse.	Degree; certified.
8	10	*Teacher, M. A.	Teach at grade level or in teaching field for which prepared, under general supervision only.	Master's degree; Fully certified.
8	10 11 12	*Vocational Teacher	Teach in approved Vocational Program.	Master's degree; Certified.
8	10	*Librarian II	Supervise school library or function as one of several librarians on a major campus.	Master's degree; Fully certified.
8	10	*Physician	Serve as school physician.	M. D. degree.
8	10	*Visiting Teacher II	Works on personal, educational, family, and community problems with children, parents, school personnel and community agencies.	Master's degree; Certified.
9	10	Special Duty Teacher	Teach regular load at grade level or in teaching field for which prepared, under general supervision only, and perform special duty as sponsor of major student program; serve as cooperating teacher for student teachers; direct after-hour recreation or "lighted library"; serve as Team Leader in Team Teaching; direct band or major music group; serve as coach or assistant coach.	Fully certified as teacher and special training for special duty assignment and holder of master's degree.
10	10	*Counselor I	Provide educational and vocational guidance to students with limited personal guidance.	Fully certified.
10	10	*Supervisor I	Provide consultant services to teachers in a grade level or adjacent grades or in a teaching field or group of related fields.	Fully certified.

Pay Grade	No. Mos. Paid	Class Title	Description of Positions Assigned to Class Title	Required Preparation and Education
10	10	*Instructional Officer I	Serve as part-time principal on campus with 19 or fewer teachers.	Certified as Administrator.
10	10	Administrative Officer I	Serve as principal functional assistant to superintendent in system of 5,000 ADA or less.	College degree with major or minor in assignment.
11	10	*Instructional Officer II	Serve as part-time principal on campus with 20 or more teachers.	Certified as Administrator.
11	10	Administrative Officer II	Serve as principal functional assistant to superintendent in system of 5,001-12,500 ADA.	Same as Administrative Officer I plus experience in function.
12	10	Teacher Leader	(1) as grade-level head, department head, coordinate work of minimum of five teachers; or (2) as director of learning or resource center provide instructional leadership to minimum of 10 classroom teachers.	Fully certified as teacher; usually would have special training in assignment.
12	11	*Instructional Officer III	Serve as full-time principal on campus with 19 or fewer teachers.	Fully certified as Administrator.
12	10	Administrative Officer III	Direct major administrative activity in a system of 12,501-25,000 ADA.	Same as Administrative Officer I plus minimum 2 years related experience.
13	11	*Instructional Officer IV	Serve as full-time principal on campus with 20-49 teachers.	Fully certified as Administrator.
13	11	Instructional Officer IV	Serve in a system of 12,501-25,000 ADA under an Assistant Superintendent as key specialist for major instructional program.	Fully certified as Administrator or in suitable speciality.
13	12	Administrative Officer IV	Serve in capacity comparable to Instructional Officer IV above.	Same as Administrative Officer I plus 3 years experience in function.
14	11	*Instructional Officer V	Serve as full-time principal on campus with 50-99 teachers.	Fully certified as Administrator.
14	12	*Instructional Officer V	Serve as full-time principal on campus with 100 or more teachers.	Fully certified as Administrator.
14	12	*Administrative Officer V	Serve as Superintendent of system of 3,000 ADA or less.	Fully certified as Administrator.
14	12	Instructional/Administrative Officer V	(1) Serve as Assistant Superintendent in system of 12,501-25,000 ADA or one of several in larger system; (2) Serve in system of 25,001-50,000 ADA to direct (under an Assistant Superintendent) major instructional function.	Fully certified as Administrator or in speciality.

For Annotations and Historical Notes, see V.A.T.S.

Pay Grade	No. Mos. Paid	Class Title	Description of Positions Assigned to Class Title	Required Preparation and Education
14	12	Administrative Officer V	Serve in administrative capacity of comparable level as above in personnel, business, accounting, planning, research, etc.	Same as Administrative Officer I plus 5 years related experience.
15	12	*Administrative Officer VI	Serve as superintendent in system of 3,001-5,000 ADA.	Fully certified as Administrator.
15	12	Instructional/Administrative Officer VI	Serve as Assistant Superintendent or high level director for major program (such as instruction, business manager, personnel director, research, planning) in system of 25,001-50,000 ADA.	Fully certified as Administrator or in speciality.
16	12	*Administrative Officer VII	Serve as superintendent in system of 5,001-12,500 ADA.	Fully certified as Administrator.
16	12	Instructional/Administrative Officer VII	Serve as Assistant Superintendent or equivalent status, coordinating group of major functions in system of more than 50,000 ADA.	Fully certified as Administrator or in speciality.
17	12	*Administrative Officer VIII	Serve as superintendent in system of 12,501-50,000 ADA.	Fully certified as Administrator.
18	12	*Administrative Officer IX	Serve as superintendent in system of more than 50,000 ADA.	Fully certified as Administrator.

*These positions are presently authorized under the Minimum Foundation Program.

(3) The Commissioner of Education shall develop policies, subject to approval by the State Board of Education, to provide proper salary adjustments for promotions and demotions within grades provided in the Compensation Schedule, and for moving experienced teachers into the schedule who were not employed in 1969-70 or 1970-71.

Additional compensation. Sec. 5. To the salary of each person employed under the Texas Public Education Compensation Schedule as printed in Section 3 of this article there shall be added Sixty Dollars

(\$60) per month effective September 1, 1974, and continuing thereafter. Provided further that an additional Sixty-Six Dollars (\$66) per month shall be added effective September 1, 1978, and continuing thereafter to each salary provided under the Compensation Schedule as adjusted in 1974.

Repealed article 2922—14c

This article provided for supplemental state salary aid to public free school districts, and was derived from Acts 1965, 59th Leg., p. 880, ch. 438, § 4.

Art. 2922—14d. Teacher aides; salary

Effective for the school year 1970-71 and for each school year thereafter there shall be provided one (1) teacher aide for each twenty (20) classroom teacher units earned by a school district. For the school year 1970-71 an aide shall be paid a monthly salary of Three Hundred Dollars (\$300) and shall receive such salary for ten (10) months. For 1971-72 and thereafter the salary shall conform to

the schedule provided for an Aide I in the Texas State Public Education Compensation Plan.

Acts 1969, 61st Leg., p. 2634, ch. 872, § 2, eff. Sept. 1, 1969.

Acts 1969, 61st Leg., p. 2634, ch. 872, severability in section 10 and for effective dates in section 10A, which are set out provided for repeal of conflicting laws and in full as notes under art. 2922—13.

Art. 2922—15. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969.

1969 Amendments

This article was both amended and repealed at the 1969 Regular Session. Chapter 872 which does the amending affects only sections 1 and 2(2). Chapter 889 which does the repealing enacts the Texas Education Code and provides that any conflicting act passed at the same session prevails. Hence, the amended text, including other earlier amendments is set out, post, for possible use and application.

Repealed article was amended as follows: Section 1 was amended by Acts 1965, 59th Leg., p. 910, ch. 447, § 2, and Acts 1969, 61st Leg., p. 2634, ch. 872, § 3; section 2(1) was amended by Acts 1967, 60th Leg., p. 2067, ch. 768, § 1; section 2(2) was amended by Acts 1969, 61st Leg., p. 2634, ch. 872, § 5; section 2A was added by Acts 1965, 59th Leg., p. 1251, ch. 572, § 1. As so amended, these sections provided:

Services, current operating costs. Section 1. The total current operating cost for each school district other than professional salaries and transportation shall be determined by multiplying the number of approved classroom teacher units, exceptional teacher units, and vocational teacher units by Six Hundred Sixty Dollars (\$660) and grants therefor shall be allotted.

Services, transportation. Sec. 2. (1) The County Boards of School Trustees of the several counties of this state, subject to the approval of the State Commissioner of Education, are hereby authorized to establish and operate an economical public school transportation system within their respective counties. In establishing and operating such transportation systems, the County Boards of School Trustees shall: (1) requisition buses and supplies from the State Board of Control as provided for in this Article; (2) prior to June 1st of each year, with said Commissioner's approval, establish school bus routes within their respective counties for the succeeding school year; (3) employ school bus drivers; and (4) be responsible for the maintenance and operation of school buses. State warrants for transportation shall be made payable to the County School Transportation Fund in each county for the total amount of transportation funds for which the county is eligible under the provisions of this Act.

Provided, however, that when requested by the Board of Trustees of an independent school district, the County Board of School Trustees shall authorize such independent district to: (1) employ its school bus drivers; (2) be responsible for the maintenance and operation of its school buses; and (3) receive transportation payments direct from the state. When the County School Superintendent reports such authorization

to the State Commissioner of Education, state warrants for transportation funds for which the district is eligible shall be made to the District Transportation Fund, which is hereby created.

The County Boards of School Trustees and the State Commissioner of Education shall promulgate regulations in regard to the use of school buses for purposes other than transporting eligible pupils to and from their classes. Provided, however, that under rules and regulations of the State Board of Education, the appropriate district allocation in the County Transportation Fund, when approved by the County Board of School Trustees, or the District Transportation Fund, when approved by the Board of Trustees of the independent school district operating its own transportation system, may be used for school bus transportation of its pupils and necessary personnel on extracurricular activity and field trips sponsored by the respective school district.

School buses shall be operated upon approved school bus routes, and no variations shall be made therefrom. The penalty for varying from authorized routes and for unauthorized use of buses shall be the withholding of transportation funds from the offending county or school district. In the event the violation is committed by a district which receives no Foundation School Funds, the penalty provisions of Article XI, Section 2, of Senate Bill No. 116, Acts of the 51st Legislature, shall be invoked.

(2) The total annual transportation cost allotment for each district or county shall be based on the following formula:

(a) A typical bus route is defined as being from forty-five (45) to fifty-five (55) miles of daily travel and composed of sixty (60%) percent surfaced roads and forty (40%) percent dirt roads, over which fifteen (15) or more pupils who live two (2) or more miles from school are transported.

(b) Allowable total base cost of maintenance, operation, salaries, depreciation, etc., for each bus shall be:

72 capacity bus	\$3,276 per year
60—71 capacity bus	3,156 per year

For Annotations and Historical Notes, see V.A.T.S.

49—59 capacity bus	3,036 per year
42—48 capacity bus	2,916 per year
30—41 capacity bus	2,796 per year
20—29 capacity bus	2,676 per year
15—19 capacity bus	2,196 per year

The capacity of a bus shall be interpreted as the number of eligible children being transported who live two (2) or more miles from school along the approved route served by the bus. A bus that makes two (2) or more routes or serves two (2) or more schools shall be considered as having a capacity equal to the largest number of eligible children on the bus at any one time.

(c) For each one percent (1%) increase of dirt road above forty percent (40%), add one-half percent ($\frac{1}{2}\%$) to the allowable total cost.

(d) For each five (5) miles or major fraction thereof increase in daily bus travel above fifty-five (55) miles add one percent (1%) of the total cost of operation. For each five (5) miles or major fraction thereof less than forty-five (45) miles daily travel, deduct one percent (1%) from the total cost of operation.

(e) The State Commissioner of Education may grant not to exceed Seventy-Five Dollars (\$75) per pupil per year for private or commercial transportation for eligible pupils from isolated areas. The need for this type of transportation grant shall be determined on an individual basis and the amount granted shall not exceed the actual cost. Such grants shall be made only in extreme hardship cases and no such grants shall be made if such pupils live within two (2) miles of an approved school bus route or city public transportation services.

Contracts with public transportation companies for school bus service. Sec. 2A. (a)

As an alternative to maintaining and operating a complete public school transportation system under Section 2 of this Article, a county board of school trustees may contract with public transportation companies for all or any part of the public school transportation if the board is able to obtain an economically advantageous contract. An independent school district may enter into contracts authorized by this Section if the county board of school trustees has authorized it to be responsible for the maintenance and operation of its school buses.

(b) A contract is economically advantageous if the cost of the service contracted for is less than the projected cost of the same service under Section 2 of this Article.

(c) Contracts for public school transportation are subject to review by the Commissioner of Education and subject to the approval of the State Board of Education.

(d) Contracts for public school transportation may include provisions for transporting students to and from approved school activities.

(e) Once a contract has been approved, the contract price for the service shall be included in the annual transportation cost allotment for the county or district.

(f) The Commissioner of Education shall make rules for the administration of this Section, subject to the approval of the State Board of Education.

Acts 1969, 61st Leg., p. 2634, ch. 872, amending various articles of this chapter, provided for repeal of conflicting laws and severability in section 10 and for effective dates in section 10A, which are set out in full as notes under art. 2922—13.

Art. 2922—15a. Transportation for resident college students by school districts; contracts

Section 1. Any school district may furnish transportation by school bus or other conveyance to and from the nearest college or university for residents of the district who are enrolled at the college or university. Neighboring school districts may contract with each other to provide this transportation service for residents of the districts.

Sec. 2. Nothing in this Act affects the transportation cost allotment to which any school district is entitled under the Minimum Foundation School Program.

Acts 1969, 61st Leg., p. 1689, ch. 548, eff. Sept. 1, 1969.

Title of Act:

An Act authorizing school districts to furnish transportation for certain college

or university students; and declaring an emergency. Acts 1969, 61st Leg., p. 1689, ch. 548.

Arts. 2922—16, 2922—16a. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

1969 Amendments

Article 2922—16 was both amended and repealed at the 1969 Regular Session. Chapters 872 and 883 which does the amending affects only sections 2, 4 and 5. Chapter 889 which does the repealing enacts the Texas Education Code and provides that any conflicting act passed at the same session prevails. Hence, the amended text, including other earlier amendments is set out, post, for possible use and application.

Sections 2 and 4 of repealed article 2922—16 were amended by Acts 1965, 59th Leg., p. 880, ch. 438, § 2; Acts 1967, 60th Leg., p. 1852, ch. 721, § 2; and Acts 1969, 61st Leg., p. 2634, ch. 872, §§ 6, 7. Section 5 was amended by Acts 1969, 61st Leg., p. 2698, ch. 883, § 1. As so amended, these sections provided:

Total local school funds to be charged to all school districts in the state. Sec. 2. The sum of the amounts to be charged for the 1969-70 school year against the local school districts of the State toward such Foundation School Program shall be One Hundred Eighty Million Eight Hundred Thousand Dollars (\$180,800,000) to which shall be added by the State Board of Education at its July meeting in 1969, twenty percent (20%) of the estimated increased cost of such Foundation Program authorized by Acts of the 61st Legislature amending such Foundation School Program.

The sum of the amounts to be charged for the 1970-71 school year against the local school districts of the State toward such Foundation School Program shall be Two Hundred Four Million Nine Hundred Thousand Dollars (\$204,900,000) to which shall be added by the State Board of Education at its March meeting in 1970, twenty percent (20%) of the estimated increased cost of such Foundation Program authorized by Acts of the 61st Legislature amending such Foundation School Program.

For the 1971-72 school year, and for each school year thereafter, the sum of the amounts to be charged against the local school districts of the State toward such Foundation School Program shall be twenty percent (20%) of the estimated total cost of the Foundation School Program for the immediately preceding school year, plus an amount equal to the difference between the gross Local Fund Assignment and the net Local Fund Assignment for the immediately preceding school year. At its regular meeting in March 1971, and at each regular meeting in March thereafter, the State Board of Education after receiving the recommendation of the State Commissioner of Education, shall estimate the total cost of the Foundation School Program for the then current school year, based upon laws and approved school budgets in effect on the date when such estimate is made. Within thirty (30) days after such estimate has been made, the State Commissioner of Education, subject to the approval of the State Board of Education, shall assign each school district according to its taxpaying ability as determined in this Act, its proportionate part of such total to be raised locally for the next school year and applied towards the financing of its Minimum Foundation School Program.

Local fund available in each county. Sec. 4. For the school year beginning 1971-72 and each school year thereafter, the State Commissioner of Education shall calculate and determine the total sum of local funds that the school districts of a county shall be assigned to contribute toward the total cost of the Foundation School Program by multiplying twenty percent (20%) of the estimated Foundation Program cost for the immediately preceding school year, plus an amount equal to the difference between the gross Local Fund Assignment and the

net Local Fund Assignment for the immediately preceding school year as determined under the provisions of this Act by the Economic Index determined for each county. The product shall be regarded as the local funds available in each respective county toward the support of the Foundation School Program and shall be used in calculating the portion of said amount which shall be assigned to each school district in the county.

Local funds to be charged to each district. Sec. 5. The State Commissioner of Education shall determine the amount of local funds to be charged to each school district and used therein toward the support of the Foundation School Program, which amount shall be calculated as follows:

Divide the State and county assessed valuation of all property in the county subject to school district taxation for the next preceding school year into the State and county assessed valuation of the district for the next preceding school year, finding the district's percentage of the county valuation. Multiply the district's percentage of the county valuation by the amount of funds assigned to all of the districts in the county. The product shall be the amount of local funds that the district shall be assigned to raise toward the financing of its foundation school program.

Provided, however, that in any district containing State University-owned land, State-owned prison land, Federal-owned forestry land, Federal-owned reservoirs, Federal-owned recreation areas, Federal-owned military reservations or Federal-owned Indian reservations, the amount assigned to such school district shall be reduced in the proportion that the area included in the above-named classification bears to the total area of the district. Provided further, that no local fund assignment shall be charged to the Boys Ranch Independent School District in Oldham County, Texas, the Bexar County School for Boys Independent School District in Bexar County, Texas, and the Bexar County School for Girls Independent School District in Bexar County, Texas.

Provided that if the revenue that would be derived from the legal maximum local maintenance school tax is less than the amount that is assigned to a school district according to the economic index, and if such property valuation is not less than said property is valued for State and county purposes such lesser amount shall be the amount assigned to be raised by such school district.

Provided further, that if a school district is unable or for any reason failed to collect local maintenance school funds equal to the amount assigned to it as determined by this Act, such failure will not make the district ineligible for full State per capita apportionment and full Foundation School Fund grants, but the amount as determined by this Act shall be charged against the district as budgetary receipts whether such amount is collected or not.

Provided that the amount of local funds assigned to a contract district, as provided for in Article III of this Act, shall be assigned to the receiving district and all local taxes, except those required for the in-

For Annotations and Historical Notes, see V.A.T.S.

terest and sinking fund, shall be credited as collected to the receiving school district.

If a district other than such a contract district has no school, the amount of local funds assigned to such district shall be assigned for the current year to the receiving district in which such children attend school and the local tax funds collected shall be transferred to such receiving district; provided that if pupils from such a district attend schools in more than one receiving district, such local fund assignment and local tax funds shall be divided for the current year between such receiving districts proportionately according to the number of transfers to each receiving district.

If any school district which has a budgetary income, as provided in Article VI, Section 1, Subsections a and b, in excess of the amount needed to operate a Minimum Foundation School Program as provided herein and transfers pupils to another district, such sending district shall pay a proportionate part of such excess based upon the ratio of the number transferred to the number of enumerated scholastics, to the district or districts to which such pupils are transferred, and such amount shall be charged to the receiving school.

The sum of the amounts assigned to the several portions of a county-line school district shall be the amount assigned to be raised by such district toward the financing of its Foundation School Program.

The county tax assessor-collector in each county, in addition to his other duties prescribed by law, shall certify to the State Commissioner of Education in Austin, Texas, not later than December 1st of each year, the following information:

(1) The assessed valuation, on a State and county valuation basis, of all property subject to school district taxation in each school district or portion of school district in such county, and the total assessed val-

uation of all property subject to the school district taxation in the county;

(2) The total area of each school district; and

(3) The area within each school district comprised of State University-owned land, State-owned prison land, Federal-owned forestry land, Federal-owned reservoirs, Federal-owned recreation areas, Federal-owned military reservations, and Federal-owned Indian reservations.

Should any county tax assessor-collector fail to submit such certificates to the State Commissioner of Education as provided for herein, the State Comptroller of Public Accounts is hereby directed to submit such information, estimating when necessary. As soon after the receipt of such certificates as practicable, and prior to the time that the respective tax rates for the school districts of the county have been set, the State Commissioner of Education shall notify each school district as to the amount of local funds that such district is assigned to raise for the succeeding school year.

If there has been a marked increase or decrease in the assessed valuation of a school district within a county, and if the county school board certifies that the use of the county and school district valuations for the preceding year in determining local fund assignments to the school districts in the county would be inequitable, and recommends a different distribution of the county total than that made by the State Commissioner of Education, such recommendations, subject to the approval of said Commissioner, shall become and be the lawful fund assignments to such districts.

Provided further, that any local maintenance funds in excess of the amount assigned to a district as determined by this Section may be expended for any lawful school purpose or it may be carried over as a balance into the next school year.

Arts. 2922—16c to 2922—16e. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

1969 Amendments

Article 2922—16e was both amended and repealed at the 1969 Regular Session. Chapter 372 which does the amending affects only sections 1 and 2. Chapter 889 which does the repealing enacts the Texas Education Code and provides that any conflicting act passed at the same session prevails. Hence, the amended text, including other earlier amendments is set out, post, for possible use and application.

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Repealed article 2922—16e provided for additional adjustment in local fund assignments in certain school districts, and was derived from Acts 1965, 59th Leg., p. 1228, ch. 563. Sections 1 and 2 were amended by Acts 1967, 60th Leg., p. 180, ch. 95, § 1; Acts 1967, 60th Leg., p. 1225, ch. 554, § 1; and Acts 1969, 61st Leg., p. 1159, ch. 372, § 1. As so amended, this article provided:

Section 1. In addition to the exceptions and exemptions provided in the Minimum Foundation Program's local fund assign-

ments in Section 5 of Chapter 334, Article VI, Acts of the 51st Legislature, Regular Session, 1949, as amended, codified as Article 2922—16, Vernon's Texas Civil Statutes, there shall be provided an additional adjustment applicable to any school district having three percent (3%) or more of its total scholastic population for the preceding school year composed of scholastic residents and transfers of tax-exempt institutions for orphan, dependent, and/or neglected children.

Sec. 2. The local fund assignment charge to such a district having three percent (3%) or more of its average daily attend-

ance for the preceding school year composed of scholastic residents and transfers of tax-exempt institutions shall be reduced for each respective current school year by an amount equal to the product of the total average daily attendance of students who were residents and transfers of the tax-exempt institutions for orphan, dependent, and/or neglected children during the preceding school year multiplied by One Hundred Fifty-One Dollars and Fifty Cents (\$151.50).

Sec. 3. The superintendent of each school district qualifying for an adjustment in his local fund assignment under the provision of Section 1 above and wishing to receive such reduction in local fund assignment authorized on the basis of the formula set out in Section 2 above shall certify to

the Central Education Agency in Austin, Texas, not later than December 1 of each year the following information:

(1) The total average daily attendance of the school district determined for students residing in the district for the preceding school year; and

(2) The average daily attendance for the preceding school year determined for scholastic residents of the tax-exempt institution(s) in the district for orphan, dependent, and/or neglected children; and

(3) A list showing the name of each such institution scholastic, the total daily attendance earned for such students in the preceding school year; and the name and address of the institution.

Art. 2922—16f. County financial support; economic index

Section 1. In calculating an economic index of the financial ability of each county to support the Foundation School Program pursuant to the provisions of Section 3, Article VI, Chapter 334, Acts of the 51st Legislature, Regular Session, 1949, as amended (Article 2922—16, Vernon's Texas Civil Statutes), the Commissioner of Education shall calculate the value of cattle or other animal sales from feedlots at the net increase in value while in the feedlot.

Sec. 2. Definition: The "net increase in value in a feedlot" is arrived at by using the latest three years' average of the Federal Reserve Bank's interest rate as of January 1 of each year to which is added one and one-half percentage points. This total interest rate percentage figure then multiplied by the average sale value of cattle or other animals from the feedlot, will result in the "net increase in value while in a feedlot," and is the figure that shall be used to carry out the purposes of this Act.

Acts 1969, 61st Leg., p. 1020, ch. 330, emerg. eff. May 27, 1969.

Title of Act:

An Act providing that in calculating an economic index of the financial ability of each county to support the Foundation School Program pursuant to the provisions of Section 3, Article VI, Chapter 334, Acts of the 51st Legislature, Regular Session, 1949, as amended (Article 2922—16, Vernon's

Texas Civil Statutes), the Commissioner of Education shall calculate the value of cattle and other animals sold from feedlots at the net increase in value while in the feedlots; defining "net increase in value while in feedlots"; and declaring an emergency. Acts 1969, 61st Leg., p. 1020, ch. 330.

Arts. 2922—17 to 2922—24. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Art. 2922—25a. Governor's Committee on financing of Minimum Foundation Program

a. There is hereby established a committee to be comprised of eighteen (18) members: Six (6) to be appointed by the Governor, six (6) by the Lieutenant Governor, and six (6) by the Speaker of the House. Three (3) members appointed by the Lieutenant Governor shall be members of the Senate and three (3) members appointed by the Speaker of the House shall be members of the House of Representatives. The committee members shall serve from the date of their respective appointments until August 31, 1971. Members of the committee shall serve without compensation but each shall receive reimbursement for actual travel expense when on official business of the committee.

For Annotations and Historical Notes, see V.A.T.S.

b. The Governor shall call the first meeting of the committee immediately after a majority of the members have accepted appointment and at that time the members shall elect a chairman and a vice chairman from among their number and adopt procedure rules governing membership and committee conduct. The committee may create advisory committees to perform officially and effectively the duties and responsibilities imposed by this Act. A majority of the committee shall constitute a quorum. The committee shall have the responsibility of studying the relationship between the State and local school districts in financing the Minimum Foundation Program. They shall examine the structure of the Economic Index now in operation, ascertaining its weaknesses and its strengths. It shall review the findings of the Governor's Committee on Public School Education and evaluate information available relative to the financing of the Minimum Foundation Program. They shall explore all facets and all possibilities in relation to this problem area and shall recommend to a called session of the Legislature or to the 62nd Legislature convening in 1971 a specific formula or formulae to establish a fair and equitable basis for the division of the financial responsibility between the State and the various local school districts of Texas.

c. There is hereby appropriated from the General Revenue Fund for the fiscal year ending August 31, 1970, the sum of Twenty-Five Thousand Dollars (\$25,000) to pay the expenses of the committee. Any unexpended balance of the original appropriation of Twenty-Five Thousand Dollars (\$25,000) is hereby re-appropriated to carry out the work of the committee during the fiscal year beginning September 1, 1970.

d. The State Board of Education and the Committee shall coordinate their efforts and the State Board of Education shall cooperate with the Committee and shall furnish professional, technical and clerical staff when deemed necessary to implement the work of the committee. Every State agency, department, and institution and every State, county, and school district official is directed to provide such information as may be requested by the committee and to assist the committee in accomplishing its objective.

e. The committee shall report the results of its studies and make recommendations to the Governor and to each member of the Legislature not later than August 31, 1970. Because of the serious problem which exists in the financing of the Minimum Foundation Program and of apparent inequities in the allocation of funds to be provided by local school districts, the committee is encouraged to complete its work at the earliest possible date so that a solution might be found to be made applicable to the 1970-71 school year.

Acts 1969, 61st Leg., p. 2634, ch. 872, § 8, eff. Sept. 1, 1969.

Acts 1969, 61st Leg., p. 2634, ch. 872, amending various articles of this chapter, provided for repeal of conflicting laws and severability in section 10 and for effective dates in section 10A, which are set out in full as notes under art. 2922—13.

Art. 2922—26. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Repealed article authorized quarterly semester pilot programs in public schools, and was derived from Acts 1967, 60th Leg., p. 1827, ch. 706.

Art. 2922—27. Three-semester pilot programs

Section 1. For the purpose of exploring the feasibility of operating three-semester pilot programs, public school districts of this state are hereby authorized to operate (in lieu of the usual nine-month program) a twelve-month school year program and to receive allocation of state aid toward financing the additional three-month operation from the Foundation Program Fund, determined in the manner prescribed in this Act.

Provided, however, that the district shall operate such twelve-month program under its proposed plan submitted to the Central Education Agency, and subject to approval of the Agency as meeting policy and regulations established and adopted by the State Board of Education applicable thereto.

Sec. 2. (a) Three-semester pilot programs, annually approvable under this Act, shall be restricted in number to involve a maximum of 10 programs not to exceed 100,000 pupils, based on average daily attendance in the preceding school year, and the attendance of eligible pupils shall be restricted to two semesters out of the three-semester program.

(b) Provided further, that for purposes only of this pilot program, any child otherwise eligible who becomes 6 years of age after September 1 may be admitted to public school in any following semester beginning after he has reached 6 years of age, and such attendance shall be counted as eligible attendance for allocation purposes of the Foundation School Program Fund.

Sec. 3. The cost of operating such approved three-semester pilot programs shall be borne by the state and each participating district on the same percentage basis that applies to financing the Foundation School Program Act within the respective district.

Sec. 4. For purpose of computing authorized state aid and allocations under this Act, the cost of the program shall be ascertained as follows:

(a) The district's average daily attendance for classroom teacher unit eligibility and allocations shall be determined on a three-semester basis, limiting eligible pupil attendance to two semesters within each scholastic year. Eligibility for special service teachers, supervisors and/or counselors, head teachers, part-time principals, and full-time principals shall be determined by dividing the total aggregate days of attendance in the pilot program by the number of days that instruction is offered during two semesters, determined to the best advantage of the district.

(b) An additional salary adjustment, based on the state minimum salary schedule, shall be added for classroom teacher units occasioned by a twelve-month operation. Provided further that the number of months and salary, based on the state minimum salary schedule, for eligible special service teachers, supervisors and/or counselors, head teachers, part-time principals, and full-time principals shall be allowed for 12 months.

(c) The total current operating costs of each pilot program as herein described, other than professional salaries and transportation, shall be determined by multiplying the number of classroom teacher units and exceptional teacher units times the number of months employed times \$67.

(d) An additional transportation allotment shall be added not to exceed the amount of one-third of the transportation allotment as normally computed for a nine-month operation.

Sec. 5. The state's share of the cost shall be paid from the Minimum Foundation Program Fund, and this cost shall be considered by the Foundation Program Committee in estimating the funds needed for Foundation School Program purposes.

Acts 1969, 61st Leg., p. 2693, ch. 879, eff. Sept. 1, 1969.

Title of Act:

An Act providing for pilot programs in school districts that wish to experiment with three-semester programs in schools that operate 12 months; providing further for eligibility of children that reach 6 years

of age after September 1 in such pilot programs; and further providing for state financial assistance for such experimental programs; and declaring an emergency. Acts 1969, 61st Leg., p. 2693, ch. 879.

ELECTION CODE**CHAPTER TWO—TIME AND PLACE****Art. 2.01a Other elections on a primary election day prohibited**

No general or special election of any nature may be held on the same day as a primary election provided for in Section 181 of this code.¹

Acts 1951, 52nd Leg., p. 1097, ch. 492, § 9a, added by Acts 1969, 61st Leg., p. 2662, ch. 878, § 1, eff. Sept. 1, 1969.

¹ Article 13.03.

CHAPTER THREE—OFFICERS OF ELECTION**Art. 3.01 Appointment of election officers**

(a) For county elections. The commissioners court at its July term shall appoint from among the citizens of each election precinct one qualified voter as presiding judge of elections held at the expense of the county in that precinct and one qualified voter as alternate presiding judge, each of whom shall continue to act until his successor is appointed. Whenever a vacancy arises in either of such offices, the commissioners court may fill the vacancy at any regular or special term of court. All orders appointing judges and alternates shall be entered of record. Each presiding judge shall appoint two qualified voters, who are residents of the precinct, to serve as election clerks, and shall appoint for each election as many additional clerks as he deems necessary for the proper conduct of the election, not to exceed the maximum number authorized by the commissioners court. The commissioners court shall fix the maximum number of clerks which may be appointed for each precinct, and may fix different maximums depending on the type of election. The clerks shall be selected from different political parties, when practicable. The chairman of the county executive committee of each of the two parties whose candidate for Governor received the most votes for Governor in the last prior general election may submit a list of not less than two qualified nominees who are members of that party to each election judge at least 30 days prior to the date of a general election or 10 days prior to the date of a special election. If any such list is submitted to him, the election judge shall appoint at least one clerk from each list submitted. For the purpose of this section, the term "members of that party" means persons who affiliated with the party in the manner prescribed in Section 179a of this code¹ during the last preceding set of primary elections and conventions.

¹ Article 13.01a.

Par. (a) amended by Acts 1967, 60th Leg., p. 1863, ch. 723, § 8, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 2662, ch. 878, § 2, eff. Sept. 1, 1969.

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Art. 3.04 Disqualifications

Subdivision 1. Except as otherwise provided herein, no one who holds an office of profit or trust under the United States or this state, or any city or town in this state, or within 30 days after resigning or being dismissed from any such office, except a notary public, or who is a candidate for public office, or who is not a qualified voter, shall act as judge, clerk, or watcher of any election, general, special, or primary. The holding of a nonlucrative office does not disqualify a person to act as a judge, clerk, or watcher in any election other than an election held by a county, city, school district, or other political subdivision of which he is an officer. The holding of a lucrative office, except notary public, disqualifies the holder to act as a clerk or watcher in any election held by a county,

city, school district, or other political subdivision of which he is an officer or in a primary election at which nominations for offices of that political subdivision are to be made, but does not disqualify him to serve in any other election. As used in this subdivision, the term 'officer of a county' includes only those officers who serve a county or one of its precincts in its capacity as a political subdivision.

Subdivision 2. The offices referred to in Subdivision 1 of this section do not include offices of a political party, and no one shall be disqualified to act as judge, clerk, or watcher at an election by reason of his holding or being a candidate for the office of county chairman or precinct chairman or other office of a political party.

Subdivision 3. No one shall act as chairman or as member of any district, county, or city executive committee of a political party who is not a qualified voter, or who is a candidate for public office, or who holds any office of profit or trust, either under the United States or this state, or any city or town in this state.

Amended by Acts 1969, 61st Leg., p. 2662, ch. 878, § 3, eff. Sept. 1, 1969.

Art. 3.08. Pay of judges and clerks

(a) In all elections, general, special, or primary, by whatever authority conducted, the rate of pay for judges and clerks of the election shall be determined by the appropriate authority, but shall not exceed two dollars per hour for each judge or clerk. No judge or clerk shall be paid for more than one hour of work before the polls open. In precincts where voting machines are used, no judge or clerk shall be paid for any period of time subsequent to two hours after the official time for closing the polls or subsequent to two hours after voting is concluded by all voters offering themselves for voting during regular voting hours, whichever is the later. The judge who delivers the returns of election may be paid an amount not to exceed five dollars for that service; provided, also, he shall make returns of ballots, ballot boxes, and election supplies not used when he makes returns of the election.

Subsec. (a) amended by Acts 1969, 61st Leg., p. 1509, ch. 453, § 1, emerg. eff. June 10, 1969.

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(c) The compensation of judges and clerks of general and special elections shall be paid by the authority responsible for the expenses of the election, upon presentation of claims for such services approved in the manner required for other claims against its funds. In a joint election, the total pay for the judges and clerks may not exceed the maximum specified in Subsection (a) of this section. However, if the election judge delivers the returns of election and the election supplies to different locations for the different election authorities, he shall be paid by each election authority for each delivery the amount specified in Subsection (a) of this section.

Subsec. (c) amended by Acts 1969, 61st Leg., p. 1564, ch. 473, § 1, emerg. eff. June 10, 1969.

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CHAPTER FOUR—ORDERING ELECTIONS

Art. 4.03 Writs of election

Not less than 15 days before any general or special election, the county judge shall mail or deliver a copy of the writ of election to the presiding judge of each election precinct in which the election is ordered to be held, and shall notify him in writing of his duty to hold the election in that precinct and of the location of the polling place and the hours during which the polls shall be kept open.

Amended by Acts 1969, 61st Leg., p. 2662, ch. 878, § 4, eff. Sept. 1, 1969.

For Annotations and Historical Notes, see V.A.T.S.

Art. 4.05 Notice of election

Subdivision 1. The county judge shall cause notice of each general or special election ordered by him or by the commissioners court to be given in at least one of the following manners: (1) by posting a notice of the election in each precinct in which the election is to be held at least 20 days before the election; or (2) by publishing the notice at least one time, not more than 25 days nor less than 10 days before the election, in at least one daily newspaper published in the county (in the political subdivision or territory in which the election is to be held if the election is less than countywide), or if there is no daily newspaper published therein, then in a weekly newspaper published therein; or (3) if there are one or more newspapers published in the county, by issuing the notice in the form of a news release sent to each newspaper published in the county, not more than 25 days nor less than 10 days before the election. In all cases, a copy of the notice shall also be filed with the county clerk and another copy shall be posted on a bulletin board in the office of the county clerk, at least 20 days before the election. As used herein, the term "newspaper" has the meaning defined in Section 1, Chapter 84, Acts of the 43rd Legislature, 1st Called Session, 1933, as amended (Article 28a, Vernon's Texas Civil Statutes).

Subdivision 2. The notice of each general or special election shall state the nature and date of the election, the hours during which the polls will be open, and the location of the polling place or places. A notice given in the first manner listed in Subdivision 1 of this section shall state the location of the polling place in the precinct where the notice is posted; all other notices shall state the location of the polling places in all the precincts in which the election is to be held. The notice of a special election shall also state the office or offices to be filled, or the question or questions to be voted on; provided, however, that in the case of an election on proposed constitutional amendments, publication of which amendments is required by Article XVII, Texas Constitution, the notice required by this section need not state the propositions which are to appear on the ballot.

Subdivision 3. Notwithstanding the foregoing provisions of this section, where the manner of giving notice for a local option, stock law, bond or tax election, or any other special election is specially provided for by the laws of this state, the notices of election shall be given in compliance with the laws governing each respective election.

Subdivision 4. Where notice is given in the first manner listed in Subdivision 1 of this section, the sheriff or a constable shall post the notice and shall make a return on a copy of the notice, showing how and when he executed the notice. Where notice is given in the second manner, the county judge shall file with the county clerk a copy of the notice as published, together with the name of the newspaper or newspapers and the date or dates of publication. Where notice is given in the third manner, the county judge shall file with the county clerk a copy of the news release together with a list of the newspapers to which it was sent and the date of mailing.

Amended by Acts 1969, 61st Leg., p. 2662, ch. 878, § 5, eff. Sept. 1, 1969.

Art. 4.10 Vacancy; application to get on ballot

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Sec. 2. Such application must be filed not later than 6 p. m. of the 31st day before any such special election, and shall not be considered filed unless it has actually been received by the officer with whom it is to be filed. The application must be accompanied with a fee of \$1,000 for a statewide office, including without limitation the offices of United States Senator and United States Congressman-at-Large, a fee of \$500

for the district office of United States Representative, a fee of \$150 for the district office of State Senator or State Representative, and a fee of \$10 for a city office. Such fees shall be deposited in the general fund of the state or city, as the case may be.

Sec. 2 amended by Acts 1969, 61st Leg., p. 2662, ch. 878, § 6, eff. Sept. 1, 1969.

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CHAPTER FIVE—SUFFRAGE

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| Art. | Art. |
| 5.05c. Voting by persons having less than six months' residence in county [New]. | 5.13b. Information required on application [New]. |
| 5.12b Registration by persons in military service or recently discharged therefrom, etc. [New]. | 5.18b Repealed. |

Art. 5.03 Qualifications for voting for bond issues, lending credit, expending money, or assuming debt

When an election is held by any county, or any number of counties, or any political subdivision of the state, or any political subdivision of a county or any defined district now or hereafter to be described and defined within the state, and which may or may not include towns, villages, or municipal corporations, or any city, town, or village, for the purpose of issuing bonds or otherwise lending credit, or expending money or assuming any debt, only qualified electors who own taxable property in the state, county, political subdivision, district, city, town, or village where such election is held, and who have duly rendered the same for taxation, shall be qualified to vote and all electors shall vote in the election precinct of their residence. Property shall be deemed to have been duly rendered for taxation, for the purpose of determining eligibility to vote in an election as provided in this code and in Article VI, Section 3a, of the Texas Constitution, only if the property was rendered to the county, city, district, or other political subdivision holding the election within the period of time fixed by law for such rendition, or was placed on the tax rolls by the tax assessor prior to the date on which the election was ordered, if the regular rendition period expired before that date.

Amended by Acts 1969, 61st Leg., p. 2662, ch. 878, § 7, eff. Sept. 1, 1969.

Art. 5.04 Affidavit of voter in bond election, etc.

(a) Before any person is allowed to vote in an election for the purpose of issuing bonds or otherwise lending credit, or expending money or assuming any debt, he shall sign and swear to an affidavit to the effect that he owns property, giving a description of one item, which has been duly rendered for taxation to the political subdivision holding the election at a time and in a manner which entitles him to vote in the election, as provided in Section 35 (Article 5.03) of this code. The voter's registration certificate number shall be shown on the affidavit, and it shall contain a statement that the affiant understands that the giving of false information in the affidavit is a felony punishable by a fine not to exceed \$5,000 or by imprisonment in the penitentiary not to exceed five years, or by both such fine and imprisonment.

(b) The secretary of state shall prescribe the form of the affidavit, and may prescribe instructions to accompany the affidavit. A form for multiple signatures of voters may be used for voting at regular polling places and for absentee voting by personal appearance where the absentee ballots are cast on a voting machine or are counted by a special canvassing board.

For Annotations and Historical Notes, see V.A.T.S.

Each person voting an absentee ballot by mail or voting by personal appearance in elections where the ballots are to be sent to regular polling places for counting shall be furnished an individual affidavit form, which shall be signed and sworn to at the time the voter marks his ballot. After the voter seals the ballot envelope, he shall place the affidavit into the carrier envelope along with the ballot envelope and the ballot stub. The election officers shall ascertain that the affidavit is properly executed before opening the ballot envelope, and if it is not properly executed, the ballot shall be rejected.

Voters voting at regular polling places or voting absentee by personal appearance shall swear to the affidavit before an officer of the election, and all clerks and deputy clerks for absentee voting and all election judges and clerks at regular polling places shall have authority to administer the oath required of the voter.

Subsecs. (a), (b) amended by Acts 1969, 61st Leg., p. 2662, ch. 878, § 8, eff. Sept. 1, 1969.

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Art. 5.05 Absentee voting

Subdivision 1. Who may vote absentee. Any qualified voter of this state who expects to be absent from the county of his residence on the day of the election, or who because of sickness, physical disability, or religious belief cannot appear at the polling place in the election precinct of his residence on the day of the election, may nevertheless cause his vote to be cast at any election held in this state by compliance with the applicable method herein provided for absentee voting. If a voter's religious belief prohibits him from voting during any part of the time during which the polls are open on the day of the election, he shall nevertheless be entitled to vote absentee even though the prohibition does not operate throughout the entire time that the polls are open.

Absentee voting shall be conducted by two methods: (1) voting by personal appearance at the clerk's office, and (2) voting by mail. All voters coming within the foregoing provisions of this subdivision may vote by personal appearance at the clerk's office if they are able to make such appearance within the period for absentee voting. The following persons, and no other, may vote by mail:

(i) Qualified voters who because of sickness or physical disability, or because of religious beliefs, cannot appear at the polling place on the day of the election. The application for an absentee ballot shall be made not more than sixty days before the day of the election. It must be mailed to the clerk, and the clerk shall preserve the envelope in which it is received. If the application is delivered to the clerk by any method other than by mailing it to him, the ballot shall be void and shall not be counted. The voter shall state in his application the address to which the ballot is to be mailed to him, which must be either his permanent residence address or the address at which he is temporarily living. If the ballot is furnished to the voter by any method other than by mailing it to him, or if it is mailed to any address other than one of the foregoing, it shall be void and shall not be counted. The marked ballot must be mailed to the clerk, and if returned in any other manner it shall be void and shall not be counted.

(ii) Qualified voters who, before the beginning of the period for absentee voting, make application for an absentee ballot on the ground of expected absence from the county of their residence on election day, and who expect to be absent from the county during the clerk's regular office hours for the entire period of absentee voting. The voter must state in his application that he expects to be absent from the county of his residence on election day and during the clerk's regular office hours for the entire period for absentee voting. The application shall be made not

more than sixty days before the day of the election, and may be mailed to the clerk or delivered to him by the voter in person, but the clerk shall not furnish a ballot to the voter by any method other than by mailing it to him. Applications made under this paragraph may be mailed either from within or without the county of the voter's residence, but in every case the ballot must be mailed to the voter at an address outside the county. The ballot shall not be counted unless the carrier envelope in which the ballot is returned to the clerk is postmarked from a point outside the county and the affidavit on the carrier envelope is certified by an officer other than an officer of the county of the voter's residence.

(iii) Qualified voters who, after the beginning of the period for absentee voting, apply for an absentee ballot on the ground of expected absence from the county and who are absent from such county at the time of applying for an absentee ballot and expect to be absent from such county during the clerk's regular office hours for the remainder of the period for absentee voting. The voter must state in his application that he is absent from the county at the time of making the application and expects to be absent on election day and during the clerk's regular office hours for the remainder of the period for absentee voting. The clerk shall not mail a ballot to any such voter unless the envelope in which the application received is postmarked from a point outside the county, and the ballot must be mailed to the voter at an address outside the county. The ballot shall not be counted unless the envelope in which the application is received and the carrier envelope in which the ballot is returned to the clerk are each postmarked from a point outside the county and the affidavit on the carrier envelope is certified by an officer other than an officer of the county of the voter's residence.

An application for an absentee ballot to be voted by mail shall state the applicant's permanent address and the address to which the absentee ballot is to be mailed to the applicant, and shall also state the address to which his poll tax receipt or exemption certificate is to be mailed back to him.

Subd. 1 amended by Acts 1969, 61st Leg., p. 202, ch. 82, § 1, eff. Sept. 1, 1969.

Subdivision 2. Application for ballot. A voter desiring to vote absentee shall make written application for an official ballot to the county clerk of the county of his residence, which application shall be signed by the voter, or by a witness at the direction of the voter in the case of the latter's inability to make such application because of physical disability. The application shall state the ground on which the applicant is entitled to vote absentee, and in case of an application by mail, it shall also state the additional information required by Subdivision 1 of this section. In case of an application to vote absentee by personal appearance, except where the voted ballot is to be placed in a carrier envelope, the application shall contain or have attached thereto an affidavit signed by the applicant, in substantially the following form:

I, _____, do solemnly swear that I am a resident of Precinct No. _____, in _____ County, and am lawfully entitled to vote at the _____ election to be held in said precinct on the _____ day of _____, 19____, and that I am prevented from appearing at the polling place in said precinct on the date of the election because of _____ (voter to signify sickness, physical disability, expected absence from county, or religious belief).

(Signature of Voter)

By: _____
(Signature of witness who assisted voter in event of physical disability)

For Annotations and Historical Notes, see V.A.T.S.

The application shall be accompanied by the poll tax receipt or exemption certificate of the voter, or in lieu thereof, his affidavit in writing that same has been lost or mislaid or has been used for applying for an absentee ballot in another election (stating the nature and date of the election) and has not been returned to him. If the ground of application is sickness or physical disability by reason of which the voter cannot appear at the polling place on election day, a certificate of a duly licensed physician or chiropractor or accredited Christian Science practitioner certifying to such sickness or physical disability shall accompany the application, which certificate shall be in substantially the following form:

This is to certify that I have personal knowledge of the physical condition of _____, and that because of sickness or physical disability he (she) will be unable to appear at the polling place for an election to be held on the _____ day of _____, 19____.

Witness my hand at _____, Texas, this _____ day of _____, 19____.

(Signature of Practitioner)

Expected or likely confinement for childbirth on election day shall be sufficient to entitle a voter to vote absentee on the ground of sickness or physical disability, and a physician executing a certificate for a pregnant woman may state in the certificate that because of pregnancy and possible delivery she will be or may be unable to appear at the polling place on election day.

Any person who requests a physician, chiropractor, or Christian Science practitioner to execute a certificate for another person without having been directed by such other person to do so, and any physician, chiropractor, or Christian Science practitioner who knowingly executes a certificate except upon the request of the voter named therein or upon request of someone at the voter's direction, or who knowingly delivers a certificate except by delivering it to the voter in person or by mailing it to the voter at his permanent residence address or the address at which he is temporarily living, or who knowingly falsifies a certificate, shall be guilty of a misdemeanor and upon conviction shall be fined not more than Five Hundred Dollars or imprisoned in the county jail for not more than thirty days, or both so fined and imprisoned.

Subd. 2 amended by Acts 1969, 61st Leg., p. 202, ch. 82, § 2, eff. Sept. 1, 1969.

Subdivision 2a. Absentee voting by members of the armed forces, etc. (a) Notwithstanding any provision of Subdivision 1 or Subdivision 2 of this section, any qualified voter within any of the following categories shall be entitled to vote absentee by mail upon making a sworn application by mail for an absentee ballot on an official federal post card application for absentee ballot, and no further statement of his eligibility to vote absentee by mail shall be required of him, provided the application is mailed from outside the county and the ballot is to be mailed to an official address outside the county:

(1) a member of the armed forces of the United States while in the active service, his spouse and dependents;

(2) a member of the merchant marine of the United States, his spouse and dependents; and

(3) a citizen of the United States domiciled in this state but temporarily living outside the territorial limits of the United States and the District of Columbia.

(b) Application for an absentee ballot made on a federal post card application form by a voter coming within either of the categories listed in Paragraph (a) of this subdivision shall not be subject to the provisions of Paragraph (ii) of Subdivision 1 of this section which requires that

the application be made not more than 60 days before the day of the election; and an application received at any time within either the calendar year or the voting year during which the election is held shall be accepted. The voter may apply on one application form for a ballot for more than one election. Every application for a primary election ballot shall be treated as an application for both the first primary election and the second primary election of the political party indicated on the application. If the application does not indicate the election or elections for which application is made, the clerk shall treat it as an application for each general election for which he will conduct the absentee voting during that calendar year, and in the case of an application made to a county clerk, he shall also treat it as an application for both the first and the second primary election of the political party indicated if a party preference is indicated on the application.

(c) The applicant need not be registered as a voter, and, if registered, he need not accompany his application with his voter registration certificate or an affidavit of its loss. Before mailing a ballot in response to an application, the clerk shall ascertain whether the applicant's name is listed on the current list of registered voters for the precinct of his residence, and if it is not so listed, the application shall also be treated as an application for registration for all elections for which the applicant is applying for an absentee ballot.

(d) If the applicant is not currently registered through the registrar of voters, the clerk shall examine the information on the federal post card application, and if it shows that the applicant possesses the qualifications for voting at that election in the precinct of his residence, the clerk shall enter his name on a list headed "Absentee voters registering by FPCA for the _____ election held on _____" and shall also enter thereon the voter's local permanent address and election precinct number, the address to which the ballot is mailed, and the date on which it is mailed. The list shall be made up in duplicate and shall be kept up from day to day. One copy shall be posted in the clerk's office, which shall serve to fulfill the requirement of Subdivision 11 of this section. After the election is held, this copy shall be filed as a record of the clerk's office if the clerk conducting the absentee voting is a county clerk or a city secretary or city clerk, and as a record of the authority which appointed the clerk for absentee voting in other instances, to be preserved for a period of two years, after which it may be destroyed. The other copy shall be placed with the records of the election which are delivered into the custody of the officer designated in Paragraph (a) (2) of Section 111b of this code,¹ to be subject to the same regulations as those records.

¹ Art. 8.29b, (a) (2).

(e) The clerk shall mail a ballot and the other balloting supplies to each voter in an envelope endorsed "Official Election Balloting Material—via Air Mail" or similar language, with the words "Free of U. S. Postage, Including Air Mail" printed in a box in the upper right corner of the envelope, in conformity with the specifications contained in the Federal Voting Assistance Act of 1955, as amended.² The carrier envelope included in the balloting supplies mailed to the voter shall be similarly endorsed. The secretary of state shall prescribe forms and furnish instructions for the preparation of envelopes to comply with these provisions.

² 50 U.S.C.A. § 1451 et seq.

(f) The names of regularly registered voters who apply for absentee ballots on federal post card application forms shall be included on the lists of absentee voters which the clerk sends to the presiding judges of the election, but the names of absentee voters who register under this subdivision shall not be sent to the presiding judges.

For Annotations and Historical Notes, see V.A.T.S.

(g) Oaths and affirmations required for application for and the voting and returning of absentee ballots by voters using the federal post card application forms may be administered and attested by any commissioned officer in the active service of the armed forces or by any civilian official empowered by state or federal law to administer oaths.

(h) Words and phrases used in this subdivision shall be construed to have meanings in harmony with the Federal Voting Assistance Act of 1955, as amended.

Subd. 2a amended by Acts 1967, 60th Leg., p. 937, ch. 414, § 2, eff. June 12, 1967; Acts 1969, 61st Leg., p. 2662, ch. 878, § 9, eff. Sept. 1, 1969.

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Subdivision 3b. Voting by personal appearance in election less than county-wide. In an election less than county-wide in which absentee paper ballots are to be sent to the regular polling places for counting, upon receipt of an application of an absentee ballot to be voted by personal appearance, the clerk shall thereupon furnish to the voter the following absentee voting supplies:

(1) One official ballot which has been prepared in accordance with law for use in such election.

(2) One ballot envelope, which shall be a plain envelope, without any markings except the words "Ballot Envelope" printed on the face thereof, followed by the instructions contained in this subdivision and Subdivision 4 for marking the ballot, for placing it in the carrier envelope, and for returning a ballot to be voted by mail, together with a statement of the deadline for placing the ballot in the mail and for delivery to the clerk's office in that election.

(3) One carrier envelope, upon the face of which there shall appear the words "Carrier Envelope for Absentee Ballot" and the name, official title, and post-office address of the county clerk, and upon the other side a printed affidavit in substantially the following form:

I, _____, do solemnly swear that I am a resident of Precinct No. _____, in _____ County, and am lawfully entitled to vote at the _____ election to be held in said precinct on the _____ day of _____, 19____; that I am prevented from appearing at the polling place in said precinct on the date of such election because of _____ (voter to signify sickness, physical disability, expected absence from county, or religious belief); that the enclosed ballot expresses my wishes, independent of any dictation or undue persuasion of any person; and that I did not use any memorandum or device to aid me in the marking of said ballot.

(Signature of voter)

By: _____
(Signature of witness who assisted voter in event of physical disability)

The voter shall then and there, in the office of the clerk, mark the ballot in the presence of the clerk, sign his name on the back of the ballot stub, detach the stub from the ballot, fold the ballot and place it in the envelope marked "Ballot Envelope" and seal the same. The voter shall then place the stub and the ballot envelope in the carrier envelope, seal the same and sign and swear to the affidavit on the carrier envelope, and deliver the carrier envelope to the clerk, who shall certify to the affidavit. The clerk shall, when requested, also take any other affidavits for a voter which are required by this Code, for which service no fee shall be charged. The clerk shall make a notation on the voter's poll tax receipt or exemption certificate that he has voted absentee in the election, shall

note the number of the receipt or certificate on the application, and shall return the receipt or certificate to the voter.

Subd. 3b amended by Acts 1969, 61st Leg., p. 202, ch. 82, § 3, eff. Sept. 1, 1969.

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Subdivision 4d. Voting upon return to county after applying for absentee ballot by mail. If a voter to whom an absentee ballot has been mailed returns to the county of his residence before receiving or returning the ballot and will be present in the county on the day of the election, he may vote on election day at the regular polling place in the precinct of his residence after notifying the clerk in writing to void his application for an absentee ballot. Upon receiving the notification, the clerk shall remove his name from the list of absentee voters. If the voter will not be present in the county on the day of the election, he may vote an absentee ballot by personal appearance in the clerk's office at any time during the period for absentee voting by personal appearance after notifying the clerk to void his application for an absentee ballot by mail. The clerk shall make the necessary notations on his records to insure that the absentee ballot mailed to the voter will not be counted if it is returned to his office.

Subd. 4d added by Acts 1969, 61st Leg., p. 2662, ch. 878, § 10, eff. Sept. 1, 1969.

Subdivision 4e. Period for mailing ballot to voter outside the United States, etc. Notwithstanding the provisions of Subdivision 4 of this section, the clerk shall mail a ballot to an absentee voter as soon as possible after the ballots become available, but not earlier than 30 days before the election, if the ballot is to be mailed to one of the following: (1) an address outside the United States; (2) an address in the United States for forwarding to the voter at a location outside the United States; (3) an Army Post Office (APO) or a Fleet Post Office (FPO) address; or (4) an address in the United States for delivery or forwarding to a member of the merchant marine. If, after an absentee ballot is mailed to a voter, any change is made in the official ballot due to the death of a candidate or for any other reason except to correct an error, the clerk shall not mail another ballot to the voter, and the votes cast for that office on ballots mailed before the change is made shall not be counted.

Subd. 4e added by Acts 1969, 61st Leg., p. 2662, ch. 878, § 11, eff. Sept. 1, 1969.

* * * * *

Art. 5.05c Voting by persons having less than six months' residence in county

Subdivision 1. Persons eligible to vote. A person who is a qualified elector as defined in Section 34 of this code ¹ except for the requirement of six months' residence in the county immediately preceding the election shall nevertheless be entitled to vote on all offices, questions or propositions to be voted on by electors throughout the state, including electors for President and Vice President of the United States, for which the person would be eligible to vote if he fulfilled the county residence requirement. A person having less than six months' residence in the county, if otherwise eligible, shall be entitled to vote for any district office or at any other election of a district composed of territory situated in more than one county if he has resided in the district for the last six months preceding the election. Where a district consists of only a part of one county or where a part of a county is joined with territory situated in another county or counties to form a district, a person who has resided in the county for

For Annotations and Historical Notes, see V.A.T.S.

the last six months and is a resident of the district on the date of the election fulfills the local residence requirement for voting in a district election.

¹ Article 5.02.

Subdivision 2. Registration; transfer of registration. No person shall be eligible to vote under this section unless he is registered as a voter under the general voter registration laws of this state for the year in which the election is held or is eligible to vote under the special registration provisions applicable to persons entitled to use the federal post card application for absentee ballot. A voter who has changed the county of his residence since receiving his registration certificate need not comply with the provisions of this code on transfer of registration before being permitted to vote.

Subdivision 3. Application for limited ballot; procedure for voting. A person having less than six months' residence in the county who is entitled to vote a limited ballot as stated in Subdivision 1 of this section shall be permitted to vote upon making a written, signed application for a limited ballot to the county clerk of the county of his residence at the time of the election, upon an official application form to be prescribed by the Secretary of State and furnished by the county clerk. The procedure for voting a limited ballot shall be similar to the procedure for absentee voting. If the voter meets the requirements of Section 37 of this code¹ for voting an absentee ballot by mail, he shall be permitted to vote the limited ballot by mail under the procedure for absentee voting by mail upon submitting both an application for a limited ballot and an application for an absentee ballot. Otherwise, he shall vote by personal appearance during the period for absentee voting by personal appearance and under the procedure for voting by personal appearance in countywide elections insofar as it can be made applicable and is not inconsistent with this section. Ballots cast under this section shall be counted and return made thereof along with and on the same forms as the absentee ballots.

¹ Article 5.05.

Subdivision 4. Ballot form. When paper ballots are used, the voter shall be furnished a regular official ballot for the election, from which all offices and propositions on which the voter is not entitled to vote have been stricken; and when a voting machine is used, all offices and propositions on which the voter is not entitled to vote shall be locked out before the voter is permitted to cast his ballot. When absentee voting by personal appearance is being conducted on a voting machine, the clerk may permit persons voting under this section by personal appearance to cast their ballots on the voting machine or he may furnish them with paper ballots, at his option.

Subdivision 5. Record of district offices voted on. The Secretary of State shall furnish to each county clerk the necessary information on the composition of the various districts to enable the clerk to determine whether a person entitled to vote a limited ballot for statewide offices is also entitled to vote for any district offices. The clerk shall note on each voter's application a list of all district offices for which he is permitted to vote.

Added by Acts 1967, 60th Leg., p. 1878, ch. 723, § 20, eff. Aug. 28, 1967. Subd. 2 amended by Acts 1969, 61st Leg., p. 2662, ch. 878, § 12, eff. Sept. 1, 1969.

Art. 5.12b Registration by persons in military service or recently discharged therefrom, etc.

In addition to registering during the regular registration period prescribed by Section 43a of this Code,¹ any person who, at the time of applying for registration, comes within a category of persons eligible to vote

by absentee ballot without regular registration through use of the federal post card application for absentee ballot, as provided in Subdivision 2a of Section 37 of this code,² or who came within such a category at any time on or after January 1 preceding the beginning of the voting year for which he is applying, may register at any time after the close of the regular registration period and before the end of the voting year. Each person applying for registration under this section shall submit a written, signed statement of the necessary information to show that he is entitled to register hereunder, and the statement shall be filed and preserved in the same manner as other applications for registration. The registration shall become effective for voting on the fifth day following issuance of the registration certificate if the registrant is otherwise qualified to vote on that date.

Acts 1951, 52nd Leg., p. 1097, ch. 482, § 44b added by Acts 1969, 61st Leg., p. 2662, ch. 878, § 13, eff. Sept. 1, 1969.

¹ Article 5.11a.

² Article 5.05, subd. 2a.

Art. 5.13a Mode of applying for registration

(1) A person may apply for registration in person or by mail as provided herein. Each applicant must submit a written application which supplies all the information required by Section 45b of this code.¹ For the voting year 1970, the application may be made on any form which supplies all the information which an applicant is required to furnish by the provisions of this code as amended by the 61st Legislature, regardless of whether such information is supplied in the manner specified by such amendment or in the manner specified by the provisions of this code prior to such amendment, but a registrar shall not refuse to accept any application which contains sufficient information to enable him to determine that the applicant is eligible to register. For the voting year 1971 and thereafter, the application must be made on a form prescribed by the secretary of state. The secretary of state may prescribe one form or forms for use in counties using electronic data processing methods for issuing voter registration certificates and a different form for use in counties not using electronic data processing methods, but the registrar in each county must accept any application made upon any form prescribed by the secretary of state which supplies all the necessary information for registration. In addition to other requirements, the application form shall contain the following statement: "I understand the giving of false information to procure the registration of a voter is a felony." The application shall be signed by the applicant or his agent. However, if the person making the application is unable to sign his name either because of physical disability or illiteracy, he shall affix his mark, if able to do so, which shall be attested by a witness, whose signature and address must be shown on the application. The registrar shall file and preserve all applications for a period of two years.

When a properly executed application is received by the registrar, he shall make out a registration certificate and shall either deliver the original certificate to the voter or his agent in person or shall mail it to the voter at his permanent address; or if the voter is temporarily living outside the county and requests that the certificate be mailed to the temporary address, the registrar shall mail it to the temporary address. When application is made in person, the registrar may make out and deliver the certificate immediately or he may defer preparation of the certificate until a later time, to be mailed to the voter or held for delivery in person if the applicant so directs. A certificate which is to be mailed to the voter must be mailed in time to be received before the date on which it becomes effective for voting.

For Annotations and Historical Notes, see V.A.T.S.

An application by mail shall be deemed to have been received by the registrar within the period for registration if it is placed in the mail on or before the last day of the registration period, as shown by the postmark, or is delivered to the registrar before the end of the first business day following the close of the registration period. Within the meaning of this section, the application is delivered when it is actually placed into the possession of the registrar or his duly authorized agent by a post-office employee, or is deposited into the registrar's mail box, or is left at the usual place of delivery for the registrar's official mail.

Subsec. (1) amended by Acts 1969, 61st Leg., p. 2662, ch. 878, § 14, eff. Sept. 1, 1969; Acts 1969, 61st Leg., 2nd C.S., p. 161, ch. 48, § 1.

¹ Article 5.13b.

(2) The husband, wife, father, mother, son, or daughter of a person entitled to register may act as agent for such person in applying for registration, without the necessity of written authorization therefor, may sign for the applicant, and may receive the registration certificate. However, none of the above may act as agent unless he is a qualified elector of the county. No person other than those mentioned in this subsection may act as agent for a person in applying for registration.

Except as herein permitted, a person who wilfully acts as agent for another in applying for registration or in obtaining a registration certificate is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500).

Subsec. (2) amended by Acts 1969, 61st Leg., 2nd C.S., p. 161, ch. 48, § 1.

* * * * *

Acts 1969, 61st Leg., 2nd C. S., p. 161, ch. 48, § 2 amended art. 5.13b; section 3 amended art. 5.15a; section 4 amended art. 5.19a; and section 5 made this Act effective beginning with registration for the 1970 voting year.

Amendment of Section 45a [article 5.13a] by Acts 1969, 61st Leg., p. 2662, ch. 878, § 40, was conditioned upon enactment of Senate Bill No. 228 of 61st Legislature which was vetoed.

Art. 5.13b. Information required on application

An application for a voter registration certificate shall show the following information:

1. The applicant's name, sex, and post-office address (or if living in an incorporated city or town, his street address).

2. A statement of the applicant's age. If the applicant has not attained the minimum age for voting, the application shall show his date of birth by month, day and year. If the applicant has already attained the minimum age for voting, it shall be sufficient for the applicant to state that he is over the minimum voting age. In lieu of showing the applicant's age in terms of a number of years, age may be shown by stating the date of birth; and in case that form of statement is called for on the application, it shall be sufficient for an applicant who has attained the minimum voting age to state the year of his birth without giving the month and day, or to state that he was born prior to a certain year which shows him to be over the minimum age for voting.

3. A statement that the applicant has resided in the state more than one year, in the county more than six months, and in the city or town (if a resident of an incorporated city or town) more than six months immediately preceding the date of application; or if not a resident for such length of time, a statement of the date on which he became a resident of the state, county, or city, as the case may be.

4. A statement that the applicant is a citizen of the United States.

5. If the application is made by an agent, a statement of the agent's relationship to the applicant.

The application form shall contain a space for showing the address to which the certificate is to be mailed, if it is to be mailed to a temporary

address. It shall also contain a space for showing the election precinct in which the applicant resides, but an application shall not be deficient for failure to list the number or name of the precinct or for listing an incorrect number or name where the applicant's correct address is given. It may also contain a space for the applicant's Social Security number, but an application shall not be deficient for failure to list the number.

Added by Acts 1967, 60th Leg., p. 939, ch. 414, § 5, eff. June 12, 1967.
Amended by Acts 1969, 61st Leg., 2nd C.S., p. 161, c. 48, § 2.

Acts 1969, 61st Leg., 2nd C. S., p. 161, ch. 48, § 1, amended art. 5.13a; section 3 amended art. 5.15a; section 4 amended art. 5.19a; and section 5 made this Act effective beginning with registration for the 1970 voting year.

Art. 5.15a Information required on certificate

Each certificate shall show the voter's name, age, address, and election precinct number. If the registrant will not become eligible to vote until a date subsequent to the first day of the voting year for which the certificate is issued, or subsequent to the date of issuance, whichever is later, the certificate shall show the date on which he will become eligible to vote (the date on which he will attain minimum voting age, will fulfill residence requirements, or will satisfy the waiting period following registration, whichever is applicable). The certificate may also show other information which is furnished on the application, at the option of the registrar.

Amended by Acts 1969, 61st Leg., 2nd C.S., p. 161, ch. 48, § 3.

Acts 1969, 61st Leg., 2nd C. S., p. 161, ch. 48, § 1, amended art. 5.13a; section 2 amended art. 5.13b; section 4 amended art. 5.19a; and section 5 made this Act effective beginning with registration for the 1970 voting year.

Art. 5.18a Removal to another county or election precinct

(1) If a voter, after receiving his registration certificate, removes to another county or to another election precinct in the same county, he may vote in the precinct of his new residence by presenting to the judge of election his registration certificate or his affidavit of its loss, stating in such affidavit where he received the certificate, and by making oath that he is the identical person described in the certificate and that he then resides in the precinct where he offers to vote and has resided for the last six months in the county in which he offers to vote and 12 months in the state. But no such person shall be permitted to vote in a city of 10,000 inhabitants or more unless he complies with the following procedure: not less than four days prior to any election at which he wishes to vote, he shall present his registration certificate to the registrar of the county of his residence, or shall make affidavit of its loss, stating in such affidavit where he received the certificate, and shall on oath state in which election precinct he then resides and that he has resided in the state for the last 12 months and in the county for the last six months. The registrar shall thereupon add his name to the list of registered voters of the precinct of his new residence, and unless such voter has complied with this procedure and his name appears on the list of registered voters of the precinct of his new residence, he shall not vote.

(2) A person who has removed from one county to another less than six months before an election may vote a limited ballot under the procedures outlined in Section 37c of this code,¹ if he is otherwise a qualified elector at the election. A voter who has changed the county of his residence since receiving his registration certificate need not comply

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with the provisions of this section on transfer of registration before being permitted to vote under Section 37c.

Amended by Acts 1969, 61st Leg., p. 2662, ch. 878, § 15, eff. Sept. 1, 1969.

¹ Article 5.05c.

Art. 5.18b Repealed by Acts 1969, 61st Leg., p. 2662, ch. 878, § 39, eff. Sept. 1, 1969

Repealed article provided for absentee registration by persons in military service and other categories stationed outside the state, and was derived from Acts 1967, 60th Leg., p. 939, ch. 414, § 6. See, now, art. 5.12b.

Art. 5.19a List of registered voters

(1) Before the first day of March each year, the registrar of voters shall prepare from the duplicate registration certificates on file in his office a certified list of registered voters for each election precinct of the county, arranged alphabetically by the names of the voters and showing each voter's name, age, address, and registration number. If the registrant will not become eligible to vote until a date subsequent to the first day of the voting year for which the certificate is issued, or subsequent to the date on which his name is placed on the list of registered voters, whichever is later, the date on which he will become eligible to vote shall be noted on the list of registered voters. The registrar shall deliver to each board, executive committee, or other authority having the duty of furnishing supplies for any general, special, or primary election to be held within the county prior to the first day of March of the following year, one set of such lists for all precincts in the county if any election which may be held by such authority is countywide, and one set of such lists for all precincts wholly or partially within the boundaries of the particular political subdivision if all elections which may be held by such authority are less than countywide. The registrar shall also furnish to each such authority, not less than four days prior to each election held by it, certified supplemental lists in the same form hereinabove prescribed of registered voters in each precinct whose names do not appear on the original list for such precinct, together with lists of the names of all persons whose registration has been cancelled or transferred to another precinct since preparation of the original lists. The authority shall furnish to the presiding judge in each precinct the original and supplemental lists of voters in his precinct at the time it furnishes other election supplies. Prior to the opening of the polls, the presiding judge shall strike from the original list the names of persons whose registration has been cancelled or transferred to another precinct.

Subsec. (1) amended by Acts 1969, 61st Leg., 2nd C.S., p. 161, ch. 48, § 4.

* * * * *
 Acts 1969, 61st Leg., 2nd C. S., p. 161, ch. 48, § 1, amended art. 5.13a; section 2 amended art. 5.13b; section 3 amended art. 5.15a; and section 5 made this Act effective beginning with registration for the 1970 voting year.

CHAPTER SIX—OFFICIAL BALLOT

Art. 6.07 Constitutional amendments and other questions

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Subdivision 2a. The publication of each constitutional amendment shall be limited to the text of the joint resolution below the resolving clause.

Subd. 2a added by Acts 1969, 61st Leg., p. 1617, ch. 498, § 1, emerg. eff. June 10, 1969.

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CHAPTER SEVEN—ARRANGEMENT AND EXPENSES OF ELECTION

Art. 7.06 Ballot boxes

All ballot boxes shall be securely made of a material and construction and in a design approved by the secretary of state. All ballot boxes shall be provided with a lock and key and shall have an opening at the top just large enough to receive a ballot when voted. Whenever the ballots shall have been counted at any election, general, special or primary, the counted ballots shall be locked in one of the ballot boxes of suitable size and delivered to the proper official and the key or keys to the said lock shall be delivered to the proper official to be kept for at least thirty days unless sooner needed for recount or contest as provided by law.

Amended by Acts 1969, 61st Leg., p. 2662, ch. 878, § 16, eff. Sept. 1, 1969.

Art. 7.14 Providing for voting machines

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Sec. 8. Form of ballots on voting machines. All ballots shall be printed in black ink on white clear material, of such size as will fit in the ballot frame, and in as plain, clear type as the space will reasonably permit. In all elections, general, special, or primary, a designating letter and number may be affixed to the name of each candidate. In general elections, the party name may be affixed to the name of each candidate, and the names of all candidates of one political party shall be so arranged that a voter may be able to cast his ballot for such candidates as he may desire or to cast one ballot for all the candidates of that political party. In primary elections, however, the ballot shall be so arranged and the lever so locked as to prevent the voting of straight tickets. Should there be so many candidates and/or propositions to be voted upon in any election as to exceed the capacity of one machine, more than one machine shall be provided for each polling place, but in all cases where more than one machine is necessary to list the entire ballot, the names of all candidates for any particular office shall be placed on one machine. In lieu of using an additional machine for listing the ballot, uncontested races may be placed in a separate column headed "Uncontested Races," with the name of each candidate appearing under the title of the office for which he is a candidate, and if the election is one at which party columns appear on the ballot, the party affiliation of the candidate shall be indicated by printing the name of the party which nominated him (or the word 'Independent' if he is an independent candidate) after the candidate's name; and all such uncontested races shall be voted on as a block, and the requirement of this section that the ballot in general elections be so arranged that the voter may be able to vote a straight ticket for all candidates of one political party shall not apply to candidates appearing in the uncontested column. However, in no election may the ballot be so arranged that a voter is able to vote as a block on propositions.

If the authorities charged with holding the election determine, in their discretion, that more than one voting machine is necessary to accommodate the number of voters voting in an election precinct, then as many voting machines shall be used for each precinct as such authorities deem necessary, and the same form of ballot containing the

For Annotations and Historical Notes, see V.A.T.S.

names of all candidates and/or propositions arranged in the same manner shall be provided for each machine.

Sec. 8 amended by Acts 1969, 61st Leg., p. 2662, ch. 878, § 17, eff. Sept. 1, 1969.

* * * * *

Sec. 19a. Payment for recheck and comparison. A request for a recheck of voting machines used in an election shall be accompanied with a deposit of \$3 for each precinct to be rechecked. If the request is made by a person or persons other than a candidate at the election, it shall state what interest they represent. If the recheck results in a change in the outcome of the election favorable to the person or persons making the request, the amount of the deposit shall be refunded to the payor; otherwise, it shall be applied to the payment of any expenses incident to the recheck, and any amount remaining after payment of expenses shall be turned over to the county treasurer for deposit in the general fund of the county.

Sec. 19a added by Acts 1969, 61st Leg., p. 2662, ch. 878, § 18, eff. Sept. 1, 1969.

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Art. 7.15 Providing for Electronic Voting Systems

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Subdivision 5. Adoption by commissioners court.

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(d) Whenever a municipality or other political subdivision is situated in more than one county, any election held by such political subdivision may be conducted by use of any authorized method of voting which has been adopted by the commissioners court of either such county for use in precincts lying within such political subdivision, regardless of whether that method had been adopted in the other county or counties in which the political subdivision is situated. The governing body of the municipality or other political subdivision shall make the determination as to the method to be used.

Subd. 5(d) added by Acts 1969, 61st Leg., p. 2662, ch. 878, § 19, eff. Sept. 1, 1969.

* * * * *

Subdivision 10a. Watchers at central counting station. Watchers may be appointed to observe activities at the central counting station in the same manner as watchers are appointed to serve at regular polling places. The watchers need not be present at the time the central counting station opens, and they may begin service at any time they desire. If the counting of ballots is begun before the official time for closing the polls, any watcher who is on duty after the counting is begun shall remain on duty until the time for closing the polls except for such periods of absence as permitted by the presiding judge of the central counting station. With this exception, a watcher may leave the central counting station and may resume his service at any time until the election officers have completed their duties. A watcher appointed for a regular polling place may also be appointed to serve at the central counting station after the official time for closing the polls. This subdivision does not affect the right of watchers from the polling places to accompany the election officials to the central counting station, as provided in Subdivision 19 of this section.

Subd. 10a added by Acts 1969, 61st Leg., p. 2662, ch. 878, § 20, eff. Sept. 1, 1969.

* * * * *

Subdivision 11a. Preparation of ballot and program. The ballots to be used at an election shall be prepared and procured under the same regulations as ordinary paper ballots, except that the officer making up the ballot shall confer with the programmer for that election before ordering the ballots printed, to make sure that the ballot is properly prepared for counting by means of the electronic tabulating equipment which will be used.

The authority charged with the duty to provide ballots shall select a competent person to prepare the program for the electronic tabulating equipment. The programmer may be one of the persons appointed or approved by the commissioners court under Paragraph (b), Subdivision 20 of this section or some other person, but if the program is prepared by anyone other than the tabulation supervisor, it must be submitted to the tabulation supervisor for his approval at least three days before the election.

Subd. 11a added by Acts 1969, 61st Leg., p. 2662, ch. 878, § 20, eff. Sept. 1, 1969.

* * * * *

Subdivision 19. Procedure after polls are closed. (a) As soon as the polls are closed and the last ballot has been deposited in the ballot box, the election officers shall immediately secure or inactivate all voting equipment in the polling place so that no equipment may be used or operated by any unauthorized person. They shall then remove from the ballot box all voted ballots not theretofore removed in accordance with Subdivision 18 of this section. They shall examine the ballots for write-in votes and count the votes cast for candidates whose names have been written in; provided, however, that if the voting system is such that write-in votes can be detected and segregated by the tabulating equipment, the counting of write-in votes may be done at the central counting station. Before any write-in vote is counted, the election officers shall examine the ballot to ascertain whether the write-in vote is valid, and count it only if it is found to be valid. A notation shall be made on the invalid portion of a ballot and it shall be segregated from other ballots and placed in the container provided for that purpose. Write-in votes shall be added to the results of the count of the ballots at the central counting station and be included in the official returns for the precinct. If the ballot consists of more than one part, the precinct election officials, after checking for write-in votes, shall then sort the ballots according to types or parts.

(b) All ballots not voted shall be handled in the manner provided in Section 100 of this code.¹ The presiding judge shall make out and sign a statement accounting for all ballots delivered to him, as provided in Section 100.

(c) The authority holding the election shall provide ballot containers made of metal, wood, or some other material approved by the secretary of state, with numbered metal seals, for use in delivering voted ballots from the polling place to the central counting station. A record of the serial numbers of the seal shall be preserved, and a copy of such records shall be furnished the central counting station. All voted ballots which are to be counted by automatic tabulating equipment shall be placed in a ballot container at the polling place for delivery to the central counting station. The poll lists and tally sheets for write-in votes shall be enclosed in envelopes provided for that purpose and placed in the container with the voted ballots. Before sealing the ballot container, the election judge shall execute a certificate in triplicate recording the number of ballots placed in the container and the serial number of the seal. The certificate shall also be signed by an election clerk as witness and by at least two watchers of opposed interests if such there be. The original of the certificate shall be placed in the container with the ballots, and the con-

For Annotations and Historical Notes, see V.A.T.S.

tainer shall then be sealed so that no additional ballots may be deposited and no ballots may be removed without breaking the seal. One copy of the certificate shall be immediately mailed to the authority holding the election in a pre-addressed stamped envelope at the nearest post office or postbox by an election officer other than those who deliver the ballot container to the counting station. The other copy of the certificate shall be retained with the election records at the polling place.

(d) After the ballot container is sealed, two authorized election officers shall immediately deliver the ballot container to the central counting station, and watchers shall have the privilege of accompanying them. They shall deliver the container to the presiding judge of the central counting station or his designated representative, who shall give them signed receipts for the container, in a form specified by the secretary of state. The container shall be opened only by the presiding judge of the central counting station or his designated representative, who shall inspect the container and the seal and shall verify the serial number on the seal with the record of serial numbers provided by the authority holding the election and with the original certificate enclosed in the container. Any irregularities shall be reported to the presiding judge of the counting station, who shall take appropriate action. After the container has been opened and the ballots removed, the original certificate and the broken seal shall be preserved with the other permanent election records of the central counting station.

(e) As an alternative to the procedure provided above, the authority holding the election may in its discretion provide prelocked and presealed ballot boxes for use in designated precincts and require that ballot boxes be delivered to the central counting station in their locked and sealed condition and that the processing of voted ballots required to be performed at the polling place by the above provisions be performed at the central counting station. In that event, the authority holding the election shall provide an adequate number of ballot boxes for each polling place, which shall be locked and sealed prior to delivery. Each ballot box shall be locked in such a way that it may not be opened except with a key of which only the election authority has possession and sealed with a numbered metal seal in such a way that the ballot box may not be opened without breaking the seal. A record of the serial numbers of the seals shall be preserved, and a copy of such record and the keys to the ballot box locks shall be furnished the central counting station. Upon completion of the voting at the polling place, or whenever a ballot box has been inactivated, the ballot box slot through which ballots are inserted shall be closed with a paper seal signed by the election judge, an election clerk, and two watchers of opposed interests if such there be. The ballot box containing the voted ballots shall then be delivered to the central counting station by the election officers in its locked and sealed condition under the same security measures as are provided in Paragraph (d) above for ballot containers. All procedures provided above to be performed at the polling place other than the processing of voted ballots shall be performed by the election officers at the polling place, and copies of all poll lists and reports shall be enclosed in envelopes provided for that purpose and inserted in the final ballot box to be delivered to the central counting station before the ballot box slot is sealed. The ballot box shall be opened at the central counting station only by the presiding judge of the counting station or his designated representative, who shall inspect the ballot box, the metal seal and the paper seal and shall verify the serial number on the metal seal with the record of serial numbers provided by the election authority. Any irregularities shall be reported to the presiding judge of the counting station, who shall take appropriate action. The presiding judge or his authorized representative shall give the two election officers who deliver the ballot box receipts in a form speci-

fied by the secretary of state. The broken metal and paper seal shall be preserved with the other permanent election records of the central counting station. After the ballot box has been opened, the voted ballots shall be processed in the manner provided in Paragraph (a) above by authorized central counting station election officers. In the event the election authority permits early processing of ballots at the central counting station as provided in Subdivision 18, emptied ballot boxes may be relocked and resealed at the central counting station by representatives of the election authority for further use at polling places.

(f) After the election officers at the polling place have delivered all ballots to the central counting station, the stub box, the ballot label assemblies, and all other election supplies and records, including all duplicate certificates and unused seals, shall be delivered to the proper authority designated by law to receive them.

Subd. 19 amended by Acts 1969, 61st Leg., p. 2662, ch. 878, § 21, eff. Sept. 1, 1969.

¹ Article 8.18.

Subdivision 20. Procedure at central counting station.

(a) The commissioners court shall establish one or more central counting stations to receive and tabulate voted ballots. The commissioners court shall appoint a competent person with experience in the conduct of an election under the system in use (herein called the manager of the central counting station), who shall be in charge of the overall processing of the ballots at the central counting station. He shall be responsible for setting up a plan for the orderly performance of the various duties required at the counting station and for making the necessary arrangements for the orderly handling of the ballots and other records after they are delivered to the counting station. Except as provided in Paragraph (e) of this subdivision, he shall assign the specific duties to be performed by the clerks employed at the counting station, and shall be responsible for the proper instruction of the clerks in the performance of their duties.

(b) The commissioners court shall appoint a competent person trained in the operation of the electronic tabulating equipment to be used (herein called the tabulation supervisor), who shall be in charge of the operation of the electronic equipment. The tabulation supervisor shall select the necessary personnel to assist him in the operation of the electronic equipment, and all persons selected by him shall be subject to the approval of the commissioners court as an assurance that they will possess the necessary competence, training, and experience to perform their duties satisfactorily. No person except one selected and appointed in accordance with these provisions shall operate any of the electronic equipment or handle the ballots from the time they have been turned over to the tabulation supervisor for counting until the counting is completed.

(c) The service of the trained personnel provided for in Paragraphs (a) and (b) of this subdivision is deemed essential to the successful operation of an electronic voting system, and the personnel provided for therein shall be employed in every election in which the system is used, by whatever authority conducted. The commissioners court shall fix the amount of compensation to be paid to them. The manager of the counting station must be a resident qualified voter of the county, except that during the first year after adoption of a system in a county, a non-resident may be appointed. Persons employed to operate the electronic equipment need not be residents or qualified voters of the county. Officers and employees of the county are eligible for appointment under both Paragraphs (a) and (b), and may be paid additional compensation for their services. Except as provided herein, persons employed under these two paragraphs are not subject to the qualifications and disqualifications for election judges and clerks as stated in Sections 17 and 18 of this code.¹

For Annotations and Historical Notes, see V.A.T.S.

(d) The board or body having authority to name the presiding judges for the election shall appoint a presiding judge for the central counting station, who shall be a qualified voter of the county if the election is countywide, and of the political subdivision in which the election is held if it is less than countywide. In other respects he shall be subject to the same qualifications and disqualifications as the other presiding judges of the election. He shall perform the duties imposed on him by Subdivisions 19 and 20 of this section. He may be present at any time and at any place within the counting station and may make suggestions to and counsel with the manager and tabulation supervisor concerning any and all phases of the election. He shall possess the power given to a presiding judge by Section 87 of this code and shall be responsible for maintaining order at the counting station. He shall also supervise the service of the watchers, if any, and shall supervise the absences of all central counting station personnel, under the rules applicable to election clerks at regular polling places as stated in Section 16 of this code, between the time that actual counting of the ballots is begun and the time for official closing of the polls if counting is begun before the polls are closed. He shall be paid at the same rate and in the same manner as the other presiding judges of that election, except that he shall be entitled to a minimum of \$10 regardless of the number of hours worked.

(e) The manager and presiding judge of the central counting station shall appoint the clerks to serve at the counting station. The presiding judge may designate one or more clerks of his selection to assist in receiving the ballots and other records from the polling places and in performing the duties imposed on him after the ballots are counted. The manager shall select the clerks to assist in preparing the ballots for counting. Each clerk shall be a resident of the county but need not be a resident of the political subdivision holding the election if it is less than countywide. In other respects the clerks shall be subject to the same qualifications and disqualifications as the clerks serving at the polling places for the election and they shall be compensated under the same regulations as the other clerks; provided, however, that each clerk who serves for the full time that the counting station is in operation shall be entitled to a minimum of three hours' pay regardless of the number of hours worked.

(f) Prior to the start of the count of the ballots, the authority in charge of holding the election shall have the automatic tabulating equipment tested to ascertain that it will accurately count the votes cast for all offices and on all measures. Public notice of the time and place of the test shall be given at least 48 hours prior thereto by publication once in one or more daily or weekly newspapers published in the county, city or other political subdivision where such equipment is used, if a newspaper is published therein, otherwise in a newspaper of general circulation therein. The test shall be conducted by processing a pre-audited group of ballots marked or punched so as to record a predetermined number of valid votes for each candidate and on each measure, and shall include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject such votes. The programmer, the tabulation supervisor, and the manager and presiding judge of the counting station shall be jointly responsible for preparing the test materials. In such test a different number of valid votes shall be assigned to each candidate for an office, and for and against each measure. If any error is detected, the cause therefor shall be ascertained and corrected and an errorless count shall be made and certified to by the presiding judge of the counting station before the count of the official ballots is started. The tabulating equipment shall pass the same test at the conclusion of the count before the election returns are approved as official. On completion of the test count made before the start of the count of the ballots, the test

materials shall be sealed in a suitable container, using a paper seal signed by the tabulation supervisor, the manager, and the presiding judge of the counting station, and by at least two watchers of opposed interests if such are present at the test. The presiding judge shall have custody of the materials until the test is made at the conclusion of the count. On completion of that test count, the programs and test materials shall be sealed and retained as provided for paper ballots.

(g) The ballots for the various election precincts shall be separately tabulated by precincts. The ballots for a precinct shall be removed from their containers and prepared for processing by the automatic tabulating equipment. They shall be checked to ascertain that they are properly grouped and arranged so that all similar ballots from the precinct are together.

(h) The valid portion of a ballot which has been invalidated in part by the election officers as provided in Subdivision 19 of this section may be duplicated in the presence of watchers and substituted for the partially invalidated ballot, which shall be preserved, or such partially invalidated ballots may be counted manually.

(i) If it appears that a ballot cannot be counted by the automatic tabulating equipment, it may be counted manually or the manager of the counting station may cause a duplicate ballot to be made in the presence of the watchers and substituted for the original ballot, which shall be preserved. Each duplicate ballot prepared under either this paragraph or the preceding paragraph shall be clearly labeled with the word 'Duplicate' and shall bear a serial number, which shall also be recorded on the original ballot.

(j) The manager shall be in charge of preparing the ballots for counting, and ballots shall not be turned over to the tabulation supervisor for counting until the manager or his designated representative has approved them as ready for counting.

(k) Upon completion of the count for each precinct, the presiding judge of the counting station shall add to the results as so determined the results of the write-in votes as counted and tallied by the precinct election officers and shall thereupon make a written return of the election in the number of copies required for elections where paper ballots are used. The ballots, together with one copy of the returns, the poll list, and the tally list for write-in votes, shall be placed in a box made of metal, wood, or some other material approved by the secretary of state, which shall be securely locked. The voted ballots and all records of the election shall be delivered to the proper authorities as provided for election precincts where paper ballots are used. The presiding judge shall be responsible for the performance of the duties imposed by this paragraph.

(l) If for any reason it becomes impracticable to count all or a part of the ballots or ballot cards with tabulating equipment, the authority holding the election may direct that they be counted manually, following as far as practicable the provisions governing the counting of paper ballots.

(m) If the automatic tabulating equipment used with any electronic voting system produces a printed record of the votes tabulated by such equipment, such printed record to which have been added the write-in and absentee votes shall, after being duly certified, constitute the official return for that precinct.

Subd. 20 amended by Acts 1969, 61st Leg., p. 2662, ch. 878, § 22, eff. Sept. 1, 1969.

¹ Articles 3.03, 3.04.

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Subdivision 22. Preservation of ballot labels. Where voting devices with ballot labels attached are used for voting, the ballot label assemblies, including the plastic ballot mask, shall be delivered to the

For Annotations and Historical Notes, see V.A.T.S.

same person, and kept intact for the same length of time, as are voting machines under Section 20 of Section 79 of this code.¹

Subd. 22 added by Acts 1969, p. 2662, ch. 878, § 20, eff. Sept. 1, 1969.

¹ Article 7.14, § 20.

Subdivision 23. Post-election examination of program and other materials; recount. At the time of making the official canvass, where an electronic voting system is used, upon the written request of any candidate whose name appears on the ballot or upon the written request of 25 voters of the county, city, or other subdivision for which the election was held (hereinafter called the petitioner), the authority charged with the duty of canvassing the returns shall defer a canvass on the office or proposition identified in the request until the procedure outlined in this subdivision has been completed. The request shall be directed to a district judge, with a copy to the presiding officer of the canvassing board. The request may ask for any one or more of the following, and it may be amended to include additional items at any time not later than 48 hours after completion of the procedures originally requested:

(1) Permission to examine the program used in counting the ballots.

(2) Permission to examine the materials used in making the test counts.

(3) Permission to examine the ballot assemblies for all or part of the voting devices, where a punch-card ballot is used.

(4) Permission to make a recount of the test count, using the program and the test materials.

(5) A recount of the ballots for all or part of the election precincts, using the same methods and materials as in the original count. A recount under this paragraph, or a recount of the test count, shall be made by a person selected and compensated by the petitioner, subject to approval by the district judge as to his competence to operate the electronic tabulating equipment. The recount may be made either on the equipment which was used for the official count at the central counting station or on any tabulating equipment located within the county which is capable of counting the ballots. If it is made on the equipment at the central counting station, the person in charge of the equipment must make the equipment available at a reasonable rate of compensation, to be paid by the petitioner. The petitioner shall also be responsible for any expense involved in using any other equipment. A return of the results of the recount shall be made and certified by the person making the recount, and shall be attested by the manager and tabulation supervisor of the central counting station.

(6) A manual recount of the votes cast on the office or proposition identified in the request. The recount shall be made by a committee of two or more persons appointed by the district judge, and they shall be compensated at the same rate as the election judges and clerks for the election. The district judge shall make a preliminary estimate of the cost and shall require the petitioner to make a deposit in that amount before the recount is ordered. A return of the results of the recount shall be made and certified by the committee.

(7) A recount of the ballot for all or part of the election precincts, using corrected materials as detailed herein. If an examination or utilization of the program, the ballot assemblies, or the test count materials reveals an apparent error in the preparation or use of the materials or a defect in the functioning of the equipment which affected the outcome of the election, the petitioner shall make a written report to the district judge, copies of which shall be furnished to the presiding officer of the canvassing authority, the programmer for the election, and the manager, tabulation supervisor, and presiding judge of the central counting station. If the programmer, manager, and tabulation supervisor unanimously

agree that the error or defect does exist and that it can be remedied so that the true results of the election can be ascertained, the correction shall be made under supervision of the district judge; and the manager, tabulation supervisor, and presiding judge shall recount the ballots and prepare corrected returns in the same manner as for the original count. Any other relief incident to an examination of materials and request for a recount under this paragraph must be obtained through an election contest filed in a district court.

Upon presentation of an order signed by the district judge, the custodian of the election records shall deliver them into the custody of the person designated in the order to be responsible for their safekeeping while they are being used. After the use is completed, they shall be returned to the original custodian for safekeeping in the same manner as when they were originally delivered to him. The district judge or someone designated by him to serve in his place and the manager and the tabulation supervisor of the central counting station where the ballots were counted shall be present at all times while the election records are being used. The manager and tabulation supervisor shall be paid at a reasonable rate of compensation for time spent in performing the duties imposed by this subdivision, except that the authority responsible for the expenses of the election shall determine what compensation, if any, they shall receive for making a corrected recount as outlined in numbered Paragraph (7) of this subdivision. Except for their services in that capacity, the district judge shall require the petitioner to make a deposit to cover estimated costs for their services.

Whenever a recount is ordered, by whatever method it is to be made, each opposing candidate must be given notice of the time and place for making the recount and may be present or have a representative present to observe the proceeding. If the recount is for an election on an issue or proposition, the district judge may order that notice be given to such persons or groups as he deems desirable to provide representation for the opposing interest. The returns made on the recount shall be used in lieu of the original returns in the official canvass of the election for the office or proposition identified in the request; provided, however, that if any write-in ballots, absentee ballots, or other ballots were not recounted, the original returns shall be used as to those ballots.

If as a result of the recount the outcome of the election is changed favorable to the petitioner, any deposit for costs which the petitioner has made shall be returned to him, and the authority responsible for the expenses of the election shall pay the costs of the recount and shall reimburse the petitioner for any expenditure he has made for equipment and personnel in having the recount made; provided, however, that if the central counting station equipment and personnel were not used, the amount of reimbursement shall not exceed the amount which use of that equipment and personnel would have cost. If the recount does not change the outcome, the petitioner shall pay all costs. A change in the outcome of the election favorable to the petitioner means that as a result of the recount the proposition identified in the request carries, or the candidate identified in the request is declared to have been nominated or elected to the office, or to have become entitled to be a candidate in a runoff election, or to have tied with another candidate between the two of whom the right of nomination, election, or a place on a runoff ballot is to be decided.

Subd. 23 added by Acts 1969, 61st Leg., p. 2662, ch. 878, § 20, eff. Sept. 1, 1969.

Subdivision 24. Penal provisions. (a) No person may:

(1) wilfully tamper with or damage any voting equipment, as defined in Subdivision 1 of this section, or any automatic tabulating equipment, to be used or being used in any election;

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(2) wilfully prevent or attempt to prevent the correct operation of any voting equipment or automatic tabulating equipment;

(3) wilfully program or attempt to program any automatic tabulating equipment so as to produce an inaccurate count in an election; or

(4) intentionally repunch a ballot card to reflect a vote contrary to the intent of the voter.

(b) A person who violates any provision of this section is guilty of a felony, and upon conviction is punishable by imprisonment in the penitentiary for not less than three nor more than five years, or by a fine of not less than \$500 nor more than \$1,000, or by both.

(c) Except as they conflict with the provisions of this section, the provisions of the Penal Code of Texas, 1925, as amended, relating to paper ballots, apply also to ballot cards.

Subd. 24 added by Acts 1969, 61st Leg., p. 2662, ch. 878, § 20, eff. Sept. 1, 1969.

CHAPTER EIGHT—CONDUCTING ELECTIONS AND RETURNS THEREOF

Art.
8.19a Counting straight-ticket ballots
[New].

Art. 8.18 Defective, mutilated, and unused ballots in box No. 4

In any general, special, or primary election, there shall be deposited in ballot box No. 4, in addition to ballots defectively printed, all defaced and mutilated ballots, and, when the polls are closed, all the ballots that have not been voted. The term "defaced and mutilated ballot" as used in this article means a ballot which has been returned by the voter as provided in Section 98 of this code.¹ It does not include any ballot which a voter has deposited in the ballot box containing ballots to be counted, and the election officers shall place in ballot box No. 3 with other voted ballots any ballot which has been voted but which they refuse to count by reason of its being marked in an unintelligible manner or for any other reason. Ballot box No. 4 shall be locked and shall be delivered to the county judge or other officer receiving the returns for use in the official canvass, at the same time that the returns are delivered, with a statement which shall be placed therein, signed by the presiding judge, of the number of ballots received by him, the number of mutilated or defaced ballots that the box contains, and also the number of ballots not given to voters, as well as those defectively printed, so that, after adding such numbers, all ballots delivered to the election officers may be accounted for. When the returns of votes cast are canvassed by the commissioners court or other authority as provided for by law, such ballot box shall be opened, the ballots counted, and a record made of what they found the contents to be. The box shall then be relocked and delivered to the county clerk or other officer having custody of the voted ballots, and shall be preserved by him until expiration of the period for contesting the election. If no contest has arisen, the custodian of the box may then destroy or otherwise dispose of the contents as he sees fit.

Amended by Acts 1969, 61st Leg., p. 2662, ch. 878, § 23, eff. Sept. 1, 1969.

¹ Article 8.16.

Art. 8.19a Counting straight-ticket ballots

In an election where party columns appear on the official ballot, the tally sheets for the election shall be prepared with appropriate spaces for tallying straight-ticket ballots. Each straight-ticket ballot voted shall be tallied for the party receiving the vote instead of being tallied for the

individual candidates of the party. When the presiding judge makes out the returns for the election, to the number of votes tallied for each party nominee individually there shall be added the number of straight-ticket votes tallied for the party which nominated the candidate.

Acts 1951, 52nd Leg., p. 1097, ch. 492, § 101a added by Acts 1969, 61st Leg., p. 2662, ch. 878, § 24, eff. Sept. 1, 1969.

Art. 8.22 Death, declination, withdrawal or ineligibility of candidate before election

* * * * *

(b) If after the 30th day preceding the first primary election, an opposed candidate in that primary dies or an opposed candidate who is seeking nomination to an office he then holds withdraws his candidacy or is declared ineligible to be elected to the office, his name shall be printed on the first primary ballot and the ballots cast for him shall be counted and a return made thereof. If such a deceased, withdrawn, or ineligible candidate receives a majority of the votes, the proper executive committee shall choose a nominee and certify such name to the proper officer, as provided in Section 233 of this code,¹ to be printed on the general election ballot. If such a deceased, withdrawn, or ineligible candidate is one of the two highest candidates in that race in the first primary and if no one has a majority vote, the two candidates with the highest votes, other than the deceased, withdrawn, or ineligible candidate, shall be certified to have their names printed on the second primary ballot. If an unopposed candidate in the first primary dies, withdraws, or is declared ineligible after the 30th day preceding the first primary, neither the office title nor the name of the candidate shall be printed on the primary ballot, and the proper executive committee shall choose a nominee and certify such name to the proper officer, as provided in Section 233 of this code, to be printed on the general election ballot. If a candidate whose name is to appear on the second primary ballot dies between the dates of the first and second primaries, his name shall be printed on the second primary ballot and the votes cast for him shall be counted and returned for him; and if such a deceased candidate receives a majority of the votes in the second primary, the proper executive committee shall choose a nominee and certify his name to the proper officer, as provided in Section 233 of this code, to be printed on the general election ballot. Withdrawal of a candidate in the second primary is regulated by Section 204a of this code.²

Par. (b) amended by Acts 1969, 61st Leg., p. 2662 ch. 878, § 25, eff. Sept. 1, 1969.

¹ Article 13.56.

² Article 13.26a.

Art. 8.32 Ballots and copy of returns delivered to county clerk

Immediately after the counting of the ballots is completed, the presiding judge shall place all the ballots voted, together with one copy of the returns, poll list, and tally list, into a wooden or metallic box or any approved ballot box, and shall securely fasten the box with nails, screws, or locks, and he shall immediately, and in no case later than 24 hours after the closing of the polls, deliver the box to the county clerk of his county. He shall deliver the key or keys to the sheriff, who shall keep the same for 30 days. It shall be the duty of the county clerk to keep the box securely, and it shall be unlawful for the county clerk or anyone else to burn or otherwise destroy these ballots and records, or permit it to be done, except where provided for by the law; and anyone violating this provision of this section upon conviction shall be fined not to exceed \$1,000. Also, the

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presiding judge shall deliver a copy of the returns, together with a copy of the poll list and tally list, to the county clerk at the same time that he delivers that ballot box, and the clerk shall immediately announce the returns of the election in the precinct reporting, and shall post the returns on a bulletin board within his office. In event of any contest or criminal investigation growing out of the election within 60 days after the day of the election, the county clerk shall deliver the ballot box to any competent officer having process therefor, for any tribunal or authority authorized by law to demand such box. If no contest or criminal investigation arose out of the election within 60 days after the day of such election, the clerk shall destroy the contents of the ballot box by burning or shredding same; provided, that the district judge, upon his own motion or upon the request of the county or district attorney, may, by an order entered on the minutes of the district court, defer the destruction of the contents of the ballot box for such period as he deems necessary, subject to further orders of the court.

Amended by Acts 1967, 60th Leg., p. 1902, ch. 723, § 35, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 2662, ch. 878, § 26, eff. Sept. 1, 1969.

Art. 8.37 Returns for state and district officers

In all elections for state or district officers, including presidential electors, or for voting on proposed amendments to the constitution, the county clerk shall, within 48 hours after the commissioners court has opened the returns and canvassed the result, as provided in Section 116,¹ certify and transmit returns of the election to the seat of government of the state, sealed in an envelope directed to the secretary of state and endorsed "Election Returns for _____ County, for _____" (filling the first blank with the name of the county and the other blank with the designation of the election). The secretary of state shall prescribe the necessary forms and instructions for the use and guidance of the county clerk in forwarding the returns under this section and Section 122.²

Amended by Acts 1967, 60th Leg., p. 1157, ch. 514, § 1, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 2662, ch. 878, § 27, eff. Sept. 1, 1969.

¹ Article 8.34.

² Article 8.40.

Art. 8.40 Returns for governor and lieutenant governor

Each county clerk shall promptly certify and transmit returns of the election for governor and lieutenant governor to the seat of government of the state, sealed in an envelope directed to the speaker of the House of Representatives in care of the secretary of state and endorsed as provided in Section 119.¹ The secretary of state shall keep the returns, with the seal of the envelope to remain unbroken, until the organization of the next Legislature, when he shall, on the first day thereof, deliver them to the speaker of the House of Representatives.

Amended by Acts 1969, 61st Leg., p. 2662, ch. 878, § 28, eff. Sept. 1, 1969.

¹ Article 8.37.

CHAPTER NINE—CONTESTING ELECTIONS

Art. 9.38a Recount of paper ballots

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Subdivision 10. Costs of recount. (a) The members of the recount committee shall be paid an amount to be fixed by the canvassing board,

but not to exceed the maximum hourly rate payable to election judges and clerks, which shall be charged as costs. Expenses incurred by the canvassing board or its chairman in giving the notices required by this section shall also be charged as costs.

Subd. 10(a) amended by Acts 1969, 61st Leg., p. 2662, ch. 878, § 29, eff. Sept. 1, 1969.

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CHAPTER THIRTEEN—NOMINATIONS

Art. 13.08a Assessment of candidates in counties having certain populations

Candidates for any precinct, county or district office and the office of Congress in counties which have a population of one million (1,000,000) or more, according to the last preceding Federal Census, except candidates for the State Legislature and State Board of Education, shall not be assessed a sum in excess of ten percent (10%) of the aggregate annual salary provided for any office of two-year terms, and fifteen percent (15%) of the aggregate annual salary provided for any office of four-year terms, to have their names placed on the ballot in any primary election. Candidates for the State Board of Education shall not be assessed a sum in excess of the amount stated in Section 186 of this Code.¹

Notwithstanding other provisions of law, the county executive committee in any county which has a population of one million (1,000,000) or more, according to the last preceding Federal Census, may require candidates for State Representative to pay an amount not exceeding Five Hundred Dollars (\$500) to have their names placed upon the ballot in a primary election. A candidate for nomination for State Senator shall pay the full amount of One Thousand Dollars (\$1,000) as filing fee for office of State Senator to have his name placed upon the ballot in a primary election at the time he files his application for a place on the ballot. The payment must accompany the application and must be in the form of cash, money order, cashier's check or certified check. The application and payment must be delivered to the proper party chairman or secretary by the deadline for making application for a place on the ballot, and it shall not be sufficient for the application and payment to have been mailed before the deadline unless they are actually delivered by the deadline. After the county executive committee makes the assessments as provided in Section 186 of this Code, it shall refund to each candidate within thirty (30) days thereafter the amount of the payment in excess of the assessment against the candidate.

Notwithstanding other provisions of law, the county executive committee in any county which has a population of nine hundred thousand (900,000) to one million (1,000,000), according to the last preceding Federal Census, shall require candidates for State Senator or State Representative to pay the amount of Three Hundred Dollars (\$300) to have their names placed upon the ballot in a primary election.

Notwithstanding other provisions of law, the county executive committee in any county which has a population of six hundred fifty thousand (650,000) to nine hundred thousand (900,000), according to the last preceding Federal Census, shall require candidates for State Senator to pay the amount of One Thousand Dollars (\$1,000) and candidates for State Representative to pay the amount of Six Hundred Dollars (\$600) respectively to have their names placed upon the ballot in a primary election; however, if part of such a county is joined to two (2) or more other counties to comprise a senatorial district, the county executive committee shall require candidates for State Senator of that senatorial district to

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pay the amount of Two Hundred Fifty Dollars (\$250) to have their names placed upon the ballot in a primary election; and such payment must accompany the application and must be in the form of cash, money order, cashier's check, or certified check and which shall in no event be refunded in whole or in part except in case of the death of the applicant before the primary election. Any person making a refund or participating in making a refund in violation of the provisions of this paragraph is guilty of a misdemeanor and upon conviction is punishable by imprisonment in the county jail for not more than ninety (90) days or by a fine of not more than Five Hundred Dollars (\$500) or by both.

In any State Representative District consisting of eight (8) and not more than nine (9) counties, the chairmen of the county executive committees shall require candidates for State Representative to pay an amount of Twenty-five Dollars (\$25) for each of the counties in said Representative District, to have their names placed upon the ballot in a primary election.

Amended by Acts 1969, 61st Leg., p. 2275, ch. 766, § 1, eff. Sept. 1, 1969.

¹ Article 13.08.

Art. 13.12 Application for place on ballot; filing; deadline; extension; withdrawal; notice

The application to have the name of any person affiliating with any party placed on the official ballot for a general primary as a candidate for the nomination of such party for any office for which a nomination may be made at such primary shall be governed by the following.

* * * * *

2. The application shall be filed with the state chairman in the case of statewide offices, with the county chairman of each county which is included wholly or partially within the district in the case of district offices, and with the county chairman of the particular county in the case of county and precinct offices; provided, however, that applications of candidates for justice of the court of civil appeals shall be filed with the state chairman. Except as provided in Paragraph 2a of this section, the application shall be filed not later than 6 p. m. on the first Monday in February preceding such primary.

Subsec. 2 amended by Acts 1967, 60th Leg., p. 1912, ch. 723, § 45, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 2662, ch. 878, § 30, eff. Sept. 1, 1969.

2a. The filing deadline stated in Paragraph 2 of this section shall be extended for the particular party primary and office involved, as provided in this paragraph: (i) if between the fifth day preceding the first Monday in February and the 30th day preceding the general primary, both dates included, any candidate for an office dies, if the candidate had complied with all prerequisites for having his name placed on the ballot which he was required to perform by the date of his death; (ii) if between the first Monday in February and the 30th day preceding the general primary, both dates included, any candidate who is seeking nomination to an office which he then holds withdraws or is declared ineligible for election to that office; or (iii) if between the first Monday in February and the 30th day preceding the general primary, both dates included, the only candidate who has filed for a particular office in the primary of that party withdraws or is declared ineligible. In the enumerated circumstances, the name of the deceased, withdrawn, or ineligible candidate shall not be printed on the ballot, and applications for that party's nomination for that office may be filed not later than 6 p. m. on the 15th day following the death, withdrawal, or declaration of ineligibility of the candidate; provided, however, that where the death, withdrawal, or declaration of ineligibility occurs less than 15 days before the 25th day preceding the primary, the deadline for filing shall be 6

p. m. on the 25th day preceding the primary. Notwithstanding the provisions of Paragraph 2b of this section, an application which is not received by the chairman until after 6 p. m. on the 25th day shall not be timely, and applications mailed but not actually received by that time shall not be accepted for filing. Further, notwithstanding the provisions of Section 186¹ or any other provision of this code, the full amount of the assessment or filing fee must be received by the chairman not later than 6 p. m. on the 25th day.

¹ Article 13.08.

Subsec. 2a added by Acts 1967, 60th Leg., p. 1912, ch. 723, § 45, eff. Aug. 28, 1967. Amended by Acts 1969, 61st Leg., p. 2662, ch. 878, § 30, eff. Sept. 1, 1969.

2b. Except as otherwise provided in Paragraph 2a, an application filed under either Paragraph 2 or Paragraph 2a of this section shall be considered filed if sent to the proper chairman at his post-office address by registered or certified mail from any point in this state not later than the day before the filing deadline, as shown by the postmark. Any application not received by the chairman before the deadline does not comply with this law unless it has been mailed by registered or certified mail as herein provided, and it shall not be sufficient to send the application by any other type of mail unless it is delivered before the deadline.

2c. A candidate may withdraw by filing with the chairman or chairmen with whom his application was filed, a signed request, duly acknowledged by him, that his name not be printed on the primary ballot. Whenever a filing period is extended by the death, withdrawal, or ineligibility of a candidate, each county chairman with whom the candidate's application was filed shall give notice of the opening of the filing and of the deadline to file by mailing or delivering a news release within 48 hours after his first knowledge of the death, withdrawal, or ineligibility, to each newspaper, as defined in Article 28a, Vernon's Texas Civil Statutes, as amended, which is published in the county. Where the application was filed with the state chairman, he shall give notice in like manner by mailing or delivering the release to at least three daily newspapers which maintain news representatives in the State Capitol. The failure of a county chairman or state chairman to comply with this requirement shall be ground for his removal from office by the committee of which he is chairman.

2d. A candidate shall not be permitted to withdraw during the period of 20 days preceding the general primary. If after the 30th day preceding the general primary a candidate dies or an incumbent or an unopposed candidate withdraws or is declared ineligible, the procedure detailed in Section 104 of this code¹ shall be followed. Except as provided in that section, the name of a deceased, withdrawn, or ineligible candidate shall not be printed on the ballot.

Subsecs. 2b-2d added by Acts 1969, 61st Leg., p. 2662, ch. 878, § 30, eff. Sept. 1, 1969.

¹ Article 8.22.

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Art. 13.15 Filing fees for certain offices

Candidates for United States Senator and all those who are candidates for state offices to be voted upon by the qualified voters of the whole state shall pay to the chairman of the state executive committee \$1,000. Candidates for Congressman-at-large or for justice of the court of civil appeals shall pay to the chairman of the state executive committee five percent of one year's salary. A candidate who is required to pay a filing fee as herein provided shall not be required to pay any other sum to any other person or committee to have his name placed on the ballot as such

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candidate. Payment of the fee herein required must be made at the time the candidate files his application for a place on the ballot, and the name of no person who is required to pay a filing fee in any place or to the chairman of the state executive committee shall be placed on the ballot unless he has paid the fee in accordance with these provisions.

Amended by Acts 1969, 61st Leg., p. 2662, ch. 878, § 31, eff. Sept. 1, 1969.

Art. 13.16 Payments by candidates for state senator or representative

Subdivision 1. Except as otherwise provided in this code, no candidate for nomination for state senator shall be required to pay to the county executive committee to have his name placed on the primary ballot more than the following amounts:

1. One dollar per county for counties having a population of less than 5,000.

2. Five dollars per county for counties having a population of 5,000 and not more than 10,000.

3. Ten dollars per county for counties having a population of more than 10,000 and less than 40,000.

4. Fifty dollars per county for counties having a population of 40,000 and not more than 125,000.

5. Seventy-five dollars per county for counties having a population of more than 125,000 and not more than 200,000.

6. One hundred dollars per county for counties having a population of more than 200,000.

7. One hundred dollars per county for all senatorial districts composed of no more and no less than two counties, regardless of the population of such counties.

The population in each case is to be determined by the last preceding federal census.

Subdivision 2. Except as otherwise provided in this code, each candidate for nomination for state representative shall pay a filing fee of \$150. In districts containing all or part of more than one county, the filing fee shall be prorated among the counties comprising the district on the basis of the percentage of the population of the district residing in each county, as determined by the last preceding federal census. The chairman of the state executive committee of each political party which is holding a primary election shall compute the prorations and shall forward to the chairman of each county executive committee of that party the pertinent information for his county not later than the first day of December preceding the election year.

Subdivision 3. Where some other section of this code provides for an assessment or filing fee at variance with this section, the special provision of the other section shall control.

Amended by Acts 1969, 61st Leg., p. 2662, ch. 878, § 32, eff. Sept. 1, 1969.

Art. 13.18 County executive committees

Subdivision 1. There shall be for each political party required by law to hold primary elections for nomination of its candidates, a county executive committee in each county, to be composed of a county chairman and one member from each election precinct in such county. Each committeeman shall be chairman of his election precinct. The county chairman and the committeeman shall be elected by majority vote at the primary elections every two years, the county chairman by the qualified voters of the whole county, and the precinct chairman by the qualified voters of their respective election precincts. If in any race no candidate receives a majority of the votes at the general primary, a runoff election for the office shall be held at the second primary election. The county chairman and the precinct chairmen shall assume the duties of

their respective offices on Saturday following the runoff primary immediately after the committee has declared the results of the runoff primary election. The list of precinct chairmen and the county chairman so elected shall be certified by the chairman of the county committee to the county clerk, along with the nominees of the party.

Subdivision 2. No person shall be permitted to hold a proxy or vote a proxy at meetings of the county executive committee. Any vacancy in the office of county chairman or precinct chairman shall be filled by the committee. A majority of the total membership of the committee must participate in filling a vacancy, and the person selected must receive a majority vote of those members participating in the selection. Each precinct chairman shall be a resident of the precinct which he represents, and the office shall become vacant if he changes his residence to a place outside the precinct. Where the boundaries of election precincts are changed by the commissioners court, existing precincts altered, new precincts formed, or former precincts abolished, if only one previously elected or appointed precinct chairman resides within a precinct as so changed, he shall continue in office as chairman of that precinct until his successor is elected and assumes office. If more than one precinct chairman resides within a precinct as so changed, or if none resides therein, the office shall become vacant and the vacancy shall be filled as other vacancies. Changes in precinct boundaries made by the commissioners court shall not become effective to alter or affect the membership of the county executive committee until the first day of February following the entry of the order making the change.

Subdivision 3. Whenever a vacancy occurs in the office of county chairman, the secretary of the county executive committee may call a meeting of the committee for the purpose of filling the vacancy at any time after the vacancy occurs, and upon the written request of any member of the committee, the secretary shall call the meeting for a date not more than 20 days after he receives the request, giving notice to each member of the time and place where the meeting will be held and the purpose of the meeting. If the county committee does not have a secretary, or if the secretary fails to call a meeting as herein provided upon being requested to do so, the chairman of the state executive committee shall call the meeting in like manner upon written request of any member of the county committee. The officer who calls the meeting shall designate one member to act as temporary chairman, who shall call the meeting to order and preside until the committee elects its own chairman.

Subdivision 4. The county executive committee may name a secretary, who may be either a member of the committee or such other person as the committee may select, and the secretary is hereby authorized to receive applications for a place on the primary ballot and when so received the application shall be officially filed. The combined compensation allowed the secretary and the chairman for their services shall in no case exceed five percent of the amount actually spent for necessary expenses in holding the primary election for that year, exclusive of the compensation allowed to the chairman and secretary.

Subdivision 5. The funds received by the county executive committee from fees and assessments paid by candidates shall constitute the primary fund, and any surplus remaining in the fund after payment of the necessary expenses for holding the primary elections for that year shall be distributed pro-rata to the candidates not later than the first day of November of the year in which the primaries were held. The county chairman shall make or have made a detailed financial report or audit of all moneys received, expended, and on hand, and such audit or financial statement shall be sworn to by the county chairman as to its

For Annotations and Historical Notes, see V.A.T.S.

accuracy and shall be filed with the county clerk not later than the first day of November of that year. Such audit or financial statement shall be open to public inspection.

Amended by Acts 1969, 61st Leg., p. 2662, ch. 878, § 33, eff. Sept. 1, 1969.

Art. 13.34 Precinct, county, and senatorial district conventions

(a) On the first Saturday after the general primary election day in each election year, there shall be held in each county a county convention of each party holding primary elections; provided, however, that except as provided in the last sentence of this subsection, whenever the territory of a county forms all or part of more than one state senatorial district, in lieu of the county convention in such county there shall be held on the day stated above a convention (hereinafter called senatorial district convention) in each part of the county constituting all or part of each of such senatorial districts. Each county convention or senatorial district convention shall be composed of one delegate from each election precinct in such county or senatorial district or part thereof for each twenty-five votes, or major fraction thereof, cast for the party's candidate for Governor in such precinct at the last preceding general election, which delegate or delegates shall be elected by the qualified members of the party in each precinct at precinct conventions to be held on the general primary election day. In case at the preceding general election there were cast for such candidate for Governor less than twenty-five votes in any precinct, then all such precincts shall elect one delegate. Where the boundaries of an election precinct have been changed or a new precinct formed since the last general election, the county executive committee shall allocate to each such precinct the number of delegates to be elected in that precinct, and may use any fair and reasonable method for making the allocation. However, notwithstanding the provisions of this subsection, in any county which forms all or part of two senatorial districts, the less populous of which has a population of less than 50,000 persons, according to the last preceding federal census, there shall be held one county convention in lieu of the two senatorial district conventions which would otherwise be required by this subsection.

Subsec. (a) amended by Acts 1969, p. 2404, ch. 809, § 1, eff. Sept. 1, 1969.

* * * * *

(c) The qualified members of the party in each election precinct of the county shall assemble on the date named and shall be called to order by the precinct chairman, or in his absence by any qualified member of the party residing within the precinct. Before transacting any business, the precinct chairman shall cause to be made a list of all qualified members of the party present. The name of no person shall be entered upon the list nor shall he be permitted to vote, be present at, or participate in the business of the convention until it is made to appear that he is a qualified voter in the precinct, from a certified list of the qualified voters, the same as is required in conducting a general election, and that he has qualified as a member of the party as provided in Section 179a of this code.¹ The precinct convention shall elect from among those present and qualified a permanent chairman and such other officers as may be necessary to conduct its business. The chairman of the convention shall possess all the power and authority that is given to election judges by the provisions of this code. After the convention is organized it shall elect its delegates to the county convention or senatorial district convention, as the case may be, and transact such other business as may properly come before it. The only qualifications for serving as a delegate to a county or senatorial district convention, or to a state convention, are that the person shall be a qualified voter

residing within the territory which he is selected to represent and shall be affiliated with the party as prescribed in Section 179a of this code. Such of the delegates selected at the precinct convention as may attend the county or senatorial district convention shall cast the number of votes equal to the full delegate strength of the precinct. The officers of the precinct convention shall keep a written record of its proceedings, including the list of persons present and a list of delegates elected to the county or senatorial district convention, with the residence address of each delegate shown thereon, which shall constitute the returns from the convention. The record, and a copy thereof, shall be signed officially, sealed up and safely transmitted in person or by registered mail by the permanent chairman of the precinct convention within three days after the precinct convention to the county clerk of the county, who shall affix his file mark thereto and who shall promptly deliver the original copy of such return to the chairman of the county executive committee, and the return filed with the county clerk shall be open to public inspection during the regular office hours.

Subsec. (c) amended by Acts 1969, p. 2662, ch. 878, § 34, eff. Sept. 1, 1969.

¹ Article 13.01a.

* * * * *

Art. 13.45 Nominations by parties under two hundred thousand votes

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Subdivision 2. Parties receiving less than two percent of vote for governor. Any political party whose nominee for governor received less than two percent of the total votes cast for governor in the last preceding general election, or any new party, or any previously existing party which did not have a nominee for governor in the last preceding general election, may also nominate candidates by conventions as provided in Sections 224 and 225,¹ but in order to have the names of its nominees printed on the general election ballot there must be filed with the secretary of state, within 20 days after the date for holding the party's state convention, the list of participants in precinct conventions held by the party in accordance with Sections 222a and 224 of this code,² signed and certified by the temporary chairman of each respective precinct convention, listing the names, addresses (including street address or post-office address), and registration certificate numbers of qualified voters attending such precinct conventions in an aggregate number of at least one percent of the total votes cast for governor at the last preceding general election; or if the number of qualified voters attending the precinct conventions is less than that number, there must be filed along with the precinct lists a petition requesting that the names of the party's nominees be printed on the general election ballot, signed by a sufficient number of additional qualified voters to make a combined total of at least one percent of the total votes cast for governor at the last general election. The address and registration certificate number of each signer shall be shown on the petition. No person who, during that voting year, has voted at any primary election or participated in any convention of any other party shall be eligible to sign the petition. To each person who signs the petition there shall be administered the following oath, which shall be reduced to writing and attached to the petition: "I know the contents of the foregoing petition, requesting that the names of the nominees of the _____ Party be printed on the ballot for the next general election. I am a qualified voter at the next general election under the constitution and laws in force, and during the current voting year I have not voted in any primary election or participated in any convention held by any other political party." The petition may be in multiple parts. One certificate of the officer administering the oath may be so made as

For Annotations and Historical Notes, see V.A.T.S.

to apply to all to whom it was administered. The petition may not be circulated for signatures until after the date set by Section 181 of this code for the general primary election. Any signatures obtained on or before that date are void. Any person who signs a petition after having voted in a primary election or participated in a convention of any other party during the same voting year is guilty of a misdemeanor and upon conviction shall be fined not less than \$100 nor more than \$500.

The chairman of the state executive committee shall be responsible for forwarding the precinct lists and petition to the secretary of state.

At the time the secretary of state makes his certifications to the county clerks as provided in Section 3 of this code,³ he shall also certify to the county clerks the names of parties subject to this subdivision which have complied with its requirements, and the county clerks shall not place on the ballot the names of any nominees of such a party which have been certified directly to them unless the secretary of state certifies that the party has complied with these requirements."

Subd. 2 amended by Acts 1969, 61st Leg., p. 2662, ch. 878, § 35, eff. Sept. 1, 1969.

¹ Articles 13.47 and 13.48.

² Articles 13.45a and 13.47.

³ Article 1.03.

Art. 13.57 Party name

No new political party shall assume the name of any preexisting party; and the party name printed on the official ballot shall not consist of more than three words. As used in this section, the term 'preexisting party' does not include a political party which is no longer in existence.

Amended by Acts 1969, 61st Leg., p. 2662, ch. 878, § 36, eff. Sept. 1, 1969.

CHAPTER FOURTEEN—LIMITING CAMPAIGN EXPENDITURES

Art. 14.08 Records and Sworn Statement

* * * * *

(f) Such statement shall be accompanied by the following affidavit of the candidate:

"I do solemnly swear that the foregoing statement, filed herewith, is in all things true and correct, and fully shows all gifts and loans of money or other things of value received by me, my campaign manager, or my assistant campaign managers not previously reported in a sworn statement heretofore filed, and all persons making such gifts and loans; and such statement fully shows all previously unreported gifts, loans, and payments made and all debts incurred by me, my campaign manager, or assistant campaign managers or by any other person with my knowledge and consent, in behalf of my candidacy for the nomination for (or election to) the office of _____ before the _____ election (nature of the election to be supplied in the blank) on the date of _____, and that I have neither directly nor indirectly arranged or assented to, encouraged or connived at receiving, borrowing, giving, or lending any money or any thing of value other than as shown in said statement, and that I have not, so far as I know, violated any provision of the laws of Texas governing elections in letter or in spirit." The candidates for the various kinds of offices as defined in Section 237 of this code¹ shall file the statement and oath as follows: for a county office (any office of the federal, state, or county government which is filled by the choice of the voters residing in only one county or less

than one county), with the county clerk of the county; for a district office (any office of the federal or state government, less than statewide, which is filled by the choice of the voters residing in more than one county) or a state office, with the secretary of state; for a municipal office, with the city secretary or city clerk of the municipality; and for an office of a political subdivision, with the secretary of the governing board of the political subdivision. A statement shall be considered filed if sent to the proper officer at his post-office address by registered or certified mail from any point in this state before the filing deadline, as shown by the postmark on the letter.

Subsec. (f) amended by Acts 1969, 61st Leg., p. 2662, ch. 878, § 37, eff. Sept. 1, 1969.

¹ Article 14.01.

* * * * *

TITLE 51—ELEEMOSYNARY INSTITUTIONS

CHAPTER 3. OTHER INSTITUTIONS

MENTAL HEALTH FACILITY AT LEANDER [NEW]

Art.

3263f. Mental health facility at Leander
 [New].

Art. 3202-c. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Arts. 3203 to 3205a. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Art. 3207. Repealed by Acts 1969, 61st Leg. p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Art. 3222b. Special county-wide day schools for deaf scholastics

Establishment and operation

Section 1. The Central Education Agency is hereby authorized to approve the establishment and operation of county-wide special day schools for the deaf in all counties having a population of three hundred thousand (300,000) or more inhabitants according to the last preceding Federal Census. Such schools shall be administered by a centrally located school district designated by the Central Education Agency in each such county, and the school districts accepting the designation shall provide appropriate physical facilities, buildings, equipment, supplies, materials and transportation to all eligible children residing within the county without regard to school district boundaries.

Amended by Acts 1969, 61st Leg., p. 1638, ch. 510, § 1, emerg. eff. June 10, 1969; Acts 1969, 61st Leg., p. 2133, ch. 737, § 1, emerg. eff. June 12, 1969.

Establishment in certain contiguous counties

Sec. 1a. The provisions of this Article may apply to any two contiguous counties whose cumulative population exceeds two hundred forty thousand (240,000) but does not exceed three hundred thirty-five thousand (335,000), according to the last preceding Federal Census, provided that such two-county day schools shall be administered by one school district designated by the Central Education Agency "

Acts 1969, 61st Leg., p. 2133, ch. 737, § 1, emerg. eff. June 12, 1969.

Amendment by Acts 1969, 61st Leg., p. 1638, ch. 510, § 1, see section 1a, post.

Sec. 1a. The provisions of this Article may apply to any two contiguous counties whose cumulative population exceeds two hundred fifty thousand (250,000) but does not exceed three hundred thirty-five thousand (335,000), according to the last preceding Federal Census, provided that such two-county day schools shall be administered by one school district designated by the Central Education Agency.

Amended by Acts 1969, 61st Leg., p. 1638, ch. 510, § 1, emerg. eff. June 10, 1969.

Amendment by Acts 1969, 61st Leg., p. 2133, ch. 737, § 1, see section 1a, ante.

* * * * *

Determination of costs

Sec. 6. Operating costs for the program in each county shall be determined and paid on the basis of the following factors:

(1) One teacher unit shall be allocated for every eight eligible deaf pupils or major fraction thereof except that in the case of a bi-county day school, authorized by Section 1a, which has participating school districts, as authorized by Chapter 397, Acts of the 59th Legislature, 1965, one teacher unit shall be allocated for every seven eligible deaf pupils or major fraction thereof;

(2) Schools with fifteen or more teacher units shall be allocated a full-time principal unit except that a bi-county day school, authorized by Section 1a, which has participating school districts, as authorized by Chapter 397, Acts of the 59th Legislature, 1965, shall be allocated a full-time principal unit;

(3) One supervisor shall be allocated for every ten teacher units but not to exceed three supervisors; provided, however, that each approved school shall have at least one supervisor;

(4) One visiting teacher unit shall be allocated for each countywide or bi-county day school for the deaf;

(5) Salary of the teacher, supervisor, principal, and visiting teacher shall be determined respectively in accordance with the official salary schedule of the district where the day school is established;

(6) An operation expense allotment including transportation of Seven Hundred (\$700) Dollars per each eligible deaf pupil enrolled in the program each current school year;

(7) One initial allotment in the amount of Three Thousand (\$3,000) Dollars per each teacher unit approved for the first year of operation only shall be allowed for the acquisition of transportation vehicles, auditory and other classroom equipment, and other aids and adjustments needed for training such deaf pupils in this program.

(8) An allocation of One Thousand (\$1,000) Dollars operating fund for each continuing teacher unit activated for the 1969-70 school year shall be made.

Amended by Acts 1969, 61st Leg., p. 1822, ch. 613, § 1, emerg. eff. June 11, 1969.

* * * * *

Acts 1969, 61st Leg., p. 1638, ch. 510, and Acts 1969, 61st Leg., p. 2133, ch. 737, which amended sections 1 and 1a of this article, each provided in section 2: "All laws or parts of laws in conflict herewith are hereby repealed or modified to the extent of such conflict, and in all cases of such con-

flict, the provisions of this Act shall prevail."

Acts 1969, 61st Leg., p. 1822, ch. 613, § 1, amended section 6 of this article; section 2 amended art. 3222b-1; section 3 provided: "This Act shall become effective for the school year, 1969-70, and thereafter."

Art. 3222b-1. Participation of certain school districts in day school for the deaf program

* * * * *

Participation in multi-county day school

Sec. 1A. Except for school districts in any county already participating in the operation of countywide special day schools for the deaf, school districts in counties contiguous to the counties participating in the day school for the deaf program under Section 1 of this Act, and also school districts in counties contiguous to those counties authorized to be added under this section, may participate in the multi-county day school

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for the deaf program upon approval by the Texas Education Agency of requests from the applying school district and the school district designated to conduct the school. Participation of school districts in all counties authorized to be added to the multi-county day school for the deaf program by this section shall be on the same basis as for school districts within the counties already included in the program.

Sec. 1A added by Acts 1969, 61st Leg., p. 1822, ch. 613, § 2, emerg. June 11, 1969.

Multi-county day school

Sec. 1B. For the purposes of this Act and Chapter 372, Acts of the 57th Legislature, Regular Session, 1961 (Article 3222b, Vernon's Texas Civil Statutes), any bi-county day school for the deaf which serves one or more additional counties as authorized by this Act may be referred to as a "multi-county" day school.

Sec. 1B added by Acts 1969, 61st Leg., p. 1822, ch. 613, § 2, emerg. eff. June 11, 1969.

Section 3 of the 1969 act provided: "This Act shall become effective for the school year, 1969-70, and thereafter."

MENTAL HEALTH FACILITY AT LEANDER

Art. 3263f. Mental health facility at Leander

Establishment

Section 1. On lands under its control and management located at Leander, Texas in Williamson County consisting of 755 acres, more or less, the Texas Department of Mental Health and Mental Retardation, hereinafter referred to as Department, is authorized to construct, establish and maintain a special facility for the resocialization, training, education, rehabilitation, supervision, treatment, care and control of mentally ill and mentally retarded persons of this state.

Buildings and Improvements

Sec. 2. Buildings and improvements authorized by this Act to be constructed on said lands shall be of three types as follows:

- (a) Permanent buildings to accommodate more severely involved mentally ill and mentally retarded persons.
- (b) Less sophisticated summer cabin type facilities and such additional facilities as would permit participation in outdoor type recreation.
- (c) Only sanitary, water and sewage facilities to accommodate active and youthful persons in an outdoor camping program.

Upon the availability of sufficient appropriations the Department shall proceed to construct and erect the necessary buildings and improvements.

Powers of department

Sec. 3. The Department:

- (a) shall have exclusive control and management of this facility,
- (b) shall appoint such personnel as are necessary to operate and maintain it within the limits of legislative appropriations,
- (c) may admit to such facility those mentally ill and mentally retarded persons of this state as in its opinion will benefit therefrom for such period of time as it shall deem proper, and
- (d) may contract with community mental health and mental retardation centers and with persons, private organizations and foundations concerned with mental health and mental retardation for use of the facility.

Acts 1969, 61st Leg., p. 686, ch. 232, emerg. eff. May 21, 1969.

Title of Act:

An Act establishing and providing a special facility for the mentally ill and mental-

ly retarded; regulating and providing for the operation of same; and declaring an emergency. Acts 1969, p. 686, ch. 232.

TITLE 52—EMINENT DOMAIN

Art. 3265. 6518-28 Rule of damages

* * * * *

Damages on dismissal

Sec. 6. Where a plaintiff after appeal from an award, or after said proceeding has become a case for trial in court, desires to dismiss, abandon the proceedings, or refuse the jury verdict returned by the jury or by a court prior to entry of judgment, said plaintiff shall by motion be heard thereon, and the court hearing the same may as part of the terms of granting such motion, make an allowance to the landowner for reimbursement of his reasonable attorneys' and appraisers' fees, shown to have been incurred, and reimbursement for all necessary expenses incurred by the filing and hearing of such condemnation case to date of such hearing on said motions; provided, however, plaintiff shall not be liable for any such fees or expenses in any case which may be dismissed upon its motion where such case is subsequently refiled, and where the court is advised by plaintiff in connection with any such motion that it intends to refile such case, a reasonable time for such refile shall be allowed. All orders entered hereunder are appealable.

Sec. 6 added by Acts 1969, 61st Leg., p. 2293, ch. 772, § 1, eff. Sept. 1, 1969.

Reimbursement for moving expenses

Sec. 7. The owner of the land who is actually and physically displaced and permanently moves from his dwelling or place of business shall be entitled to, as a separate item of damages, the reasonable moving expenses for personal property other than machinery, equipment, or fixtures, not to exceed \$500.00, when personal property is moved from a place of residence, and not to exceed \$5,000.00, when personal property is moved from a place of business, but the maximum distance of movement to be considered shall be fifty (50) miles. In no event shall such expenses exceed the market value of such personal property; provided, however, that the provisions of this section shall not apply in any condemnation proceeding whether before special commissioners or the court where the owner is entitled to reimbursement for moving expenses under other existing law.

Sec. 7 added by Acts 1969, 61st Leg., p. 2293, ch. 772, § 1, eff. Sept. 1, 1969.

For Annotations and Historical Notes, see V.A.T.S.

TITLE 55—EVIDENCE

1. WITNESSES AND EVIDENCE

Art. 3737f.	Personal injury action; exclusion of evidence of settlement of property	Art. damage and medical expense claims [New].
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1. WITNESSES AND EVIDENCE

Art. 3737e. Memorandum or record of act, event or condition; absence of memorandum or record as evidence

* * * * *

Medical records; affidavit

Sec. 5. Any record or set of records or photographically reproduced copies of such records, which would be admissible pursuant to the provisions of Sections 1 through 4 shall be admissible in evidence in any court in this state upon the affidavit of the person who would otherwise prove the prerequisites of Sections 1 through 4 above, that such records attached to such affidavit were in fact so kept as required by Sections 1 through 4 above, provided further, that such record or records along with such affidavit are sealed and filed in the manner of depositions, among the depositions, in the manner of depositions in the cause as provided by Rule 198, Texas Rules of Civil Procedure, provided said records are so filed at least fourteen (14) days prior to the day the jury is empaneled or if no jury is required, then fourteen (14) days prior to the day the court shall commence to hear testimony.

Sec. 5 added by Acts 1969, 61st Leg., p. 1076, ch. 353, § 1, emerg. eff. May 27, 1969.

Hospital X-ray pictures; affidavit

Sec. 6. X-rays which are made in any hospital in the United States of America, which are made as a regular part of the business of that hospital, which are made in accordance with good radiology techniques, by a person competent to make X-rays, which are made under the supervision of the Department of Radiology of such hospital, which have photographed thereon the name and, if applicable, the hospital number assigned the person X-rayed, along with the date of such X-ray and, if the person's name is not known, then the words 'Name Unknown' and the number assigned said person, shall be admitted into evidence in the trial of any cause in this state if they are accompanied by the affidavit of the head of the Radiology Department of said hospital or one of his partners, which affidavit shall affirmatively state that the conditions of this section have been met, and if the Radiology Department has been changed, then such affidavit may be made by the person who was the head of the Radiology Department of said hospital or one of his partners at the time said X-rays were made, provided such X-rays are accompanied by such affidavit and shall be sealed and filed in the manner provided for depositions, among the depositions, in the manner of depositions, in the cause, as provided by Rule 198, Texas Rules of Civil Procedure, provided said X-rays are so filed at least fourteen (14) days prior to the day the jury is empaneled, or if no jury is required, within fourteen (14) days prior to the date the court shall commence to hear testimony.

Sec. 6 added by Acts 1969, 61st Leg., p. 1076, ch. 353, § 1, emerg. eff. May 27, 1969.

Medical records; form of affidavit

Sec. 7. A form for the affidavit of such person as shall make such affidavit as is permitted in Section 5 above shall be sufficient if it fol-

lows this form, though this form shall not be exclusive, and an affidavit which substantially complies with the provisions of this Act shall suffice, to-wit:

No. _____	} IN THE _____
John Doe (Name of Plaintiff)	
v.	
John Roe (Name of Defendant)	} _____ COUNTY, TEXAS

AFFIDAVIT

Before me, the undersigned authority, personally appeared _____, who, being by me duly sworn, deposed as follows:

My name is _____, I am over 21 years of age, of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

I am the medical records librarian of _____ Hospital and as such I am the custodian of the records of the said _____ Hospital. Attached hereto are _____ pages of records from the _____ Hospital. These said _____ pages of records are kept by the _____ Hospital in the regular course of business, and it was the regular course of business in the _____ Hospital for an employee or representative, or a doctor permitted to practice in the _____ department or division, of the _____ Hospital, with personal knowledge of the act, event or condition recorded to make the memorandum or record or to transmit information thereof to be included in such memorandum or record; and the memorandum or record was made at or near the time of the act, event or condition recorded or reasonably soon thereafter. The records attached hereto are exact duplicates of the original, and it is a rule of the _____ Hospital to not permit the originals to leave the hospital.

Affiant

SWORN TO AND SUBSCRIBED before me on the _____ day of _____, 19____.

Notary Public in and for _____ County,
Texas

Sec. 7 added by Acts 1969, 61st Leg., p. 1076, ch. 353, § 1, emerg. eff. May 27, 1969.

X-rays; form of affidavit

Sec. 8. A form for the affidavit of such person as shall make such affidavit as is permitted in Section 6 above shall be sufficient if it follows this form, though this form shall not be exclusive, and an affidavit which substantially complies with the provisions of this Act, shall suffice, to-wit:

No. _____	} IN THE _____
John Doe (Name of Plaintiff)	
v.	
John Roe (Name of Defendant)	} _____ COUNTY, TEXAS

For Annotations and Historical Notes, see V.A.T.S.

AFFIDAVIT

Before me, the undersigned authority, personally appeared _____, who, being by me duly sworn, deposed as follows:

My name is _____, I am over 21 years of age, competent to make this affidavit, and personally acquainted with the facts herein stated:

I am the _____ of the Radiology Department of the _____ Hospital. Attached hereto are _____ pages of X-rays. These X-rays were made by the _____ Hospital in accordance with good radiology techniques, they were made as a regular part of the business of the _____ Hospital, they were made by a competent person, a technician or radiologist, under my supervision and control. Photographed on each X-ray is the name, number and date for each X-ray.

Affiant

SWORN TO AND SUBSCRIBED before me on the _____ day of _____, 19____.

Notary Public in and for _____ County,
Texas

Sec. 8 added by Acts 1969, 61st Leg., p. 1076, ch. 353, § 1, emerg. eff. May 27, 1969.

Art. 3737f. Personal injury action; exclusion of evidence of settlement of property damage and medical expense claims.

In a lawsuit being tried before a jury for damages for personal injuries which resulted from an occurrence which is also the basis for a claim for property damage and/or payment of medical expense, no evidence is admissible which informs the jury that the property damage claim or medical expense has been paid or settled.

Acts 1969, 61st Leg., p. 1639, ch. 511, § 1, emerg. eff. June 10, 1969.

Title of Act:

An Act prohibiting admission of evidence of the settlement of a claim for property damage and/or payment of medical expense in a lawsuit for damages for personal injuries suffered in the same occurrence on

which the property damage and/or medical expense claim was based; and declaring an emergency. Acts 1969, 61st Leg., p. 1639, ch. 511.

TITLE 57—EXEMPTIONS

Art. 3833. [3786] [2396] [2336] "Homestead"

The homestead of a family, not in a town or city, shall consist of not more than two hundred acres, which may be in one or more parcels, with the improvements thereon; the homestead in a city, town or village shall consist of a lot or lots, not to exceed in value Ten Thousand Dollars at the time of their designation as a homestead, without reference to the value of any improvements thereon; provided, that the same shall be used for the purposes of a home, or as a place to exercise the calling or business of the head of a family. Any temporary renting of the homestead shall not change the character of the same when no other homestead has been acquired.

Amended by Acts 1969, 61st Leg., p. 2518, ch. 841, § 1, emerg. eff. June 18, 1969.

Conditional Amendment

Amendment of this article by Acts 1969, 61st Leg., p. 2518, ch. 841, § 1, to take effect as a law, is conditioned by section 2 upon approval by the people of amendment to Const. art. 16, § 51, proposed by S.J.R. No. 32 of Acts 1969, 61st Leg., p. —, at an election to be held on Nov. 3, 1970.

TITLE 59—FEEBLE MINDED PERSONS—PROCEEDINGS IN CASE OF

Art. 3871b. Mentally retarded persons

* * * * *

Transfer of mentally ill persons

Sec. 22A. The head of a state school for the retarded under the control and management of the Texas Department of Mental Health and Mental Retardation may transfer persons under involuntary commitment to the state school of which he is head to a mental hospital under control and management of the department when an examination of such person indicates symptoms of mental illness to the extent that care, treatment, control and rehabilitation in a state mental hospital would be in the best interest of such person. A certificate evidencing the diagnosis of mental illness and containing the recommendation of the head of the state school that such person be transferred to a designated mental hospital for the mentally ill shall be furnished the committing court. No transfer shall be made until the judge of the committing court has entered an order approving the transfer.

Sec. 22A added by Acts 1969, 61st Leg., p. 1031, ch. 334, § 1, eff. Sept. 1, 1969.

* * * * *

For Annotations and Historical Notes, see V.A.T.S.

TITLE 61—FEES OF OFFICE

CHAPTER ONE—GENERAL PROVISIONS

Art. 3883c—2.	Salary of county judges in counties of 13,800 to 13,900 [New].	Art. 3887a—2.	Compensation of county attorneys in counties of 300,000 to 500,000 [New].
3883c—3.	Salary of county judges in counties of 77,000 to 100,000 [New].	3902f—4.	Counties of 77,000 to 90,000; increase in compensation of chief deputies [New].
3886b—2.	Assistant county attorneys in counties of 200,000 to 220,000; appointment and salaries [New].	3912e—23.	Counties of 86,000 to 100,000; compensation of officials [New].
3886b—3.	Salaries of assistant county attorneys in counties of 47,000 to 57,000 [New].	3912e—24.	Counties of 140,000 to 150,000; compensation of officials [New].
3886j.	District attorneys and criminal district attorneys in counties of 60,000 to 700,000 [New].		
3887a—1.	County attorneys in counties of 60,000 to 64,000; compensation; private practice [New].		

Art. 3883c—2. Salary of county judges in counties of 13,800 to 13,900

In any county having a population of not less than 13,800 nor more than 13,900 according to the last preceding federal census, the county judge may be paid a salary of not more than \$12,000 a year as determined by the commissioners court.

Acts 1969, 61st Leg., p. 1655, ch. 519, § 1, eff. Sept. 1, 1969.

Title of Act:

An Act relating to the salary of the county judge in certain counties; and declaring an emergency. Acts 1969, 61st Leg., p. 1655, ch. 519.

Art. 3883c—3. Salary of county judges in counties of 77,000 to 100,000

The county judge of any county having a population of not less than 77,000 nor more than 100,000, according to the last preceding federal census, shall receive an annual salary of not less than \$12,000 nor more than the salary paid by the state to any district judge in that county. The salary, as determined by the commissioners court, shall be paid in equal monthly installments.

Acts 1969, 61st Leg., p. 1800, ch. 604, § 1, eff. Sept. 1, 1969.

Title of Act:

An Act relating to the salary of the county judge in certain counties; and declaring an emergency. Acts 1969, 61st Leg., p. 1800, ch. 604.

Art. 3883i. Maximum and minimum salaries; certain precinct, county and district officials in certain counties

* * * * *

Counties of 4,650 to 4,950

Another section 1B was added by Acts 1969, 61st Leg., p. 497, ch. 163, § 1. See section 1B, post.

Sec. 1B. In any county having a population of not less than 4,650 nor more than 4,950 according to the last preceding federal census, having a valuation of more than \$50,000,000 according to the last preceding county tax roll, and paying county officials on a salary basis, the commissioners court may set the compensation of persons listed in this Act in an amount not to exceed \$9,600 a year; however, no salary may be set at a figure lower than that actually paid on the effective date of this amendment.

The provisions of Section 18 of this Act do not apply to salaries set under this section.

Sec. 1B added by Acts 1969, 61st Leg., p. 1799, ch. 602, § 1, eff. Sept. 1, 1969.

Counties of 8,000 to 12,000

Another section 1B was added by Acts 1969, 61st Leg., p. 1799, ch. 602, § 1. See section 1B, ante.

Sec. 1B. In any county which has a population of not less than 8,000 nor more than 12,000, according to the last preceding federal census, which has an assessed valuation of more than \$60,000,000 according to the most recent assessment of the county, and which pays all its county officials on a salary basis, the commissioners court may increase the compensation prescribed by Section 1 of this Act for county judge, county attorney, county clerk, county treasurer, county auditor, county assessor and collector of taxes, county commissioners, sheriff, and district clerk in an amount of not more than \$2,600 a year.

Sec. 1B added by Acts 1969, 61st Leg., p. 497, ch. 163, § 1, eff. Sept. 1, 1969.

* * * * *

Counties of 4,300 to 4,400

Sec. 2A. In any county having a population of not less than 4,300 nor more than 4,400 inhabitants according to the last preceding federal census, the commissioners court may fix the salaries of county and district officials named in this Act in an amount not to exceed \$12,000 a year; provided, that no salary shall be set at a figure lower than that actually paid on the effective date of this amendment.

Sec. 2A added by Acts 1969, 61st Leg., p. 2134, ch. 738, § 1, eff. Sept. 1, 1969.

Counties of 39,800 to 39,900

Sec. 2B. In any county which has a population of not less than thirty-nine thousand, eight hundred (39,800) nor more than thirty-nine thousand, nine hundred (39,900), according to the last preceding Federal Census, the Commissioners Courts shall fix the salaries of the county and district officials named in this Act at not more than Twelve Thousand Dollars (\$12,000) per annum.

Sec. 2E added by Acts 1969, 61st Leg., p. 1804, ch. 608, § 1, eff. Sept. 1, 1969.

* * * * *

Sec. 4.

* * * * *

Counties of 135,000 or more, having assessed valuation of over \$200,000,000

(a) In each county of the State of Texas governed by Section 4 hereof and having a population of at least one hundred thirty-five thousand (135,000) inhabitants according to the last preceding Federal Census and having an assessed valuation of more than Two Hundred Million Dollars (\$200,000,000) according to the last preceding approved tax roll where all county and district officials are compensated on a salary basis, the Commissioners Court shall fix the salaries of the officials named in this Act at a sum of not more than Seventeen Thousand, Five Hundred Dollars (\$17,500) per annum; providing that no salary covered by this Act shall be set at a lower figure than that actually paid on the effective date of this Act and further providing this Subsection shall be cumulative of all other laws pertaining to the compensation of county officials.

Sec. 4(a) amended by Acts 1969, 61st Leg., p. 2460, ch. 825, § 1, emerg. eff. June 16, 1969.

* * * * *

For Annotations and Historical Notes, see V.A.T.S.

Counties of 900,000 to 1,200,000 Inhabitants; Enumeration of Salaries and Restrictions

Sec. 8. (a) In all counties of this state having a population of not less than nine hundred thousand (900,000) inhabitants and not more than one million, two hundred thousand (1,200,000) inhabitants, according to the last preceding Federal Census, the Commissioners Court shall fix the salaries of county officials as follows:

The salary of the county judge shall be Twenty-four Thousand Dollars (\$24,000) per annum; the county commissioners, Twenty-three Thousand Dollars (\$23,000); criminal district attorney and district attorney, Twenty-five Thousand Dollars (\$25,000); probate judge, Twenty-three Thousand Dollars (\$23,000); sheriff, Twenty-three Thousand Dollars (\$23,000); tax assessor and collector, Twenty-three Thousand Dollars (\$23,000); judges of the county courts at law and county criminal courts, Twenty-three Thousand Dollars (\$23,000); county clerk and district clerk, Twenty Thousand Dollars (\$20,000); county treasurer, Nineteen Thousand, Five Hundred Dollars (\$19,500). Salaries fixed by this Section shall be payable in equal monthly installments; provided, however, that the total salary received by the tax assessor and collector, including all additional fees and compensation, shall not exceed Twenty-five Thousand Dollars (\$25,000) per annum in the aggregate; justices of the peace and the constables shall receive not to exceed Sixteen Thousand Dollars (\$16,000) per annum to be paid in equal monthly installments; provided that the justices of the peace and constables whose precincts lie wholly or in part in cities having a population of six hundred thousand (600,000) or more, according to the last preceding Federal Census, shall receive not less than Eighteen Thousand Dollars (\$18,000) per annum. The county judge in such counties, shall be allowed, in addition to all other compensation fixed herein, the sum of Three Thousand Dollars (\$3,000) per annum for serving as a member of the County Juvenile Board which shall be paid in twelve (12) equal monthly installments out of the general fund of such county and which additional compensation shall be in addition to all other salary or other compensation now paid to such county judge.

The commissioners court of each county to which this Subsection (a) applies may increase the salary or maximum salary of each officer enumerated in this Subsection, in an additional amount not to exceed 20 percent of the salary or maximum salary, exclusive of supplemental compensation, authorized in this Subsection. No increased compensation may be authorized pursuant to this paragraph of this Subsection (a), until, at a regular meeting, the commissioners court holds a public hearing upon the question of any proposed increase, following publication of notice of that public hearing, in a newspaper of general circulation in that county, at least once a week for at least two (2) weeks prior to the hearing.

Sec. 8(a) amended by Acts 1969, 61st Leg., p. 2457, ch. 824, § 1, emerg. eff. June 16, 1969.

* * * * *

Art. 3883i—1. Compensation of officers of counties of 375,000 to 650,000

In all counties having a population of not less than three hundred and seventy-five thousand (375,000) nor more than six hundred and fifty thousand (650,000) according to the last preceding Federal Census, the commissioners court shall fix the salaries of the county officers as follows: The salary of the county judge shall be not less than Nineteen Thousand, Eight Hundred Dollars (\$19,800) per annum; the county commissioners, not less than Nineteen Thousand, One Hundred and Twenty Dollars (\$19,120) per annum; the district attorney, not less than Twenty-two Thousand, Nine Hundred Dollars (\$22,900) per annum; the sheriff,

not less than Nineteen Thousand, Seven Hundred and Fifty Dollars (\$19,750) per annum; the tax assessor and collector, not less than Twenty-one Thousand and Ten Dollars (\$21,010) per annum; the probate judge and judges of county courts at law and county criminal courts, not less than Twenty Thousand, Eight Hundred Dollars (\$20,800) per annum; the county clerk and the district clerk, not less than Nineteen Thousand, Seven Hundred and Fifty Dollars (\$19,750) per annum; and the county Treasurer, not less than Sixteen Thousand, Six Hundred Dollars (\$16,600) per annum. Salaries fixed by this Section shall be payable in equal monthly installments. Justices of the peace and constables of Precincts One and Two of such county shall receive not less than Fourteen Thousand, Five Hundred Dollars (\$14,500) per annum, to be paid in equal monthly installments. The county judge in such counties shall be allowed, in addition to all other compensation fixed in this Section, the sum of Two Thousand, Five Hundred Dollars (\$2,500) per annum for serving as a member of the County Juvenile Board. This additional compensation shall be paid in twelve (12) equal monthly installments out of the general fund of such county and shall be in addition to all other salary or other compensation now paid to such county judge.

Amended by Acts 1969, 61st Leg., p. 2457, ch. 824, § 2, emerg. eff. June 16, 1969.

Art. 3886b—1. Salaries of assistant county attorneys in counties of 110,000 to 120,000

Section 1. In any county having a population of not less than 113,000 nor more than 120,000, according to the last preceding federal census, the commissioners court may fix the salary of the county attorney at not more than \$18,500 per year. The county attorney, with the approval of the commissioners court, may appoint a first assistant county attorney and other assistants and investigators as necessary for the proper performance of the duties of his office. The first assistant county attorney shall receive a salary to be fixed by the commissioners court of not more than \$15,000 per year, and other assistant county attorneys shall receive not more than \$12,000 per year. All assistant county attorneys must be attorneys licensed to practice law in this state, and are authorized to perform all the duties imposed by law on the county attorney. The commissioners court may pay to the county attorney and his assistants and investigators actual and necessary travel expenses incurred in the discharge of their duties. Salaries and expenses authorized by this Act may be paid from the officers salary fund or the general fund, or both, as determined by the commissioners court.

Sec. 2. In any county having a population of not less than 113,000 nor more than 120,000, according to the last preceding federal census, the commissioners court may fix the salary of the judge of the county court and the judges of the county courts at law, at not more than \$18,500 per year. The commissioners court may pay the judge of the county court and the judge of the county court at law, actual and necessary travel expenses incurred in the discharge of their duties. Salaries and expenses authorized by this Act may be paid from the officers salary fund or the general fund, or both, as determined by the commissioners court.

Amended by Acts 1969, 61st Leg., p. 492, ch. 159, § 1, emerg. eff. May 8, 1969.

Art. 3886b—2. Assistant county attorneys in counties of 200,000 to 220,000; appointment and salaries

Section 1. The County Attorney in any county of this state having a population of not less than 200,000 and not more than 220,000 according to the last preceding federal census may appoint not more than five as-

For Annotations and Historical Notes, see V.A.T.S.

Assistant county attorneys, one of whom may be designated First Assistant County Attorney. Assistant County Attorneys must be licensed to practice law in the State of Texas, and they serve at the pleasure of the County Attorney.

Sec. 2. The First Assistant County Attorney shall be paid a salary not to exceed Twelve Thousand Five Hundred Dollars (\$12,500.00) a year. Other assistant county attorneys shall be paid a salary not to exceed Twelve Thousand Dollars (\$12,000.00) a year.

Sec. 3. The number of assistant county attorneys to be appointed and the salary to be paid each assistant shall be approved by the Commissioners Court.

Acts 1969, 61st Leg., p. 491, ch. 158, emerg. eff. May 8, 1969.

Title of Act:

An Act relating to salaries of Assistant County Attorneys of Certain Counties; and declaring an emergency. Laws 1969, 61st Leg., p. 491, ch. 158.

Art. 3886b—3. Salaries of assistant county attorneys in counties of 47,000 to 57,000

Section 1. The commissioners court in each county of this state whose population according to the 1960 federal census or any subsequent federal census is not less than 47,000 and not more than 57,000 is hereby authorized, when in their judgment the financial condition of the county and the needs of the office of any assistant county attorney justify the increase, to enter an order or orders increasing the compensation of such assistant county attorney an additional amount or amounts so that his total annual salary paid and to be paid by said county shall not exceed the sum of \$9,600.

Sec. 2. This Act shall not be construed to decrease the total allowable annual compensation of any assistant county attorney allowed under existing laws. Nothing herein shall prevent more than one pay raise from time to time under the provisions of Section 1 hereof so long as said total salary shall not exceed said sum for any one calendar year.

Sec. 3. The provisions of this Act shall be cumulative of all other laws pertaining to the compensation of assistant county attorneys to the extent that any Act passed subsequent to the effective date of this Act increasing the salary of assistant county attorneys generally shall apply to increase the salary of assistant county attorneys affected by this Act, by a like percentage.

Acts 1969, 61st Leg., p. 992, ch. 317, emerg. eff. May 23, 1969.

Title of Act:

An Act relating to the compensation of assistant county attorneys in certain counties; and declaring an emergency. Acts 1969, 61st Leg., p. 992, ch. 317.

Art. 3886h. Compensation of district attorney and assistants in 34th District

Section 1. The District Attorney of the 34th Judicial District of this state shall be paid a salary not to exceed Sixteen Thousand, Five Hundred Dollars (\$16,500) per year. Beginning January 1, 1971, the salary of the District Attorney of that District shall be fixed by the commissioners court of El Paso County at Eighteen Thousand Dollars (\$18,000) per year. The first assistant district attorney of the said 34th Judicial District shall receive a salary not to exceed Twelve Thousand, Five Hundred Dollars (\$12,500) per year; and the other assistant district attorneys and investigators in the said District shall receive salaries not to exceed Ten Thousand Dollars (\$10,000) per year.

Sec. 1 amended by Acts 1969, 61st Leg., p. 2299, ch. 776, § 1(a), eff. Sept. 1, 1969.

* * * * *

Art. 3886j. District attorneys and criminal district attorneys in counties of 600,000 to 700,000

In counties having a population of more than 600,000 and less than 700,000, according to the last preceding federal census, the district attorney and the criminal district attorney shall be compensated for their services in such amount as may be fixed by the general law relating to the salary paid to district attorneys by the state, and in addition their salaries may be supplemented by the commissioners courts of the counties; provided, however, that the total salary of such district attorney or criminal district attorney shall not be supplemented to exceed the sum of \$20,500 per year.

Acts 1969, 61st Leg., p. 1680, ch. 541, eff. Sept. 1, 1969.

Title of Act:

An Act relating to the salary of district attorneys and criminal district attorneys in certain counties; and declaring an emergency. Acts 1969, 61st Leg., p. 1680, ch. 541.

Art. 3887a—1. County attorneys in counties of 60,000 to 64,000; compensation; private practice

Section 1. In all counties having a population of more than 60,000 inhabitants and less than 64,000 inhabitants, according to the last preceding federal census, the commissioners court may fix the salaries of the county attorney at not more than \$15,000 per annum, payable in equal monthly installments.

Sec. 2. In all counties having a population of more than 60,000 inhabitants and less than 64,000 inhabitants, according to the last preceding federal census, no county attorney or assistant county attorney may engage in the private practice of law except in regard to civil matters involving the aforesaid counties.

Sec. 3. Nothing herein shall prohibit the commissioners court in the aforesaid counties from employing and compensating the county attorney to represent the county in civil and condemnation cases.

Acts 1969, 61st Leg., p. 2213, ch. 755, emerg. eff. June 12, 1969.

Title of Act:

An Act prescribing the maximum compensation that may be paid the county attorney in certain counties; prohibiting the county attorney and assistant county attorney of certain counties from engaging in the private practice of law in certain instances; and declaring an emergency. Acts 1969, 61st Leg., p. 2213, ch. 755.

Art. 3887a—2. Compensation of county attorneys in counties of 300,000 to 500,000

The county attorney in all counties having a population of not less than 300,000 nor more than 500,000 according to the last preceding federal census, shall be paid a salary not to exceed \$16,500 per year. Beginning January 1, 1971, the salary of the county attorney in those counties shall be fixed by the commissioners court at \$18,000 per year.

Acts 1969, 61st Leg., p. 2300, ch. 776, § 2, eff. Sept. 1, 1969.

Art. 3888. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Art. 3888b. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Art. 3902f—4. Counties of 77,000 to 90,000; increase in compensation of chief deputies

The commissioners court in any county of this state having a population of not less than 77,000 nor more than 90,000 according to the last preceding federal census is hereby authorized, when in its judgment the financial condition of the county and the needs of the chief deputies of the district, county, and precinct officials justify the increase, to enter an order increasing the compensation of such chief deputies in an additional amount not to exceed 35 percent of the sum that they are actually paid on the effective date of this Act.

Acts 1969, 61st Leg., p. 1744, ch. 576, emerg. eff. June 11, 1969.

Title of Act:

An Act authorizing the commissioners court in certain counties in this state, when in their judgment the financial condition of the county and the needs of the chief deputies in the offices of district, county, and precinct officials justify the increase, to enter an order increasing the compensa-

tion of such chief deputies in an additional amount not to exceed 35 percent of the sum that they are actually being paid on the effective date of this Act; providing for a repealing clause; and declaring an emergency. Acts 1969, 61st Leg., p. 1744, ch. 576.

Art. 3912e—23. Counties of 86,000 to 100,000; compensation of officials

In any county having a population of not less than 86,000 nor more than 100,000 according to the last preceding federal census, the commissioners court may fix salaries of not more than \$15,000 for all county officers and officials except the judge of the court of domestic relations, the judge of the county court at law, and the county judge.

Acts 1969, 61st Leg., p. 1801, ch. 605, eff. Sept. 1, 1969.

Title of Act:

An Act relating to salaries of county officers and officials in certain counties;

and declaring an emergency. Acts 1969, 61st Leg., p. 1801, ch. 605.

Art. 3912e—24. Counties of 140,000 to 150,000; compensation of officials

Section 1. In any county having a population of not less than 140,000 nor more than 150,000, according to the last preceding Federal Census, the district clerk, the county clerk, the assessor and collector of taxes, and the sheriff shall be paid a salary of not less than \$15,000 per annum as determined by the commissioners court of such county.

Sec. 2. In any county having a population of not less than 140,000 nor more than 150,000, according to the last preceding Federal Census, the chief deputy district clerk, the chief deputy county clerk, the chief deputy sheriff, and the deputy assessors and collectors of taxes shall be paid a salary of not more than \$12,500 per annum as determined by the commissioners court of such county.

Sec. 3. In any county having a population of not less than 140,000 and not more than 150,000, according to the last preceding Federal Census, the commissioners court may fix the salary of the deputies, assistants, and clerks of any district, county, or precinct officer in an amount not to exceed \$8,700 per year.

Acts 1969, 61st Leg., 2nd C.S., p. 192, ch. 34, §§ 1-3.

Title of Act:

An Act relating to the salaries of certain officials in certain counties; and declaring

an emergency. Acts 1969, 61st Leg., 2nd C. S., p. 192, ch. 34.

CHAPTER TWO—ENUMERATION

Art.
3930a—1. County Clerks and County Re-
corders—Other services [New].

Art. 3921. Banking Commissioner

The Banking Commissioner shall charge and receive the following fees:

For each application for charter for a state bank or bank and trust company, a fee applicable alike to all such applications which shall be prescribed and may be periodically adjusted by the Banking Section of the Finance Commission of Texas, shall be paid when the application is filed. For each amendment or supplement to a state bank or bank and trust company charter, a fee of One Hundred and Fifty Dollars (\$150) shall be paid when said amendment or supplement is filed, and if the amendment results in an increase in authorized capital stock of the corporation in excess of Ten Thousand Dollars (\$10,000) it shall be required to pay additional fee of Ten Dollars (\$10) for each additional Ten Thousand Dollars (\$10,000) or fractional part thereof of the capital increase, after the first, provided such fee shall not exceed Twenty-Five Hundred Dollars (\$2,500).

Amended by Acts 1969, 61st Leg., p. 883, ch. 297, § 1, emerg. eff. May 22, 1969.

Art. 3927. [3855] [2453] [2389] District Clerk

Section 1. In counties containing a population of 900,000 or less, according to the last preceding federal census, the clerks of the district courts shall receive the following fees for their services:

(1) The fees in this Subsection shall be due and payable, and shall be paid at the time suit or action is filed.

For each suit filed, including appeals from inferior courts	\$15.00
For each cross action, intervention, contempt action or motion for new trial filed	\$10.00
For issuing each subpoena, including one (1) copy thereof, when requested at the time a suit or action is filed	\$ 1.00
For issuing each citation or other writ or process not otherwise provided for, including one (1) copy thereof, when requested at the time a suit or action is filed	\$ 4.00
For issuing each additional copy of any process, not otherwise provided for, when requested at the time a suit or action is filed	\$ 2.00

(2) The fees in this Subsection shall be due and payable at the time or times of performance or request for performance of services; shall be an obligation of the party to the suit or action initiating the request, and shall be additional to the fees provided for in Subsection (1) of this Act; provided, however, that the District Clerk may accept bond or bonds as security therefor.

For Annotations and Historical Notes, see V.A.T.S.

For issuing each subpoena not provided for in Subsection (1), including one (1) copy thereof \$ 1.00

For issuing each citation, commission for deposition, writ of execution, order of sale, writ of execution and order of sale, writ of injunction, writ of garnishment, writ of attachment, writ of sequestration not provided for in Section 1, or any other writ or process not otherwise provided for, including one (1) copy thereof when required by law \$ 4.00

For issuing each additional copy of any writ or process not otherwise provided for \$ 2.00

For issuing certificate to any fact or facts contained in the records of his office \$ 1.00

For issuing deposition each one hundred (100) words \$.20

For issuing interrogatories with certificate and seal, per page or portion thereof \$ 1.00

For abstracting judgment \$ 2.00

For approving each bond \$ 2.00

For making copy of all records, judgments, orders, pleading, or papers on file or of record in his office, whether certified or not, for any person applying for same, including the certificate and seal, per page or portion thereof \$ 1.00.

Amended by Acts 1969, 61st Leg., p. 1970, ch. 667, § 1, eff. Sept. 1, 1969.

Art. 3930a—1. County Clerks and County Recorders—Other Services

(1) In addition to the fees authorized and required by Article 3930 of this title, as amended, county clerks and county recorders are authorized and required to collect the fees specified by this article for services rendered by them to all persons, firms, corporations, legal entities, governmental agencies, and governmental representatives. Unless otherwise specified, each fee shall be collected at the time the service is rendered.

(2) A total fee of \$5 shall be collected for services rendered in connection with the execution of each declaration of informal marriage under Section 1.92 of the Family Code.

Added by Acts 1969, 61st Leg., p. 2707, ch. 888, § 5, eff. Jan. 1, 1970.

TITLE 70—HEADS OF DEPARTMENTS

Chap.	Art.
9. Commissions and Agencies [New]	4413(34)

CHAPTER ONE—SECRETARY OF STATE

Art. 4341a. Repealed by Acts 1969, 61st Leg., p. 207, ch. 83, § 1, emerg. eff. April 17, 1969

CHAPTER THREE—STATE TREASURER

Art. 4378. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

CHAPTER FOUR—A—STATE AUDITOR

Art.
4413a—7a. Administrative services division
[New].

Art. 4413a—7a. Administrative services division

(a) The State Auditor shall establish within his office a division to be known as the Administrative Services Division.

(b) The Administrative Services Division shall advise and assist all state agencies in the improvement of procedures relating to:

- (1) processing of incoming and outgoing mail;
- (2) records management;
- (3) microimage recording;
- (4) information retrieval systems;
- (5) supply storage management;
- (6) offset reproduction;
- (7) document copying; and

(8) other management problems with respect to which the State Auditor believes the state agencies need assistance or advice.

Acts 1943, 48th Leg., p. 429, ch. 293, § 7a, added by Acts 1969, 61st Leg., p. 1980, ch. 672, § 1, eff. Sept. 1, 1969.

CHAPTER FOUR—D—STATE-FEDERAL RELATIONS

Art. 4413d—3. Contracts with federal government for eradication of noxious vegetation from state waters

The Parks and Wildlife Department is hereby authorized to enter into contracts, agreements or perform these services with departmental personnel, for the eradication of noxious vegetation from the waters of this state. Out of any money appropriated to the Parks and Wildlife Department from the Land and Water Recreation and Safety Fund No. 63, for the fiscal biennium ending August 31, 1969, and ensuing bienniums, the Department may expend the sum of \$200,000, or so much of this amount as may be needed to carry out the purposes of this Act.

Acts 1967, 60th Leg., p. 1795, ch. 685, § 1, emerg. eff. June 17, 1967; Acts 1969, 61st Leg., p. 1480, ch. 439, § 1, emerg. eff. June 4, 1969.

For Annotations and Historical Notes, see V.A.T.S.

CHAPTER FIVE—DEPARTMENT OF PUBLIC SAFETY

Art.

4413(29bb). Private detectives, private investigators, private patrolmen, private guards and managers [New].

Art. 4413(29aa). Commission on Law Enforcement Officer Standards and Education

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Powers of commission

Sec. 2. The Commission shall have the authority and power to:

(a) Promulgate rules and regulations for the administration of this Act including the authority to require the submission of reports and information by any state, county, or municipal agency within this state which employs peace officers.

(b) Establish minimum educational, training, physical, mental and moral standards for admission to employment as a peace officer: (1) in permanent positions, and (2) in temporary or probationary status.

(c) Certify persons as being qualified under the provisions of this Act to be peace officers.

(d) Certify persons as having qualified as law enforcement officer instructors under such conditions as the Commission may prescribe.

(e) Establish minimum curriculum requirements for preparatory, in-service and advanced courses and programs for schools or academies operated by or for the state or any political subdivisions thereof for the specific purpose of training peace officers or recruits for the position of a peace officer.

(f) Consult and cooperate with counties, municipalities, agencies of this state, other governmental agencies, and with universities, colleges, junior colleges, and other institutions concerning the development of peace officer training schools and programs of courses of instruction.

(g) Approve, or revoke the approval of, institutions and facilities for schools operated by or for the state or any political subdivision thereof for the specific purpose of training peace officers or recruits for the position of peace officer, and issue certificates of approval to such institutions and revoke such certificates of approval.

(h) Operate schools and facilities thereof and conduct courses therein, both preparatory, in-service, basic and advanced courses, for peace officers and recruits for the position of peace officer as the Commission may determine.

(i) Contract with other agencies, public or private, or persons, as the Commission deems necessary for the rendition and affording of such services, facilities, studies and reports as it may require to cooperate with municipal, county, state and federal law enforcement agencies in training programs, and to otherwise perform its functions.

(j) Make or encourage studies of any aspect of law enforcement, including police administration.

(k) Conduct and stimulate research by public and private agencies which shall be designed to improve law enforcement and police administration.

(l) Employ an Executive Director and such other personnel as may be necessary in the performance of its functions.

(m) Visit and inspect all institutions and facilities conducting courses for the training of peace officers and recruits for the position of peace officer and make evaluations as may be necessary to determine if they are complying with the provisions of this Act and the Commission's rules and regulations.

(n) Adopt and amend rules and regulations, consistent with law, for its internal management and control.

(o) Accept any donations, contributions, grants or gifts from private individuals or foundations or the federal government.

(p) Report annually to the Governor and to the Legislature at each regular session on its activities, with its recommendations relating to any matter within its purview, and make such other reports as it deems desirable.

(q) Meet at such times and places in the State of Texas as it deems proper; meetings shall be called by the Chairman upon his own motion, or upon the written request of five members.

Sec. 2 amended by Acts 1969, 61st Leg., p. 998, ch. 323, § 1, eff. Sept. 1, 1969.

Membership; qualifications and terms; vacancies

Sec. 3. The Commission shall be composed of nine members, residents of the State of Texas, and appointed by the Governor with the advice and consent of the Senate. Such members shall be persons well qualified by experience or education in the field of law enforcement. The Commissioner of Higher Education of the Coordinating Board, Texas College and University System, Commissioner of the Texas Education Agency, the Director of the Texas Department of Public Safety and the Attorney General shall serve as ex officio members of the Commission. In the event a public officer shall be appointed, service by such officer or officers shall be an additional duty of the office. Such appointive members shall be appointed for a term of six years, provided, however, that of the members first appointed, three shall be appointed for a term of two years, three for a term of four years, and three for a term of six years. Any member chosen by the Governor to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member he is chosen to succeed. Such appointment for unexpired term shall be with the advice and consent of the Senate.

Sec. 3 amended by Acts 1969, 61st Leg., p. 1000, ch. 323, § 2, eff. Sept. 1, 1969.

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Peace officers; tenure; probationary appointments; training

Sec. 6(a) Peace officers already serving under permanent appointment prior to September 1, 1970, shall not be required to meet any requirement of Subsections (b) and (c) of this section as a condition of tenure or continued employment, nor shall failure of any such officer to fulfill such requirements make him ineligible for any promotional examination for which he is otherwise eligible. The Legislature finds, and it is hereby declared to be the policy of this Act, that such peace officers have satisfied such requirements by their experience.

(b) No person after September 1, 1970, shall be appointed as a peace officer, except on a temporary or probationary basis, unless such person has satisfactorily completed a preparatory program of training in law enforcement at a school approved or operated by the Commission. Any peace officer who has received a temporary or probationary appointment as such on September 1, 1970, or thereafter, and who fails to satisfactorily complete a basic course in law enforcement, as prescribed by the Commission, within a one-year period from the date of his original appointment, shall forfeit his position as a peace officer and shall be removed therefrom; and may not have his temporary or probationary employment extended beyond one year by renewal of appointment or otherwise; except that after the lapse of one year from the date of his forfeiture and removal, a local law enforcement agency may petition the Commission for reinstatement of temporary or probationary employment of such individual, such reinstatement resting within the sole discretion of the Commission.

(c) In addition to the requirements of Subsection (b) of this section, the Commission, by rules and regulations, may establish other qualifica-

tions for the employment of peace officers, including minimum age, education, physical and mental standards, citizenship, good moral character, experience, and such other matters as relate to the competence and reliability of persons to assume and discharge the responsibilities of peace officers, and the Commission shall prescribe the means of presenting evidence of fulfillment of these requirements. No person shall be appointed as a peace officer unless he fulfills such requirements.

(d) The Commission shall issue a certificate evidencing satisfaction of the requirements of Subsections (b) and (c) of this section to any applicant who presents such evidence as may be required by its rules and regulations of satisfactory completion of a program or course of instruction in another jurisdiction equivalent in content and quality to that required by the Commission for approved law enforcement education and training programs in this state.

(e) Any person who accepts appointment as a peace officer, or any person who appoints or retains an individual as a peace officer, in violation of Subsections (b) or (c) of this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00).

(f) Nothing herein shall be construed to preclude an employing agency from establishing qualifications and standards for hiring or training peace officers which exceed the minimum standards set by the Commission nor shall anything herein be construed to affect any sheriff, constable or other law enforcement officer elected under the provisions of the Constitution of the State of Texas.

(g) Any peace officer already serving under permanent appointment prior to September 1, 1970, and any sheriff, constable, or other law enforcement officer elected to office under the provisions of the Constitution of the State of Texas, shall be eligible to attend peace officer training courses subject to the rules and regulations established by the Commission.

Sec. 6 amended by Acts 1969, 61st Leg., p. 1000, ch. 323, § 3, eff. Sept. 1, 1969.

Peace officer training programs

Sec. 7(a) The Commission shall establish and maintain peace officer training programs to be conducted by its own staff or through such agencies and institutions as the Commission may deem appropriate.

(b) The Commission may authorize reimbursement for each political subdivision and each state agency for expenses in attending such training programs as authorized by the Legislature.

Sec. 7 amended by Acts 1969, 61st Leg., p. 1001, ch. 323, § 4, eff. Sept. 1, 1969.

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Appeals

Sec. 9A. Any person dissatisfied with the action of the Commission may appeal the action of the Commission by filing a petition within thirty (30) days thereafter in the district court in the county where the person resides or in the district court of Travis County, Texas, and the court is vested with jurisdiction, and it shall be the duty of the court, to set the matter for hearing upon ten (10) days written notice to the Commission and the attorney representing the Commission. The court in which the petition of appeal is filed shall determine whether any action of the Commission shall be suspended pending hearing, and enter its order accordingly, which shall be operative when served upon the Commission, and the Commission shall provide the attorney representing the Commission with a copy of the petition and order. The Commission shall be

represented in such appeals by the district or county attorney of the county, or the Attorney General, or any of their assistants.
Sec. 9A added by Acts 1969, 61st Leg., p. 1001, ch. 323, § 5, eff. Sept. 1, 1969.

Art. 4413(29bb) Private detectives, private investigators, private patrolmen, private guards and managers

SUBCHAPTER A. GENERAL PROVISIONS.

Short title

Section 1. This Act may be cited as the Private Detectives, Private Investigators, Private Patrolmen, Private Guards and Managers Act, under certain circumstances.

Definitions

Sec. 2. In this Act, unless the context requires a different definition,

(1) "board" means the Texas Board of Private Detectives, Private Investigators, Private Patrolmen, Private Guards, and Managers;

(2) "private patrol operator, or operator of a private patrol service" means any person who furnishes or agrees to furnish a watchman, guard, patrolman, or other person to protect persons or property or to prevent theft, loss, embezzlement, misappropriation, or concealment of any goods, wares, merchandise, money, bonds, stocks, notes, documents, papers, or property of any kind or who performs the service of a watchman, guard, patrolman, or other person for these purposes, but including managers as defined under Section 19 of this Act;

(3) "private detective or private investigator" means any person who engages in the business or accepts employment to furnish, agrees to make, or makes any investigation for the purpose of obtaining information with reference to

(a) crime or wrongs done or threatened against the United States of America or any state or territory of the United States of America;

(b) the identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person;

(c) the location, disposition, or recovery of lost or stolen property;

(d) the cause or responsibility for fires, libels, losses, accidents, damages or injuries to persons or to property; or

(e) securing evidence to be used before any court, board, officer, or investigating committee.

Entitlement to license application

Sec. 3. (a) A person is entitled to apply for a license under this Act who

(1) is at least 21 years of age;

(2) is a citizen of the United States of America and the State of Texas;

(3) is of good moral character and temperate habits, who is not a convicted felon;

(4) complies with any other reasonable qualifications that the board may fix by rule.

(b) An applicant, or his manager, who applies for a license as a private investigator or a private detective shall have three years experience in the investigation field, or the equivalent as determined by the board.

(c) An applicant, or his manager, for a license as a private patrol operator shall have two years experience as a patrolman, guard, watchman, or the equivalent as determined by the board.

SUBCHAPTER B. ADMINISTRATION.**Creation of board**

Sec. 4. A Texas Board of Private Detectives, Private Investigators, Private Patrolmen, and Private Guard Watchmen is created to carry out the functions and duties conferred upon it by this Act.

Board membership

Sec. 5. The board is composed of the following members:

(1) the director of the Texas Department of Public Safety or his designated representative shall serve as an ex officio member of such board, and such service shall not jeopardize the individual's official capacity with the State of Texas;

(2) the attorney general or his designated representative shall serve as an ex officio member of such board, and such service shall not jeopardize the individual's official capacity with the State of Texas;

(3) one city or county law enforcement officer shall be appointed by the governor, with the advice and consent of the Senate;

(4) one member shall be appointed by the governor, with the advice and consent of the Senate, who is a citizen of the United States and a resident of the State of Texas, and who shall serve as chairman; and

(5) three members shall be appointed by the governor with the advice and consent of the Senate, who are licensed under this Act, who have been engaged for a period of five consecutive years as a private investigator, private guard, or as a law enforcement officer for any city, county, or state government, or for the federal government, and who are not employed by the same person or agency as any other member of the board. Person initially appointed to the board under the provisions of this subsection shall meet the qualifications required of applicants under the provisions of Section 3 of this Act in lieu of being licensed.

Oath of office

Sec. 6. (a) The members of the board appointed by the governor and confirmed by the Senate shall take the constitutional oath of office before an officer authorized to administer an oath within this state.

(b) Upon presentation of the oath, together with the certificate of appointment, the secretary of state shall issue commissions to appointees as evidence of their authority to act as members.

Terms of office

Sec. 7. (a) Board members appointed by the governor with the advice and consent of the Senate serve terms of two years.

(b) The director of the Department of Public Safety and the attorney general, or their representatives, will serve on the board during their terms of office and shall perform the duties required of members of the board by this Act in addition to those duties required of them in other official capacities.

Vacancies

Sec. 8. The governor, with the advice and consent of the Senate, shall fill vacancies occurring among appointed members of the board with appointments for the duration of the unexpired term.

Designated representatives

Sec. 9. (a) The director of the Department of Public Safety may delegate to a personal representative from his office the authority and duty to represent him on the board.

(b) The designated representative may exercise all of the powers, duties, and responsibilities of the member while engaged in the performance of official board business, but a member is responsible for the acts and decisions of his delegated representative.

Compensation of board members

Sec. 10. The members of the board shall serve without pay but shall be reimbursed for their necessary and actual expenses. The number of employees and the salaries of each shall be fixed in the General Appropriations Bill.

Rules of procedure and seal

Sec. 11. (a) The board has the power to make all necessary rules for its procedure.

(b) The board has a seal, the form of which it shall prescribe.

Organization and meetings of the board

Sec. 12. (a) The board shall meet within 30 days after the effective date of this Act, and thereafter at regular intervals to be decided by a majority vote of the board.

(b) The board, including the representative of the director of the Department of Public Safety if he so designates one, shall elect from among its members a vice-chairman, and secretary to serve two-year terms commencing on September 1, of each odd-numbered year. The chairman, or in his absence, the vice-chairman, shall preside at all meetings of the board and perform the other duties prescribed in this Act.

(c) A majority of the board constitutes a quorum to transact business.

(d) At the first meeting, the board shall specify the date and place of the first examinations for licenses to be held.

SUBCHAPTER C. LICENSES.

License required and false representation prohibited

Sec. 13. (a) It shall be unlawful and punishable as provided in Section 45 of this Act for any person to engage in the business of, or perform any service as, a private detective, private investigator or private patrol operator or to offer his services in such capacities unless he is licensed under the provisions of this Act.

(b) It is unlawful and punishable as provided in Section 45 of this Act for any person to represent falsely that he is employed by a licensee.

Exceptions

Sec. 14. (a) This Act does not apply to

(1) a person employed exclusively and regularly by one employer in connection with the affairs of an employer only and where there exists an employer-employee relationship;

(2) an officer or employee of the United States of America, or of this state or a political subdivision of either, while the employee or officer is engaged in the performance of official duties;

(3) a person engaged exclusively in the business of obtaining and furnishing information in relation to the financial rating of persons;

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- (4) an attorney-at-law or his agent in performing his duties;
- (5) admitted insurers, agents, and insurance brokers licensed by the state, performing duties in connection with insurance transacted by them;
- (6) the legal owner of personal property which has been sold under a conditional sales agreement or a mortgagee under the term of a chattel mortgage;
- (7) insurance adjusters and insurance adjusting firms;
- (8) alarm agencies approved by the State Board of Insurance.

(b) The provisions of this Act do not prevent the local authorities of any city, county, or city and county, by ordinance and within the exercise of the police power of the city, county, or city and county, from imposing local regulations upon any street patrol special officer or upon any person who furnishes street patrol service or street patrol special officer, to require registration with an agency to be designated by the city, county, or city and county, including in the registration full information as to the identification and employment of the individual.

Application and examination

Sec. 15. (a) An application for a license under this Act shall be in the form prescribed by the board. The application shall include:

- (1) full name and business address of the applicant;
- (2) name under which the applicant intends to do business;
- (3) a statement as to the general nature of the business in which the applicant intends to engage;
- (4) a statement as to the classification under which the applicant desires to be qualified;
- (5) the full name and residence address of each of its partners, officers, and directors, and its manager, if the applicant is an entity other than an individual;
- (6) two recent photographs of the applicant, of a type prescribed by the board;
- (7) two classifiable sets of fingerprints;
- (8) a verified statement of his experience qualifications;
- (9) a letter from the police department and a letter from the sheriff's department of the city and county wherein the applicant resides concerning the character of the applicant and containing any objection or recommendation as to his application; and
- (10) any other information, evidence, statements, or documents as may be required by the board.

(b) The board may require an applicant or his manager to demonstrate qualifications by a written or an oral examination, or a combination of both, to be determined by the board.

(c) Payment of the application fee prescribed by this Act entitles the applicant or his manager to one examination without further charge. If the person fails to pass the examination he shall not be eligible for any subsequent examination except upon payment of the reexamination fee prescribed in this Act for each subsequent examination.

Classification of license

Sec. 16. (a) No person may engage in any operation outside the scope of his license.

(b) For the purpose of defining the scope of licenses, the following license classifications are established:

- (1) Class A: the private investigator license, covering operations as defined in Section 2 of this Act;
- (2) Class B: the private patrol operator license, covering operations defined in Section 2 of this Act;
- (3) Class C: covering the operations included within Class A and Class B, as defined in Section 2 of this Act.

(c) A person licensed as a private patrol operator only may not make any investigation except as incidental to the theft, loss, embezzlement, misappropriation, or concealment of any property which he has been hired or engaged to protect, guard, or watch.

License and delinquency fees

Sec. 17. (a) The fee for a Class A original license is \$150; for the renewal of a Class A license, the fee is \$100.

(b) The fee for a Class B original license is \$150; for the renewal of a Class B license, the fee is \$100.

(c) The fee for a Class C original license is \$225; for the renewal of a Class C license, the fee is \$175.

(d) A delinquency fee shall be for not less than \$10, nor more than \$25.

(e) All fees and moneys collected under this Act shall be deposited in the Treasury of the State of Texas.

Denial of license

Sec. 18. After a hearing the board may deny a license unless the applicant makes a showing satisfactory to the board that the applicant, if an individual, has not, or if the applicant is a person other than an individual, that its manager and each of its officers, directors, and partners have not

- (1) committed any act constituting dishonesty or fraud;
- (2) committed any act, which, if committed by a licensee, would be a ground for the suspension or revocation of a license under this Act;
- (3) committed any act resulting in conviction of a felony or a crime involving moral turpitude;
- (4) a bad moral character, intemperate habits, or a bad reputation for truth, honesty, and integrity;
- (5) been refused a license under this Act or had a license revoked;
- (6) been an officer, director, partner, or manager of any person who has been refused a license under this Act or whose license has been revoked;
- (7) while unlicensed, committed or aided and abetted the commission of any act for which a license is required by this Act; or
- (8) knowingly made any false statements in his application.

Requirements for a manager

Sec. 19. (a) The business of each licensee shall be operated under the direction, control, charge, or management, in this state, of either the licensee or a manager, but no licensee shall be required to employ more than one manager.

(b) No person shall act as a manager of a licensee until he has complied with each of the following:

(1) demonstrated his qualifications by a written or oral examination, or a combination of both, if required by the director;

(2) made a satisfactory showing to the director that he has the qualifications prescribed by Section 3 and that none of the facts stated in Section 18 exist as to him.

(c) If the manager, who has qualified as provided in this section, ceases for any reason whatsoever to be connected with the licensee to whom the license is issued, the licensee shall notify the board in writing 30 days from such cessation. If notice is given, the license shall remain in force for a reasonable length of time to be determined by the rules of the board pending the qualifications as provided in this Act, of another manager. If the licensee fails to notify the board within the 30-day

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period, his license shall be subject to suspension or revocation and may be reinstated only upon the filing of an application for reinstatement, payment of the reinstatement fee, if any be due, and the qualification of a manager as provided in this Act.

(d) When the individual on the basis of whose qualifications a license under this Act has been obtained ceases to be connected with the licensee for any reason whatsoever, the business may be carried on for such temporary period and under such terms and conditions as the board shall provide by regulation.

Revocation of license

Sec. 20. (a) The board may suspend or revoke a license issued under this Act if it determines that the licensee or his manager, if an individual, or if the licensee is a person other than an individual, that any of its officers, directors, partners, or its manager has

(1) made any false statement or given any false information in connection with an application for a license or a renewal or reinstatement of a license;

(2) violated any provisions of this Act;

(3) been convicted of a felony or any crime involving moral turpitude or illegally using, carrying or possessing a dangerous weapon;

(4) violated any rule of the board adopted pursuant to the authority contained in this Act;

(5) impersonated, or permitted or aided and abetted an employee to impersonate a law enforcement officer or employee of the United States of America or of any state or of any political subdivision of either;

(6) willfully failed or refused to render to a client services or a report as agreed between the parties and for which compensation has been paid or tendered in accordance with the agreement of the parties;

(7) committed or permitted any employee to commit any act, while the license was expired, which would be cause for the suspension or revocation of a license, or grounds for the denial of an application for a license;

(8) knowingly violated, or advised, encouraged, or assisted the violation of any court order or injunction in the course of business as a licensee;

(9) acted as a runner or capper for any attorney; or

(10) committed any act which is a ground for denial of an application for license under this Act.

(b) The board may suspend or revoke a license issued under this Act if it determines that the licensee or his manager, if an individual, or if the licensee is a person other than an individual, that any of its officers, partners, or its manager, knowingly employed, or has in his employment any person who

(1) has committed any act, which, if committed by a licensee, would be grounds for suspension or revocation of a license under this Act;

(2) has been convicted of a felony or any crime involving moral turpitude;

(3) has a bad moral character, intemperate habits, or a bad reputation for truth, honesty, and integrity.

(c) The board may suspend or revoke a license issued under this Act if it determines that the licensee or his manager, if an individual, or any of the officers, directors, partners, or the manager if the licensee is other than an individual, has

(1) used any letterhead, advertisement, or other printed matter, or in any manner illegally represented that he is an instrumentality of the federal government, state, or a political subdivision of either; or

(2) used a name different from that under which he is currently licensed on any advertisement, solicitation, or contract for business.

(d) The board may suspend or revoke a license issued under this Act if it determines that the licensee or his manager, if an individual, or any of the officers, directors, partners, manager, or other employee, if the licensee is a person other than an individual, has committed any act in the course of the licensee's business constituting dishonesty or fraud.

(e) "Dishonesty or fraud" as used in this section, includes

(1) knowingly making a false statement relating to evidence or information obtained in the course of employment, or knowingly publishing a slander or a libel in the course of a business;

(2) manufacture of evidence; or

(3) acceptance of employment adverse to a client or former client relating to a matter with respect to which the licensee has obtained confidential information by reason of or in the course of his employment by such client or former client.

Evidence of conviction

Sec. 21. The record of conviction, or a certified copy, shall be conclusive evidence of a conviction as that term is used in this Act.

Suspension of license due to mental illness

Sec. 22. (a) The adjudication of insanity or mental illness or the voluntary commitment or admission to a state hospital or other mental hospital of any licensee for a mental illness shall operate as a suspension of the right to practice of any licensee under this Act. The suspension continues until restoration to or declaration of sanity or mental competence.

(b) The record of adjudication, judgment or order of voluntary commitment is conclusive evidence of such insanity or mental illness, and upon receipt of a certified copy of any such adjudication, judgment, voluntary commitment, or order by the board, the board shall immediately suspend the license of the person adjudicated or committed.

(c) The board shall not restore such licensee to good standing until it is satisfied that, with due regard for the public interest, said person's right to practice may be safely reinstated, provided, that in the case of a voluntary commitment to a state hospital or other mental hospital, receipt of a certificate of discharge from such hospital and the certificate of the superintendent of the hospital that the licensee is restored to mental competency, shall constitute competent evidence of restoration to sanity. Before reinstating the person, the board may require the person to pass an oral examination to determine his present fitness to resume his practice.

Form of licenses

Sec. 23. The license, when issued, shall be in the form prescribed by the board, and shall include

(1) the name of the licensee;

(2) the name under which the licensee is to operate; and

(3) the number and date of the license.

Posting

Sec. 24. The license shall at all times be posted in a conspicuous place in the principal place of business of the licensee.

Pocket cards

Sec. 25. Upon the issuance of a license, a pocket card of such size, design, and content as may be determined by the board shall be issued without charge to each licensee, if an individual, or if the licensee is a person other than an individual, to its manager and to each of its officers and partners, which card shall be evidence that the licensee is duly licensed pursuant to this Act. When any person to whom a card is issued

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terminates his position, office or association with the licensee, the card shall be surrendered to the licensee and within five days thereafter shall be mailed or delivered by the licensee to the board for cancellation.

Change of address and new officers

Sec. 26. A licensee shall, within 30 days after such change, notify the board of any and all changes of his address, of the name under which he does business and of any changes in its officers or partners.

Applications, on forms prescribed by the board, shall be submitted by all new officers or partners. The board may suspend or revoke a license issued under this Act if they determine that at the time the person became an officer or partner of a licensee, any of the facts in Section 20 existed as to such person.

License not assignable

Sec. 27. A license issued under this Act is not assignable.

Licensee responsible for conduct of employees

Sec. 28. A licensee shall at all times be legally responsible for the good conduct in the business of each employee, including his manager.

Divulgence of information

Sec. 29. (a) Any licensee or officer, director, partner, or manager of a licensee shall divulge to any law enforcement officer or district attorney, or his representative, any information he may acquire as to any criminal offense, but he shall not divulge to any other person except as he may be required by law so to do, any information acquired by him except at the direction of the employer or client for whom the information was obtained.

(b) No licensee or officer, director, partner, manager, or employee of a licensee shall knowingly make any false report to his employer or client for whom information was being obtained.

(c) No written report shall be submitted to a client except by the licensee, qualifying manager, or a person authorized by one or either of them and such person submitting the report shall exercise diligence in ascertaining whether or not the facts and information in such a report are true and correct.

(d) No licensee, or officer, director, partner, manager, or employee of a licensee shall use a title, or wear a uniform, or use an insignia, or use an identification card, or make any statement with the intent to give an impression that he is connected in any way with the federal government, a state government, or any political subdivision of a state government.

Employee records

Sec. 30. Each licensee shall maintain a record containing such information relative to his employees as may be prescribed by the board.

Advertisements

Sec. 31. Every advertisement by a licensee soliciting or advertising business shall contain his name and address as they appear in the records of the board.

Branch offices

Sec. 32. (a) Each licensee shall file in writing with the board the address of each branch office, and within 10 days after the establishment closing or changing of location of a branch office shall notify the board in writing of such fact.

(b) Upon application of a licensee the board shall issue branch office certificates. The fee for a branch office certificate shall be \$50.

Registration of employees or private investigators

Sec. 33. (a) Except as otherwise provided in this Act, every employee of a licensee shall be registered with the board in the manner prescribed by this Act.

(b) Every person in the employ of a licensee on the effective date of this Act shall file with the board an application for registration within 14 days after such effective date.

(c) Every person entering the employ of a licensee after the effective date of this Act shall file with the board an application for registration within 14 days after the commencement of such employment.

(d) The application for registration under this Act shall be on a form prescribed by the board and shall be accompanied by the fee provided for in this Act.

Application; verification; contents

Sec. 34. The application shall be verified and shall include:

(a) The full name, residence address, residence telephone number, date and place of birth, and the Social Security number of the employee.

(b) A statement listing any and all names used by the employee, other than the name by which he is currently known, together with an explanation setting forth the place or places where each name was used, the date or dates of each use and a full explanation of the reasons why each such name was used. If the employee has never used a name other than that by which he is currently known, this fact will be set forth in the statement.

(c) The name and address of the employer and the date the employment commenced.

(d) The title of the position occupied by the employee and a description of his duties.

(e) Two recent photographs of the employee, of a type described by the board, and two classifiable sets of his fingerprints.

(f) A letter from the police department and a letter from the sheriff's department of the city and county wherein the applicant resides concerning the character of the applicant and containing any objection or recommendation as to his application.

(g) Such other information, evidence, statements, or documents, as may be required by the board.

Managers; exemption from registration under certain sections

Sec. 35. Managers who are duly registered under other provisions of this Act shall not be required to register under Sections 33 and 34 of this Act.

Employees exempt from registration

Sec. 36. Notwithstanding any other provision of this Act, employees of a licensee who are employed exclusively as undercover agents (as those words are generally understood in the industry) or in the stenographic, typing, filing, clerical, private patrol, private guard, or other activities which do not constitute the work of a private investigator, as described in this Act, shall not be required to register under this Act.

Grounds for suspension, revocation or refusal of registration

Sec. 37. After a hearing the board may refuse to register any employee, or may suspend or revoke a previous registration, if the individual has committed any act which, if committed by a licensee, would be grounds for refusing to issue a license, or for the suspension or revocation of a license under this Act.

For Annotations and Historical Notes, see V.A.T.S.

Pocket card

Sec. 38. Upon completion of registration the board shall issue to the registered employee a suitable pocket card. The exhibition of this card to a licensee shall be considered as prima facie evidence that the person is registered by the board.

Notice of change of employment or address

Sec. 39. Each person registered under this Act shall notify the board in writing within 30 days of each change in employment by licensees. If such person ceases to be employed by a licensee, he shall notify the board in writing within 15 days and shall surrender the registration card to the board. If at some subsequent time such person is again employed by a licensee, he shall apply for a reissuance of a registration card. Such application shall be on a form prescribed by the board and shall be accompanied by a registration fee required by this Act. Each employee while registered shall notify the board in writing within 30 days after any change in his residence address.

Registration fee

Sec. 40. The registration fee for employees of licensees required by this Act shall be fixed by the board at not more than \$5 nor less than \$3.

Bonds filed for license

Sec. 41. No license shall be issued under this Act unless the applicant files with the board a surety bond executed by a surety company authorized to do business in this state in the sum of Ten Thousand Dollars (\$10,000.00) conditioned to recover against the principal, its servants, officers, agents and employees by reason of its wrongful or illegal acts in conducting such business licensed under this Act.

Action on bonds to recover damages

Sec. 42. The bond required by this Act shall be made payable to the State of Texas, and anyone so injured by the principal, its servants, officers, agents and employees, shall have the right and be permitted to sue directly upon this obligation in their own names, and this obligation shall be subject to successive suits for recovery until complete exhaustion of the face amount hereof.

Suspension for failure to file surety bond

Sec. 43. (a) Every licensee shall at all times maintain on file with the board the surety bond required by this Act in full force and effect and upon failure to do so, the license of such licensee shall be forthwith suspended and shall not be reinstated until an application therefor, in the form prescribed by the board, is filed together with a proper bond.

(b) The board may deny the application notwithstanding the applicant's compliance with this section:

(1) for any reason which would justify refusal to issue or a suspension or revocation of a license; or

(2) for the performance by applicant of any practice while under suspension for failure to keep his bond in force, for which a license under this Act is required.

(c) Bonds executed and filed with the board pursuant to this Act shall remain in force and effect until the surety has terminated future liability by a 30-day notice to the board.

Cash deposited in lieu of surety bond

Sec. 44. The sum of \$10,000 in cash may be deposited with the State of Texas, in lieu of the surety bond required by this Act.

SUBCHAPTER D. ENFORCEMENT PROVISIONS.**Penal provisions**

Sec. 45. Any person who knowingly falsifies the fingerprints or photographs submitted under Subsections (6) and (7) of Section 15, is guilty of a felony and upon conviction is punishable by imprisonment in the penitentiary for not more than five years. Any person who violates any of the other provisions of this Act is guilty of a misdemeanor punishable by fine not to exceed \$500 or by imprisonment in the county jail not to exceed one year, or both.

Expiration and renewal of license and registration card

Sec. 46. (a) Licenses issued under this Act and the pocket cards issued pursuant thereto, shall expire at 12 p. m. on December 31, 1970, and thereafter at 12 p. m. on December 31 of each succeeding year if not, in each instance, renewed. To renew an unexpired license, the licensee shall, on or before the date on which it would otherwise expire, apply for renewal on a form prescribed by the board, and pay the renewal fee prescribed by this Act. On renewal, a renewal license and renewal pocket cards for persons mentioned in Section 16, shall be issued to the licensee.

(b) Renewal of a license shall not prohibit the bringing of disciplinary proceedings for an act committed before the effective date of the renewal.

Activity during suspension of license

Sec. 47. A suspended license is subject to expiration and shall be renewed as provided in this Act, but such renewal does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other activity or conduct in violation of the order or judgment by which the license was suspended.

Reinstatement of a revoked license

Sec. 48. A revoked license is subject to expiration as provided in this Act, but it may not be renewed. If it is reinstated after its expiration, the licensee, as a condition precedent to its reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.

Expiration of licenses and new licenses

Sec. 49. (a) A license which is not renewed within three years after its expiration may not be renewed, restored, reinstated, or reissued thereafter.

(b) The holder of the license may obtain a new license only on compliance with all of the provisions of this Act relating to the issuance of an original license.

Appeals

Sec. 50. Any person aggrieved by any action of the Board in denying an application for a license, or in revoking a license, or in suspending a license, or in taking any disciplinary action with respect to a license under this Act, shall have the right to appeal such action or such decision to the District Court of the county of his residence, and the filing of such appeal in the District Court shall stay the effect of such action or decision until decided by the court. In all appeals prosecuted in any of the courts of this state pursuant to the provi-

sions of this Act, such trials shall be de novo as that term is used and understood in appeals from Justice of the Peace Courts to County Courts. When such an appeal is filed and the court thereby acquires jurisdiction, all administrative or executive action taken prior thereto shall be null and void and of no force and effect, and the rights of the parties thereto shall be determined by the court upon a trial of the matters in controversy under rules governing the trial of other civil suits in the same manner and to the same extent as though the matter had been committed to the courts in the first instance and there had been no intervening administrative or executive action or decision. Under no circumstances shall the substantial evidence rule as interpreted and applied by the courts of Texas in other cases ever be used or applied to appeals prosecuted under the provisions of this Act. The Legislature hereby specifically declares that the provisions of this section shall not be severable from the balance of this Act, and further specifically declares that this Act would not have been passed without the inclusion of this section. If this section, or any part thereof, is for any reason ever held by any court to be invalid, unconstitutional or inoperative in any way, such holding shall apply to this entire Act, and in such event this entire Act shall be null, void and of no force and effect.

Severability clause

Sec. 51. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Acts 1969, 61st Leg., p. 1807, ch. 610, eff. Sept. 1, 1969.

Title of Act:

An Act creating the Texas Board of Private Detectives, Private Investigators, Private Patrolmen, Private Guards, and Managers under certain circumstances; providing for licensing and regulation of private investigators, private patrolmen, private guard watchmen, and managers under certain circumstances; requiring a surety bond to be filed for a license; set-

ting the requirements and fees for licenses; providing for denial, revocation, or suspension of licenses; providing penalties for violation of the Act; providing for appeals from actions taken by the board; providing a severability clause; and declaring an emergency. Acts 1969, 61st Leg., p. 1807, ch. 610.

CHAPTER NINE—COMMISSIONS AND AGENCIES [NEW]

Art.

4413(34). Mass transportation commission.

4413(35). Fire protection commission.

Art. 4413(34) Mass transportation commission

Short title

Section 1. This Act may be cited as the Texas Mass Transportation Commission Act.

Creation and membership of commission

Sec. 2. There is created a Texas Mass Transportation Commission to consist of six members. Its principal office is located in the City of Austin.

Appointment and terms of office

Sec. 3. (a) The governor, with the advice and consent of the Senate, shall appoint the six commission members for staggered terms of six years.

(b) Vacancies on the commission are filled in the same manner as original appointments, but only for the unexpired portion of the term.

Qualifications of commission members

Sec. 4. (a) The governor shall appoint as a member of the commission one person who resides in the Gulf Coast area of the state; one who resides in the Trans-Pecos area; one who resides in the Central Texas area; one who resides in the Northeast area; one who resides in the Panhandle-South Plains area; and one from the state at large.

(b) To be qualified for appointment, a person must be

(1) a citizen of the state;

(2) of voting age;

(3) engaged in or have an interest in public mass transportation, but shall not be an official or employee of any local government, state or federal department or agency.

(c) No more than two members of the commission may be employed by, or own an interest in, a public mass transportation system or a business manufacturing public mass transportation media, or their components.

Board meetings and officers

Sec. 5. (a) The commission shall hold a regular annual meeting. It shall hold a special meeting at the call of the chairman or at the request of four commission members.

(b) A majority of the commission is a quorum for conducting business and may act for the commission.

(c) The commission shall elect its officers, who shall serve for terms of two years.

Assistants

Sec. 6. The commission may employ as many assistants as it considers necessary to carry out the provisions of this Act.

Compensation

Sec. 7. (a) Members of the commission are entitled to compensation of \$25 a day for each day spent in attending the business of the commission and for going to and returning from attending to that business. They are also entitled to reimbursement for their actual expenses incurred in attending to the business of the commission.

(b) The commission shall fix the amount of compensation and expense reimbursement for its assistants.

Duties of commission

Sec. 8. (a) The commission shall

(1) encourage, foster, and assist in the development of public mass transportation, both intracity and intercity, in this state; and

(2) encourage the establishment of rapid transit and other transportation media.

(b) The commission may not promulgate rules or regulations which impose a greater restriction upon public mass transportation than now exists, or which impose economic controls.

(c) The commission may recommend necessary legislation to advance the interests of the state in public mass transportation and may represent the state in mass transportation matters before federal and state agencies.

(d) The commission may render financial assistance in the planning of public mass transportation systems out of appropriations made by the Legislature for that purpose.

(e) The commission may enter into any contracts necessary to exercise the powers granted by this Act, but may not enter into any contract

(1) obligating the state to pay money which has not been appropriated to the commission; or

(2) binding the state in a manner not authorized by this Act.

(f) The commission may not issue certificates of convenience and necessity.

(g) The commission shall conduct hearings and make investigations it considers necessary to determine the location, type of construction, and cost to the state or its political subdivisions of public mass transportation systems owned, operated, or directly financed in whole or part by the state. It shall also assist any political subdivision of the state in procuring aid offered by the federal government for the purpose of establishing and maintaining public mass transportation systems.

(h) The commission may accept and receipt for federal and other grants either public or private, for the state or any political subdivision thereof, when authorized by the state or subdivision, for the acquisition, construction, improvement, maintenance, or operation of public mass transportation facilities. Grants may be accepted under this subsection whether the work is to be done by the state, a municipality, or any other political subdivision of the state aided by grants from the United States upon terms and conditions now or later prescribed by the laws of the United States. The state or the governing body of a municipality or other political subdivision may designate the commission as its agent to receive money under this section and the commission acting as agent may contract with the federal government for the acquisition, construction, improvement, maintenance, or operation of public mass transportation facilities.

(i) All contracts for the acquisition, construction, improvement, maintenance, or operation of public mass transportation facilities made by the commission acting as agent under Subsection (h) of this section must conform to state law.

Director of mass transportation

Sec. 9. (a) The commission shall appoint a director of mass transportation, who serves at the pleasure of the commission.

(b) The director is entitled to receive the salary provided in the General Appropriations Act.

Duties and powers of director

Sec. 10. (a) The director shall develop and maintain a comprehensive master plan for public mass transportation development in the state and shall correlate the master plan with plans of the Texas Railroad Commission and other agencies or departments concerned with public transportation.

(b) He shall serve as the commission's executive officer and under its supervision shall administer the provisions of this Act. He shall attend all meetings of the commission, but may not vote. He shall, subject to the approval of the commission, hire as many experts, field and office assistants, clerks, and other employees as may be required for the proper discharge of the commission's duties. The director is responsible to the commission for the preparation of reports and the collection and dissemination of data relating to public mass transportation. At the direction of the commission, he shall, together with the chairman of the commission, execute all contracts for the commission which are authorized by this Act.

(c) The commission may, by written order filed in its office, delegate to the director any of its powers or duties and the director shall then exercise the powers and perform the duties in the commission's name. Acts 1969, 61st Leg., p. 1825, ch. 615, eff. Sept. 1, 1969.

Title of Act:

An Act creating the Texas Mass Transportation Commission and prescribing its

organization, duties, powers, and procedures; and declaring an emergency. Acts 1969, 61st Leg., p. 1825, ch. 615.

Art. 4413(35). Fire protection commission**Creation**

Section 1. There is hereby created the Commission on Fire Protection Personnel Standards and Education, hereinafter called "commission."

Studies, recommendations and reports

Sec. 2. The commission shall have authority to make full and complete studies, recommendations and reports to the Governor and the Legislature for the purpose of:

(1) suggesting minimum standards and education of fire protection personnel appointed to positions in municipal fire departments, who are to be engaged in fire protection to include fire suppression, fire prevention, arson investigation and other allied fields;

(2) suggesting basic minimum courses of training for fire protection personnel;

(3) suggesting procedure for the certification of fire protection personnel and the certification of fire protection instructors.

Membership; qualifications and terms; vacancies

Sec. 3. The commission shall be composed of nine members, residents of the State of Texas, and appointed by the Governor with the advice and consent of the Senate. Such members shall be persons well qualified by experience and/or education in the field of fire protection or related fields. The Commissioner of the Texas Education Agency shall serve as an ex officio member of the commission. Such appointive members shall be appointed for a term of six years, provided, however, that of the members first appointed, three shall be appointed for a term of two years, three for a term of four years, and three for a term of six years. Any member chosen by the Governor to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member he is chosen to succeed. Such appointment for unexpired term shall be with the advice and consent of the Senate.

Officers; quorum; meetings

Sec. 4. The commission shall elect a chairman, vice-chairman, and secretary from among the appointed members at its first meeting, and thereafter at its first meeting succeeding new appointments to fill regular terms. Five members shall constitute a quorum. The Governor shall summon the commission to its first meeting.

Compensation; expenses

Sec. 5. Members of the commission shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their functions hereunder.

Authority of commission

Sec. 6. The commission shall have the authority to:

(1) certify fire protection training and education programs as having attained the minimum required standards suggested by such commission;

HEADS OF DEPARTMENTS Art. 4413(35)

For Annotations and Historical Notes, see V.A.T.S.

(2) certify instructors as having qualified as fire protection instructors under such conditions as the commission may prescribe;

(3) direct research in the field of fire protection and to accept gifts and grants for such purposes;

(4) recommend curricula for advanced courses and seminars in fire science training in colleges and institutions of higher education at the request of the Coordinating Board, Texas College and University System.

Duties of commission

Sec. 7. In carrying out its duties and responsibilities the commission shall have the following additional duties:

(1) to meet at such times and places in the State of Texas as it deems proper; meetings shall be called by the chairman upon his own motion, or upon the written request of five members;

(2) to contract with other agencies, public or private, or persons, as it deems necessary for the rendition and affording of such services, facilities, studies, and reports as it may require to cooperate with city, county, state and federal agencies in training programs;

(3) to make reasonable rules and regulations to carry out the duties and powers of the commission.

Powers and duties of municipal or county governments

Sec. 8. Except as expressly provided in this Act, nothing herein contained shall be deemed to limit the powers, rights, duties, and responsibilities of municipal or county governments, nor to affect provisions of Chapter 325, Acts of the 50th Legislature, 1947 (Article 1269m, Vernon's Texas Civil Statutes), Firemen's and Policemen's Civil Service Act.

Funds

Sec. 9. The Legislature of the State of Texas shall appropriate the necessary funds for the purpose of carrying out the provisions of this Act.

Applies to only fully paid fire departments

Sec. 10. This Act shall apply only to the personnel of fire departments in the state where the entire department is fully paid. Acts 1969, 61st Leg., p. 1972, ch. 668, emerg. eff. June 12, 1969.

Title of Act:

An Act relating to the creation of the Commission on Fire Protection Personnel

Standards and Education and its powers and duties; and declaring an emergency. Acts 1969, 61st Leg., p. 1972, ch. 668.

TITLE 71—HEALTH—PUBLIC

Chap.		Art.
6B.	Psychology [New]	4512c
10.	Optometry [New]	4552-1.01
10A.	Hearing Aids [New]	4566-1.01

CHAPTER ONE—HEALTH BOARDS AND LAWS

Art.		Art.
4419e.	Blind and otherwise handicapped persons; use of public facilities [New].	4445b. Capacity to consent to treatment for venereal disease [New].
4442d.	Nursing home administrators; licensure [New].	4445c. Laboratory tests for venereal diseases; reporting results [New].
		4447h. Consent for child to receive medical care [New].

Art. 4419e. Blind and otherwise handicapped persons; use of public facilities

Policy

Section 1. The policy of the State of Texas is to encourage and enable persons who are blind or otherwise physically handicapped to achieve maximum personal independence, to become gainfully employed, and to otherwise fully enjoy and use all public facilities available within the state.

Definitions

Sec. 2. (a) In this Act, unless the context requires a different definition,

(1) "White cane" means a cane or walking stick which is metallic or white in color or white tipped with some contrasting color, and which is carried by a blind person in a raised or extended position to assist the blind person in traveling from place to place;

(2) "Dog guide" means a dog which:

(A) is fitted with a special harness so as to be suitable as an aid to the mobility of a blind person,

(B) is used by a blind person who has satisfactorily completed a specific course of training in the use of a dog as an aid to personal travel, and

(C) has been trained by an organization generally recognized by agencies involved in the rehabilitation of the blind as reputable and competent to provide dogs with training of this type;

(3) "Public facilities" include streets, highways, sidewalks, walkways, all common carriers, airplanes, motor vehicles, railroad trains, motor buses, street cars, boats or any other public conveyances or modes of transportation, hotels, motels or other places of lodging, public buildings maintained by any unit or subdivision of government, buildings to which the general public is invited, college dormitories and other educational facilities, restaurants or other places where food is offered for sale to the public, and all other places of public accommodation, amusement, convenience or resort to which the general public or any classification of persons from the general public is regularly, normally or customarily invited.

(b) Terms or phrases not specifically defined in this section shall be given the meaning usually given to such terms or phrases as a matter of common knowledge.

For Annotations and Historical Notes, see V.A.T.S.

Discrimination prohibited

Sec. 3. (a) Subject only to such limitations and conditions as might be established by law and applicable alike to all persons, persons who are blind or otherwise physically handicapped shall have the same right as the able-bodied to the full use and enjoyment of any public facility in the state.

(b) No common carrier, airplane, railroad train, motor bus, street car, boat or other public conveyance or mode of transportation operating within the State of Texas may refuse to accept as a passenger any person who is blind or otherwise physically handicapped solely because of such person's handicap, nor shall any handicapped person be required to pay an additional fare because of his use of a dog guide, wheelchair, crutches or other types of devices used to assist the handicapped person in travel.

(c) No person who is blind or otherwise physically handicapped, regardless of whether or not using a white cane, dog guide, wheelchair, crutches or other devices of assistance in mobility, may be denied admittance to any public facility in the State of Texas because of the handicapped person's use of a white cane, dog guide, wheelchair, crutches or other devices of assistance in mobility, or because such person may be handicapped.

(d) The discrimination prohibited by this section includes discrimination through an open and obvious refusal to allow a handicapped person to use or be admitted to any public facility, as well as discrimination based upon a ruse or subterfuge calculated to prevent or discourage a handicapped person from using or being admitted to a public facility. Regulations relating to the use of public facilities by any designated class of persons from the general public shall in no manner be drafted to prohibit the use of particular public facilities by handicapped persons who, except for their handicaps and use of dog guides or other devices for assistance in travel, would fall within the designated class. Lists containing the names of persons who desire to use particular public facilities shall not be composed or manipulated so as to deny a handicapped person a fair and equal opportunity to use or be admitted to any public facility.

(e) No provision of this Act shall be construed as in any manner limiting the prerogative of the owner or manager of any public facility to refuse to admit, to refuse to serve or to evict from a public facility any person who is so unkempt as to be clearly offensive to others using the public facility, or who is obviously intoxicated, or who conducts himself in a belligerent, boisterous, profane or other offensive manner which unreasonably interferes with the right of other persons to use and enjoy the public facility.

Responsibilities of persons who are blind or otherwise physically handicapped

Sec. 4. (a) A person who is blind and who uses a dog guide to assist him in travel shall be liable for any damages done to the premises of facilities by such dog.

(b) A person who is blind and who uses a dog guide to assist him in travel shall keep such dog guide properly harnessed, and any person who might be injured by such dog guide because of a blind person's failure to properly harness the dog guide shall be entitled to maintain a cause of action for damages in any court of competent jurisdiction within this state, subject to the same rules, principles and doctrines as are applicable under the common law of this state to other causes brought for the redress of injuries caused by animals.

(c) A person who is blind or otherwise physically handicapped and who, after being duly warned of a danger unique to a handicapped person's use of a particular public facility, is injured in using the public facility and is injured because of a danger of the type about which warning was given, shall be deemed to have assumed the risk of using the public facility.

Penalties for improper use of dog guides

Sec. 5. (a) Any person who fits a dog with a harness of the type commonly used by blind persons who use dog guides for purposes of travel, in order to represent that his dog is a specially trained dog guide when training of the type described in Section 2 of this Act has not in fact been provided, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than Two Hundred Dollars (\$200.00).

(b) Any person who habitually abuses or neglects to feed or otherwise neglects to properly care for his dog guide shall be entitled to none of the benefits of this Act otherwise available to those who use dog guides, but shall instead be required to surrender his dog guide upon demand to the person or organization furnishing the dog or to other competent authorities.

Penalties for and damages resulting from discrimination

Sec. 6. (a) Any person or persons, firm, association, corporation, or other organization, or the agent of any person, firm, association, corporation or other organization who shall violate the provisions of Section 3 of this Act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than Three Hundred Dollars (\$300.00).

(b) In addition to the penalty provided for in Subsection (a) of this Section, any person or persons, firm, association, corporation or other organization, or the agent of any person, firm, association, corporation or other organization who shall violate the provisions of Section 3 of this Act shall be deemed to have deprived a handicapped person of his civil liberties. In such case, the handicapped person who has been deprived of his civil liberties shall be entitled to maintain a cause of action for damages in any court of competent jurisdiction, and there shall be a conclusive presumption of damages in the amount of at least One Hundred Dollars (\$100.00) to the handicapped person.

Dissemination of information on state policy relating to the handicapped

Sec. 7. (a) In order that there might be maximum public awareness of the policies set forth in this Act, the Governor is authorized each year to issue a proclamation taking suitable public notice of October 15 as White Cane Safety Day. Such proclamation shall contain appropriate comment about the significance of various devices used by handicapped persons to assist them in traveling, and shall call to the attention of the public the provisions of this Act and of other Acts relating to the safety and well-being of this state's handicapped citizens.

(b) State agencies regularly mailing forms or information to significant numbers of public facilities operating within the state are authorized and directed to cooperate with state agencies responsible for the rehabilitation of the handicapped, by sending information about this Act to those to whom regular mailings are sent. Such information, which shall be sent only upon the request of state agencies responsible for the rehabilitation of the handicapped and not more than once each year, may be included either in regular mailings or else sent separately. If sent separately, the cost of mailing shall be borne by the state rehabilitation agency or agencies requesting the mailing and, regardless of whether sent separately or as part of a regular mailing, the cost of preparing information about this

For Annotations and Historical Notes, see V.A.T.S.

Act shall be borne by the state rehabilitation agency or agencies requesting distribution of this information.

Relationship to other laws relating to the handicapped

Sec. 8. The provisions of this Act are in addition to those provisions relating to the use of white canes by the blind set forth in Senate Bill No. 2, Acts of the 52nd Legislature, Regular Session, 1951, as amended by Senate Bill No. 521, Acts of the 60th Legislature, Regular Session, 1967 (Article 6701e, Vernon's Texas Civil Statutes, as amended). The provisions of this Act shall be construed in a manner compatible with all other state laws relating to the handicapped except for those laws expressly repealed in Section 9 of this Act.

Acts 1969, 61st Leg., p. 1374, ch. 416, eff. Sept. 1, 1969.

This article includes the subjects treated in former articles 889a, 4596a.

redress in the event discrimination is practiced; imposing certain responsibilities upon persons who are blind or otherwise handicapped and who desire to use public facilities; providing a method for dissemination of information; repealing Articles 889a and 4596a, Vernon's Texas Civil Statutes; and declaring an emergency. Acts 1969, 61st Leg., p. 1374, ch. 416.

Title of Act:

An Act relating to the use of public facilities by persons who are blind or otherwise physically handicapped and to their use of white canes, dog guides, or other devices of assistance to the handicapped in their travel; providing for penalties and

Art. 4442c. Convalescent and nursing homes and related institutions

* * * * *

Definitions

Sec. 2. (a) "Institution" means an establishment which furnishes (in single or multiple facilities) food and shelter to four (4) or more persons unrelated to the proprietor, and, in addition, provides minor treatment under the direction and supervision of a physician licensed by the Texas State Board of Medical Examiners, or services which meet some need beyond the basic provision of food, shelter, and laundry. Nothing in this Act shall apply to hotels or other similar places that furnish only food and lodging, or either, to their guests. And, provided further, that the provisions of this Act shall not apply to any hospital as that term is defined in the Texas Hospital Licensing Law. The provisions of this Act shall not apply to any nursing home conducted by or for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend exclusively upon prayer or spiritual means for healing, without the use of any drug or material remedy, provided safety, sanitary, and quarantine laws and regulations are complied with, nor shall this Act apply to establishments that furnish only baths and massages in addition to food, shelter and laundry, nor shall this Act apply to institutions operated by persons licensed by the Texas State Board of Chiropractic Examiners.

"Institution" also means any place or establishment in or at which any person receives, treats or cares for, overnight or longer, within a period of twelve months, four or more pregnant women or women who have within two weeks prior to such treatment or care had a child born to them; provided, however, that this definition shall not include women who receive maternity care in the home of a relative within the third degree of consanguinity or affinity, nor shall it include general or special hospitals licensed in pursuance of or as those terms are defined in the Texas Hospital Licensing Law.

"Institution" also means a foster care type residential facility providing room and board to fewer than four (4) persons unrelated within the second degree of consanguinity or affinity to the proprietor and who, in

addition to room and board, because of his physical or mental limitation or both, requires a level of care and services suitable to the needs of the individual which contribute to his health, comfort, and welfare; provided, however, that such institution shall be subject to licensure only upon written application for participation in the intermediate care program provided by Federal law as it now reads or may hereafter be amended.

(b) "Person" means any individual, firm, partnership, corporation, association, or joint stock association, and the legal successor thereof.

(c) "Government unit" means the state or any county, municipality or other political subdivision, or any department, division, board, or other agency of any of the foregoing.

(d) "Licensing Agency" means the State Department of Public Health. Sec. 2 amended by Acts 1969, 61st Leg., p. 2108, ch. 721, § 1, emerg. eff. June 12, 1969.

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Art. 4442d. Nursing home administrators; licensure

Short Title

Section 1. This Act may be cited as the "Texas Nursing Home Administrators Licensure Act."

Definitions

Sec. 2. For the purposes of this Act and as used herein:

(1) "board" means the "Texas Board of Licensure for Nursing Home Administrators";

(2) "nursing home administrator" means the person who administers, manages, supervises, or is in general administrative charge of a nursing home, irrespective of whether or not such individual has an ownership interest in such home, and whether or not his functions and duties are shared with one or more other persons;

(3) "nursing home" means any institution or facility now or hereafter licensed as a "nursing home" or "custodial care home" by the Texas State Department of Public Health under the provisions of Article 4442C, Vernon's Texas Civil Statutes or any amendment thereto;

(4) "practice of nursing home administration" means the performance of acts by any person which amounts to the administration, management, supervision, and general administrative charge of a nursing home, whether or not such functions and duties are shared with one or more individuals.

Creation and Composition of Board

Sec. 3. (1) There is hereby created the Texas Board of Licensure for Nursing Home Administrators which shall consist of nine (9) members. The Commissioner of Public Welfare for the State of Texas, or his designee, and the Commissioner of Health of the Texas State Department of Public Health, or his designee, shall be ex officio members of the board. Such designees shall be chosen from those representatives of the respective departments who are actively assigned to and are engaged in work in the nursing home field. One member shall be a physician duly licensed by the State of Texas, one member shall be an educator connected with a university program in public health or medical or nursing home care administration within the State of Texas, and five members shall be duly licensed nursing home administrators (with the exception of the initial appointees as hereinafter provided for) of the State of Texas.

(2) Appointments to the board shall be made by the Governor after consultation with the associations and societies appropriate to the disciplines and professions representative of the vacancies to be filled.

For Annotations and Historical Notes, see V.A.T.S.

(3) At least one nursing home administrator member of the board shall be connected with, and representative of, a non-proprietary home and one administrator member may, in addition to being a qualified nursing home administrator, be also a duly licensed professional registered nurse licensed by the Board of Nurse Examiners of the State of Texas.

(4) Initial appointments to the board shall be as follows: three (3) members for a term of three (3) years; three (3) members for a term of two (2) years, and one (1) member for a term of one (1) year, and thereafter the terms of all appointed members shall be for three years unless the appointment is for an unexpired term only. Vacancies on the board shall be filled in like manner as initial appointments are made.

(5) All appointive members of the board shall hold a degree from an accredited four year college or university and shall have special interest, background, and experience in the field of care for the aged. They shall be residents of the State of Texas and citizens of the United States and shall be of good character.

In lieu of the degree requirement above specified an appointee may nevertheless qualify by submitting to the Governor satisfactory evidence of two (2) years of practical experience as a nursing home administrator for each year, whether one or more, of four (4) years of college and such appointee shall receive credit toward his qualifications for each full year of credits earned by him in an accredited college or university.

(6) Appointive members may be removed by the Governor for just cause after notice and hearing.

(7) Initial nursing home administrator representatives on the board, appointed after this Act becomes effective, shall be limited to persons who have been certified by the Director, Nursing and Convalescent Homes, State Department of Health, as a nursing home administrator within the State of Texas, serving as such on the certificate date, and as one having five (5) years or more of continuous experience within the State of Texas as such an administrator prior to the issuance of the certificate. After initial appointments have been made, no person shall be eligible for appointment as a nursing home administrator representative unless he is the holder of a nursing home administrator's license under the provisions of this Act.

Organization of the Board

Sec. 4. (1) As soon as practicable after appointment, appointive members of the board shall be certified by the Governor's office and shall take the constitutional oath of office for officers of the State of Texas. The board shall elect from its appointive members a chairman and vice chairman and these officers shall be elected to serve for the calendar year or so much thereof as shall remain, and elections for these offices shall be held annually thereafter for the term of a calendar year. Elections to fill vacancies shall be held in the same manner for the balance of any unexpired term. The board shall also elect a secretary to the board who shall serve at the pleasure of the board and who shall be the executive officer to the board but not a member thereof. The secretary shall have such powers and shall perform such duties as may be prescribed by law or delegated to him by the board under its rules and regulations. Suitable office space, equipment and supplies and additional agents or employees as may be required for discharging the functions of the board shall be provided within the limits of the funds available to the board as hereinafter provided for. The board shall adopt an official seal which shall be affixed to licenses, certificates and other official documents of the board.

(2) The secretary and such other person as the board may designate, as an alternate, shall act as fiscal agent for the board and shall be responsible for the receipt, deposit, safekeeping and disbursement of all

funds of the agency, provided, however, that at all times the board shall cause to be maintained in force a fidelity bond covering the secretary and such other person in an amount which shall at all times exceed any reasonable expectations as to the total amount of funds to be held at any one time to the account of the board. At no time shall the fidelity bond or bonds be for an amount less than \$25,000.00.

(3) The board shall hold not less than two meetings per year after due notice thereof and at any meeting a majority of the board shall constitute a quorum. Board members shall receive a per diem of \$25.00 while engaged in board business together with actual and necessary expenses.

Exclusive Jurisdiction

Sec. 5. The board shall have exclusive authority to determine the qualifications, skill and fitness of any person to serve as an administrator of a nursing home under the provisions of this Act and the holder of a license under the provisions of this Act shall be deemed to be qualified to serve as the administrator of any nursing home for all purposes.

Functions and Duties of the Board

Sec. 6. It shall be the function and duty of the board to:

(1) develop, impose, and enforce standards which must be met by individuals in order to receive a license as a nursing home administrator, which standards shall be designed to insure that nursing home administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators;

(2) develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets such standards;

(3) issue licenses to individuals determined, after application of such techniques, to meet such standards, and revoke or suspend licenses previously issued by the board in any case where the individual holding any such license is determined substantially to have failed to conform to the requirements of such standards;

(4) establish and carry out procedures designed to insure that individuals licensed as nursing home administrators will, during any period that they serve as such, comply with the requirements of such standards;

(5) receive, investigate, and take appropriate action with respect to, any charge or complaint filed with the board to the effect that any individual licensed as a nursing home administrator has failed to comply with the requirements of such standards;

(6) conduct a continuing study and investigation of nursing homes and administrators of nursing homes within the State with a view to the improvement of the standards imposed for the licensing of such administrators and of procedures and methods for the enforcement of such standards with respect to administrators of nursing homes who have been licensed as such;

(7) conduct or cause to be conducted, one or more courses of instruction and training sufficient to meet the requirements of this Act, and make provisions for the conduct of such courses and their accessibility to residents of this State, unless it finds that there are a sufficient number of courses conducted by others within this State to meet the needs of the State. In lieu thereof the board may approve courses conducted within and without the State as sufficient to meet the education and training requirements of this Act.

For Annotations and Historical Notes, see V.A.T.S.

Prohibition of Operation or Practice without a License

Sec. 7. Effective July 1, 1970, no nursing home in the State may operate unless it is under the supervision of an administrator who holds a currently valid nursing home administrator's license issued pursuant to this Act. No person shall after such date practice or offer to practice nursing home administration in this State or use any title, sign, card or device to indicate that he is a nursing home administrator, unless such person shall have been duly licensed as a nursing home administrator as required by this Act.

Rule Making Authority

Sec. 8. The Board shall have the authority to make rules and regulations not inconsistent with law as may be necessary or proper for the performance of its duties, and to take such other actions as may be necessary to enable the State to meet the requirements set forth in Section 1908 of the Social Security Act,¹ the Federal rules and regulations promulgated thereunder, and other pertinent Federal authority; provided, however, that no rule shall be promulgated, altered or abolished without the approval of a two-thirds majority of the Board.

¹ 42 U.S.C.A. § 1396g.

Qualifications for Licensure

Sec. 9. The Board shall have authority to issue licenses to qualified persons as nursing home administrators, and shall establish qualification criteria for such nursing home administrators. No license shall be issued to a person as a nursing home administrator unless:

(1) he is at least 21 years of age, of good moral character, sound in mental and physical health, and is a citizen of the United States or has duly declared his intention of becoming a citizen of the United States;

(2) he has satisfactorily completed a course of instruction and training prescribed by the board, which course shall be so designed as to content and so administered as to present sufficient knowledge of the proper needs to be served by nursing homes; laws governing the operation of nursing homes and the protection of the interests of patients therein; and the elements of good nursing home administration; or has presented evidence satisfactory to the board of sufficient education, training or experience in the foregoing fields to enable him to administer, supervise and manage a nursing home;

(3) he has passed an examination administered by the board and designed to test for competence in the subject matters referred to in subsection (2) hereof;

(4) that applicant submit written evidence, on forms provided for such purpose by the board, that he has successfully completed a course of study and has been graduated from a high school or secondary school approved and recognized by the educational authorities of the State in which such school is located, or a political division thereof, or has submitted a certificate indicating that he has obtained high school or secondary school equivalency, such certificate being certified by a State educational authority or a political division thereof; and

(5) that applicant has complied with all other qualifications and requirements as may have been established by rule and regulation of the board.

(6) Notwithstanding other requirements and qualifications to the contrary set forth in this Section, the Board may issue a Provisional License to any individual applying therefor who (1) has served as a nursing home administrator during all of the calendar year immediately preceding July 1, 1970, (2) meets the standards of the Board and of this Act relating to

good moral character, suitability, age, and citizenship, and (3) has paid the license fee prescribed in Section 10 of this Act. Such Provisional License shall terminate after two (2) years, or at midnight, June 30, 1972, whichever is earlier, and shall be cancelled and be of no legal force or effect thereafter; provided, however, that if, prior to the expiration of such Provisional License, the holder thereof shall have passed a qualifying examination and complied with all other requirements of this Act and the Board, a nursing home administrator's license shall be issued to him. A Provisional License or extension thereof may not be issued to any person after June 30, 1972.

Licenses and Fees

Sec. 10. (1) The Board shall license nursing home administrators in accordance with rules and regulations issued, and from time to time revised by it. A nursing home administrator's license shall not be transferable and shall be valid for the period issued until surrendered for cancellation or suspended or revoked for violation of this Act or rules and regulations issued pursuant hereto.

(2) Every holder of a nursing home administrator's license shall renew it biennially, by making application to the board. Renewals of licenses shall be granted as a matter of course, unless the board finds, after due notice and hearing, that the applicant has acted or failed to act in such a manner or under circumstances, as would constitute grounds for suspension or revocation of a license.

(3) Each person licensed as a nursing home administrator shall pay a license fee to be fixed by the board which shall not exceed \$100.00. Each license shall expire on the 30th day of June of the year issued and shall be renewable biennially at a fee to be set by the board which shall not exceed \$100.00. Reasonable fees shall be set by the board for the issuance of copies of public records in its office as well as for certificates or transcripts and duplicates of lost instruments. Each applicant for examination and license shall accompany the application with an examination fee of \$35.00 which shall not be refundable.

(4) The board may issue a nursing home administrator's license for the regular fee to any person who holds a current license as a nursing home administrator from another jurisdiction, provided that the board finds that the standards for licensure in such other jurisdiction are at least the substantial equivalent of those prevailing in this State; that the applicant is otherwise qualified; and that the other state gives similar recognition and endorsement to nursing home administrators licenses of the State of Texas.

(5) The board shall have authority to receive and disburse funds received pursuant to Section 1908(e) (1) of the Social Security Act¹ or from any other Federal source of funds or grants for the furtherance of board duties and responsibilities hereunder.

(6) All fees or other monies received by said board under this law shall be deposited to the account of the board in federally insured accounts and shall be paid out on vouchers duly issued in a manner directed by the board. All monies so received and placed to the account of the board may be used by the board in defraying its expenses in carrying on the provisions of this law. No expenses incurred by said board shall be paid by the State.

¹ 42 U.S.C.A. § 1396g(e) (1).

Disciplinary Action

Sec. 11. (1) The board shall be authorized to revoke, suspend, or refuse to renew, a nursing home administrator's license after due notice and hearing upon the following grounds or any of them:

(a) upon proof that such licensee has wilfully or repeatedly violated any of the provisions of this Act or the rules adopted in accordance therewith;

(b) upon proof that such licensee has wilfully or repeatedly acted in a manner inconsistent with the health and safety of the patients of the home of which he is administrator;

(c) upon proof that the licensee was guilty of fraud in securing his license;

(d) upon proof of the intemperate use of alcohol or drugs which in the opinion of the board creates a hazard to patients;

(e) upon proof of a judgment of a court of competent jurisdiction finding the licensee insane; and

(f) upon proof that such licensee has been convicted in a court of competent jurisdiction of a misdemeanor or a felony involving moral turpitude.

(2) The board shall have jurisdiction to hear all disciplinary charges brought under the provisions of this Act against persons licensed as nursing home administrators and upon such hearings shall determine such charges upon their merits. Proceedings under this Act shall be begun by filing with the board written charges under oath. Such charges may be preferred by any person and after notice in writing of not less than fifteen (15) full days, stating the place and date of the hearing, accompanied by a copy of the complaint or charges, the board, or a majority thereof, shall hold a hearing on said charges, cause a written record to be made of the evidence given at the hearing, accord the person charged a right to present evidence, be represented by an attorney, and to cross-examine the witnesses. In this connection the board shall be authorized to issue subpoenas for witnesses at the hearing, either at the request of the person cited or on behalf of the board or its representative; to compel the attendance of witnesses, and administer oaths to witnesses. Disobedience of a subpoena duly issued by the board or by its secretary under its direction, shall constitute a contempt of the board which shall be enforceable by any district court sitting in the county in which the hearing is being held upon petition of the board and the presentation to the court of evidence of wilful disobedience and if the district judge is of the opinion and finds that the subpoena was wilfully disobeyed, such judge shall be authorized to punish a subpoenaed witness in like manner and to the extent provided in like cases in civil actions in the district courts of Texas.

(3) Strict rules of evidence shall not apply in a hearing before the board but all decisions of the board shall be supported by sufficient legal and competent evidence.

Restoration of Licenses

Sec. 12. The board may, in its discretion, reissue a license to any person whose license has been revoked under such rules and regulations as the board may prescribe.

Review

Sec. 13. (1) Any person aggrieved by any action of the board, whether it be a failure to license, or the revocation or suspension of a license, shall have a right to a review of the board's action. First, a person feeling aggrieved by action of the board shall, within ten (10) days following the board's decision or action, file a motion for rehearing with the board

which the board shall act on within fifteen (15) days and notify the person affected by such action in writing concerning the decision of the board on the motion for rehearing. If such action of the board is adverse to the person affected, he may, within thirty (30) days after the board's adverse action on his motion, file a written petition in a district court of Travis County, Texas, complaining of the action of the board and seeking to set aside or modify such action. A decision or action of the board shall not be suspended by the filing of a motion for rehearing or by the filing of a petition for review in the district court of Travis County, Texas, but such board action will only be suspended by injunctive order issued by a court of competent jurisdiction. The venue of any action against the board or any of its members concerning official action of the board shall be exclusively in Travis County, Texas.

(2) Any notice required to be given under this section shall be deemed sufficient if sent by registered or certified mail to the person charged at the address shown on his most recent license application or application for renewal of license. When no such address is available the board shall cause to be published once a week for two consecutive weeks a notice of the hearing in a newspaper published in the county where the person charged was last known to practice nursing home administration, and shall mail a copy of such charges and such notice to such person's last known address. When publication of the notice is necessary, the date of the hearing shall be not less than ten days after the date of the last publication of the notice.

Penalties

Sec. 14. On and after July 1, 1970, it shall be unlawful and constitute a misdemeanor for any person to hold himself out as a nursing home administrator or to act or serve in the capacity of a nursing home administrator unless he is the holder of a license as a nursing home administrator issued in accordance with the provisions of this Act and any person who violates this section or any other provision of this Act, shall, upon conviction be punished by imprisonment in the County Jail for not less than one day nor more than thirty days, or by fine of not less than \$100.00 nor more than \$1,000.00, or by both such imprisonment and fine.

Assistance by Attorney General

Sec. 15. The Attorney General is directed to render such legal assistance as may be necessary in enforcing and making effective the provisions of this Act, provided that this requirement shall not relieve the local prosecuting officers of any of their duties under the law as such.

Annual Report

Sec. 16. An annual report shall be made by the board to the Governor on or before March 15th of each year which shall set forth in summary the activities of the board for the preceding calendar year and its fiscal condition.

Acts 1969, 61st Leg., p. 1356, ch. 411, emerg. eff. June 2, 1969.

Title of Act:

An Act creating the Texas Board of Licensure for Nursing Home Administrators; defining terms; governing the creation and composition of the board, its organization and jurisdiction; specifying board functions and duties; prohibiting the operation of a nursing home without a licensed administrator and the practice or offer to practice nursing home administration without a license; conferring rule

making authority on the board; prescribing qualifications of licensure; authorizing the issuance of provisional licenses and the conditions thereof; authorizing issuance of licenses and the fixing and collection of fees; establishing reciprocal licensing; permitting receipt and disbursement of federal funds; prescribing the method of handling monies and the disbursement thereof; relieving the State of Texas of responsibility

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for board expenses; specifying grounds for the suspension, revocation or cancellation of licenses and the procedures therefor; authorizing the board to restore revoked licenses; establishing procedures for review of board action; defining violations of the Act as a misdemeanor and prescribing

penalties therefor; directing assistance of the Attorney General in the Act's administration; requiring an annual report to the Governor; providing for severability; repeal of conflicting laws; and declaring an emergency. Acts 1969, 61st Leg., p. 1356, ch. 411.

Art. 4445b. Capacity to consent to treatment for venereal disease

Any person, regardless of age, has the capacity to consent to examination and treatment by a licensed physician for any venereal disease. Acts 1969, 61st Leg., p. 1629, ch. 506, emerg. eff. June 10, 1969.

Title of Act:

An Act granting minors the capacity to consent to examination and treatment by

a licensed physician for certain diseases; and declaring an emergency. Acts 1969, 61st Leg., p. 1629, ch. 506.

Art. 4445c. Laboratory tests for venereal diseases; reporting results

Notification of findings; duty

Section 1. (a) Any person who is in charge of a clinical laboratory in which a laboratory examination of any specimen derived from a human body yields microscopical, cultural, serological, or other evidence suggestive of those venereal diseases significant from a public health standpoint listed in Section 3 of this Act shall notify the Communicable Disease Services Section, Texas State Department of Health, of such findings.

(b) Notification shall be submitted by the person in charge of the clinical laboratory to the Communicable Disease Services Section, Texas State Department of Health, through the local health officer having jurisdiction of the area containing the office address of the physician for whom the examination or test was performed. In the absence of a local full-time health officer, said report(s) will be forwarded directly to the Communicable Disease Services Section, Texas State Department of Health.

Notification of findings; contents

Sec. 2. (a) Notification shall contain the date and result of the test performed, the name and age of the person from whom the specimen was obtained, and the name and address of the physician for whom such examination or test was performed. Also, notification shall be submitted in writing and in such form and manner as prescribed by the Communicable Disease Services Section, Texas Department of Public Health.

(b) Cumulative reports shall be submitted weekly except that positive darkfields (syphilis) shall be reported within 24 hours.

(c) If no reportable tests are performed during any month, the supervisor of the laboratory shall submit a statement to this effect before the fifth usual working day of the following month.

Particular diseases

Sec. 3. (a) The conditions or diseases to which this Act applies are:

- (1) Syphilis
- (2) Gonorrhoea
- (3) Chancroid
- (4) Lymphogranuloma Venereum
- (5) Granuloma Inguinale

(b) Specific reportable venereal disease tests are:

- (1) All reactive (positive) and weakly reactive (doubtful) serologic tests for syphilis;

- (2) All reactive (positive) and weakly reactive (doubtful) spinal fluid serologic tests for syphilis;
- (3) All positive darkfield microscopic tests for treponema pallidum;
- (4) All positive gonococcal smears or cultures;
- (5) All positive tests indicating the presence of the Ducrey bacillus (chancroid) or Donovan bodies (Granuloma Inguinale) or filterable virus (Lymphogranuloma Venereum).

Confidential information

Sec. 4. All laboratory notifications required by this Act are confidential and shall not be open for inspection by anyone except authorized public health personnel.

Contacts with patient and physician

Sec. 5. (a) Except when acting on the basis of information other than the laboratory notification, neither the Communicable Disease Services Section, Texas State Department of Health, nor the local health director will under any circumstances contact the patient or the potential contacts until a diagnosis has been reported to the Department of Health by the attending physician.

(b) Nothing in this Act precludes the Department of Health from discussing the laboratory notification with the attending physician.

Repealer

Sec. 6. All laws and clauses of laws in conflict with this Act are hereby repealed.

Inspections

Sec. 7. The Communicable Disease Services Section, Texas State Department of Health, will take such inspection measures as are necessary to insure that the clinical laboratories of the state comply with this Act. Acts 1969, 61st Leg., p. 1674, ch. 537, emerg. eff. June 10, 1969.

Title of Act:

An Act relating to the reporting of the results of certain laboratory tests for venereal diseases to the Communicable

Disease Services Section, Texas Department of Public Health; and declaring an emergency. Acts 1969, 61st Leg., p. 1674, ch. 537.

Art. 4447b. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Art. 4447d. Providing State Department of Health with data on condition and treatment of persons

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Sec. 3. The records and proceedings of any hospital committee, medical organization committee or extended care facility committee established under state or federal law or regulations or under the by-laws, rules or regulations of such organization or institution shall be confidential and shall be used by such committee and the members thereof only in the exercise of the proper functions of the committee and shall not be public records and shall not be available for court subpoena; provided,

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however, that nothing herein shall apply to records made or maintained in the regular course of business by a hospital or extended care facility. No physician, hospital, organization, or institution furnishing information, data, reports, or records to any such committee with respect to any patient examined or treated by such physician or confined in such hospital or institution shall, by reason of furnishing such information, be liable in damages to any person. No member of such a committee shall be liable in damages to any person for any action taken or recommendation made within the scope of the functions of such committee if such committee member acts without malice and in the reasonable belief that such action or recommendation is warranted by the facts known to him.

Sec. 3 added by Acts 1969, 61st Leg., p. 1919, ch. 568, § 1, eff. Sept. 1, 1969.

Art. 4447h. Consent for child to receive medical care

Section 1. In this Act, unless the context requires a different definition:

(1) "Custody" means immediate and direct care and control over a minor child.

(2) "Minor child" means any person who is less than 21 years of age.

Sec. 2. (a) If any minor child is in need of medical care for which parental consent is a necessary prerequisite but neither of the parents can be contacted to get consent to administer the medical care, any person authorized in Section 3 of this Act may, by giving a written statement of consent, give consent to the doctor, hospital, or other medical facility to administer the medical care.

(b) The statement of consent shall include:

(1) the name of the minor child and the name of one or both parents;

(2) the name of the person giving consent and that person's relationship to the minor child;

(3) the name of the doctor, hospital, or other medical facility rendering the medical care;

(4) a statement of the nature of the medical care to be rendered; and

(5) the date on which the medical care is rendered.

Sec. 3. (a) Any of the following persons, in absence of actual notice to the contrary by one or both parents, may give consent to a doctor, hospital, or other medical facility to give medical care to any minor child in the person's custody:

(1) any grandparent;

(2) an adult brother or sister;

(3) an adult aunt or uncle; or

(4) the legal guardian of the minor child at the time consent is given.

(b) Any other person who is not listed in Subsection (a) of this section and who has custody of a minor child may give consent to any doctor, hospital, or other medical facility to give medical care to the minor child in his custody if the person has an affidavit signed by one or both of the parents authorizing the person to give consent.

Acts 1969, 61st Leg., p. 2138, ch. 742, emerg. eff. June 12, 1969.

Title of Act:

An Act relating to consent for a child to receive medical care from a doctor, hos-

pital, or other medical facility; and declaring an emergency. Acts 1969, 61st Leg., p. 2138, ch. 742.

CHAPTER THREE—FOOD AND DRUGS

Art. 4476—7. Texas Meat and Poultry Inspection Act [New].

Art. 4476—8. Crab meat; processing, transportation and sale; regulation and licensing [New].

Art. 4476—3. Repealed by Acts 1969, 61st Leg., p. 337, ch. 123, § 412, eff. Sept. 1, 1969

See, now, art. 4476—7.

Art. 4476—5. Texas Food, Drug and Cosmetic Act

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Definitions

Sec. 2.

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(n) The term "new drug" means (1) any drug the composition of which is such that such drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or (2) any drug the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

Sec. 2(n) amended by Acts 1969, 61st Leg., p. 2550, ch. 852, § 1, eff. Sept. 1, 1969.

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Adulterated drug or device

Sec. 14. A drug or device shall be deemed to be adulterated

(a)(1) If it consists in whole or in part of any filthy, putrid, decomposed substance, or defective material; or (2) (A) if it has been produced, prepared, packed, or held under insanitary conditions whereby it may have been contaminated, or whereby it may have been rendered injurious to health, or whereby it may have become or have been rendered incapable of, or unsuitable for, the purpose for which it was designed or intended; (B) if it is a drug and the methods used in, or the facilities or controls used for, its manufacture, processing, packing, or holding do not conform to or are not operated or administered in conformity with current good manufacturing practice to assure that such drug meets the requirements of this Act as to safety and has the identity and strength, and meets the quality and purity characteristics, which it purports or is represented to possess; or (3) if it is a drug and its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or (4) if it is a drug and it bears or contains, for purposes of coloring only, a coal-tar color other than one from a batch certified under the authority of the Federal Act.¹

(b) If it purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium. Such determination as to strength, quality or purity shall be made in accordance with the tests or methods of assay set forth in such compendium, or in the absence of or inadequacy of such tests or methods

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of assay, those prescribed under authority of the Federal Act. No drug defined in an official compendium shall be deemed to be adulterated under this paragraph because it differs from the standard of strength, quality, or purity therefor set forth in such compendium, if its difference in strength, quality, or purity from such standard is plainly stated on its label. Whenever a drug is recognized in both the United States Pharmacopoeia and the Homeopathic Pharmacopoeia of the United States it shall be subject to the requirements of the United States Pharmacopoeia unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the Homeopathic Pharmacopoeia of the United States and not to those of the United States Pharmacopoeia;

(c) If it is not subject to the provision of paragraph (b) of this Section and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess;

(d) If it is a drug and any substance has been (1) mixed or packed therewith so as to reduce its quality or strength; or (2) substituted wholly or in part therefor; provided, that this Subsection shall not apply to registered pharmacists compounding and dispensing physicians' prescriptions.

Sec. 14 amended by Acts 1969, 61st Leg., p. 2551, ch. 852, § 2, eff. Sept. 1, 1969.

¹ 21 U.S.C.A. § 301 et seq.

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Sale or gift of new drug; application; test of drug

Sec. 16. (a) No person shall sell, deliver, offer for sale, hold for sale or give away any new drug unless (1) an application with respect thereto has been approved and said approval has not been withdrawn under Section 505 of the Federal Act,¹ or (2) when not subject to the Federal Act, unless such drug has been tested and has been found to be safe for use and effective in use under the conditions prescribed, recommended, or suggested in the labeling thereof, and prior to selling or offering for sale such drug, there has been filed with the Commissioner of Health an application setting forth (a) full reports of investigations which have been made to show whether or not such drug is safe for use and whether such drug is effective in use; (b) a full list of the articles used as components of such drug; (c) a full statement of the composition of such drug; (d) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug; (e) such samples of such drug and of the articles used as components thereof as the Commissioner of Health may require; and (f) specimens of the labeling proposed to be used for such drug.

(b) An application provided for in Subsection (a) (2) shall become effective on the one hundred eightieth day after the filing thereof, except that if the Commissioner of Health finds, after due notice to the applicant and giving him an opportunity for a hearing, that the drug is not safe or not effective for use under the conditions prescribed, recommended or suggested in the proposed labeling thereof, he shall, prior to the effective date of the application, issue an order refusing to permit the application to become effective.

(c) An order refusing to permit an application under this section to become effective may be revoked by the Commissioner of Health.

(d) This section shall not apply—

(1) to a drug intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety and effectiveness of drugs, provided the drug is plainly labeled in compliance with regulations issued by the Commissioner of Health or pursuant to Section 505(i) or 507(d) of the Federal Act;² or

(2) to a drug sold in this state at any time prior to the enactment of this Act or introduced into interstate commerce at any time prior to the enactment of the Federal Act; or

(3) to any drug which is licensed under the virus, serum, and toxin Act of July 1, 1902 (U.S.C. 1958 ed. Title 42, Chapter 6A, Sec. 262.)

(e) The provisions of Section 2(n) shall not apply to any drug which, on October 9, 1962, or on the date immediately preceding the enactment of this Subsection, (A) was commercially sold or used in this State or in the United States, (B) was not a new drug as defined by Section 2(n) as then in force, and (C) was not covered by an effective application under Section 16 of this Act or under Section 505 of the Federal Act, when such drug is intended solely for use under conditions prescribed, recommended or suggested in labeling with respect to such drug.

Sec. 16 amended by Acts 1969, 61st Leg., p. 2552, ch. 852, § 3, eff. Sept. 1, 1969.

¹ 21 U.S.C.A. § 355.

² 21 U.S.C.A. § 355(i), 357(d).

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Registration statement of wholesalers and distributors; contents; fees; revocation or suspension of registration

Sec. 23. 1. No person shall hereinafter engage or continue to engage in the wholesale drug business in this State without first filing a registration statement with the Commissioner of Health. For the purposes of this Act, the words "wholesale drug business" shall be defined as meaning persons engaged in the business of wholesale distribution of drugs and medicines bearing the legend: "Caution: Federal law prohibits dispensing without prescription."

The words "wholesale distribution" shall be defined as meaning distribution to other than the consumer or patient and shall include distribution by manufacturers, re-packers, own label distributors, jobbers and wholesalers.

Sec. 23(1) amended by Acts 1969, 61st Leg., p. 2553, ch. 852, § 4, eff. Sept. 1, 1969.

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6. The Commissioner of Health may, after notice and hearing, refuse to register or cancel, revoke or suspend the registration of any wholesale drug company for any of the following reasons:

(a) If the registrant has been convicted of a felony or misdemeanor which involves moral turpitude, or if the registrant be an association, partnership or corporation, that the managing officer has been convicted of a felony or misdemeanor which involves moral turpitude;

(b) That the registrant has been convicted in either a State or Federal court for the illegal use, sale, or transportation of intoxicating liquors, narcotic drugs, barbiturates, amphetamines, desoxyephedrine, their compounds or derivatives, or any other dangerous or habit-forming drugs, or if the registrant be an associate, partnership, or corporation, that the managing officer has been convicted in either State or Federal court of the illegal use, sale, or transportation of intoxicating liquors, narcotic drugs, barbiturates, amphetamines, desoxyephedrine, their compounds or derivatives, or any other dangerous or habit-forming drugs;

(c) That the registrant has sold counterfeit drugs and medicines, or has sold without prescription drugs and medicines bearing the legend: "Caution: Federal law prohibits dispensing without prescription" to persons other than those entitled to possession of them under Section 4, Article 726d, Vernon's Penal Code of the State of Texas.

Sec. 23(6) amended by Acts 1969, 61st Leg., p. 2553, ch. 852, § 7, eff. Sept. 1, 1969.

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For Annotations and Historical Notes, see V.A.T.S.

Sec. 23(8). Repealed by Acts 1969, 61st Leg., p. 2553, ch. 852, § 5, eff. Sept. 1, 1969.

9. Any person who engages or continues to engage in the wholesale drug business as defined in this Section who does not comply with the requirements of this Section by being registered with the Commissioner of Health shall be fined an amount not exceeding Three Thousand Dollars (\$3,000) or confined in jail for a period of not less than Thirty Days (30) nor more than two years (2) or by both such fine and imprisonment. For any second or subsequent violation of this Section, any person so violating the same shall be confined in the penitentiary not less than two (2) years nor more than ten (10) years; provided that upon any second or subsequent conviction the benefits of the suspended sentence law shall not be available to a defendant convicted for such a violation of the provisions of this Section; provided further that any person convicted of any second or subsequent violation of this Section shall be entitled to the benefits of probation under the Adult Probation and Parole Law, as provided therein.

Sec. 23(9) amended by Acts 1969, 61st Leg., p. 2553, ch. 852, § 6, eff. Sept. 1, 1969.

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Art. 4476—7. Texas Meat and Poultry Inspection Act

TITLE I—INSPECTION REQUIREMENTS: ADULTERATION AND MISBRANDING

Section 1. As used in this Act, except as otherwise specified, the following terms shall have the meanings stated below:

(a) The term "commissioner" means the State Commissioner of Health.

(b) The term "firm" means any partnership, association, or unincorporated business organization.

(c) The term "meat broker" means any person, firm, or corporation engaged in the business of buying or selling carcasses, parts of carcasses, meat, or meat food products of cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, and domesticated game birds on commission, or otherwise negotiating purchases or sales of such articles other than for his own account or as an employee of another person, firm, or corporation.

(d) The term "renderer" means any person, firm, or corporation engaged in the business of rendering carcasses, or parts or products of the carcasses, of cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, and domesticated game birds, except rendering conducted under inspection under Title I of this Act.

(e) The term "animal food manufacturer" means any person, firm, or corporation engaged in the business of manufacturing or processing animal food derived wholly or in part from carcasses, or parts or products of the carcasses, of cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, and domesticated game birds.

(f) The term "intrastate commerce" means commerce within this state.

(g) The term "meat food product" means any product capable of use as human food which is made wholly or in part from any meat or other portion of the carcass of any cattle, sheep, swine, goats, poultry, domestic rabbits, and domesticated game birds, excepting products which contain meat or other portions of such carcasses only in a relatively small proportion or historically have not been considered by consumers as products of

the meat food industry, and which are exempted from definition as a meat food product by the commissioner under such conditions as it may prescribe to assure that the meat or other portions of such carcasses contained in such product are not adulterated and that such products are not represented as meat food products. This term as applied to food products of equines shall have a meaning comparable to that provided in this paragraph with respect to cattle, sheep, swine, goats, poultry, domestic rabbits, and domesticated game birds.

(h) The term "capable of use as human food" shall apply to any livestock or poultry carcass, or part or product of a carcass, unless it is denatured or otherwise identified as required by regulations prescribed by the commissioner to deter its use as human food, or it is naturally inedible by humans.

(i) The term "prepared" means slaughtered, canned, salted, rendered, boned, cut up, stuffed, or otherwise manufactured or processed.

(j) The term "adulterated" shall apply to any carcass, part thereof, meat, or meat food product under one or more of the following circumstances:

(1) if it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;

(2) (A) if it bears or contains (by reason of administration of any substance to the live animal or otherwise) any added poisonous or added deleterious substance (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive) which may, in the judgment of the commissioner make such article unfit for human food;

(B) if it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of Section 408 of the Federal Food, Drug, and Cosmetic Act¹;

(C) if it bears or contains any food additive which is unsafe within the meaning of Section 409 of the Federal Food, Drug, and Cosmetic Act²;

(D) if it bears or contains any color additive which is unsafe within the meaning of Section 706 of the Federal Food, Drug, and Cosmetic Act³: provided, That an article which is not adulterated under clause (B), (C), or (D) shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive in or on such article is prohibited by regulations of the commissioner in establishments at which inspection is maintained under Title I of this Act;

(3) if it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food;

(4) if it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;

(5) if it is, in whole or in part, the product of an animal which has died otherwise than by slaughter;

(6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

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(7) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to Section 409 of the Federal Food, Drug, and Cosmetic Act;

(8) if any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is; or

(9) if it is margarine containing animal fat and any of the raw material used therein consisted in whole or in part of any filthy, putrid, or decomposed substance.

(k) The term "misbranded" shall apply to any livestock product or poultry product under one or more of the following circumstances:

(1) if its labeling is false or misleading in any particular;

(2) if it is offered for sale under the name of another food;

(3) if it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and immediately thereafter, the name of the food imitated;

(4) if its container is so made, formed, or filled as to be misleading;

(5) unless it bears a label showing (A) the name and place of business of the manufacturer, packer, or distributor; and (B) an accurate statement of the quantity of the product in terms of weight, measure, or numerical count; provided, that under this subparagraph (5), exemptions as to livestock products not in containers may be established by regulations prescribed by the commissioner; and provided further, that under clause (B) of this subparagraph (5), reasonable variations may be permitted, and exemptions as to small packages may be established for livestock products or poultry products by regulations prescribed by the commissioner;

(6) if any word, statement, or other information required by or under authority of this Act to appear on the label or other labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(7) if it purports to be or is represented as a food for which a definition and standard of identity or composition has been prescribed by regulations of the commissioner under Section 7 of this Act unless (A) it conforms to such definition and standard, and (B) its label bears the name of the food specified in the definition and standard and, insofar as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food;

(8) if it purports to be or is represented as a food for which a standard or standards of fill of container have been prescribed by regulations of the commissioner under Section 7 of this Act, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard;

(9) if it is not subject to the provisions of subparagraph (7), unless its label bears (A) the common or usual name of the food, if any there be, and (B) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings may, when authorized by the commissioner, be designated as spices, flavorings, and colorings without naming each: provided, that, to the extent that compliance with the requirements of clause (B) of this subparagraph (9) is impracticable, or results in deception or unfair

competition, exemptions shall be established by regulations promulgated by the commissioner;

(10) if it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the commissioner, after consultation with the Secretary of Agriculture of the United States, determines to be, and by regulations prescribes as, necessary in order fully to inform purchasers as to its value for such uses;

(11) if it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact: provided, that, to the extent that compliance with the requirements of this subparagraph (11) is impracticable, exemptions shall be established by regulations promulgated by the commissioner; or

(12) if it fails to bear, directly thereon and on its container, as the commissioner may by regulations prescribe, the inspection legend and establishment number of the establishment where the product was prepared, and, unrestricted by any of the foregoing, such other information as the commissioner may require in such regulations to assure that it will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain the article in a wholesome condition.

(l) The term "label" means a display of written, printed, or graphic matter upon the immediate container or product (not including package liners) of any article.

(m) The term "labeling" means all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such articles.

(n) The term "Federal Meat Inspection Act" means the Act so entitled approved March 4, 1907 (34 Stat. 1260), as amended by the Wholesome Meat Act (81 Stat. 584).⁴

(o) The term "Federal Food, Drug, and Cosmetic Act" means the Act so entitled, approved June 25, 1938 (52 Stat. 1040), and Acts amendatory thereof or supplementary thereto.⁵

(p) The term "pesticide chemical," "food additive," "color additive," and "raw agricultural commodity" shall have the same meanings for purposes of this Act as under the Federal Food, Drug, and Cosmetic Act.

(q) The term "official mark" means the official inspection legend or any other symbol prescribed by regulations of the commissioner to identify the status of any article or animal under this Act.

(r) The term "official inspection legend" means any symbol prescribed by regulations of the commissioner showing that an article was inspected and passed in accordance with this Act.

(s) The term "official certificate" means any certificate prescribed by regulations of the commissioner for issuance by an inspector or other person performing official functions under this Act.

(t) The term "official device" means any device prescribed or authorized by the commissioner for use in applying any official mark.

(u) The term "inspector" means an employee of the State Department of Health who shall be under the supervision of the chief officer in charge of inspection. The chief officer in charge of inspection shall be a veterinarian designated by the commissioner as responsible for animal health as animal health is related to public health, and shall be directly responsible to the commissioner. He shall be licensed to practice veterinary medicine in this state or eligible to be licensed to practice in this state and, if the latter should be the case, he must secure a Texas license within two years from the time of his employment in this position.

(v) The term "poultry" means any domesticated bird, whether live or dead.

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(w) The term "poultry product" means any poultry carcass or part thereof; or any product which is made wholly or in part from any poultry carcass or part thereof, excepting products which contain poultry ingredients only in a relatively small proportion or historically have not been considered by consumers as products of the poultry food industry, and which are exempted by the commissioner from definition as a poultry product under such conditions as it may prescribe to assure that the poultry ingredients in such products are not adulterated and that such products are not represented as poultry products.

(x) The term "official establishment" means any establishment as determined by the commissioner at which inspection of the slaughter of livestock or poultry or the preparation of livestock products or poultry products is maintained under the authority of this Act.

(y) The term "inedible animal product" means any product which is made wholly or in part from carcasses, or parts of products of the carcasses, of cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, or domesticated game birds, but which is not a "meat product" as defined in Section 1(g) of this Act.

¹ 21 U.S.C.A. § 346a.

² 21 U.S.C.A. § 348.

³ 21 U.S.C.A. § 376.

⁴ 21 U.S.C.A. § 601 et seq.

⁵ 21 U.S.C.A. § 301 et seq.

Sec. 2. Meat and meat food products are an important source of the nation's total supply of food. It is essential in the public interest that the health and welfare of consumers be protected by assuring that meat and meat food products distributed to them are wholesome, not adulterated, and properly marked, labeled, and packaged. Unwholesome, adulterated, or misbranded meat or meat food products are injurious to the public welfare, destroy markets for wholesome, not adulterated, and properly labeled and packaged meat and meat food products, and result in sundry losses to livestock producers and processors of meat and meat food products, as well as injury to consumers. The unwholesome, adulterated, mislabeled, or deceptively packaged articles can be sold at lower prices and compete unfairly with the wholesome, not adulterated, and properly labeled and packaged articles, to the detriment of consumers and the public generally. It is hereby found that regulation by the State Commissioner of Health and cooperation by this state and the United States as contemplated by this Act are appropriate to protect the health and welfare of consumers and otherwise effectuate the purposes of this Act.

Sec. 3. For the purpose of preventing the use in intrastate commerce, as hereinafter provided, of meat and meat food products which are adulterated, the commissioner shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of all cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, and domesticated game birds before they shall be allowed to enter into any slaughtering, packing, meat-canning, rendering, or similar establishment in this state in which slaughtering and preparation of meat and meat food products of such animals are conducted solely for intrastate commerce; and all cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, and domesticated game birds found on such inspection to show symptoms of disease shall be set apart and slaughtered separately from all other cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, and domesticated game birds, and when so slaughtered, the carcasses of said cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, and domesticated game birds shall be subject to a careful examination and inspection, all as provided by the rules and regulations to be prescribed by the commissioner as herein provided for.

Sec. 4. For the purposes hereinbefore set forth the commissioner shall cause to be made by inspectors appointed for that purpose, as hereinafter provided, a post-mortem examination and inspection of the carcasses and parts thereof of all cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, and domesticated game birds, capable of use as human food, to be prepared at any slaughtering, meat-canning, salting, packing, rendering, or similar establishment in this state in which such articles are prepared solely for intrastate commerce; and the carcasses and parts thereof of all such animals found to be not adulterated shall be marked, stamped, tagged, or labeled, as "Inspected and Passed"; and said inspectors shall label, mark, stamp, or tag as "Inspected and Condemned" all carcasses and parts thereof of animals found to be adulterated; and all carcasses and parts thereof thus inspected and condemned shall be destroyed for food purposes by the said establishment in the presence of an inspector, and the commissioner may remove inspectors from any such establishment which fails to so destroy any such condemned carcass or part thereof, and said inspectors, after said first inspection shall, when they deem it necessary, reinspect said carcasses or parts thereof to determine whether since the first inspection the same have become adulterated and if any carcass or any part thereof shall, upon examination and inspection subsequent to the first examination and inspection, be found to be adulterated, it shall be destroyed for food purposes by the said establishment in the presence of an inspector, and the commissioner may remove inspectors from any establishment which fails to do so destroy any such condemned carcass or part thereof.

Sec. 4a. (1) Whenever, in his judgment, the commissioner determines that it is in the best interest of public health that investigations be made of disease findings by inspectors operating under the provisions of Sections 3 and 4 of this Act, the commissioner shall have the authority to cause such investigations to be made.

(2) Whenever any disease condition is found in the course of inspection provided for in this Act, which is inimical to public health, the commissioner shall have the authority to quarantine any premise or premises determined to be harboring any animal afflicted with any stage of the disease which may be transmitted to man or animals. Quarantined animals may be removed from quarantined areas only upon permission and supervision by the commissioner.

Sec. 5. The foregoing provisions shall apply to all carcasses or parts of carcasses of cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, and domesticated game birds or the meat or meat products thereof, capable of use as human food, which may be brought into any slaughtering, meat-canning, salting, packing, rendering, or similar establishment, where inspection under this title is maintained, and such examination and inspection shall be had before the said carcasses or parts thereof shall be allowed to enter into any department wherein the same are to be treated and prepared for meat food products; and the foregoing provisions shall also apply to all such products which, after having been issued from any such slaughtering, meat-canning, salting, packing, rendering, or similar establishment, shall be returned to the same or to any similar establishment where such inspection is maintained. The commissioner may limit the entry of carcasses, parts of carcasses, meat and meat food products, and other materials into any establishment at which inspection under this title is maintained, under such conditions as he may prescribe to assure that allowing the entry of such articles into such inspected establishments will be consistent with the purposes of this Act.

Sec. 6. For the purposes hereinbefore set forth the commissioner shall cause to be made by inspectors appointed for that purpose an

examination and inspection of all meat food products prepared in any slaughtering, meat-canning, salting, packing, rendering, or similar establishment, where such articles are prepared solely for intrastate commerce and for the purposes of any examination and inspection said inspectors shall have access at all times, by day or night, whether the establishment be operated or not, to every part of said establishment; and said inspectors shall cause to be marked, stamped, tagged, or labeled as "Texas inspected and passed" all such products found to be not adulterated; and said inspectors shall cause to be labeled, marked, stamped, or tagged as "Texas inspected and condemned" all such products found adulterated, and all such condemned meat food products shall be destroyed for food purposes, as hereinbefore provided, and the commissioner may remove inspectors from any establishment which fails to so destroy such condemned meat food products.

Sec. 7. (a) When any meat or meat food product prepared for intrastate commerce which has been inspected as hereinbefore provided and marked "Texas inspected and passed" shall be placed or packed in any can, pot, tin, canvas, or other receptacle or covering in any establishment where inspection under the provisions of this Act is maintained, the person, firm, or corporation preparing said product shall cause a label to be attached to said can, pot, tin, canvas, or other receptacle or covering, under supervision of an inspector, which label shall state that the contents thereof have been "Texas inspected and passed" under the provisions of this Act, and no inspection and examination of meat or meat food products deposited or inclosed in cans, tins, pots, canvas, or other receptacle or covering in any establishment where inspection under the provisions of this Act is maintained shall be deemed to be complete until such meat or meat food products have been sealed or inclosed in said can, tin, pot, canvas, or other receptacle or covering under the supervision of an inspector.

(b) All carcasses, parts of carcasses, meat, and meat food products inspected at any establishment under the authority of this Act and found to be not adulterated, shall at the time they leave the establishment bear, in distinctly legible form, directly thereon or on their containers, as the commissioner may require, the information required under paragraph (k) of Section 1 of this Act.

(c) The commissioner, whenever he determines such action is necessary for the protection of the public, may prescribe: (1) the styles and sizes of type to be used with respect to material required to be incorporated in labeling to avoid false or misleading labeling of any articles or animals subject to this title or Title II of this Act; (2) definitions and standards of identity or composition for articles subject to this title and standards of fill of container for such articles not inconsistent with any such standards established under the Federal Food, Drug, and Cosmetic Act¹, or under the Federal Meat Inspection Act², or under the Federal Poultry Products Inspection Act³, and there shall be consultation between the commissioner and the Secretary of Agriculture of the United States prior to the issuance of such standards to avoid inconsistency between such standards and the federal standards.

(d) No article subject to this title shall be sold or offered for sale by any person, firm, or corporation, in intrastate commerce, under any name or other marking or labeling which is false or misleading, or in any container of a misleading form or size, but established trade names and other marking and labeling and containers which are not false or misleading and which are approved by the commissioner are permitted.

(e) If the commissioner has reason to believe that any marking or labeling or the size or form of any container in use or proposed for use with respect to any article subject to this title is false or misleading in

any particular, he may direct that such use be withheld unless the marking, labeling, or container is modified in such manner as it may prescribe so that it will not be false or misleading. If the person, firm, or corporation using or proposing to use the marking, labeling, or container does not accept the determination of the commissioner, such person, firm, or corporation may request a hearing, but the use of the marking, labeling, or container shall, if the commissioner so directs, be withheld pending hearing and final determination by the commissioner. Any such determination by the commissioner shall be conclusive unless, within 30 days after receipt of notice of such final determination, the person, firm, or corporation adversely affected thereby appeals to the district court.

¹ 21 U.S.C.A. § 301 et seq.

² 21 U.S.C.A. § 601 et seq.

³ 21 U.S.C.A. § 451 et seq.

Sec. 8. The commissioner shall cause to be made, by experts in sanitation, or by other competent inspectors, such inspection of all slaughtering, meat-canning, salting, packing, rendering, or similar establishments in which cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, and domesticated game birds are slaughtered and the meat and meat food products thereof are prepared solely for intrastate commerce as may be necessary to inform himself concerning the sanitary conditions of the same, and to prescribe the rules and regulations of sanitation under which such establishments shall be maintained; and where the sanitary conditions of any such establishment are such that the meat or meat food products are rendered adulterated, he shall refuse to allow said meat or meat food products to be labeled, marked, stamped, or tagged as "Texas inspected and passed."

Sec. 9. The commissioner shall cause an examination and inspection of all cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, and domesticated game birds, and the food products thereof, slaughtered and prepared in the establishments hereinbefore described for the purposes of intrastate commerce to be made during the nighttime as well as during the daytime when the slaughtering of said cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, and domesticated game birds, or the preparation of said food products is conducted during the nighttime. Provided that the commissioner, when he determines that operating hours of any person, firm, or corporation, are set in a capricious or at unnecessarily difficult times, shall have the authority to set the time and duration of operations of the said person, firm, or corporation.

Sec. 10. No person, firm, or corporation shall, with respect to any cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, and domesticated game birds, or any carcasses, parts of carcasses, meat, or meat food products of any such animals:

(a) slaughter any such animals or prepare any such articles which are capable of use as human food, at any establishment preparing such articles solely for intrastate commerce, except in compliance with the requirements of this Act;

(b) sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce, (1) any such articles which (A) are capable of use as human food, and (B) are adulterated or misbranded at the time of such sale, transportation, offer for sale or transportation, or receipt for transportation; or (2) any articles required to be inspected under this title unless they have been so inspected and passed;

(c) do, with respect to any such articles which are capable of use as human food, any act while they are being transported in intrastate commerce or held for sale after such transportation, which is intended to cause or has the effect of causing such articles to be adulterated or misbranded;

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(d) sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce or from an official establishment, any slaughtered poultry from which the blood, feathers, feet, head, or viscera have not been removed in accordance with regulations promulgated by the commissioner, except as may be authorized by regulations of the commissioner.

Sec. 11. (a) No brand manufacturer, printer, or other person, firm, or corporation shall cast, print, lithograph, or otherwise make any device containing any official mark or simulation thereof, or any label bearing any such mark or simulation, or any form of official certificate or simulation thereof, except as authorized by the commissioner.

(b) No person, firm, or corporation shall:

(1) forge any official device, mark, or certificate;

(2) without authorization from the commissioner use any official device, mark, or certificate, or simulation thereof, or alter, detach, deface, or destroy any official device, mark, or certificate;

(3) contrary to the regulations prescribed by the commissioner, fail to use, or to detach, deface, or destroy any official device, mark, or certificate;

(4) knowingly possess, without promptly notifying the commissioner or his representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label or any carcass of any animal, or part or product thereof, bearing any counterfeit, simulated, forged, or improperly altered official mark;

(5) knowingly make any false statement in any shipper's certificate or other nonofficial or official certificate provided for in the regulations prescribed by the commissioner; or

(6) knowingly represent that any article has been inspected and passed, or exempted, under this Act when, in fact, it has, respectively, not been so inspected and passed, or exempted.

Sec. 12. No person, firm, or corporation shall sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce, any carcasses of horses, mules, or other equines or parts of such carcasses, or the meat or meat food products thereof, unless they are plainly and conspicuously marked or labeled or otherwise identified as required by regulations prescribed by the commissioner to show the kinds of animals from which they were derived. When required by the commissioner with respect to establishments at which inspection is maintained under this title, such animals and their carcasses, parts thereof, meat, and meat food products shall be prepared in establishments separate from those in which cattle, sheep, swine, goats, poultry, domestic rabbits, and domesticated game birds are slaughtered or their carcasses, parts thereof, meat, or meat food products are prepared.

Sec. 13. The commissioner shall appoint from time to time inspectors to make examination and inspection of all cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, and domesticated game birds, the inspection of which is hereby provided for, and of all carcasses and parts thereof, and of all meats and meat food products thereof, and of the sanitary conditions of all establishments in which such meat and meat food products hereinbefore described are prepared; and said inspectors shall refuse to cause to be stamped, marked, tagged or labeled any carcass or any part thereof, or meat food product therefrom, prepared in any establishment hereinbefore mentioned, until the same shall have actually been inspected and found to be not adulterated; and shall perform such other duties as are provided by this Act and by the rules and regulations to be prescribed by said commissioner; and said commissioner shall, from time to time, make such rules and regulations as are necessary for the efficient execution of the provisions of this Act, and all in-

spections and examinations made under this Act shall be such and made in such manner as described in the rules and regulations prescribed by said commissioner not inconsistent with the provisions of this Act. The commissioner shall adopt and use federal rules and regulations, as amended, and federal procedures, as amended, for meat inspection and/or poultry inspection wherever these said rules, regulations, and procedures are applicable.

Sec. 14. Any person, firm, or corporation, or any agent or employee of any person, firm, or corporation, who shall give, pay, or offer, directly or indirectly, to any inspector, deputy inspector, chief inspector, or any other officer or employee authorized to perform any of the duties prescribed by this Act or by the rules and regulations of the commissioner of health, any money or other thing of value, with intent to influence said inspector, deputy inspector, chief inspector, or other officer or employee in the discharge of any duty herein provided for, shall be deemed guilty of a felony and, upon conviction thereof, shall be punished by a fine not less than \$500 nor more than \$10,000 and/or by imprisonment not less than one year nor more than three years; and any inspector, deputy inspector, chief inspector, or other officer or employee authorized to perform any of the duties prescribed by this Act who shall accept any money, gift, or other thing of value from any person, firm, or corporation, or officers, agents, or employees thereof, given with intent to influence his official action, or who shall receive or accept from any person, firm, or corporation engaged in intrastate commerce any gift, money, or other thing of value given with any purpose or intent whatsoever, shall be deemed guilty of a felony and shall, upon conviction thereof, be summarily discharged from office and shall be punished by a fine not less than \$100 nor more than \$10,000 and/or by imprisonment not less than one year nor more than three years.

Sec. 15. The provisions of this title requiring inspection of the slaughter of animals and the preparation of the carcasses, parts thereof, meat, and meat food products at establishments conducting such operations shall not apply to the slaughtering on his own premises, by any person, of animals, and the preparation by him and transportation in intrastate commerce of the carcasses, parts thereof, meat, and meat food products of such animals exclusively for use by him and members of his household and his nonpaying guests and employees. The adulteration and misbranding provisions of this title, other than the requirement of the inspection legend, shall apply to articles which are not required to be inspected under this section.

Sec. 16. The commissioner may by regulations prescribe conditions under which carcasses, parts of carcasses, meat, and meat food products of cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, and domesticated game birds, capable of use as human food, shall be stored or otherwise handled by any person, firm, or corporation engaged in the business of buying, selling, freezing, storing, or transporting, in or for intrastate commerce, such articles, whenever the commissioner deems such action necessary to assure that such articles will not be adulterated or misbranded when delivered to the consumer. Violation of any such regulation is prohibited.

TITLE II—MEAT PROCESSORS AND RELATED INDUSTRIES

Sec. 201. Inspection shall not be provided under Title I of this Act at any establishment for the slaughter of cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, and domesticated game birds, or the preparation of any carcasses or parts or products of such animals, which are not intended for use as human food, but such articles shall,

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prior to their offer for sale or transportation in intrastate commerce, unless naturally inedible by humans, be denatured or otherwise identified as prescribed by regulations of the commissioner to deter their use for human food. No person, firm, or corporation shall buy, sell, transport, or offer for sale or transportation, or receive for transportation, in intrastate commerce, any carcasses, parts thereof, meat, or meat food products of any such animals, which are not intended for use as human food unless they are denatured or otherwise identified as required by the regulations of the commissioner or are naturally inedible by humans.

Sec. 202. (a) The following classes of persons, firms, and corporations shall keep such records as will fully and correctly disclose all transactions involved in their businesses; and all persons, firms, and corporations subject to such requirements shall, at all reasonable times, upon notice by a duly authorized representative of the commissioner afford such representative and any duly authorized representative of the Secretary of Agriculture of the United States accompanied by such representative of the commissioner access to their places of business and opportunity to examine the facilities, inventory, and records thereof, to copy all such records, and to take reasonable samples of their inventory upon payment of the fair market value therefor:

(1) Any persons, firms, or corporations that engage, for intrastate commerce, in the business of slaughtering any cattle, sheep, swine, goats, horses, mules, or other equines, poultry, domestic rabbits, and domesticated game birds, or preparing, freezing, packaging, or labeling any carcasses, or parts or products of carcasses, of any such animals, for use as human food or animal food;

(2) Any persons, firms, or corporations that engage in the business of buying or selling (as meat brokers, wholesalers or otherwise), or transporting, in intrastate commerce, or storing in or for such commerce, any carcasses, or parts or products of carcasses, of any such animals;

(3) Any persons, firms, or corporations that engage in business, in or for intrastate commerce, as renderers, or engage in the business of buying, selling, or transporting, in such commerce, any dead, dying, disabled, or diseased cattle, sheep, swine, goats, horses, mules, or other equines, poultry, domestic rabbits, and domesticated game birds, or parts of the carcasses of any such animals that died otherwise than by slaughter.

(b) Any record required to be maintained by this section shall be maintained for such period of time as the commissioner may by regulations prescribe.

Sec. 203. No person, firm, or corporation shall engage in business, in or for intrastate commerce, as a meat broker or renderer, or animal food manufacturer, or engage in business in such commerce as a wholesaler of any carcasses, or parts or products of the carcasses, of any cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, and domesticated game birds, whether intended for human food or other purposes, or engage in business as a public warehouseman storing any such articles in or for such commerce, or engage in the business of buying, selling, or transporting in such commerce, any dead, dying, disabled, or diseased animals of the specified kinds, or parts of the carcasses of any such animals that died otherwise than by slaughter, unless, when required by regulations of the commissioner he has registered with the commissioner his name, and the address of each place of business at which, and all trade names under which, he conducts such business.

Sec. 204. No person, firm, or corporation engaged in the business of buying, selling, or transporting in intrastate commerce, dead, dying, disabled, or diseased animals, or any parts of the carcasses of any animals that died otherwise than by slaughter, shall buy, sell, transport, offer for sale or transportation, or received for transportation, in such commerce,

any dead, dying, disabled, or diseased cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, and domesticated game birds, or parts of the carcasses of any such animals that died otherwise than by slaughter, unless such transaction or transportation is made in accordance with such regulations as the commissioner may prescribe to assure that such animals, or the unwholesome parts or products thereof, will be prevented from being used for human food purposes.

Sec. 205. No person, firm, or corporation that engages in business in or for intrastate commerce or engages in the business of buying, selling, or transporting in such commerce shall offer for sale, except for further sterilization processing, any inedible animal products unless such products have been processed in such manner to prevent the survival of disease-producing organisms or deleterious substances in the material processed.

TITLE III—FEDERAL AND STATE COOPERATION

Sec. 301. (a) The Texas State Department of Health is hereby designated as the state agency which shall be responsible for cooperating with the Secretary of Agriculture of the United States under the provisions of Section 301 of the Federal Meat Inspection Act¹ and Section 5 of the Federal Poultry Products Inspection Act², and such agency is directed to cooperate with the Secretary of Agriculture of the United States in developing and administering the meat and poultry inspection program of this state under this Act to assure that not later than the respective dates prescribed by federal law, the requirements will be at least equal to those imposed under Titles I and IV of the Federal Meat Inspection Act³ and under Sections 1-4, 6-10, and 12-22 of the Federal Poultry Products Inspection Act⁴, and in developing and administering the program of this state under Title II of this Act in such a manner as will effectuate the purposes of this Act and said Federal Acts.

(b) In such cooperative efforts, the commissioner is authorized to accept from said secretary advisory assistance in planning and otherwise developing the state program, technical and laboratory assistance and training (including necessary curricular and instructional materials and equipment), and financial and other aid for administration of such a program. The commissioner is further authorized to spend public funds of this state appropriated for administration of this Act to pay 50 per centum of the estimated total cost of the cooperative program.

(c) The commissioner is further authorized to recommend to the said secretary of agriculture such officials or employees of this state as the commissioner shall designate, for appointment to the advisory committees provided for in Section 301 of the Federal Meat Inspection Act and Section 5 of the Federal Poultry Products Inspection Act, and the commissioner shall serve as the representative of the governor for consultation with said secretary under said Acts unless the governor shall select another representative.

¹ 21 U.S.C.A. § 661.

² 21 U.S.C.A. § 454.

³ 21 U.S.C.A. §§ 601 et seq., 671 et seq.

⁴ 21 U.S.C.A. § 451 et seq.

TITLE IV—AUXILIARY PROVISIONS

Sec. 401. (a) The commissioner may (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this Act) refuse to provide, or withdraw, inspection service under Title I of this Act with respect to any establishment if he determines, after opportunity for a hearing is accorded to the applicant for, or recipient of, such service, that such applicant or recipient is unfit to engage in any business requiring inspection under Title I because the applicant or recipient, or anyone

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responsibly connected with the applicant or recipient, has been convicted, in any federal or state court, of (1) any felony, or (2) more than one violation of any law, other than a felony, based upon the acquiring, handling, or distributing of unwholesome, mislabeled, or deceptively packaged food or upon fraud in connection with transactions in food. This section shall not affect in any way other provisions of this Act for withdrawal of inspection services under Title I from establishments failing to maintain sanitary conditions or to destroy condemned carcasses, parts, meat, or meat food products.

(b) For the purpose of this section a person shall be deemed to be responsibly connected with the business if he was a partner, officer, director, holder, or owner of 10 per centum or more of its voting stock or employee in a managerial or executive capacity. The determination and order of the commissioner with respect thereto under this section shall be final and conclusive unless the affected applicant for, or recipient of, inspection service files application for judicial review within 30 days after the effective date of such order in the appropriate court as provided in Section 404. Judicial review of any such order shall be upon the record upon which the determination and order are based.

Sec. 402. Whenever any carcass, part of a carcass, meat, or meat food product of cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, and domesticated game birds, or any product exempted from the definition of a meat food product, or any dead, dying, disabled, or diseased cattle, sheep, swine, goat, equine, poultry, domestic rabbits, and domesticated game birds is found by any authorized representative of the commissioner upon any premises where it is held for purposes of, or during or after distribution in intrastate commerce, and there is reason to believe that any such article is adulterated or misbranded and is capable of use as human food, or that it has not been inspected, in violation of the provisions of Title I of this Act or the Federal Meat Inspection Act¹ or the Federal Food, Drug, and Cosmetic Act², or the Federal Poultry Products Inspection Act³, or that such article or animal has been or is intended to be, distributed in violation of any such provisions, it may be detained by such representative for a period not to exceed 20 days, pending action under Section 403 of this Act or notification of any federal authorities having jurisdiction over such article or animal, and shall not be moved by any person, firm, or corporation from the place at which it is located when so detained, until released by such representative. All official marks may be required by such representative to be removed from such article or animal before it is released unless it appears to the satisfaction of the commissioner that the article or animal is eligible to retain such marks.

¹ 21 U.S.C.A. § 601 et seq.

² 21 U.S.C.A. § 301 et seq.

³ 21 U.S.C.A. § 451 et seq.

Sec. 403. (a) Any carcass, part of a carcass, meat, or meat food product of cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, and domesticated game birds, or any dead, dying, disabled, or diseased cattle, sheep, swine, goat, equine, poultry, domestic rabbits, or domesticated game birds, that is being transported in intrastate commerce, or is held for sale in this state after such transportation, and that (1) is or has been prepared, sold, transported, or otherwise distributed or offered or received for distribution in violation of this Act, or (2) is capable of use as human food and is adulterated or misbranded, or (3) in any other way is in violation of this Act, shall be liable to be proceeded against and seized and condemned, at any time, on a libel of information in any proper court as provided in Section 404 of this Act within the jurisdiction of which the article or animal is found. If the article or animal is condemned it shall, after entry of the decree, be disposed of by

destruction or sale as the court may direct and the proceeds, if sold, less the court costs and fees, and storage and other proper expenses, shall be paid into the treasury of this state, but the article or animals shall not be sold contrary to the provisions of this Act, or the Federal Meat Inspection Act¹, or the Federal Poultry Products Inspection Act², or the Federal Food, Drug, and Cosmetic Act³; provided, that upon the execution and delivery of a good and sufficient bond conditioned that the article or animal shall not be sold or otherwise disposed of contrary to the provisions of this Act, or the laws of the United States, the court may direct that such article or animal be delivered to the owner thereof subject to such supervision by authorized representatives of the commissioner of health as is necessary to insure compliance with the applicable laws. When a decree of condemnation is entered against the article or animal and it is released under bond, or destroyed, court costs and fees, and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the article or animal. The proceedings in such libel cases shall conform, as nearly as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of this state.

(b) The provisions of this section shall in no way derogate from authority for condemnation or seizure conferred by other provisions of this Act, or other laws.

¹ 21 U.S.C.A. § 601 et seq.

² 21 U.S.C.A. § 451 et seq.

³ 21 U.S.C.A. § 301 et seq.

Sec. 404. The district court is vested with jurisdiction specifically to enforce, and to prevent and restrain violations of this Act, and shall have jurisdiction in all other kinds of cases arising under this Act (except as provided in Section 7(e) of this Act.)

Sec. 405. Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this Act shall be fined not less than \$25 nor more than \$1,000 or confined in the county jail for not less than 30 days nor more than two years, or both. Whoever, in the commission of any such acts, uses a weapon prohibited by Article 483, Penal Code of Texas, 1925, as amended, shall be fined not less than \$200 nor more than \$5,000 or confined in the county jail for not less than 90 days nor more than two years, or both; or shall be imprisoned in the penitentiary for not more than five years. Whoever kills any person while engaged in or on account of the performance of his official duties under this Act shall be punished as provided under the Texas Penal Code.

Sec. 406. (a) Any person, firm, or corporation who violates any provision of this Act for which no other criminal penalty is provided by this Act shall upon conviction be subject to imprisonment for not more than one year, or a fine of not more than \$1,000, or both such imprisonment and fine; but if such violation involves intent to defraud, or any distribution or attempted distribution of an article that is adulterated (except as defined in Section 1(j) (8) of this Act), such person, firm, or corporation shall be subject to imprisonment for not more than three years or a fine of not more than \$10,000 or both; provided, that no person, firm, or corporation shall be subject to penalties under this section for receiving for transportation any article or animal in violation of this Act if such receipt was made in good faith, unless such person, firm, or corporation refuses to furnish on request of a representative of the commission the name and address of the person from whom he received such article or animal, and copies of all documents, if any there be, pertaining to the delivery of the article or animal to him.

(b) Nothing in this Act shall be construed as requiring the commissioner to report for prosecution or for the institution of libel or injunction proceedings, minor violations of this Act whenever he believes that the public interest will be adequately served by a suitable written notice of warning.

Sec. 407. (a) The commissioner shall also have power:

(1) To gather and compile information concerning and, to investigate from time to time the organization, business, conduct, practices, and management of any person, firm, or corporation engaged in intrastate commerce, and the relation thereof to other persons, firms, and corporations;

(2) To require, by general or special orders, persons, firms, and corporations engaged in intrastate commerce, or any class of them, or any of them to file with the commissioner, in such form as the commissioner may prescribe, annual or special, or both annual and special, reports or answers in writing to specific questions, furnishing to the commissioner such information as he may require as to the organization, business, conduct, practices, management, and relation to other persons, firms, and corporations, of the person, firm, or corporation filing such reports or answers in writing. Such reports and answers shall be made under oath, or otherwise, as the commissioner may prescribe, and shall be filed with the commissioner within such reasonable period as the commissioner may prescribe, unless additional time be granted in any case by the commissioner.

(b) (1) For the purposes of this Act the commissioner shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any person, firm, or corporation being investigated or proceeded against, and may require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence of any person, firm, or corporation relating to any matter under investigation. The commissioner may sign subpoenas and may administer oaths and affirmations, examine witnesses, and receive evidence.

(2) Such attendance of witnesses, and the production of such documentary evidence, may be required at any designated place of hearing in any county in which the witness resides, is employed, or has a place of business. In case of disobedience to a subpoena the commissioner may invoke the aid of the district court in requiring the attendance and testimony of witnesses and the production of documentary evidence.

(3) The district court within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, firm, or corporation, issue an order requiring such person, firm, or corporation to appear before the commissioner or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(4) Upon the application of the attorney general of this state at the request of the commissioner, the district court shall have jurisdiction to issue writs of mandamus commanding any person, firm, or corporation to comply with the provisions of this Act or any order of the commissioner made in pursuance thereof.

(5) The commissioner may order testimony to be taken by deposition in any proceeding or investigation pending under this Act at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the commissioner and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as wit-

nesses may be compelled to appear and testify and produce documentary evidence before the commissioner as hereinbefore provided.

(6) Witnesses summoned before the commissioner shall be paid the same fees and mileage that are paid witnesses in the courts of this state, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in such courts.

(7) No person, firm, or corporation shall be excused from attending and testifying or from producing books, papers, schedules of charges, contracts, agreements, or other documentary evidence before the commissioner or in obedience to the subpoena of the commissioner whether such subpoena be signed or issued by him or his delegate, or in any cause or proceeding, criminal or otherwise, based upon or growing out of any alleged violation of this Act, or of any amendments thereto, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him or it may tend to incriminate him or it or subject him or it to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that any person so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(c) (1) Any person, firm, or corporation that shall neglect or refuse to attend and testify or to answer any lawful inquiry, or to produce documentary evidence, if in his or its power to do so, in obedience to the subpoena or lawful requirement of the commissioner shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than \$1,000 nor more than \$5,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

(2) Any person, firm, or corporation that shall wilfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this Act, or that shall wilfully make, or cause to be made, any false entry in any account, record, or memorandum kept by a person, firm, or corporation subject to this Act or that shall wilfully neglect or fail to make, or to cause to be made, full, true, and correct entries in such accounts, records, or memoranda, of all facts and transactions appertaining to the business of such person, firm, or corporation, or that shall wilfully remove out of the jurisdiction of this state, or wilfully mutilate, alter, or by any other means falsify any documentary evidence of any such person, firm, or corporation or that shall wilfully refuse to submit to the commissioner or to any of his authorized agents, for the purpose of inspection and taking copies, any documentary evidence of any such person, firm, or corporation in his possession or within his control, shall be deemed guilty of an offense and shall be subject, upon conviction in any court of competent jurisdiction to a fine of not less than \$1,000 nor more than \$5,000, or to imprisonment for a term of not more than three years, or to both such fine and imprisonment.

(3) If any person, firm, or corporation required by this Act to file any annual or special report shall fail so to do within the time fixed by the commissioner for filing the same, and such failure shall continue for 30 days after notice of such default, such person, firm, or corporation shall forfeit to this state the sum of \$100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the treasury of this state, and shall be recoverable in a civil suit in the name of the state brought in the district court of the county where the person, firm, or corporation has his or its principal office or where he or it shall do business. It shall be the duty of the various district attorneys,

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under the direction of the attorney general of this state, to prosecute for the recovery of such forfeitures.

(4) Any officer or employee of this state who shall make public any information obtained by the commissioner, except with the approval of the commissioner, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding \$5,000, or by imprisonment, not exceeding one year, or by both such fine and imprisonment, in the discretion of the court.

Sec. 408. The commissioner shall designate at least one state inspector for each state representative district.

Sec. 409. The requirements of this Act shall apply to persons, firms, corporation establishments, animals, and articles regulated under the Federal Meat Inspection Act¹ or the Federal Poultry Products Inspection² Act only to the extent provided for in said Federal Acts and any future amendments thereto.

¹ 21 U.S.C.A. § 601 et seq.

² 21 U.S.C.A. § 451 et seq.

Sec. 410. This Act shall be administered and enforced with funds provided by the General Appropriations Act and the Department of Health is authorized to collect fees for overtime and special services rendered to establishments, and to expend same as provided by the General Appropriations Act.

Sec. 411. This Act shall be designated as the Texas Meat and Poultry Inspection Act.

Sec. 412. Chapter 339, Acts of the 49th Legislature, 1945, as amended by Chapter 32, Acts of the 55th Legislature, Regular Session, 1957 (Article 4476—3, Vernon's Texas Civil Statutes), is repealed.

Sec. 413. This Act prevails over the Texas Food, Drug and Cosmetic Act (Article 4476—5, Vernon's Texas Civil Statutes) and any other Act to the extent of any conflict.

Sec. 414. If any provision of this Act or the application thereof to any person, firm, or corporation or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons, firms, and corporations and circumstances shall not be affected thereby.

Acts 1969, 61st Leg., p. 337, ch. 123, eff. Sept. 1, 1969.

Title of Act:

An Act providing for mandatory inspection and regulation of the slaughter of cattle, sheep, swine, goats, equines, poultry, domestic rabbits, and domesticated game birds, and the preparation and sale of the carcasses, parts thereof, meat, and food products of such animals and birds solely for distribution in this state; for the regulation of related industries; for cooperation with the United States Department of Agriculture; for penalties for violations,

detention, seizure, and other enforcement authority; and for collection of fees for certain services; repealing Chapter 339, Acts of the 49th Legislature, 1945, as amended (Article 4476—3, Vernon's Texas Civil Statutes); declaring the effect of this Act on the Texas Food, Drug and Cosmetic Act (Article 4476—5, Vernon's Texas Civil Statutes) and other state laws; providing for severability; and declaring an emergency. Acts 1969, 61st Leg., p. 337, ch. 123.

Art. 4476—8. Crab meat; processing, transportation and sale; regulation and licensing

Definitions

Section 1. In this Act, unless the context requires a different definition,

(1) "crab meat" means the edible meat of steamed or cooked crabs, without other processing than picking, packing, and chilling;

(2) "picking plant" means any place where crabs are steamed or cooked and edible meat is picked therefrom;

(3) "pasteurization plant" means a plant where crab meat is heat-treated, without complete sterilization, to improve the keeping qualities of the meat;

(4) "person" means any individual, partnership, corporation or association;

(5) "label" means a display of written, printed, or graphic matter upon the immediate container (not including package liners) of any article;

(6) "labeling" means all labels and other written, printed, or graphic matter (a) upon any article or any of its containers or wrappers, or (b) accompanying such article; and

(7) "department" means the State Department of Health.

Rules and regulations

Sec. 2. The department shall make and promulgate rules and regulations for the picking, pasteurizing, storing, transporting, and selling of crab meat. The department may revoke or amend the rules and regulations when in its judgment alteration is necessary to insure a wholesome product.

Required compliance with act

Sec. 3. No person may engage in any business for which a license is required under this Act, without first complying with the provisions of this Act.

Licenses

Sec. 4. Every person operating a crab-meat picking or pasteurization plant in this state must obtain a license for each plant. All licenses must be obtained at the time and in the manner set forth in Section 5. The department shall issue serially numbered licenses to persons who operate plants which conform to the requirements of this Act and the rules and regulations of the department.

Application for licenses; fees

Sec. 5. (a) All persons operating on the effective date of this Act a business required to be licensed under the provisions of this Act shall apply for a license immediately after the effective date of this Act, and they may continue in business unless and until the application is rejected by the department.

(b) All persons who, after the effective date of this Act, desire to operate a business required to be licensed under the provisions of this Act, shall apply for and obtain a license before commencing operations.

Inspection

Sec. 6. When an application has been properly filed with the department, the department shall inspect all properties identified in the application, all buildings and equipment thereon, and the operating procedures under which the product is processed. If the property, building, equipment, and operating procedures are found to conform to the regulations of the department, a separate license for each property so approved shall be issued to the applicant. The license is nontransferable and expires on the last day of August of each year. A new license must be applied for each year.

Revocation of license

Sec. 7. Whenever the department finds that any provision of this Act has been violated by the holder of a license issued by the department, or that a violation has occurred or is occurring on any premises for which a license has been issued, the department shall give notice to the licensee in writing, setting forth the nature of the violation, and directing that the violation cease. If the licensee refuses or fails to comply with the notice in the time and manner set forth in the notice, the department may revoke the license. Before revoking a license the department shall give written notice to the licensee stating that it contemplates the revocation of the license and giving its reasons for that action. The notice shall set a time for a hearing, and shall be mailed by registered or certified mail to the licensee. On the day of hearing, the licensee may present such evidence to the department as he deems fit, and after hearing all the testimony, the department shall decide the question in such a manner as to it appears just and right.

Appeals from board order

Sec. 8. Any applicant for a license, or any licensee who feels aggrieved by the action of the department in failing to issue or in revoking a license, may appeal that action to a district court in the county in which the property identified by the application or license is located, or to a district court of Travis County, Texas.

Adulterated crab meat

Sec. 9. Crab meat is adulterated if

(1) any substance has been substituted wholly or in part for the crab meat;

(2) the crab meat consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is for any other reason unsound, unwholesome, unhealthful or otherwise unfit for human consumption;

(3) the crab meat has been prepared, packed, or held under insanitary conditions which, in the judgment of the department may have contaminated the crab meat with filth, or may have rendered it injurious to health; or

(4) the crab meat container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

Possession of adulterated crab meat

Sec. 10. (a) No person may process, transport, store for sale, have in possession with intent to sell, offer or expose for sale, or sell any crab meat for human consumption which is adulterated, or which was packed or pasteurized in violation of any of the provisions of this Act or the rules and regulations of the department issued under this Act.

(b) The possession of adulterated crab meat by any person holding a license under this Act is presumptive evidence of intent to sell the crab meat for human consumption.

Labeling and marking packages

Sec. 11. (a) All packages of crab meat shall be conspicuously labeled or marked in a manner approved by the department. Stamping with ink may not be permitted.

(b) The label or marking shall contain:

(1) the proper designation of the content of the package;

(2) the name and address of the picking plant in which the product was produced or the name and address of the distributor; (where the name and address of the distributor is used, it shall be preceded by the words "packed for" or "distributed by" followed by the word "distributor,");

(3) the presence of any chemical if any is allowed;

(4) the license number of the picking plant preceded by the state abbreviation on the body of the can plainly and conspicuously marked;

(5) the net weight of the contents; and

(6) such other matter pertinent to the public health as may be required by the department.

(c) No label may bear any false or misleading statement.

Compliance with standards required; seizure of nonconforming crab meat

Sec. 12. Any crab meat, whether it comes from the State of Texas or from plants outside of this state, shall comply with the standards of the department as provided by this Act. Crab meat which does not comply with these standards may be seized and condemned by the department.

Penalty

Sec. 13. (a) A person who violates any provisions of this Act, or any rule or regulation issued pursuant to this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$25 and not more than \$200 for each offense; each violation constitutes a separate offense.

(b) A repetition of or continuance of an offense may be enjoined by appropriate proceedings in the district courts of this state. The district attorney or county attorney, upon application by the health authority, shall prosecute in the court having jurisdiction of the offense a person charged with the violation of any of the provisions of this Act or the rules and regulations issued by the department, and where appropriate, shall institute proceedings in the district court to enjoin further such violations.

Duties of commissioner of health

Sec. 14. The commissioner of health shall exercise the powers and duties conferred on the State Department of Health by this Act. The commissioner may delegate any of these powers and duties to an employee of the department who shall act as his representative.

Acts 1969, 61st Leg., p. 693, ch. 237, emerg. eff. May 21, 1969.

Title of Act:

An Act relating to the regulation and licensing by the State Department of Health of persons and plants engaged in the picking, pasteurization, storage, trans-

portation, and sale of certain crab meat; providing criminal penalties and injunctive remedies; and declaring an emergency. Acts 1969, 61st Leg., p. 693, ch. 237.

CHAPTER FOUR—SANITARY CODE

Article 4477. Sanitary code

VITAL STATISTICS

Rule 50b. Marriage license application

* * * * *

(b-1) After December 31, 1969, the county clerk of each county shall transmit to the Bureau of Vital Statistics, within 90 days after

For Annotations and Historical Notes, see V.A.T.S.

execution, a copy of each declaration of informal marriage executed under Section 1.92 of the Family Code. The Bureau shall incorporate the information in each declaration in the state-wide alphabetical index established under Subsection (b) of this section, and the information shall be treated as provided in Subsection (c) of this section.

Rule 50b, subsec. (b-1) added by Acts 1969, 61st Leg., p. 2707, ch. 888, § 4, eff. Jan. 1, 1970.

* * * * *

Rule 71. Separate compartment for porter

Separate compartment for porter. Sleeping car companies shall provide compartments and bedding for their porters separate from those provided for their passengers.

Rule 71 amended by Acts 1969, 61st Leg., p. 615, ch. 209, § 1, eff. Sept. 1, 1969.

Rule 72. Repealed by Acts 1969, 61st Leg., p. 615, ch. 209, § 2, eff. Sept. 1, 1969.

Repeal of fees provided for county clerks in laws, or parts of laws, conflicting with the provisions of article 3930, see note under article 3930.

CHAPTER FOUR A—SANITATION AND HEALTH PROTECTION

Art.

4477—6. Renderers' licensing act [New].

4477—7. Solid Waste Disposal Act [New].

Art. 4477—5. Texas Clean Air Act

SUBCHAPTER A. GENERAL PROVISIONS

Short title

Section 1.01. This Act may be cited as the Texas Clean Air Act.

Policy and purpose

Sec. 1.02. It is the policy of this state and the purpose of this Act to safeguard the air resources of the state from pollution by controlling or abating air pollution and emissions of air contaminants, consistent with the protection of health, general welfare, and physical property of the people, including the esthetic enjoyment of the air resources by the people and the maintenance of adequate visibility.

Definitions

Sec. 1.03. As used in this Act, unless the context requires a different definition:

(1) "air contaminant" means particulate matter, dust, fumes, gas, mist, smoke, vapor or odor, or any combination thereof produced by processes other than natural;

(2) "source" means a point of origin of air contaminants, whether privately or publicly owned or operated;

(3) "air pollution" means the presence in the atmosphere of one or more air contaminants or combinations thereof, in such concentration and of such duration as are or may tend to be injurious to or to adversely affect

human health or welfare, animal life, vegetation or property, or as to interfere with the normal use and enjoyment of animal life, vegetation or property;

(4) "board" means the Texas Air Control Board;

(5) "executive secretary" means the executive secretary of the Texas Air Control Board;

(6) "person" means individual, corporation, organization, government or governmental subdivision or agency, business trust, partnership, association, or any other legal entity; and

(7) "local government" means a county; an incorporated city or town; or a health district established under authority of Chapter 63, Acts of the 51st Legislature, 1949, as amended by Chapter 239, Acts of the 56th Legislature, 1959 (Article 4447a, Vernon's Texas Civil Statutes).

Prior actions of Air Control Board validated

Sec. 1.04. All orders, determinations, rules, regulations and other actions issued, taken and performed by the Texas Air Control Board under Chapter 687, Acts of the 59th Legislature, Regular Session, 1965 (Article 4477—4, Vernon's Texas Civil Statutes), are validated and remain in effect unless and until amended or superseded by order of the Texas Air Control Board under this Act and are administered by and under the jurisdiction of the Texas Air Control Board under this Act.

Board as principal authority

Sec. 1.05. The Texas Air Control Board is the state air pollution control agency. The board is the principal authority in the state on matters relating to the quality of the air resources in the state and for setting standards, criteria, levels and emission limits for air content and pollution control.

Effect on private remedies

Sec. 1.06. Nothing in this Act affects the right of any private person to pursue all common law remedies available to abate a condition of pollution or other nuisance or recover damages therefor, or both.

Confidential information

Sec. 1.07. Information submitted to the board relating to secret processes or methods of manufacture or production which is identified as confidential when submitted shall not be disclosed by any member, employee, or agent of the board.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Texas Air Control Board

Section 2.01. The Texas Air Control Board is an agency of the state.

Members of the board

Sec. 2.02. The board is composed of nine members, chosen as follows:

(1) Nine members are appointed by the governor with the advice and consent of the Senate. Of the nine members appointed by the governor, one shall be a professional engineer with at least ten years experience in the actual practice of his profession which experience shall include work in air control; one shall be a physician licensed to practice in this state, currently engaged in general practice in this state, with experience in the field of industrial medicine; one shall be a person who has been actively engaged in the management of a private manufacturing or in-

For Annotations and Historical Notes, see V.A.T.S.

dustrial concern for at least ten years immediately prior to his appointment; one shall be experienced in the field of municipal government; one shall be an agricultural engineer with at least ten years experience in his profession; and four shall be chosen from the general public.

Terms of board members

Sec. 2.03. The members of the board hold office for staggered terms of six years, with the term of three members expiring on the 1st day of September in each odd-numbered year. Each member holds office until his successor is appointed and has qualified.

Qualification by members; vacancies; records

Sec. 2.04. (a) A member appointed by the governor while the Senate is in session is qualified to serve on the board after his nomination has been confirmed by the Senate and upon taking the Constitutional oath of office. A member appointed by the governor while the Senate is not in session is qualified to serve upon taking the Constitutional oath of office, and serves until the expiration of his term or until his nomination is rejected by the Senate.

(b) If a vacancy occurs in the office of a member of the board, the position shall be filled by a person appointed by the governor in the same manner as for a regular appointment, and the person so appointed shall serve only to the end of the unexpired term and until his successor is appointed and has qualified.

(c) The official records of the board shall reflect the date each member's certificate of appointment was issued by the secretary of state, the date he took the oath of office, the person who administered the oath, the date the appointive term began, and the date the term expires.

Per diem; expenses

Sec. 2.05. A member of the board is not entitled to a salary for duties performed as a member of the board. However, a member is entitled to \$25.00 for each day he is in attendance at meetings or hearings or on authorized business of the board, including time spent in traveling to and from the place of the meeting, hearing or other authorized business, and is entitled to reimbursement for travel and other necessary expenses incurred in performing official duties, as evidenced by vouchers approved by the executive secretary.

Board officers

Sec. 2.06. The board shall elect a chairman and a vice-chairman to serve two-year terms beginning on February 1 of each odd-numbered year.

Board meetings

Sec. 2.07. (a) The chairman, or in his absence the vice-chairman, shall preside at all meetings of the board. In the absence of both the chairman and the vice-chairman from any meeting of the board, the members of the board present may select one of their number to serve as chairman for the meeting.

(b) The board shall have regular meetings at times specified by a majority vote of the board.

(c) The chairman may call special meetings at any time. He shall call a special meeting on written request signed by at least two members of the board.

(d) A majority of the board constitutes a quorum to transact business.

Executive secretary

Sec. 2.08. (a) The executive secretary shall be an employee of the State Department of Health; the state commissioner of health, after consulting with the board, shall designate the employee to serve as executive secretary.

(b) The executive secretary shall be the administrator of air control activities for the board. In addition to his other duties prescribed in this Act and by the board, the executive secretary shall:

(1) keep full and accurate minutes of all transactions and proceedings of the board;

(2) be the custodian of all of the files and records of the board;

(3) prepare and recommend to the board plans and procedures necessary to effectuate the purposes and objectives of this Act, including but not limited to rules and regulations, and proposals on administrative procedures not inconsistent with this Act;

(4) exercise general supervision over all persons employed by the board; and

(5) be responsible for the investigation of complaints and for the presentation of formal complaints.

(c) The executive secretary, or his authorized representative, shall:

(1) attend all meetings of the board but shall not be entitled to a vote; and

(2) handle or arrange for the handling of such correspondence, make or arrange for such inspections and investigations, and obtain, assemble or prepare such reports and data as the board may direct or authorize.

Staff services

Sec. 2.09. The basic personnel and necessary laboratory and other facilities as may be required to carry out the provisions of this Act shall be the personnel, laboratory, and other facilities of the State Department of Health. However, the board, through the State Department of Health acting as the agent of the board, may by agreement secure such services as it may deem necessary from any other departments and agencies of the state government and may arrange for compensation for such services, and may employ and compensate, within appropriations available therefor, such professional consultants, technical assistants, and employees on a full or part-time basis as may be necessary to carry out the provisions of this Act and prescribe their powers and duties. The board may request, and upon request shall receive, the assistance of any state educational institution, experimental station, or other state agency.

Funds from other state agencies

Sec. 2.10. Any state agency that has statutory responsibilities for air control and that receives a legislative appropriation for these purposes may transfer to the board any amount mutually agreed on by the board and the agency, subject to the approval of the governor. In the event transfers of money from other state agencies to the board are not sufficient to finance adequately the necessary activities of the board, the governor may transfer to the board from the appropriations made to the governor such amounts as he determines.

Gifts and grants

Sec. 2.11. The board may apply for, request, solicit, contract for, receive, and accept money and other assistance from any source to carry out its duties. The board shall show in its records the source of all moneys or other things of value received by the board under this section from sources other than public sources.

Special fund

Sec. 2.12. Money received by the board under Section 2.10 or Section 2.11 of this code shall be deposited in the state treasury and credited to a special fund. The board may use this fund for salaries, wages, professional and consulting fees, travel expenses, equipment, and other necessary expenses incurred in carrying out its duties under this Act, as provided by legislative appropriation.

Documents, etc., public property

Sec. 2.13. All information, documents and data collected by the board in the performance of its duties are the property of the state. Subject to the limitations of Section 1.07 of this Act, all records of the board are public records open to inspection by any person during regular office hours.

Copies of documents, proceedings, etc.

Sec. 2.14. Subject to the limitations of Section 1.07 of this Act, on the application of any person, the board shall furnish certified or other copies of any proceeding or other official act of record, or of any map, paper, or document filed with the board. A certified copy with the seal of the board and the signature of the chairman of the board or the executive secretary is admissible as evidence in any court or administrative proceeding. The board shall prescribe in its rules the fees which shall be charged for copies and is authorized to furnish copies, certified or otherwise, to a person without charge when the furnishing of the copies serves a public purpose. Any other Acts concerning fees for copies of records do not apply to the board except that the fees set by the board for copies prepared by the board shall not exceed those prescribed in Article 3913, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 446, Acts of the 59th Legislature, Regular Session, 1965.

Biennial reports

Sec. 2.15. The board shall make biennial written reports to the governor and to the Legislature and shall include in each report a statement of its activities.

Fees

Sec. 2.16. Except as specifically authorized in this Act, no fees may be charged by the executive secretary or the board for the performance of any of their duties and functions under this Act.

Seal

Sec. 2.17. The board shall adopt a seal.

SUBCHAPTER C. POWERS AND DUTIES OF THE BOARD

In general

Section 3.01. The board shall administer the provisions of this Act and shall establish the level of quality to be maintained in, and shall control the quality of, the air resources in this state as provided in this Act. The board shall seek the accomplishment of the purposes of this Act through the control of air contaminants by all practical and economically feasible methods consistent with the powers and duties of the board. The board has the powers and duties specifically prescribed in this Act and all other powers necessary or convenient to carry out its responsibilities.

State air control plan

Sec. 3.02. The board shall prepare and develop a general, comprehensive plan for the proper control of the air resources of the state.

Emission inventory

Sec. 3.03. The board is authorized to require the submission of information by persons whose activities cause emissions of air contaminants to enable the board to develop an inventory of the emissions of air contaminants in the state.

Research, investigations

Sec. 3.04. The board shall conduct, or have conducted, any research and investigations it considers advisable and necessary for the discharge of its duties under this Act.

Power to enter property

Sec. 3.05. The members, employees and agents of the board have the right to enter any public or private property at any reasonable time, other than property designed for and used exclusively as a private residence housing not more than three families, for the purpose of inspecting and investigating conditions relating to emissions of air contaminants to or the concentration of air contaminants in the atmosphere. Any member, employee or agent who, acting under the authority in this section, enters private property which has management in residence shall notify management, or the person then in charge, of his presence and exhibit proper credentials. Members, employees, or agents entering private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection. Should any member, employee or agent of the board be refused the right to enter in or upon such public or private property, the board may have the remedies authorized in Section 4.02 of this Act.

Monitoring requirements; power to examine records

Sec. 3.06. The board may prescribe reasonable requirements for the measurement and monitoring of the emissions of air contaminants from any source or from any activity causing or resulting in the emission of air contaminants subject to the jurisdiction of the board under this Act; the board may also prescribe reasonable requirements for the owner or operator of the source to make and maintain records on the measurement and monitoring of emissions. The members, employees and agents of the board may examine during regular business hours any records or memoranda pertaining to the operation of any air pollution or emission control equipment or facility, or pertaining to any emission of air contaminants. This authority does not extend to the records or memoranda pertaining to the operation of such equipment or facility on a property designed for and used exclusively as a private residence housing not more than three families.

Enforcement proceedings

Sec. 3.07. The board, or the executive secretary when authorized by the board, may cause legal proceedings to be instituted in courts of competent jurisdiction to compel compliance with the provisions of this Act or the rules, regulations, orders, variances or other decisions of the board.

Contracts, instruments

Sec. 3.08. The board may make contracts and execute instruments that are necessary or convenient to the exercise of its powers or the performance of its duties.

Rule-making

Sec. 3.09. (a) The board has the power, in accordance with the procedures in this section, to make rules and regulations consistent with the general intent and purposes of this Act and to amend any rule or regulation it makes.

(b) Before adopting any rules and regulations, or any amendment or repeal thereof, the board shall hold a public hearing. If the rule or regulation, or amendment or repeal thereof, will have state-wide effect, notice of the date, time, place, and purpose of the hearing shall be published one time at least 20 days prior to the scheduled date of the hearing in at least three newspapers whose combined circulation will, in the judgment of the board, give reasonable circulation throughout the state; if the rule or regulation, or amendment or repeal thereof, will have effect in only a part of the state, the notice shall be published one time at least 20 days prior to the scheduled date of the hearing in a newspaper or newspapers having general circulation in the area or areas to be affected. The board shall also comply, as appropriate, with the requirements of Chapter 274, Acts of the 57th Legislature, Regular Session, 1961, as amended (Article 6252—13, Vernon's Texas Civil Statutes).

(c) Any person may appear and be heard at the hearing on any rules or regulations. A record of the names and addresses of the persons appearing shall be made by the executive secretary. Any person heard or represented at the hearing, or requesting notice of the action taken by the board, shall be sent written notice by mail of the action taken by the board.

(d) Before it becomes effective, any rule or regulation, or amendment or repeal thereof, shall be approved in writing by at least five members of the board, and a certified copy filed with the secretary of state for the time specified in Article 6252—13, Vernon's Texas Civil Statutes.

Content of rules

Sec. 3.10. (a) A rule or regulation, or any amendment thereof, adopted by the board may differ in its terms and provisions as between particular conditions, particular sources, and particular areas of the state. In adopting rules and regulations, the board shall give due recognition to the fact that the quantity or characteristic of air contaminants or the duration of their presence in the atmosphere, which may cause a need for air control in one area of the state, may not cause need for air control in another area of the state, and the board shall take into consideration, in this connection, all factors found by it to be proper and just including existing physical conditions, topography, population, and prevailing wind directions and velocities, and the fact that a rule or regulation and the degrees of conformance therewith which may be proper as to an essentially residential area of the state may not be proper either as to a highly developed industrial area of the state or as to a relatively unpopulated area of the state.

(b) Except as provided in Subsections (c), (d), (e) and (f) of this section, the rules and regulations may not specify any particular method to be used to control or abate air pollution, nor the type, design or method of installation of any equipment to be used to control or abate air pollution, nor the type, design, or method of installation or type of construction of any manufacturing processes or other kinds of equipment.

(c) The board is authorized to adopt rules and regulations to control and prohibit the outdoor burning of waste and combustible material. The board may include in the rules and regulations requirements as to the particular method to be used to control or abate the emission of air contaminants resulting from the outdoor burning of waste or combustible material.

(d) The board may include in the rules and regulations requirements as to the particular method to be used to control and reduce emissions from motors and engines used in propelling land vehicles. Any rules or regulations pursuant to this paragraph shall be consistent with provisions of federal law, if any, relating to the control of emissions from the vehicles concerned. The board shall not require, as a condition precedent to the initial sale of a vehicle or vehicular equipment the inspection, certification or other approval of any feature or equipment designed for the control of emissions from motor vehicles, if that feature or equipment has been certified, approved or otherwise authorized pursuant to federal law.

(e) The board, when it deems control of air pollution is necessary, shall establish rules and regulations concerning the control of emissions of particulate matter from plants handling, loading and unloading, drying, manufacturing, and processing the following agricultural products: grain, seed, legumes and vegetable fibers, according to a formula derived from the process weight of the materials entering the process. Any person affected by a rule or regulation issued under the authority of this subsection may use the process weight method for controlling and measuring the emissions from the plant, or any other method selected by that person which the board or the executive secretary, when so authorized by the board, finds will provide adequate emission control efficiency and measurement.

(f) The board is authorized to prescribe the sampling methods and procedures which shall be used in determining violations of and compliance with the rules, regulations, variances, and other orders of the board. The board may prescribe ambient air sampling, stack-sampling, visual observation, or any other sampling method or procedure generally recognized in the field of air pollution control. The board may also prescribe new sampling methods and procedures when, in the judgment of the board, existing methods or procedures are not adequate to meet the needs and objectives of the rules, regulations, variances and other orders of the board, and where the scientific applicability of the new methods or procedures can be satisfactorily demonstrated to the board.

Limitations on board actions

Sec. 3.11. (a) The board may not make any rule, regulation, determination or order with respect to air conditions existing solely within buildings and structures used for commercial and industrial plants, works or shops when the source of the offending air contaminants is under the control of the person who owns or operates the plant, works or shops, or which affects the relations between employers and their employees with respect to or arising out of any air condition from such a source. This provision does not and is not intended to limit or restrict in any way the authority or powers granted to the board under the provisions of Subsections (c) and (f) of Section 3.10 of this Act.

(b) Nothing in this Act vests in the board any power with respect to any matter subject to the jurisdiction of the Texas Radiation Control Agency, as provided in Chapter 72, Acts of the 57th Legislature, Regular Session, 1961 (Article 4590f, Vernon's Texas Civil Statutes), or over any source licensed by the atomic energy commission under the Atomic Energy Act of 1954, 42 U.S.C. 2011-2281.¹

¹ 42 U.S.C.A. §§ 2011-2281.

For Annotations and Historical Notes, see V.A.T.S.

Orders

Sec. 3.12. (a) The board is authorized to enter orders and determinations as may be necessary to effectuate the purposes of this Act. Except where otherwise specifically authorized in this Act, all orders shall be made by the board.

(b) If the board determines that air pollution exists, it may order such action as is indicated by the circumstances to control the condition. The board shall grant such time for the owner or operator of a source to comply with its order as is provided for in the rules and regulations of the board, which shall make provisions for such time gauged to such general situations as the hearings on any proposed rules and regulations may indicate are necessary.

Factors to be considered

Sec. 3.13. In making orders and determinations, the board shall consider all of the facts and circumstances bearing upon the reasonableness of any emissions being made, including:

- (1) the character and degree of injury to, or interference with, the health and physical property of the people;
- (2) the social and economic value of the source;
- (3) the question of priority of location in the area involved; and
- (4) the technical practicability and economic reasonableness of reducing or eliminating the emissions resulting from the source.

Emergency conditions

Sec. 3.14. (a) Whenever it appears to the board or the executive secretary that a generalized condition of air pollution exists and that it creates an emergency requiring immediate action to protect human health or safety, the board or the executive secretary shall, with the concurrence of the governor, order any persons causing or contributing to the air pollution to reduce or discontinue immediately the emission of air contaminants. The order shall fix a time and place for a hearing to be held before the board, which shall be held as soon after the order is issued as is practicable. The requirements of Section 3.17 as to the time for notice, newspaper notice, and method of giving a person notice do not apply to such a hearing, but such general notice of the hearing shall be given as in the judgment of the board or the executive secretary is practicable under the circumstances. Not more than twenty-four hours after the commencement of the hearing, and without adjournment of the hearing, the board shall affirm, modify or set aside the order.

(b) Whenever the board or the executive secretary finds that emissions from one or more air contaminant sources is causing imminent danger to human health or safety, but that there is not a generalized condition of air pollution of the type referred to in Subsection (a) of this section, the board or the executive secretary may order the person or persons responsible for the emissions to reduce or discontinue the emissions immediately. In such event, the provisions in Subsection (a) of this section pertaining to a hearing before the board, notice, and affirmance, modification or setting aside of orders shall apply.

(c) Nothing in this section shall be construed to limit any power which the governor or any other officer may have to declare an emergency and to act on the basis of that declaration, if the power is conferred by statute or constitutional provision, or inheres in the office.

Hearing powers

Sec. 3.15. The board may call and hold hearings, administer oaths, receive evidence at the hearing, issue subpoenas to compel the attendance of witnesses and the production of papers and documents related to the

hearing, and make findings of fact and decisions with respect to administering the provisions of this Act or the rules, regulations, orders or other actions of the board.

Delegation of hearing powers

Sec. 3.16. (a) The board may delegate the authority to hold hearings called by the board to:

- (1) one or more members;
- (2) the executive secretary;
- (3) one or more employees of the board; or
- (4) with the concurrence of the state commissioner of health, one or more employees of the State Department of Health.

(b) Except for those hearings required to be held before the board under Section 3.14 of this Act, the board may authorize the executive secretary to call and hold hearings on any subject on which the board may hold a hearing. The board also may authorize the executive secretary to delegate the authority to hold any hearing called by the executive secretary to one or more employees of the board or, with the concurrence of the state commissioner of health, to one or more employees of the State Department of Health.

(c) The board may establish the qualifications required of the individuals who may be delegated the authority by the board or the executive secretary to hold hearings.

(d) Any individual or individuals holding a hearing under authority of this section are empowered to administer oaths and receive evidence at the hearing and shall report the hearing in the manner prescribed by the board.

Notice of hearings; continuance

Sec. 3.17. (a) Except as otherwise specified in Subsection (b) of Section 3.09 and in Section 3.14 of this Act, the provisions of this section apply to all hearings conducted pursuant to this Act.

(b) Notice of the hearing shall describe briefly and in summary form the purpose of the hearing and the date, time, and place of the hearing.

(c) Notice of the hearing shall be published at least once in a newspaper regularly published or having general circulation in each county where by virtue of the county's geographical relation to the subject matter of the hearing, the board has reason to believe persons reside who may be affected by the action that may be taken as a result of the hearing. The date of the publication shall be not less than 20 days before the date set for the hearing.

(d) If notice of the hearing is required by this Act to be given to a person, the notice shall be served personally or mailed to the person at his last address known to the board, not less than 20 days before the date set for the hearing. If the party is not an individual, the notice may be given to any officer, agent or legal representative of the party.

(e) The individual or individuals holding the hearing (hereafter in this subsection called the hearing body) shall conduct the hearing at the time and place stated in the notice. The hearing body may continue the hearing from time to time and from place to place without the necessity of publishing, serving, mailing or otherwise issuing new notice. If a hearing is continued and a time and place for the hearing to reconvene are not publicly announced by the hearing body at the hearing before it is recessed, a notice of any further setting of the hearing shall be served personally or mailed in the manner prescribed in Subsection (d) of this section at a reasonable time prior to the new setting, but it is not necessary to publish a newspaper notice of the new setting.

For Annotations and Historical Notes, see V.A.T.S.

Air quality control regions

Sec. 3.18. The board is authorized to designate air quality control regions based on jurisdictional boundaries, urban-industrial concentrations, and other factors, including atmospheric areas, necessary to provide adequate implementation of air quality standards.

Cooperation and assistance; compacts

Sec. 3.19. The board shall:

(1) encourage voluntary cooperation by persons, or affected groups in the restoration and preservation of the purity of the air resources within this state;

(2) encourage and conduct studies, investigations and research concerning air control;

(3) collect and disseminate information on air control;

(4) advise, consult and cooperate with other agencies of the state, political subdivisions of the state, industries, other states and the federal government, and with interested persons or groups in regard to matters of common interest in air control; and

(5) represent the State of Texas in any and all matters pertaining to plans, procedures or negotiations for interstate compacts.

Investigations; action on violations

Sec. 3.20. (a) The executive secretary is authorized to make or cause to have made investigations as he may deem advisable in administering the provisions of this Act and the rules, regulations, orders and determinations of the board, including without limitation investigations of violations and general air pollution problems or conditions. The executive secretary shall make or cause to have made such investigations as may be requested or directed by the board.

(b) Whenever it appears that any provision of this Act or any rule, regulation, determination or order of the board is being violated, the board, or the executive secretary when authorized by the board or this Act, may proceed under Section 4.02 of this Act, or hold a public hearing and enter orders on the alleged violation, or take any other action authorized in this Act as the facts may warrant.

(c) If a public hearing is held on an alleged violation, the board or the executive secretary shall give notice of the hearing to the person complained against and to such other interested persons as the board or executive secretary may designate. The executive secretary, on behalf of the board, at the request of the person complained against, shall subpoena and compel the attendance of those witnesses, and shall require the production for examination of any book or paper relating to the matter under investigation at the hearing, as that person may reasonably designate.

Board may grant variances

Sec. 3.21. The board may grant individual variances beyond the limitations prescribed in this Act or in the rules and regulations of the board whenever it is found, upon presentation of adequate proof, that compliance with any provision of this Act, or any rule or regulation of the board, will result in an arbitrary and unreasonable taking of property, or in the practical closing and elimination of any lawful business, occupation or activity, in either case without sufficient corresponding benefit or advantage to the people. Any person seeking a variance or to amend a variance shall submit a petition to the executive secretary containing all information reasonably required by the board or the executive secretary.

Action on petition

Sec. 3.22. (a) The executive secretary shall mail a copy of the variance petition or a summary of its contents to the mayor and health authorities of the city or town, and the county judge and health authorities of the county, in which the source or sources are or will be located, and to the same officials of other counties, cities and towns which, in the judgment of the executive secretary or the board, may be affected. The information shall be sent not less than 20 days before the date on which the petition is to be considered by the board.

(b) The executive secretary shall also proceed promptly to investigate the petition and to make a recommendation to the board on the disposition to be made of it.

(c) Any person may file with the board his comments or recommendations on the requested variance.

(d) Upon receiving the recommendation of the executive secretary, the board may, if the recommendation is for the granting of a variance, do so without hearing. If the executive secretary recommends against the granting of the variance, if a local government requests a hearing, or if the board in its discretion concludes that a hearing would be advisable, then a hearing shall be held before the board acts on the petition for variance.

Conditions of variance

Sec. 3.23. (a) In determining under what conditions and to what extent a variance from this Act or from a rule or regulation of the board may be granted, the board shall give due recognition to the progress which the person requesting the variance has made in controlling or preventing air pollution.

(b) In each variance, the board, in conformity with the intent and purpose of this Act to protect health and property, shall prescribe the conditions with which the holder of the variance shall comply, including:

(1) the duration of the variance;

(2) the extent of the abatement of emissions of air contaminants to be accomplished over a stated period of time, which shall be the time the board considers reasonable under the circumstances;

(3) any requirements as to the submission of periodic reports on the progress which the holder of the variance makes toward compliance with the Act or any rule or regulation as to which the variance has been granted; and

(4) the character and level of the emissions of air contaminants which may be made under the variance.

(c) After a public hearing, notice of which shall be given to the holder of the variance, the board may require the holder of a variance, from time to time, for good cause, to conform to new or additional conditions. The board shall allow the holder a reasonable time to conform to the new or additional conditions and, on application of the holder, the board may grant additional time.

(d) A variance does not become a vested right in the holder; and it may be revoked or suspended for good cause, after a public hearing, notice of which shall be given to the holder of the variance, on any of the following grounds:

(1) the holder has failed or is failing to comply with the conditions of the variance;

(2) the variance or operations under the variance have been abandoned; or

(3) the variance is no longer needed by the holder.

(e) The notice required by Subsections (c) and (d) of this section shall be sent to the holder of the variance at his last known address as shown by the records of the board.

For Annotations and Historical Notes, see V.A.T.S.

Extensions of variances

Sec. 3.24. The holder of a variance may request the board for an extension of the term of the variance. Notice of the request shall be mailed to the public officials as specified in Subsection (a) of Section 3.22 of this Act at least 10 days before the board acts on the request. Except as to the time for notice as specified in this section, the procedure which the board shall follow on a request for an extension of a variance shall be the same as in the case of an original petition for variance.

Failure of board to act on variance

Sec. 3.25. Upon the failure of the board to take action within 120 days after receipt in proper form of a petition for variance or to amend a variance, or of a request to extend a variance, the petitioner shall be entitled to assume that his petition has been denied, and he may perfect an appeal on this basis in the manner provided in Section 6.01 of this Act. However, until such time as the petitioner files his appeal in the manner provided in Section 6.01 of this Act, the board shall continue to have jurisdiction to act on the petition.

Effect of filing a variance petition

Sec. 3.26. The filing of a petition for variance or to amend a variance, or of a request to extend a variance, does not serve to abate any suit, whether by the board or a local government, or any hearing, investigation, or other proceeding which the board or a local government may then have in process or may thereafter initiate. The granting of a variance or amendment to a variance, or of an extension of a variance, shall operate to authorize emissions of air contaminants or other activities beyond the limitations prescribed in this Act or in the rules and regulations of the board from the effective date of the board's action, but only for the period and to the extent specified in the board's order.

SUBCHAPTER D. PROHIBITION AGAINST AIR POLLUTION; ENFORCEMENT

Unauthorized emissions prohibited

Section 4.01. (a) Except as authorized by a rule, regulation, variance or other order of the board, no person may cause, suffer, allow or permit the emission of any air contaminant or the performance of any activity which causes or contributes to, or which will cause or contribute to, a condition of air pollution.

(b) No person may cause, suffer, allow or permit the emission of any air contaminant or the performance of any activity in violation of this Act or of any rule, regulation, variance, or other order of the board.

(c) Any person who violates any provision of this Act or of any rule, regulation, variance, or other order of the board is subject to a civil penalty of not less than \$50 nor more than \$1,000 for each day of violation and for each act of violation, as the court may deem proper, to be recovered in the manner provided in this Subchapter.

Enforcement by board

Sec. 4.02. (a) Whenever it appears that a person has violated or is violating, or is threatening to violate any provision of this Act or of any rule, regulation, variance or other order of the board, then the board, or the executive secretary when authorized by the board, may cause a civil suit to be instituted in a district court for injunctive relief to restrain the person from continuing the violation or threat of violation, or for the assessment and recovery of a civil penalty of not less than \$50 nor more

than \$1,000 for each day of violation and for each act of violation, as the court may deem proper, or for both injunctive relief and civil penalty. Upon application for injunctive relief and a finding that a person is violating or threatening to violate any provision of this Act or of any rule, regulation, variance or other order of the board, the district court shall grant the injunctive relief the facts may warrant.

(b) At the request of the board, or the executive secretary when authorized by the board, the attorney general shall institute and conduct a suit in the name of the State of Texas for injunctive relief or to recover the civil penalty, or for both injunctive relief and penalty, as authorized in Subsection (a) of this section.

Enforcement by local governments

Sec. 4.03. Whenever it appears that a violation or threat of violation of any provision of Section 4.01 of this Act, or of any rule, regulation, variance or other order of the board has occurred or is occurring within the jurisdiction of a local government, exclusive of its extraterritorial jurisdiction, the local government, in the same manner as the board, may cause to be instituted through its own attorney a suit for the injunctive relief or civil penalties, or both, as authorized in Subsection (a) of Section 4.02 of this Act against the person who committed, or is committing or threatening to commit, the violation. This power may not be exercised by a local government unless its governing body adopts a resolution authorizing the exercise of the power. In a suit brought by a local government under this section, the board is a necessary and indispensable party.

Venue and procedure

Sec. 4.04. (a) A suit for injunctive relief or for recovery of a civil penalty, or for both injunctive relief and penalty, may be brought either in the county where the defendant resides or in the county where the violation or threat of violation occurs.

(b) In any suit brought to enjoin a violation or threat of violation of this Act or of any rule, regulation, variance or other order of the board, the court may grant the board or the local government, without bond or other undertaking, any prohibitory or mandatory injunction the facts may warrant including temporary restraining orders after notice and hearing, temporary injunctions, and permanent injunctions.

(c) A suit brought under this Act shall be given precedence over all other cases of a different nature on the docket of the trial or appellate court.

(d) Either party may appeal from a final judgment of the court as in other civil cases.

(e) All civil penalties recovered in suits instituted by the State of Texas under this Act shall be paid to the general revenue fund of the State of Texas.

(f) All civil penalties recovered in suits instituted by a local government or governments under this Act shall be equally divided between the State of Texas on the one hand and the local government or governments first instituting the suit on the other, with fifty percent of the recovery to be paid to the general revenue fund of the State of Texas and the other fifty percent equally to the local government or governments first instituting the suit.

Act of God, war, etc.

Sec. 4.05. The liabilities which would otherwise be imposed by this Act upon persons violating any provision of this Act or of any rule, regulation, variance, determination or order issued under this Act shall not be imposed due to any violation caused by an act of God, war, strike, riot, or other catastrophe.

SUBCHAPTER E. AUTHORITY OF LOCAL GOVERNMENTS

Inspections; power to enter property

Section 5.01. (a) A local government has the same power as the board has under Section 3.05 of this Act to inspect the air and to enter public and private property within its territorial jurisdiction to determine whether or not:

(1) the level of air contaminants in any area within its territorial jurisdiction meets the level set by the board or, in the case of a city or town, the level set by the governing body of that city or town under the authority of Section 5.05 of this Act;

(2) the emissions from any source meet the level set for that source by the board or, in the case of a city or town, by the governing body of that city or town under the authority of Section 5.05 of this Act; or

(3) a person is complying with this Act or any rule, regulation, variance or other order issued by the board.

(b) The local government in exercising the powers granted in this section is subject to the same provisions and restrictions as the board.

(c) When requested by the board, a local government shall transmit the results of its inspections to the board.

Recommendations to board

Sec. 5.02. A local government may make recommendations to the board concerning any rule, regulation, determination, variance or other order of the board that affects any area within its territorial jurisdiction. The board shall give maximum consideration to the recommendations of a local government.

Enforcement action

Sec. 5.03. A local government may bring an enforcement action under this Act in the manner provided in Subchapter D of this Act for local governments.

Cooperative agreements

Sec. 5.04. A local government may execute cooperative agreements with the board or other local governments:

(1) to provide for the performance of air quality management, inspection, and enforcement functions and to provide technical aid and educational services to any party to the agreement; and

(2) for the transfer of money or property from any party to the agreement to another party to the agreement for the purpose of air quality management, inspection, enforcement, technical aid and education.

Authority of cities and towns

Sec. 5.05. (a) Subject to the provisions of Section 1.05 of this Act, an incorporated city or town has such powers and rights as are otherwise vested by law in the city or town to:

(1) abate a nuisance; and

(2) enact and enforce any ordinance for the control and abatement of air pollution, or any other ordinance, not inconsistent with the provisions of this Act or the rules, regulations or orders of the board.

(b) Any ordinance enacted by an incorporated city or town shall be consistent with the provisions of this Act and the rules, regulations and orders of the board, and shall not make unlawful any condition or act approved or otherwise authorized pursuant to this Act or the rules, regulations or orders of the board.

SUBCHAPTER F. JUDICIAL REVIEW

Appeal of board action

Section 6.01. (a) A person affected by any ruling, order, decision, or other act of the board may appeal by filing a petition in a district court of Travis County.

(b) The petition must be filed within thirty days after the date of the board's action, or, in case of a ruling, order or decision, within thirty days after its effective date.

(c) Service of citation on the board must be accomplished within thirty days after the date the petition is filed. Citation may be served on the executive secretary or any member of the board.

(d) The plaintiff shall pursue his action with reasonable diligence. If the plaintiff does not prosecute his action within one year after the action is filed, the court shall presume that the action has been abandoned. The court shall dismiss the suit on a motion for dismissal made by the attorney general unless the plaintiff, after receiving due notice, can show good and sufficient cause for the delay.

(e) In an appeal of a board action other than cancellation or suspension of a variance, the issue is whether the action is invalid, arbitrary, or unreasonable.

(f) An appeal of the cancellation or suspension of a variance shall be tried in the same manner as appeals from the justice court to the county court.

Acts 1967, 60th Leg., p. 1941, ch. 727, eff. Sept. 1, 1967; Amended by Acts 1969, 61st Leg., p. 817, ch. 273, § 1, eff. Sept. 1, 1969.

Transitional provisions:

Section 2 of Acts 1969, 61st Leg., p. 817, ch. 273, provided as follows:

"The six members of the Texas Air Control Board appointed or continued in office under the provisions of Section 3(A) of Chapter 727, Acts of the 60th Legislature, Regular Session, 1967 (Article 4477—5, Vernon's Texas Civil Statutes), and who are in office when this Act goes into effect, shall continue in office as six of the nine members of the Texas Air Control Board, as follows: Herbert C. McKee and Wendell H. Hamrick, the presently serving members appointed to a six-year term in July, 1968, shall serve for a period ending September 1, 1973; Clinton H. Howard and Henry J. LeBlanc, Sr., the presently serving members appointed to a six-year term in February, 1966, shall serve for a period ending September 1, 1971; Herbert W. Whitney, the presently serving member appointed to a four-year term in February, 1966, shall serve until September 1, 1969;

and the person appointed to fill the vacancy in the position previously held by D. O. Tomlin, who was appointed in January, 1968, to serve the balance of a four-year term which began in August, 1965, shall serve until September 1, 1969. A person appointed as a member following the expiration of the term of office of a member named in the preceding sentence shall serve during a six-year term as provided in Section 2.03 of this Act. The governor shall also appoint the other three members of the board, as provided in Section 2.02 of this Act. The terms of these three members shall begin on September 1, 1969, and one shall be appointed for a two-year term, one for a four-year term, and one for a six-year term. A person appointed as a member following the expiration of the term of office of each of these three members shall serve during a six-year term as provided in Section 2.03 of this Act."

Art. 4477—6. Renderers' licensing act

Short title

Section 1. This Act may be cited as the "Texas Renderers' Licensing Act."

Definitions

Sec. 2. As used in this Act, unless a different meaning is required by the context and/or may be necessary to effectuate the purpose of this Act, the following definitions shall apply:

(a) "Health Authority" means the Department of Health of the State of Texas, or a duly authorized representative of such.

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(b) "Commissioner of Health" means the Commissioner of Health of the State of Texas.

(c) "Dead animal" means the whole or substantially whole carcass of a dead or fallen domestic or domesticated wild animal which was not slaughtered for human consumption.

(d) "Rendering raw material" means any material of animal origin, other than a "dead animal" as defined above, that is processed by rendering establishments, whether in unprocessed or partially processed form, and includes (but is not limited to) animals, poultry, and/or fish which were slaughtered or processed for human consumption but which became or were unsuitable for such use, all inedible products and by-products of animals, poultry, and/or fish slaughtered or processed for human consumption, any and all parts of dead animals, dead poultry and fish (in whole or in part), and waste cooking greases.

(e) "Rendering business" means the collection, transportation, disposal (whether by burying, burning, cooking, processing, or rendering) or storage of dead animals and/or rendering raw materials for commercial purposes, either as a separate business or in connection with any other established business.

(f) "Rendering establishment" means any establishment or part of an establishment, any plant, or any premises at or within which dead animals and/or rendering raw materials are rendered, boiled, processed, or otherwise prepared to obtain a product for commercial use or disposition other than as food for human consumption, and includes all other operations and facilities necessary, useful, or incidental to said rendering establishment except a "related station" as defined herein.

(g) "Related station" means any operation and/or facility necessary, useful, or incidental to the operation of a rendering establishment, but which is operated or maintained separately and apart from the rendering establishment or establishments served thereby, and includes (but is not limited to) a transfer station (where dead animals and/or rendering raw materials may be transferred from one conveyance to another) operated or maintained separately and apart from the rendering establishment or establishments served thereby.

(h) "Dead animal hauler" means any person who collects and disposes of dead animals for commercial purposes.

(i) "Rendering raw material hauler" means any person who collects and disposes of rendering raw materials for commercial purposes.

(j) "Processing" means any operation or combination of operations whereby materials derived from dead animal and/or rendering raw material sources are prepared for disposal at a rendering establishment, stored, or in any way treated for commercial use or disposition other than as food for human consumption.

(k) "Processing area" means any area in which processing is conducted.

(l) "Bactericidal agent" means any agent which will destroy bacteria and which is determined by the Health Authority to be safe for use in or about the rendering establishment.

(m) "Person" means any individual natural person, firm, partnership, association, corporation, trust, company, or organization, and every agent, officer, or employee of any thereof.

(n) "Employee" means any person who is employed in or by a rendering establishment, and who handles rendering equipment, utensils, containers, or packaging materials.

(o) "Nuisance" means any situation or condition within the provisions of Section 1(g) and Section 2, Chapter 178, Acts of the 49th Legislature, Regular Session, 1945 (Article 4477-1, Vernon's Civil Statutes).

Scope and application

Sec. 3. (a) On and after 90 days from the effective date of this Act, no person shall, without first obtaining an appropriate operating license from the Health Authority, engage in or operate a rendering business, or any adjunct thereof. During such 90-day period, any person who has applied for an operating license, or filed with the Health Authority written notice of an intention to apply for such license, and who has not been denied such, shall be subject to all the provisions of this Act and may operate as if he were a licensee. Immediately upon the effective date of this Act, no person shall, without complying with this Act and, when and as required by this Act, first obtaining a construction permit from the Health Authority, construct a new rendering establishment or enter into any new construction involving the addition to or replacement in an existing rendering establishment of one or more of the component parts set forth in Section 8(b) below.

(b) This Act shall not apply to any person slaughtering, butchering, manufacturing, or selling animal flesh and products solely as food for human consumption, or to persons transporting and/or disposing of the bodies of animals so killed or products thereof to any person solely for such purpose and use; provided, however, that if any such persons engage in rendering operations and/or processes, either in connection with the activities above exempted or wholly unrelated to and separate from such activities, then this Act shall have full application to all such rendering operations and/or processes, irrespective of the exemption granted in this Subsection (b). No person shall receive, hold, slaughter, butcher, or otherwise process any animal as food for human consumption in the building or compartmented area of a building used as a rendering establishment or related station.

(c) This Act shall not apply to any governmental agency collecting, transporting, or disposing of dead animals and/or rendering raw materials in any way.

Operating procedure

Sec. 4. (a) Operating procedures of rendering establishments shall provide for the conduct of rendering operations and processes in a sanitary manner, prevent the spread of infectious or noxious materials, and assure finished products which are free from disease-producing organisms. Rendering Establishment Operating Licenses shall be granted by the Health Authority only to those persons who demonstrate their compliance with this subsection.

(b) All operating licensees shall abide by and comply with the following specific requirements, upon which they shall be deemed to be in compliance with Subsection (a) above:

(1) All vehicles used in transporting dead animals and/or rendering raw materials to, or from, rendering establishments shall be leak-proof and shall be maintained at all times so that no nuisance is created by them.

(2) Collection vehicles shall be held to a minimum of brief stops while enroute to the establishment with dead animals and/or rendering raw materials.

(3) Collection vehicles shall be washed and sanitized at the end of each day's operations.

(4) Any truck bed that has been used for the transport of any dead animals and/or rendering raw materials shall be thoroughly washed and sanitized before use for transport of finished products.

(5) Any truck bed that has been used for the transport of any dead animals and/or rendering raw materials to a rendering establishment or of finished products from a rendering establishment shall be thoroughly sanitized with a bactericidal agent before use for transport of any product

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intended for human consumption. No truck bed shall ever be used for the transport of dead animals and/or rendering raw materials at the same time said truck bed or any part thereof (no matter how such part is sealed or separated from other portions of said truck bed) is being used to transport any product intended for human consumption.

(6) All dead animals and/or rendering raw materials received on the rendering establishment premises shall be placed in the rendering process immediately or shall be stored for a period not exceeding 48 hours in such a manner as to prevent a nuisance and/or malodorous condition.

(7) All cooking or other dehydration operations shall be accomplished in such a manner as will prevent survival of disease-producing organisms in the material processed.

(8) No raw or uncooked dead animals or rendering raw materials containing disease-producing organisms shall be sold or offered for sale to any person not licensed under this Act; nor shall any person licensed hereunder purchase a dead animal or animals from a dead animal hauler not licensed hereunder.

(9) Adequate and suitable means for treatment of cooking vapors shall be provided and operated in such a manner as to control odors.

(10) During operations the floors in processing areas shall be kept reasonably free from processing wastes, including blood, manure, scraps, grease, water, dirt, and litter. Such floors shall be thoroughly cleaned at the end of each day's operations.

(11) All cooked and/or finished materials shall be kept separate from all dead animals and/or rendering raw materials areas in such a manner as to prevent contamination.

(12) Hide storage facilities shall be closed and separate from all other areas.

(13) Such equipment and utensils shall be provided as are necessary for the rendering establishment to conduct its operations in a sanitary manner.

(14) All wastes shall be handled and disposed of in a manner which will prevent contamination of the water supply, processing equipment, packaging materials, and finished products. All liquid wastes shall receive such treatment as may be required by the Health Authority and shall be disposed of in a manner approved by such Authority.

(15) Adequate and conveniently located toilet facilities for employees shall be provided within the establishment. An adequate number of lavatory facilities, supplied with warm water under pressure and with soap or other detergent, shall be conveniently located within the establishment for the washing of hands by employees.

(16) A drinking water supply, approved by the Health Authority, shall be provided at convenient locations within the establishment for the use of employees.

(17) Persons who engage in rendering processes and operations shall wear washable garments and accessories, and shall conform to hygienic practices during all periods of such duties.

(18) The immediate premises of rendering establishments shall be kept in a clean, neat condition and shall be reasonably free from undue collection of refuse, waste materials, rodent infestation, insect-breeding places, standing pools of water, and other objectionable conditions.

(19) Rendering establishments shall be kept in good repair.

(20) Rodents, roaches, and other vermin shall be controlled.

(21) All steel drums or other containers in which dead animals and/or rendering raw materials are accumulated by the producer thereof at various collecting points for pick-up by dead animal haulers or rendering raw materials collectors shall remain on the premises at each such collecting point and shall not be replaced, exchanged, or returned to a rendering establishment. The producer of such materials shall maintain such drums and containers in a clean and sanitary condition, and shall

replace such drums and containers when necessary. Provided, however, that this Subparagraph (21) shall not apply where the producer of dead animals and/or rendering raw materials collects and accumulates such materials solely in rooms or areas which are separate and apart from all rooms and areas in which such producer receives, holds, slaughters, butchers, or otherwise processes or prepares any animal or animal part as food for human consumption.

(22) Every dead animal hauler shall keep the record of activities set forth in Section 16 below.

Related stations

Sec. 5. Any person or persons who operate or maintain a related station not as a part or subsidiary of the rendering establishment or establishments served thereby, and who are not employees of any such establishment, shall nevertheless be subject to the provisions and requirements of Section 4, and shall obtain from the Health Authority a Related Station Operating License.

Dead animal and rendering raw material haulers

Sec. 6. A dead animal and/or rendering raw material hauler, who operates separately and apart from and not as a part or subsidiary of the rendering establishment or establishments and/or the related station or stations served by him and who is not an employee of any such establishment or station, shall nevertheless be subject to the provisions and requirements of Section 4, and shall obtain from the Health Authority a Dead Animal Hauler Operating License and/or Rendering Raw Material Hauler Operating License.

Operating licenses

Sec. 7. (a) Application for an operating license shall be under oath, shall state what type of operations are contemplated (whether rendering establishment, related station, or dead animal and/or rendering raw material hauler), shall give the location from which the business is to be conducted, and shall include such relevant information as the Health Authority may require to determine the applicant's compliance with Section 4 of the Act.

(b) Upon filing of an application and payment of the fee required by this Act, the Health Authority shall investigate the facts, and if it shall find that the applicant's operations or proposed operations are within the requirements of Section 4, it shall grant such application and issue to the applicant an operating license which shall be his license and authority to carry on a rendering business or a related station or to move dead animals or rendering raw materials, as the case may be, under the provisions of this Act.

(c) If the Health Authority shall not so find, it shall deny the application and notify the applicant in writing of the particular or particulars in which he fails to meet the requirements of Section 4. The applicant shall have 90 days in which to correct or remedy such shortcomings, after which the Health Authority shall again investigate the facts. If the Health Authority shall then determine that the applicant's operations do not meet the requirements of Section 4, it shall again deny the application and shall promptly notify the applicant in writing of the particular or particulars in which he fails to meet said requirements.

(d) An application twice denied by the Health Authority under Section 7(c) next above shall be deemed cancelled, and no license shall issue thereon; provided, however, that an applicant shall, upon request within 30 days after the second denial, be entitled to a hearing on such application before the Commissioner of Health within 30 days after the date of such request.

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(e) The Health Authority shall grant or deny each application within 30 days from its filing with the required fees, or from the expiration of the period in which to correct any shortcomings, if any, or from the hearing thereon, if any, unless the period is extended by written agreement between the applicant and the Health Authority.

Construction and general layout requirements

Sec. 8. (a) All construction of or within rendering establishments which is subject to this Act shall be such as will provide for sanitary operations and environmental conditions, prevent the spread of disease-producing organisms and infectious or noxious materials, and prevent the development of malodorous conditions or a nuisance. Rendering Establishment Construction Permits (when and as required by this Act) shall be granted by the Health Authority only to those persons who demonstrate their compliance with this subsection.

(b) Any new construction of a rendering establishment or involving the addition to or replacement in an existing rendering establishment of one or more of the component parts set forth below, shall be in compliance as to such new construction with the following specific requirements (or so many thereof as may apply), and compliance therewith shall be deemed to be compliance with Subsection (a) above:

(1) Rendering establishments shall provide sufficient space for the conduct in a sanitary manner of rendering operations and processes carried on therein; for the installation of necessary utility equipment; and for the installation of processing equipment in such a manner that such equipment is easily accessible for cleaning.

(2) Rendering establishments shall be constructed so as to be easily maintained in a sanitary condition and to prevent harborage areas for rodents, roaches, and other vermin.

(3) All floors in rendering establishments shall be constructed of good quality concrete, metal, or other equally impervious and easily cleanable material, and shall be smooth, graded to drain, and provided with an adequate number of trapped drains or other waste-disposal facilities approved by the Health Authority. Gutters, if used to conduct such drainage, shall be so constructed and located as to be easily cleaned and maintained in a sanitary condition.

(4) Walls, partitions, and posts in all rooms and areas of rendering establishments shall be finished with smooth, washable surfaces of concrete, metal, or other equally impervious and easily cleanable material.

(5) Ceilings, or the underside of the roof if used as a ceiling, and exposed overhead structures in all rooms or areas of rendering establishments shall have easily cleanable surfaces.

(6) All outer walls and roofs and openings therein shall be protected against the entrance of insects, rodents, and other vermin; and interior walls, partitions, posts, ceilings, and other overhead structures shall contain no crevices or openings which may provide harborage for rodents or insects.

(7) Sufficient ventilation shall be provided in rendering establishments to dispel disagreeable odors, condensate, and vapor. For this purpose, ventilating equipment such as individual fans, vents, and hoods shall be provided where necessary. Any mechanical ventilating equipment shall be so located and controlled as to prevent finished products or processing equipment from being contaminated from nearby or preceding operations or from other sources.

(8) Employee toilet rooms and dressing rooms shall be adequately vented to the outside air; and all space heaters, gas stoves, water heaters, and any other equipment giving off noxious odors, fumes, or vapors shall be vented to the outside air.

(9) All exhaust outlets from mechanical ventilation devices shall be conducted to the outside air and shall be so arranged, placed, and extended as to avoid creating a nuisance to adjacent areas.

(10) The water supply of each rendering establishment shall be from a public water supply acceptable to the Health Authority; or shall be from a private source complying with the requirements of the Health Authority, located, constructed, and, if necessary, treated so as to provide water of a safe, sanitary quality.

(11) There shall be no physical connection between the plant's water supply and any unsafe or questionable supply. The use of water from any such unsafe or questionable supply shall be permitted only for limited purposes such as fire control or ammonia condensers. In all cases supply lines for unsafe or questionable water shall be clearly identified.

(12) Hot and cold water shall be conveniently accessible to all parts of the establishment. Such water shall be under ample pressure and shall be available through such outlets and in such quantities as may be necessary to meet effectively the needs of the establishment at all times. The hot water system shall have sufficient capacity to furnish ample water with a temperature of at least 180 degrees F. during all periods of processing and cleanup operations.

(13) The plumbing system in each rendering establishment shall be installed in compliance with the state law and applicable local plumbing ordinances; and shall be so designed, installed, and maintained as to protect the plant's water supply from contamination through cross-connections, back siphonage, back-flow leakage, or condensation. The plumbing system shall readily carry away all liquid wastes.

(14) Where necessary to prevent discharge into the drainage system of solid wastes likely to clog the drainage system, the liquid wastes containing such solid materials shall be passed through a separator or indirect-waste receptor which shall effectively retain such solids prior to discharge into the drainage system.

(15) Rendering establishments shall provide toilet and dressing room facilities for employees of each sex. The design, construction, and equipment of such rooms shall require approval of the Health Authority. Provided, however, that this requirement shall have no application to toilet and/or dressing facilities contained in the managerial office area of a rendering establishment.

(16) A paved area, adequate in size and provided with adequate drains leading to a sanitary sewer system, shall be provided for the washing and sanitizing of trucks.

(c) The provisions of this section shall not apply to rendering establishments in existence and doing business as of the effective date of this Act; provided, however, that should an existing rendering establishment enter upon a program whereby its existing facilities are improved through new construction by the addition thereto or replacement of one or more of the component parts set forth in Subsection (b) above, then such new construction involving an addition or replacement of a Subsection (b) component (but only such new construction and not any other new construction or any already existing Subsection (b) component) shall be in compliance with this section, and a construction permit shall be obtained from the Health Authority (when and as required by this Act).

(d) Nothing contained herein shall require a construction permit from the Health Authority for construction of a new rendering establishment or new construction involving the addition or replacement in an existing rendering establishment of one or more Section 8(b) components where the cost to the rendering establishment of all Section 8(b) components involved and included in the new rendering establishment or the new construction to an existing rendering establishment is less than \$5,000; provided, however, that any and all such construction, notwithstanding

the fact that no construction permit is required therefor, shall be undertaken and carried out in compliance with the requirements of Section 8

Related station construction

Sec. 9. The construction of a new related station, or any new construction involving the addition to or replacement in an existing related station of one or more of the component parts set forth in Section 8(b) above, not undertaken in connection with and as a part of the construction of or new construction involving an addition of a Section 8(b) component or components to a rendering establishment for which a Rendering Establishment Construction Permit including the related station has been obtained, shall be subject to the provisions and requirements of Section 8, and shall be undertaken and carried out only in compliance with the requirements of Section 8 and after obtaining from the Health Authority (when and as required by this Act) a Related Station Construction Permit.

Construction permits

Sec. 10. (a) Application for a construction permit shall be under oath, shall state what type of construction is contemplated (whether new rendering establishment or new construction involving the addition or replacement of a Section 8(b) component or components; rendering establishment or related station) shall specify when the proposed construction is to take place, and shall include such relevant information as the Health Authority may require to determine the applicant's compliance with Section 8 of this Act.

(b) Upon filing of an application and payment of the fees required by this Act, the Health Authority shall investigate the facts, and if it shall find that the applicant's proposed construction is within the requirements of Section 8, it shall grant such application and issue to the applicant a construction permit which shall be his permit and authority to carry forward with and complete the proposed construction.

(c) If the Health Authority shall not so find, it shall deny the application and notify the applicant in writing of the particular or particulars in which he fails to meet the requirements of Section 8. The applicant shall have 90 days in which to correct or remedy such shortcomings, at the end of which the Health Authority shall again investigate the facts. If the Health Authority shall then determine that the applicant's operations do not meet the requirements of Section 8, it shall again deny the application and shall promptly notify the applicant in writing of the particulars in which he fails to meet said requirements.

(d) An application twice denied by the Health Authority under Section 10(c) next above shall be deemed cancelled, and no license shall issue thereon; provided, however, that an applicant shall, upon request within 30 days after the second denial, be entitled to a hearing on such application before the Commissioner of Health within 30 days after the date of such request.

(e) The Health Authority shall grant or deny each application within 30 days from its filing with the required fees, or from the expiration of the period in which to correct any shortcomings, if any, or from the hearing thereon, if any, unless the period is extended by written agreement between the applicant and the Health Authority.

Contents and location of licenses and permits

Sec. 11. Each operating license and construction permit shall state the address of the rendering establishment, related station, or in the case of a Dead Animal and/or Rendering Raw Material Hauler Operating License, the dead animal and/or rendering raw material hauler, and the name of the licensee or permittee. The license or permit shall be dis-

played at the place of business named in the license or the place of construction named in the permit. The license or permit shall not be transferable or assignable except upon approval by the Health Authority.

License and permit fees

Sec. 12. The following fees shall accompany each application for an operating license or a construction permit:

(a) Operating Licenses:

(1) Rendering Establishment Operating License: \$100;

(2) Related Station Operating License: \$75;

(3) Dead Animal Hauler Operating License: \$50;

(4) Rendering Raw Material Hauler Operating License: \$50;

(5) Dead Animal Hauler Operating License and Rendering Raw Material Hauler Operating License combined: \$75.

(b) Construction permits: Rendering Establishment and Related Station Construction Permit fees, both for construction of new rendering establishments or new related stations and for new construction involving an addition or replacement of a Section 8(b) component in an existing rendering establishment or related station, shall be based upon the dollar value (at the cost to the rendering establishment or related station) of the Section 8(b) components included in the new rendering establishment or new related station or the new construction to an existing rendering establishment or related station, according to the following schedule:

Cost of Section 8(b) components	Fee
(1) Less than \$5,000	No Permit Required
(2) More than \$5,000 but less than \$10,000	\$50
(3) More than \$10,000 but less than \$25,000	100
(4) More than \$25,000 but less than \$50,000	250
(5) More than \$50,000	500

(c) All fees required hereunder shall be payable to the Department of Health of the State of Texas, and shall be deposited in the State Treasury in a special account to the credit of that department and used for the purpose of the processing and investigation of applications hereunder and the administration of this Act; provided, however, that if an application is withdrawn within five calendar days from the day of its receipt by the Health Authority, that authority shall refund in full the application fee which accompanied it.

Annual renewal

Sec. 13. Each license and permit shall remain in full force and effect until relinquished, suspended, revoked, or expired. All operating licenses shall be issued and granted for one year only, and shall be renewed annually, if desired, by the licensee. The annual renewal fee shall be the same as the original application fee set forth in Section 12 above. Every licensee desiring to renew his operating license shall, on or before each January 1st, pay the Health Authority the required fee. Upon receipt of said fee, the license shall be automatically renewed for the ensuing calendar year. If the annual renewal fee remains unpaid 15 days after written notice of delinquency has been given to the licensee by the Health Authority, the license shall, unless good cause for such failure to renew is shown, thereupon expire, and thereafter shall be renewed only upon a new application pursuant to the provisions of this Act.

For Annotations and Historical Notes, see V.A.T.S.

Revocation of operating licenses or construction permits

Sec. 14. (a) The Commissioner of Health may, after notice and hearing, suspend or revoke any operating license or construction permit if it finds:

(1) that the licensee, either knowingly or without the exercise of due care to prevent the same, has violated any provision of this Act or any regulation or order lawfully made pursuant to and within the authority of this Act; or

(2) that any fact or condition exists which, had it existed or been known to exist at the time of the original application for such license or permit, would have justified the Health Authority in refusing to issue such license or permit.

Upon observing any such violation of this Act, the Commissioner of Health shall call the violation to the attention of the licensee or permittee and allow him a reasonable time to correct the violation; upon the failure of the licensee or permittee to do so, the Health Authority shall give notice of a hearing to suspend or revoke the license or permit, as hereinafter provided.

(b) The hearing shall be held upon 30 days' notice in writing setting forth the time and place thereof and a concise statement of the facts alleged to sustain the suspension or revocation. The hearing shall be full, fair, and public. Such suspension or revocation and its effective date shall be set forth in a written order accompanied by findings of fact, and a copy thereof shall be forthwith delivered to the licensee, or permittee. Such order, findings, and the evidence considered by the Commissioner of Health shall be filed with the public records of the Health Authority.

(c) The Commissioner of Health may reinstate a suspended license or permit or issue a new license or permit to a person whose license or permit has been revoked if no fact or condition exists which would have justified the Health Authority in refusing originally to issue such license or permit under this Act.

Inspection required

Sec. 15. At least once each year and at such other times as the Health Authority shall deem necessary, the Health Authority shall make an examination of the place of business of each operating licensee and the place of construction, so long as it is continuing, of each construction permittee, and shall inquire into and examine the premises, equipment, and operations of such licensee or permittee insofar as they pertain to the matters regulated by this Act. In the course of such examination, the Health Authority shall have free access to the place of business of each operating licensee and the place of construction of each construction permittee. Any licensee or permittee who shall unreasonably fail or refuse to cooperate with and assist the Health Authority in its examination of the licensee or permittee shall thereby be deemed in violation of this Act, and such failure or refusal shall constitute grounds for the suspension or revocation of such license or permit.

Dead animal records

Sec. 16. (a) Each licensed rendering establishment, related station (under Section 5 above), and dead animal hauler (under Section 6 above) shall provide itself with a Dead Animal Log of a type and size prescribed by the Health Authority. Each such log shall contain in the front thereof the name of the licensed rendering establishment, related station, or dead animal hauler who will use the log. When a licensed rendering establishment, related station, or dead animal hauler receives a dead ani-

mal or animals, it shall for each such animal immediately enter upon the Dead Animal Log the following information:

- (1) date and time of pick-up of animal;
- (2) name of driver of collection vehicle;
- (3) description of the dead animal;
- (4) location of the dead animal, including county; and
- (5) the owner of the dead animal, if known.

A record of the general route followed in making such collection shall likewise be kept, either in the log or in an appendix thereto.

(b) The Dead Animal Log maintained by each licensed rendering establishment, related station, or dead animal hauler shall be open for inspection by the Health Authority, or by persons with written authorization from the Health Authority, at all reasonable times. Repeated or willful failure or refusal to produce such log for, or to permit inspection thereof by, persons properly authorized to inspect such log shall constitute grounds for the revocation of such person's operating license.

Regulations

Sec. 17. (a) The Commissioner of Health may make regulations necessary for the enforcement of this Act and consistent with all its provisions. Each such regulation shall include reference only to the section or subsection to which it applies. Before making a regulation, the Commissioner of Health shall give every licensee and current permittee at least 30 days' written notice of a public hearing, stating the time and place thereof and the terms or substance of the proposed regulation. At the hearing, any licensee or current permittee may be heard and may introduce evidence, data, or arguments or place the same on file. No regulation shall be promulgated except after consideration of all relevant matter presented, and every such regulation shall be in written form, stating its effective date and the date of promulgation. Each regulation shall be entered in a permanent book which shall be a public record and be kept in the office of the Health Authority. A copy of every regulation shall be mailed to each licensee and current permittee and no regulation shall become effective until the expiration of at least 30 days after such mailing.

(b) On application of any person and payment of the cost thereof, the Health Authority shall furnish, under its seal and signed by an authorized representative, a certificate of good standing, and a certified copy of any license, permit, regulation, or order.

(c) Any transcript of any hearing held by the Commissioner of Health or findings by the Commissioner of Health or the Health Authority under this Act shall be a public record and open to inspection at all reasonable times.

Hearings and review

Sec. 18. (a) At all hearings before the Commissioner of Health under the provisions of this Act, parties in interest shall have the right to appear in person and by counsel, and to present oral and written evidence. If requested by a party in interest, a record shall be made of all evidence offered by such party and all other evidence considered by the Commissioner of Health.

(b) Any party in interest aggrieved by any order, ruling, or decision of the Commissioner of Health may, within 30 days after the date of entry, file in the District Court of Travis County, Texas, a petition against the Health Authority officially as defendant, alleging therein in brief detail the order, ruling, or decision complained of and praying for a reversal or modification thereof. The Health Authority shall within 30 days after the service upon it of such petition, certify to said district court the rec-

ord of the proceedings to which the petition refers, or such portion thereof as may be required by the petitioner. The cost of preparing and certifying such record shall be paid to the Health Authority by the petitioner and taxed as a part of the costs of the case. Upon the filing of an answer by the Health Authority, the case before the district court shall be at issue, without further pleadings, and upon application of either party shall be advanced and heard without further delay upon a trial de novo as that term is used in appealing from justice of the peace court to county courts.

(c) Upon a showing of cause therefor by any party in interest, the Commissioner of Health or the court may enter an order staying, pending appeal, the effect of an order of the Commissioner of Health from which the party in interest desires to appeal.

Penalty for violations

Sec. 19. (a) Any person who continues operations or construction which is subject to regulation under this Act without obtaining and keeping in force a valid operating license or construction permit, or who willfully falsifies any of the records required by this Act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$50 nor more than \$500, or by imprisonment in the county jail for a period of not more than 30 days, or by both such fine and imprisonment. Each day of such violation shall be a separate offense.

(b) In addition to all actions provided for in this Act and without prejudice thereto, the Health Authority may bring an injunction suit in any district court of this state having jurisdiction and venue to compel compliance with any provision of this Act or restrain any actual or threatened violation thereof. In any such action an order or judgment may be entered awarding such preliminary or final injunction as may be deemed proper.

Powers of municipalities, Texas Commercial Feed Control Act of 1957, pollution control laws and regulations; unaffected

Sec. 20. Nothing in this Act shall be construed as precluding any municipality from passing any ordinance regulating the rendering business within its boundaries, or as affecting or nullifying any existing municipal law or ordinance regulating such; provided, however, that all rendering establishments, related stations, and dead animal and/or rendering raw material haulers subject to regulation under this Act shall at all times comply with and adhere to the provisions of this Act, whether so required by municipal ordinance or not. Likewise, nothing in this Act shall be construed as affecting, amending or repealing the "Texas Commercial Feed Control Act of 1957," Chapter 23, Acts of the 55th Legislature, Regular Session, 1957¹, or as repealing or affecting any law of this state or rule or regulation of any public regulatory body having as its subject the control of water or air pollution.

Acts 1969, 61st Leg., p. 184, ch. 78, eff. Sept. 1, 1969.

¹ Art. 3881e.

Title of Act:

An Act to promote the health, safety, and welfare of the people by regulating the business of transporting, processing, or disposing of rendering raw material, and the bodies of dead animals, poultry, or any

parts thereof, by burying, burning, cooking, or processing; to provide penalties for violations; and declaring an emergency. Acts 1969, 61st Leg., p. 184, ch. 78.

Art. 4477—7. Solid Waste Disposal Act

Short title; policy

Section 1. This Act may be cited as the Solid Waste Disposal Act. It is the policy of the state and the purpose of this Act to safeguard the health, welfare, and physical property of the people through controlling the collection, handling, storage, and disposal of solid wastes.

Definitions

Sec. 2. As used in this Act, unless the context requires a different definition:

(1) "person" means individual, corporation, organization, government or governmental subdivision or agency, business trust, partnership, association, or any other legal entity;

(2) "department" means the Texas State Department of Health;

(3) "board" means the Texas Water Quality Board;

(4) "local government" means a county; an incorporated city or town; or a political subdivision exercising the authority granted under Section 6 of this Act;

(5) "solid waste" means all putrescible and nonputrescible discarded or unwanted solid materials, including municipal solid waste and industrial solid waste; as used in this Act, the term "solid waste" does not include, and this Act does not apply to: (i) soil, dirt, rock, sand and other natural and man-made inert solid materials used to fill land if the object of the fill is to make the land suitable for the construction of surface improvements; or (ii) waste materials which result from activities associated with the exploration, development, or production of oil or gas and are subject to control by the Texas Railroad Commission;

(6) "municipal solid waste" means solid waste resulting from or incidental to municipal, community, trade, business and recreational activities, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and all other solid waste other than industrial solid waste.

(7) "industrial solid waste" means solid waste resulting from or incidental to any process of industry or manufacturing, or mining or agricultural operations, including discarded or unwanted solid materials suspended or transported in liquids, and discarded or unwanted materials in liquid or semi-liquid form; the term "industrial solid waste" does not include waste materials, the discharge of which is subject to the Texas Water Quality Act;

(8) "garbage" means solid waste consisting of putrescible animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including waste materials from markets, storage facilities, handling, and sale of produce and other food products;

(9) "rubbish" means nonputrescible solid waste (excluding ashes), consisting of both combustible and noncombustible waste materials; combustible rubbish includes paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; noncombustible rubbish includes glass, crockery, tin cans, aluminum cans, metal furniture, and like materials which will not burn at ordinary incinerator temperatures (1600° F to 1800° F);

(10) "sanitary landfill" means a controlled area of land upon which solid waste is disposed of in accordance with standards, regulations or orders established by the department or the board;

(11) "incineration" means the destruction of solid waste by burning in a furnace used for the volume reduction of solid waste (an incinerator); and

(12) "composting" means the controlled biological decomposition of organic solid waste under aerobic conditions.

For Annotations and Historical Notes, see V.A.T.S.

State solid waste agency; designations; duties

Sec. 3. (a) The department is hereby designated the state solid waste agency with respect to the collection, handling, storage, and disposal of municipal solid waste, and shall be the coordinating agency for all municipal solid waste activities. The department shall be guided by the State Board of Health in its activities relating to municipal solid waste. The department shall seek the accomplishment of the purposes of this Act through the control of all aspects of municipal solid waste collection, handling, storage, and disposal by all practical and economically feasible methods consistent with the powers and duties given the department under this Act and other existing legislation. The department has the powers and duties specifically prescribed in this Act and all other powers necessary or convenient to carry out its responsibilities. The department shall consult with the board with respect to the water pollution control and water quality aspects, and with the Texas Air Control Board with respect to the air pollution control and ambient air quality aspects, of the matters placed under the jurisdiction of the department by this Act.

(b) The board is hereby designated the state solid waste agency with respect to the collection, handling, storage and disposal of industrial solid waste, and shall be the coordinating agency for all industrial solid waste activities. The board shall seek the accomplishment of the purposes of this Act through the control of all aspects of industrial solid waste collection, handling, storage and disposal by all practical and economically feasible methods consistent with the powers and duties given it under this Act and other existing legislation. The board has the powers and duties specifically prescribed in this Act and all other powers necessary or convenient to carry out its responsibilities. The board shall consult with the department with respect to the public health aspects, and with the Texas Air Control Board with respect to the air pollution control and ambient air quality aspects, of the matters placed under the jurisdiction of the board by this Act.

(c) Where both municipal solid waste and industrial solid waste are involved in any activity of collecting, handling, storing or disposing of solid waste, the department is the state agency responsible and has jurisdiction over the activity; and, with respect to that activity, the department may exercise all of the powers, duties and functions vested in the department by this Act.

State agencies; authority and powers; permits

Sec. 4. (a) As used in this section, the term "state agency" refers to either the department or the board, and "state agencies" means both the department and the board.

(b) The department is authorized to develop a state municipal solid waste plan, and the board is authorized to develop a state industrial solid waste plan. The state agencies shall coordinate the solid waste plans developed. Before a state agency adopts its solid waste plan or makes any significant amendments to the plan, the Texas Air Control Board shall have the opportunity to comment and make recommendations on the proposed plan or amendments, and shall be given such reasonable time to do so as the state agency may specify.

(c) Each state agency may adopt and promulgate rules and regulations consistent with the general intent and purposes of this Act, and establish minimum standards of operation for all aspects of the management and control of the solid waste over which it has jurisdiction under this Act, including but not limited to collection, handling, and storage, and disposal by incineration, sanitary landfill, composting, or other method.

(d) Each state agency is authorized to inspect and approve sites used or proposed to be used for the disposal of the solid waste over which it has jurisdiction.

(e) Except as provided in Subsection (f) of this section with respect to certain industrial solid wastes, each state agency has the power to require and issue permits authorizing and governing the operation and maintenance of sites used for the disposal of solid waste. This power may be exercised by a state agency only with respect to the solid waste over which it has jurisdiction under this Act. If this power is exercised by a state agency, that state agency shall prescribe the form of and reasonable requirements for the permit application and the procedures to be followed in processing the application, to the extent not otherwise provided for in this subsection. The following additional provisions apply if a state agency exercises the power authorized in this subsection:

(1) The state agency to whom the permit application is submitted shall mail a copy of the application or a summary of its contents to the Texas Air Control Board, to the other state agency, to the mayor and health authorities of any city or town within whose extraterritorial jurisdiction the solid waste disposal site is located, and to the county judge and health authorities of the county in which the site is located. The governmental entities to whom the information is mailed shall have a reasonable time, as prescribed by the state agency to whom the application was originally submitted, to present comments and recommendations on the permit application before that state agency acts on the application.

(2) A separate permit shall be issued for each site. The permit shall include the names and addresses of the person who owns the land where the waste disposal site is located and the person who is or will be the operator or person in charge of the site; a legal description of the land on which the site is located; and the terms and conditions on which the permit is issued, including the duration of the permit.

(3) The state agency may extend or renew any permit it issues in accordance with reasonable procedures prescribed by the state agency. The procedures prescribed in Paragraph (1) of this Subsection (e) for permit applications apply also to applications to extend or renew a permit.

(4) If a permit is issued, renewed, or extended by a state agency in accordance with this Subsection (e), the owner or operator of the site does not need to obtain a license for the same site from a county, or from a political subdivision exercising the authority granted in Section 6 of this Act.

(5) A permit is issued in personam and does not attach to the realty to which it relates. A permit may not be transferred without prior notice to and prior approval by the state agency which issued it.

(6) The state agency has the authority, for good cause, after hearing with notice to the permittee and to the governmental entities named in Paragraph (1) of this Subsection (e), to revoke or amend any permit it issues for reasons pertaining to public health, air or water pollution, land use, or violation of this Act or of any other applicable laws or regulations controlling the disposal of solid waste.

(f) This subsection applies to the collection, handling, storage, and disposal of industrial solid waste which is disposed of within the property boundaries of a tract of land owned and controlled by the owners or operators of the particular industrial plant, manufacturing plant, mining operation, or agricultural operation from which the waste results or is produced, and which tract of land is within 50 miles from the plant or operation which is the source of the industrial solid waste. This subsection does not apply if the waste is collected, handled, stored, or disposed of with solid waste from any other source or sources. The board may not require a permit under this Act for the disposal of any solid waste to which this subsection applies, but this does not change or limit any authority the board may have with respect to the requirement of permits, the control of water quality, or otherwise, under the Texas Water

For Annotations and Historical Notes, see V.A.T.S.

Quality Act. However, the board may adopt rules and regulations as provided under Subsection (c) of this section to govern and control the collection, handling, storage, and disposal of the industrial solid waste to which this subsection applies so as to protect the property of others, public property and rights-of-way, groundwater, and other rights requiring protection. The board may require a person who disposes or plans to dispose of industrial solid waste under the authority of this subsection to submit to the board such information as may be reasonably required to enable the board, or the executive director of the board when so authorized by the board, to determine whether in the judgment of the board or the executive director the waste disposal activity is one to which this subsection applies.

(g) The state agencies may, either individually or jointly:

(1) provide educational, advisory, and technical services to other agencies of the state, regional planning agencies, local governments, special districts, institutions, and individuals with respect to solid waste management and control, including collection, storage, handling and disposal;

(2) assist other agencies of the state, regional planning agencies, local governments, special districts, and institutions in acquiring federal grants for the development of solid waste facilities and management programs, and for research to improve the state of the art; and

(3) accept funds from the federal government for purposes relating to solid waste management, and to expend money received from the federal government for those purposes in the manner prescribed by law and in accordance with such agreements as may be necessary and appropriate between the federal government and each state agency.

If a state agency engages in any of the programs and activities named in this subsection on an individual basis, it may do so only as the participation by that state agency is related to the management and control of the solid waste over which it has jurisdiction. When the state agencies do not participate jointly, they shall coordinate on any efforts undertaken by either one individually so that similar programs and activities of the state agencies will be compatible.

(h) The state agencies are authorized to administer and expend state funds provided to them by legislative appropriations, or otherwise, for the purpose of making grants to local governments for solid waste planning, the installation of solid waste facilities, and the administration of solid waste programs. The grants made under the terms of this Act shall be distributed in a manner determined by the state agency to whom the appropriation is made. Any financial assistance granted by the state through either of the state agencies to any local government under the terms of this Act must, at a minimum, be equally matched by local government funds.

County powers

Sec. 5. (a) Every county has the solid waste management powers which are enumerated in this Section 5. However, the exercise of the licensing authority and other powers granted to counties by this Act does not preclude the department or the board from exercising any of the powers vested in the department or the board under other provisions of this Act, including specifically the provisions authorizing the department and the board to issue permits for the operation and maintenance of sites for the disposal of solid waste. The powers specified in Subsections (d), (e), and (g) of this section may not be exercised by a county with respect to the industrial solid waste disposal practices and areas to which Subsection (f) of Section 4 of this Act applies. The department or the board, by specific action or directive, may supersede any authority or power granted to or exercised by a county under this Act, but only

with respect to those matters which are, under this Act, within the jurisdiction of the state agency acting.

(b) A county is authorized to appropriate and expend money from its general revenues for the collection, handling, storage and disposal of solid waste and for administering a solid waste program; and to charge reasonable fees for the services.

(c) A county may develop county solid waste plans and coordinate those plans with the plans of local governments, regional planning agencies, other governmental entities, the department, and the board.

(d) Except as provided in Subsection (a) of this section, a county is empowered to require and issue licenses authorizing and governing the operation and maintenance of sites used for the disposal of solid waste in areas not within the territorial limits of incorporated cities and towns. If this power is exercised, the county shall prescribe the form of and reasonable requirements for the license application and the procedures to be followed in processing the application, to the extent not otherwise provided for in this subsection. The following additional provisions apply if a county exercises the power authorized in this Subsection (d):

(1) The county shall mail a copy of the license application or a summary of its contents to the department, the board, and the Texas Air Control Board, and to the mayor and health authorities of any city within whose extraterritorial jurisdiction the solid waste disposal site is located. The governmental entities to whom the information is mailed shall have a reasonable time, as prescribed by the county, to submit comments and recommendations on the license application before the county acts on the application.

(2) A separate license shall be issued for each site. The license shall include the names and addresses of the person who owns the land where the waste disposal site is located and the person who is or will be the operator or person in charge of the site; a legal description of the land on which the site is located; and the terms and conditions on which the license is issued, including the duration of the license. The county is authorized to charge a fee for a license of not to exceed \$100.00, as set by the commissioners court of the county. Receipts from the fees shall be placed in the general revenue fund of the county.

(3) The county may extend or renew any license it issues in accordance with reasonable procedures prescribed by the county. The procedures prescribed in Paragraph (1) of this Subsection (d) apply also to applications to extend or renew a license.

(4) No license for the use of a site for disposal of solid waste may be issued, renewed, or extended without the prior approval, as appropriate, of the department or the board, or the executive director of the board when so authorized by the board. If a license is issued, renewed, or extended by a county in accordance with this Subsection (d), the owner or operator of the site does not need to obtain a permit from the department or the board for the same site.

(5) A license is issued in personam and does not attach to the realty to which it relates. A license may not be transferred without prior notice to and prior approval by the county which issued it.

(6) The county has the authority, for good cause, after hearing with notice to the licensee and to the governmental entities named in Paragraph (1) of this Subsection (d), to revoke or amend any license it issues for reasons pertaining to public health, air or water pollution, land use, or violation of this Act or of any other applicable laws or regulations controlling the disposal of solid waste. For like reasons, the department and the board each may, for good cause, after hearing with notice to the licensee, the county which issued the license, and the other governmental entities named in Paragraph (1) of this Subsection (d), revoke or amend any license issued by a county, but only as to those sites which fall, under the terms of this Act, within the jurisdiction of the state agency acting.

For Annotations and Historical Notes, see V.A.T.S.

(e) Subject to the limitation specified in Subsection (a) of this section, a county may designate land areas not within the territorial limits of incorporated cities and towns as suitable for use as solid waste disposal sites. The county shall base these designations on the principles of public health, safety, and welfare, including proper land use, compliance with state statutes, the reasonable projections of growth and development for any city or town within whose extraterritorial jurisdiction the land area may be located, and any other pertinent considerations.

(f) A county is authorized to enforce the requirements of this Act and the rules and regulations promulgated by the department and the board as related to the handling of solid waste.

(g) Subject to the limitation prescribed in Subsection (a) of this section, a county, acting through its commissioners court, may make regulations for the areas of the county not within the territorial limits of incorporated cities and towns to provide for governing and controlling solid waste collection, handling, storage and disposal. The regulations shall not authorize any activity, method of operation or procedure which is prohibited by this Act or by the rules and regulations of the department or the board. The county shall not, in its regulations, under the licensing power granted in this Act, or otherwise, prohibit the use of a site within the county for the disposal of solid waste on the basis that the solid waste originates outside that county, or impose any unreasonable requirements on the disposal of such solid waste in the county not warranted by the circumstances. The county may institute legal proceedings to enforce its regulations.

(h) A county may enter into cooperative agreements with local governments and other governmental entities for the purpose of the joint operation of solid waste collection, handling, storage and disposal facilities, and to charge reasonable fees for the services.

Political subdivisions with jurisdiction in two or more counties

Sec. 6. This section applies to a political subdivision of the state which has jurisdiction over two or more counties or parts of two or more counties, and which has been granted the power by the Legislature to regulate solid waste handling or disposal practices or activities within its jurisdiction. The governing body of such a political subdivision may, by formal resolution, assume for the political subdivision the exclusive authority to exercise, within the area subject to its jurisdiction, the powers granted in this Act to a county, to the exclusion of the exercise of the same powers by the counties otherwise having jurisdiction over the area. In the exercise of these powers the political subdivision is subject to the same duties, limitations and restrictions applicable to counties under this Act. When a political subdivision assumes this authority, it shall also serve as the coordinator of solid waste handling and disposal practices and activities for all cities, counties and other governmental entities within its jurisdiction which have solid waste disposal regulatory powers or engage in solid waste handling or disposal practices or activities. Once a political subdivision assumes the authority granted in this section, it is empowered to and shall exercise the authority so long as the resolution of the political subdivision remains in effect.

Right of entry; inspections

Sec. 7. The authorized agents or employees of the department, the board, and local governments have the right to enter at all reasonable times in or upon any property, whether public or private, within the governmental entity's jurisdiction, including in the case of an incorporated city or town its extraterritorial jurisdiction, for the purpose of inspecting and investigating conditions relating to solid waste management and control. Agents and employees shall not enter private property having management in residence without notifying the management, or the

person in charge at the time, of their presence and exhibiting proper credentials. The agents and employees shall observe the rules and regulations of the establishment being inspected concerning safety, internal security, and fire protection.

Prohibited acts; violations; penalties; injunction

Sec. 8. (a) No person may cause, suffer, allow or permit the collection, storage, handling or disposal of solid waste, or the use or operation of a site for the disposal of solid waste, in violation of this Act or of the rules, regulations, permits, licenses or other orders of the department or the board, or a county or a political subdivision exercising the authority granted in Section 6 of this Act within whose jurisdiction the violation occurs.

(b) Any person who violates any provision of this Act or of any rule, regulation, permit, license, or other order of the department or the board, or a county or a political subdivision exercising the authority granted in Section 6 of this Act within whose jurisdiction the violation occurs, is subject to a civil penalty of not less than \$50.00 nor more than \$1,000.00 for each act of violation and for each day of violation, as the court may deem proper, to be recovered in the manner provided in this Section 8.

(c) Whenever it appears that a person has violated, or is violating or threatening to violate, any provision of this Act, or of any rule, regulation, permit, or other order of the department or the board, then the department or the board, or the executive director of the board when so authorized by the board, may cause a civil suit to be instituted in a district court for injunctive relief to restrain the person from continuing the violation or threat of violation, or for the assessment and recovery of a civil penalty of not less than \$50.00 nor more than \$1,000.00 for each act of violation and for each day of violation, as the court may deem proper, or for both injunctive relief and civil penalty. Upon application for injunctive relief and a finding that a person is violating or threatening to violate any provision of this Act or any rule, regulation, permit, or other order of the department or the board, the district court shall grant appropriate injunctive relief. At the request of the department or the board, or the executive director of the board when so authorized by the board, the attorney general shall institute and conduct a suit in the name of the State of Texas for injunctive relief or to recover the civil penalty, or for both injunctive relief and penalty, as authorized in this subsection.

(d) Whenever it appears that a violation or threat of violation of any provision of this Act, or of any rule, regulation, permit, license, or other order of the department, the board, a county, or a political subdivision exercising the authority granted in Section 6 of this Act, has occurred or is occurring within the jurisdiction of that county or political subdivision, the county or political subdivision, in the same manner as the board and the department, may cause a civil suit to be instituted in a district court through its own attorney for the injunctive relief or civil penalties, or both, as authorized in Subsection (c) of this section, against the person who committed, is committing, or is threatening to commit, the violation.

(e) Whenever it appears that a violation or threat of violation of any provision of this Act, or of any rule, regulation, permit, license, or other order of the department, the board, a county, or a political subdivision exercising the authority granted in Section 6 of this Act, has occurred or is occurring within the area of the extraterritorial jurisdiction of an incorporated city or town, or is causing or will cause injury to or an adverse effect on the health, welfare or physical property of the city or town or its inhabitants, then the city or town, in the same manner as the board and the department, may cause a civil suit to be instituted in a district court through its own attorney for the injunctive relief or civil penalties, or both, as authorized in Subsection (c) of this section, against the person who committed, is committing, or is threatening to commit, the violation.

For Annotations and Historical Notes, see V.A.T.S.

(f) A suit for injunctive relief or for recovery of a civil penalty, or for both injunctive relief and penalty, may be brought either in the county where the defendant resides or in the county where the violation or threat of violation occurs. In any suit brought to enjoin a violation or threat of violation of this Act or of any rule, regulation, permit, license or other order of the board, the department, a county, or a political subdivision exercising the authority granted in Section 6 of this Act, the court may grant the governmental entity bringing the suit, without bond or other undertaking, any prohibitory or mandatory injunction the facts may warrant, including temporary restraining orders after notice and hearing, temporary injunctions, and permanent injunctions.

(g) In a suit brought by a local government under Subsection (d) or (e) of this section, the board and the department are necessary and indispensable parties.

(h) Any party to a suit may appeal from a final judgment as in other civil cases.

(i) All civil penalties recovered in suits instituted under this Act by the State of Texas through the board or the department shall be paid to the General Revenue Fund of the State of Texas. All civil penalties recovered in suits first instituted by a local government or governments under this Act shall be equally divided between the State of Texas on the one hand and the local government or governments on the other, with 50 per cent of the recovery to be paid to the General Revenue Fund of the State of Texas and the other 50 per cent equally to the local government or governments first instituting the suit.

Appeals

Sec. 9. A person affected by any ruling, order, decision, or other act of the department or the board may appeal by filing a petition in a district court of Travis County. A person affected by any ruling, order, decision, or other act of a county, or of a political subdivision exercising the authority granted in Section 6 of this Act, may appeal by filing a petition in a district court having jurisdiction in the county or political subdivision. The petition must be filed within 30 days after the date of the action, ruling, order, or decision of the governmental entity complained of. Service of citation must be accomplished within 30 days after the date the petition is filed. The plaintiff shall pursue his action with reasonable diligence. If the plaintiff does not prosecute his action within one year after the action is filed, the court shall presume that the action has been abandoned. The court shall dismiss the suit on a motion for dismissal made by the governmental entity whose action is appealed, unless the plaintiff, after receiving due notice, can show good and sufficient cause for the delay. In an appeal from an action by the department, the board, a county, or a political subdivision exercising the authority granted in Section 6 of this Act, the issue is whether the action is invalid, arbitrary or unreasonable.

Cumulative act

Sec. 10. This Act is cumulative of and supplemental to any other laws and parts of laws relating to the same subject and does not repeal those other laws or parts of laws. Nothing in this Act diminishes or limits, or is intended to diminish or limit, the authority of the department, the board, the Texas Air Control Board, or local governments in performing any of the powers, functions, and duties vested in those governmental entities by other laws.

Severability

Sec. 11. Severability Clause. The provisions of this Act are severable. If any word, phrase, clause, sentence, section, provision or part of this Act should be held to be invalid or unconstitutional, it shall not affect the validity of the remaining portions, and it is hereby declared

to be the legislative intent that this Act would have been passed as to the remaining portions, regardless of the invalidity of any part.
Acts 1969, 61st Leg., p. 1320, ch. 405, eff. Sept. 1, 1969.

Title of Act:

An Act relating to the control of the collection, handling, storage, and disposal of putrescible and non-putrescible discarded or unwanted materials, including solid materials and certain materials in liquid or semiliquid form, referred to in this Act as "solid waste"; prescribing the duties, powers, and functions of the State Department of Health, the Texas Water Quality Board, counties, cities, and certain other political subdivisions of the state relative to solid waste management programs and

control; prohibiting the collection, handling, storage or disposal of solid waste or the use or operation of sites for the disposal of solid waste in violation of this Act or of any rules, regulations, permits, licenses, or other orders promulgated under this Act; prescribing penalties for violations and providing for enforcement; providing for severability; and declaring an emergency. Acts 1969, 61st Leg., p. 1320, ch. 405.

CHAPTER FOUR-B—TUBERCULOSIS

Art.

4477-13. Pilot program to treat respiratory diseases at East Texas Tuberculosis Hospital [New].

Art. 4477-11. Texas Tuberculosis Code

Acts 1969, 61st Leg., p. 848, ch. 282, §§ 1-5, provided for the transfer of the McKnight State Tuberculosis Hospital from the State Department of Health to the Department of Mental Health and Mental Retardation, for the change of name of the facility to the San Angelo Center, for the transfer of patients over a one year period, and for the transfer of certain employees.

Transfer of facilities:

Sections 1 and 5 of Acts 1969, 61st Leg., p. 848, ch. 282, provided:

"Sec. 1. Effective September 1, 1969, the custody, management, and control of the land, buildings, and facilities comprising the hospital complex known as McKnight State Tuberculosis Hospital is transferred from the State Department of Health to

the Texas Department of Mental Health and Mental Retardation for the support, maintenance, and treatment of patients for whom the Texas Department of Mental Health and Mental Retardation is responsible.

"Sec. 5. Effective September 1, 1969, the name of McKnight State Tuberculosis Hospital is changed to the San Angelo Center."

Art. 4477-13. Pilot program to treat respiratory diseases at East Texas Tuberculosis Hospital

Section 1. In addition to the treatment of tuberculosis, the East Texas Tuberculosis Hospital may create a pilot program to treat persons afflicted with other chronic diseases of the respiratory system regardless of the diagnosis.

Sec. 2. (a) Under this pilot program, the East Texas Tuberculosis Hospital may treat not more than 25 patients at any one time, except as specified by this Act.

(b) The program shall be limited to:

(1) persons who are medically indigent and who have resided within the State of Texas for at least one year before making application to enter the hospital;

(2) persons who are able to pay for treatment but who are unable to obtain treatment at any other public or private institution;

(3) persons having a type of chronic pulmonary disease for which there is some hope of improvement and rehabilitation.

(c) If a person is able to pay for the treatment, the hospital shall charge the person an amount determined by the superintendent of the hospital to be a reasonable cost for the treatment received by the patient.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 3. (a) The State Board of Health may accept and administer gifts and grants of money in whole or on a formula basis from the federal government and from any individual, corporation, trust, federal or state vocational rehabilitation program, or foundation to carry out the purpose of this Act, and shall use any funds appropriated by the Legislature for this pilot program to operate the program.

Sec. 4. The State Board of Health may admit and treat more than 25 patients under this program so far as 25 or more patients do not conflict with the purpose stated in Section 6 of this Act and may use funds appropriated by the State of Texas for the inpatient cost of treating tuberculosis based on the projected average daily patient population when and to such extent that the actual overall daily patient population is less than the attendance projected in the appropriation, for the operation of the East Texas Tuberculosis Hospital during the biennium for which this appropriation and pilot program are concurrent.

Sec. 5. The State Board of Health may establish necessary rules or regulations as to the admission requirements or procedures for persons admitted for treatment under the pilot program established by this Act.

Sec. 6. Services rendered under the pilot program created by this Act shall not interfere with the primary objective of the tuberculosis control program, which is case-finding, treatment, both inpatient and outpatient, and eventual eradication of the disease tuberculosis.

Sec. 7. The State Board of Health may formulate plans and policies for utilizing the program created by this Act at the East Texas Tuberculosis Hospital, in connection with any other agency, institution, or facility of this State, including but not limited to research, treatment, study, and training.

Acts 1969, 61st Leg., p. 1664, ch. 528, emerg. eff. June 10, 1969.

Title of Act:

An Act relating to a pilot program to treat persons with various respiratory di-

seases at the East Texas Tuberculosis Hospital; and declaring an emergency. Act 1969, 61st Leg., p. 1664, ch. 528.

CHAPTER FIVE—COUNTY HOSPITAL

Art.

4494n—2. Sale and lease back of land, buildings, equipment, etc., for hospital district purposes [New].

Art.

4494r—2. Issuance of revenue bonds in counties of 500,000 or more [New].
4494r—3. County hospital revenue bonds; issue; refunding [New].

Art. 4494n—2. Sale and lease back of land, buildings, equipment, etc. for hospital district purposes

Section 1. The commissioners court of every county wherein a Hospital District exists created by Chapter 266, Acts of the 53rd Legislature, Regular Session, 1953, as amended,¹ is hereby authorized to sell land, buildings, facilities, or equipment or personal property for the purpose of entering into contracts, to lease or to construct, repair, renovate, improve, or enlarge or to rent buildings, land, facilities, equipment, or services from others for any hospital district purposes and to pay the regular monthly utility bills for such land, buildings, facilities, equipment or services so contracted, leased, or rented, such as electricity, gas, and water; and when in the opinion of a majority of the commissioners court of a county such facilities, equipment, and services are essential to the proper administration of such agencies of the county, said court is hereby specifically authorized to pay for same and for the regular monthly utility bills for such offices out of the county's general fund by warrant as in the payment of other obligations of the county.

Sec. 2. Provided that all construction projects originated or initiated under the terms of this Act, shall be let by contract, which contract shall

contain the prevailing wage for all mechanics, laborers, and persons employed in the construction of such project. The commissioners court of Tarrant County shall determine and set the prevailing wage which shall be the same prevailing wage set by the commissioners court of Tarrant County on all construction projects involving the expenditure of county funds.

Sec. 3. All actions, proceedings, orders, and contracts for such sale, rental, lease, or utility bills for such purposes as stated in Section 1 hereof, made and entered into by any commissioners courts of this state, pursuant to which such service has been rendered, are hereby validated, confirmed, and declared to be in full force and effect, notwithstanding any irregularity thereof prior to the enactment of this Act.

Sec. 4. Provided further, that upon or prior to the expiration of the number of terms of years as set forth in any such contract, and when in the opinion of a majority of the commissioners court of such county the stated price is a reasonable price within the judgment of a majority of said court, such facilities may be purchased and become the property of said county and be paid for out of the general fund.

Acts 1969, 61st Leg., 2nd C.S. p. 67, ch. 15, emerg. eff. Sept. 19, 1969.

¹ Article 4494n.

Section 5 of the act of 1969 was a severability provision.

Title of Act:

An Act relating to the sale and lease back and renting or leasing and purchase of

land, buildings, facilities, or equipment for hospital district purposes in certain counties; and declaring an emergency. Acts 1969, 61st Leg., p. 67, ch. 15.

Art. 4494r—2. Issuance of revenue bonds in counties of 500,000 or more

Section 1. The commissioners court of every county containing a population of 500,000 or more, according to the last preceding federal census, wherein there exists a hospital district which has been created by law pursuant to any Section of Article IX of the Texas Constitution and which has teaching hospital facilities that are affiliated with a state-supported medical school, shall be authorized and have the power to issue revenue bonds for the purpose of providing funds to acquire, purchase, construct, repair, renovate, improve, enlarge, and/or equip any hospital facilities, and to acquire any real or personal property in connection therewith, for and on behalf of said hospital district. Such commissioners court shall be authorized to issue said revenue bonds to be payable from and secured by liens on and pledges of all or any part of the revenues and income of every nature derived by the hospital district from the operation and/or ownership of its hospital facilities (exclusive of ad valorem taxes). Also, the commissioners court shall be authorized to pledge to the payment of said bonds all or any part of any grant, donation, or income received or to be received from the United States government or any other public or private source, whether pursuant to an agreement or otherwise. Said bonds may be additionally secured by mortgages and deeds of trust on any real property on which any hospital facilities of the hospital district are or will be located, and any real or personal property incident or appurtenant to said facilities, and the commissioners court may authorize the execution and delivery of trust indentures, mortgages, deeds of trust, or other forms of encumbrances to evidence same. Said bonds may be issued to mature serially or otherwise not to exceed 40 years from their date. In the authorization of any such bonds, the commissioners court may provide for the subsequent issuance of additional parity bonds, or subordinate lien bonds, or other types of bonds, under such terms or conditions as may be set forth in the order authorizing the issuance of said bonds, all

For Annotations and Historical Notes, see V.A.T.S.

within the discretion of the commissioners court. Said bonds, and any interest coupons appertaining thereto, shall be negotiable instruments (provided that such bonds may be issued registrable as to principal alone or as to both principal and interest), and shall be executed, and may be made redeemable prior to maturity, and may be issued in such form, denominations, and manner, and under such terms, conditions, and details, and may be sold in such manner, at such price, and under such terms, and said bonds shall bear interest at any rate or rates, all as shall be determined and provided by the commissioners court in the order authorizing the issuance of said bonds. If so permitted in the bond order, any required part of the proceeds from the sale of the bonds may be used for paying interest thereon during the period of the construction of any hospital facilities to be provided through the issuance of said bonds, and for the payment of operation and maintenance expenses of said facilities to the extent, and for the period of time, specified in said bond order, and also for the creation of reserves for the payment of the principal of and interest on the bonds; and such moneys may be invested, until needed, to the extent, and in the manner provided, in said bond order. The commissioners court or the board of hospital managers or directors of the hospital district shall be authorized to fix and collect charges for the occupancy or use of any of said hospital facilities, and the services thereof, in such amounts and in such manner as may be determined by such commissioners court or board; and such charges shall be fixed and collected in such amounts as will be at least sufficient, together with any other pledged resources, to provide for all payments of principal, interest, and any other amounts required in connection with said bonds, and, to the extent required by the bond order, to provide for payment of all or any part of the operation, maintenance, and other expenses of the hospital facilities. The commissioners court or the board of hospital managers or directors of the hospital district shall make provision in each annual hospital district budget for the payment of all operation and maintenance expenses of the hospital district. In preparing the budget, the commissioners court or board may take into consideration the estimated excess revenues and income from hospital facilities that will be available for paying operation and maintenance expenses after providing for all principal, interest, and reserve requirements in connection with said bonds. To the extent that such excess revenues and income are not available at any time to make payment of all operation and maintenance expenses of the hospital district, ad valorem taxes of the hospital district shall be used to make such payment, and the proceeds of an annual ad valorem tax may be pledged for such payment in the order authorizing the issuance of said bonds. If such annual ad valorem tax is thus pledged it shall be the duty of the commissioners court, during each year while any of said bonds are outstanding, to compute and ascertain a rate and amount of ad valorem tax which will be sufficient to raise and produce the money required to make the aforesaid payment of operation and maintenance expenses to the extent required; and said tax shall be based on the latest approved tax rolls of the hospital district, with full allowance being made for tax delinquencies and the cost of tax collection. Said rate and amount of ad valorem tax shall be levied, and ordered to be levied, against all taxable property in the hospital district, for each year while any of said bonds are outstanding; and said tax shall be assessed and collected each such year and used for such purpose to the extent so required. Said rate and amount of ad valorem tax shall be levied and ordered to be levied against all taxable property within the hospital district subject to hospital district taxation for each year while any of said bonds are outstanding; and said tax shall be assessed and collected each such year and used for such purposes to the extent so required.

Sec. 2. Any revenue bonds issued by any such commissioners court under this Act, and any revenue bonds issued by any such commissioners court under any other Texas statute and payable from revenues from any hospital facilities, may be refunded or otherwise refinanced by such commissioners court, and in such case all pertinent and appropriate provisions of this Act shall be fully applicable to such refunding bonds. In refunding or otherwise refinancing any such bonds the commissioners court may, in the same authorizing proceedings, refund or refinance bonds issued pursuant to this Act and bonds issued pursuant to any other such Texas statute and combine all said refunding bonds and any other additional new bonds to be issued pursuant thereto into one or more issues or series of bonds, and may provide for the subsequent issuance of additional parity bonds, or subordinate lien bonds, or other type of bonds. All refunding bonds shall be issued and delivered under such terms and conditions as may be set forth in the authorizing proceedings.

Sec. 3. All bonds issued pursuant to this Act, and the appropriate proceedings authorizing their issuance, shall be submitted to the Attorney General of the State of Texas for examination. If he finds that such bonds have been authorized in accordance with law he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas; and after such approval and registration such bonds shall be incontestable in any court, or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes.

Sec. 4. All bonds issued pursuant to this Act shall be legal and authorized investments for all banks, trust companies, building and loan associations, savings and loan associations, small business investment corporations, insurance companies of all kinds and types, fiduciaries, trustees, and guardians, and for all interest and sinking funds and other public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies and bodies politic. Said bonds also shall be eligible and lawful security for all deposits of public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of said bonds, when accompanied by any unmatured interest coupons appurtenant thereto.

Sec. 5. In every case where a hospital district created by law pursuant to Article IX of the Texas Constitution does not have its ad valorem taxes levied for and on its behalf by the commissioners court of the county in which the hospital district is located, then, notwithstanding any provisions of this Act to the contrary, the board of directors or other governing body of the hospital district shall have all of the authority, powers, and duties provided for a commissioners court under this Act.

Sec. 6. This Act shall be cumulative of all other laws on the subject but this Act shall be wholly sufficient authority within itself for the issuance of the bonds and the performance of the other acts and procedures authorized hereby, without reference to any other laws or any restrictions or limitations contained therein, except as herein specifically provided; and when any bonds are being issued under this Act, then to the extent of any conflict or inconsistency between any provisions of this Act and any provision of any other law, the provisions of this Act shall prevail and control; provided, however, that any commissioners court shall have the right to use the provisions of any other laws, not in conflict with the provisions hereof, to the extent convenient or neces-

For Annotations and Historical Notes, see V.A.T.S.

sary to carry out any power or authority, express or implied, granted by this Act.

Acts 1969, 61st Leg., p. 128, ch. 42, emerg. April 1, 1969.

Title of Act:

An Act authorizing the issuance of revenue bonds to provide hospital facilities for hospital districts which are in counties containing a population of 500,000 or more according to the last preceding federal census and which have teaching hospital facilities that are affiliated with a state-supported medical school; providing for the payment

and security of said revenue bonds, and liens, pledges, and encumbrances in connection therewith; providing for the levy of taxes for hospital district operation and maintenance expenses; providing for refunding bonds; enacting other provisions relating to the subject; prescribing a severability provision; and declaring an emergency. Acts 1969, 61st Leg., p. 128, ch. 42.

Art. 4494r—3. County hospital revenue bonds; issue; refunding

Section 1. All counties of this state are hereby authorized to issue, and to refund any previously issued, revenue bonds for purchasing, constructing, acquiring, repairing, equipping or renovating buildings and improvements for county hospital purposes, and for acquiring sites therefor, such bonds to be payable from and secured by a pledge of all or any part of the revenues of the county to be derived from the operation of its hospital or hospitals, and such bonds may be additionally secured by a mortgage or deed of trust lien on any part or all of its hospital properties.

Sec. 2. Such bonds shall be issued in the manner and in accordance with the procedures and requirements specified for the issuance of revenue bonds by County Hospital Authorities in Sections 8 to 13, both inclusive, and with effect specified in Section 20, of the County Hospital Authority Act, Chapter 122, Acts, 1963, 58th Legislature (compiled as Article 4494r, Vernon's Texas Civil Statutes).

Sec. 3. The powers granted under this Act shall be cumulative and in addition to all other powers of counties presently or hereafter in effect. Acts 1969, 61st Leg., p. 1958, ch. 658, emerg. eff. June 12, 1969.

Title of Act:

An Act authorizing all counties to issue and refund revenue bonds for hospital purposes in accordance with the procedures prescribed for the issuance of similar bonds by County Hospital Authorities under the

County Hospital Authority Act, Chapter 122, Acts, 1963, 58th Legislature (Compiled as Article 4494r, Vernon's Texas Civil Statutes); enacting other provisions relating to the subject; and declaring an emergency. Acts 1969, 61st Leg., p. 1958, ch. 658.

CHAPTER SIX—MEDICINE

Art. 4502. [5740] Disposition of fees; compensation of members of board

The fund realized from all fees payable under this Act shall first be applied to the payment of all necessary expenses of the Board, and the remainder is to be applied by order of the Board to compensate members of the Board, said compensation to each member of the Board to be Fifty Dollars (\$50) per day for any number of days which any such member may be active on business of the Board, whether such business consists of regular meetings, committee work for the Board, grading papers, or any other function which is a legitimate and proper function held to be necessary by the Texas State Board of Medical Examiners; provided, however, that no member of said Board shall be paid a per diem in excess of fifty (50) days of any calendar year. Said daily compensation shall be exclusive of the necessary costs of travel of any Board member, or any other expenses necessary to the performance of his duty. Provided also, that the premium on any bond required by the Board of any officer or employee of the Board shall be paid out of said fund, as well as the necessary expenses of any employee incurred in the performance of his duties.

Amended by Acts 1969, 61st Leg., p. 881, ch. 295, § 1, eff. Sept. 1, 1969.

CHAPTER SIX B—PSYCHOLOGY [NEW]

Art.
4512c. Certification and licensing psycholo-
gists [New].

Art. 4512c. Certification and licensing psychologists**Short title**

Section 1. This Act may be known and cited as the "Psychologists' Certification and Licensing Act."

Definitions

Sec. 2. In this Act, unless the context otherwise requires:

(a) "Board" means the Texas State Board of Examiners of Psychologists provided for by this Act.

(b) A person represents himself to be a "psychologist" within the meaning of this Act when he holds himself out to the public by any title or description of services incorporating the words "psychological," "psychologists," or "psychology," or offers to render or renders services to individuals, corporations, or the public for compensation.

(c) The term "psychological services," means acts or behaviors coming within the purview of the practice of psychology.

Practice of medicine not authorized

Sec. 3. Nothing in this Act shall be construed as permitting the practice of medicine as defined by the laws of this state.

Texas State Board of Examiners of Psychologists

Sec. 4. There is hereby created the Texas State Board of Examiners of Psychologists which shall consist of six qualified persons appointed by the governor with the advice and consent of the Senate. The members of the first Board shall be appointed within ninety days after this Act takes effect to serve the following terms: two members for one year, two members for two years, and two members for three years from the date of their appointment. Thereafter, at the expiration of the term of each member, the governor shall appoint a successor for a term of three years. Before entering upon the duties of his office, each member of the Board shall take the constitutional oath of office and file it with the Secretary of State.

The Qualifications of Members of the Board

Sec. 5. Each member of the Board shall be a citizen of the United States, a resident of this state and certified under this Act except that the members comprising the Board as first appointed shall be persons who have engaged in rendering services, teaching, or research in psychology for a period of at least five years. To assure adequate representation of the diverse fields of psychology, the governor shall so make his appointment that the Board has at least two members who are engaged primarily in rendering service in psychology, at least one member who is engaged primarily in research in psychology, and at least one member who is a member of the faculty of a training institution in psychology. A member of the Board may be appointed to succeed himself for one term. Any vacancy in the membership of the Board occurring otherwise than by expiration of term shall be filled for the unexpired term by appointment by the governor.

For Annotations and Historical Notes, see V.A.T.S.

Compensation and expenses of board members

Sec. 6. Each member of the Board shall receive the sum of Twenty Dollars (\$20.00) per day for each day he is actually engaged in the duties of his office, including time spent in necessary travel, together with all necessary expenses incurred in the performance of his duties under this Act. All per diem and reimbursement for expense authorized by this section shall be paid from the "Psychologists Licensing Fund." No money shall ever be paid from the General Revenue Fund for the administration of this Act.

Organization and meetings of the board

Sec. 7. The Board shall hold a regular annual meeting at which it shall select from its members a Chairman and a Vice-Chairman. Other regular meetings shall be held at such times as the rules of the Board may provide but not less than two times a year. Special meetings may be held at such times as may be deemed necessary or advisable by the Board or a majority of its members. Reasonable notice of all meetings shall be given in the manner prescribed by the rules of the Board. A quorum of the Board shall consist of a majority of its members. The Secretary of the Board shall be appointed by the Board and shall hold office at the pleasure of the Board. The Secretary may or may not be a member of the Board. The Board may employ such other persons as it deems necessary or desirable to carry out the provisions of this Act. The Board shall adopt and have an official seal.

Rules of the board

Sec. 8. In addition to the powers and duties granted the Board by other provisions of this Act, the Board may make all rules, not inconsistent with the Constitution and laws of this state, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it. The Board shall adopt and publish a Code of Ethics.

Receipts and disbursements

Sec. 9. The Secretary of the Board shall receive the account for all monies derived under this Act. He shall pay these monies weekly to the State Treasurer who shall keep them in a separate fund to be known as the "Psychologists Licensing Fund." Monies may be paid out of this fund only by warrant drawn by the State Comptroller upon the State Treasurer, upon itemized voucher, approved by the Chairman of the Board and attested by the Secretary of the Board. There shall be an annual audit of the Psychologists Licensing Fund by the Auditor of the State of Texas. The Secretary of the Board shall give a surety bond for the faithful performance of his duties to the governor in the sum of Ten Thousand Dollars (\$10,000.00) or an amount recommended by the State Auditor. The premium for this bond shall be paid out of the Psychologists Licensing Fund. The Board may make expenditures from this fund for any purpose which is reasonably necessary to carry out the provisions of this Act.

Annual report of the board

Sec. 10. As soon as practicable after the close of each fiscal year, the Board shall submit a report to the governor and the presiding officer of each House of the Legislature concerning the work of the Board during the preceding fiscal year.

Qualification of applicant for examination for certification

Sec. 11. An applicant is qualified to take the examination for certification as a psychologist:

- (a) if he has received the doctoral degree based upon a program of studies whose content was primarily psychological from an accredited educational institution or its substantial equivalent in both subject matter and extent of training, and if he has had no less than two years of satisfactory supervised experience in rendering psychological services, one of which is subsequent to the granting of the doctoral degree,
- (b) if he is at least twenty-one years of age,
- (c) if he is a resident of this state,
- (d) if he is of good moral character, and
- (e) if he is a citizen of the United States or has legally declared his intention of becoming a citizen.

Applications

Sec. 12. Application for examination for certifications as a psychologist or for certification without examination as a psychologist shall be upon the forms prescribed by the Board. The Board may require that the application be verified. The certification fee shall accompany the application.

Evaluation of experience

Sec. 13. In determining the acceptability of the applicant's professional experience, the Board may require such documentary evidence of the quality, scope and nature of the applicants' experience as it deems necessary.

Examinations

Sec. 14. The Board shall administer examinations to qualified applicants for certification at least once a year. The Board shall determine the subject and scope of the examinations. Written examinations may be supplemented by such oral examinations as the Board shall determine. An applicant who fails his examination may be re-examined at a subsequent examination upon payment of another certification fee. The Board may waive the examination requirement for Diplomats of the American Board of Examiners in Professional Psychology and/or when in the Board's judgment the applicant has already demonstrated competence in areas covered by the examination.

Certification

Sec. 15.

(a) A qualified applicant for certification who has successfully passed the examination prescribed by the Board and has paid the certification fee shall be certified by the Board as a psychologist.

(b) Until December 31, 1970 a person who is at least twenty-one years of age, a resident of this state, of good moral character, and is a citizen of the United States or has legally declared his intention of becoming a citizen may, upon application and payment of the certification fee, be certified without examination by the Board as a psychologist if

(1) he has a doctor's degree from an accredited institution based upon a program which is primarily psychological or the substantial equivalent thereof in both subject and extent of training, and, in addition, has had three years of professional experience satisfactory to the Board, or

(2) has a master's degree from an accredited institution based upon a program which is primarily psychological and, in addition, has had eight years of professional psychological experience.

(c) The Board may, upon application therefor and payment of the certification fee, certify as a psychologist any person who is licensed or certified as a psychologist by any other state, territory or possession of the United States if the requirements of that state, territory or possession for such license or certificate are the substantial equivalent of the requirements of this Act.

Fees

Sec. 16. The certification fee, the licensing fee, and the renewal fees shall be an amount fixed by the Board. The Board shall fix the amount of the fees so that the total fees collected will be sufficient to meet the expenses of administering this Act and so that unnecessary surpluses in the Psychologists Licensing Fund are avoided.

Certification—expiration—renewal

Sec. 17.

(a) The Board shall issue a certificate to each person whom it registers as a psychologist. The certificate shall show the full name of the psychologist and his address and shall bear a serial number. The certificate shall be signed by the Chairman and the Secretary of the Board under the seal of the Board.

(b) Certificates will be renewed no less than once every two years. Certificates expire on December 31st in the appropriate year following their issuance or renewal and are invalid thereafter unless renewed.

(c) The Board shall notify every person certified under this Act of the date of expiration of his certificate and the amount of the renewal fee. This notice shall be mailed at least one month before the expiration of the certificate. Renewal may be made at any time during the months of November or December upon application therefor by payment of the renewal fee. Failure on the part of any person certified to pay his renewal fee before January 1 does not deprive him of his right to renew his certificate, but the fee to be paid for renewal after December shall be increased ten per cent for each month or fraction thereof that the payment of the renewal fee is delayed. However, the maximum fee for delayed renewal shall not exceed twice the normal renewal fee. A psychologist who wishes to place his certificate upon an inactive status may do so upon application by payment of a fee of Three Dollars (\$3.00); such a psychologist shall not accrue any penalty for late payment of the renewal fee.

Roster of certified and licensed psychologists

Sec. 18. During the month of April of each year, the Board shall publish a list of all psychologists certified or licensed under this Act. The list shall contain the name and address of the psychologist and such other information that the Board deems desirable. The list shall be arranged both alphabetically and geographically. The Board shall mail a copy of this list to each person licensed under this Act, shall place a copy on file with the Secretary of State and shall furnish copies to the public upon request.

Sub-doctoral certification

Sec. 19. The Board shall set standards for qualification and issue certificates of qualification for sub-doctoral levels of psychological personnel. Sub-doctoral personnel must have a master's degree in a program that is primarily psychological in nature in an accredited university or college. Sub-doctoral levels shall be designated by a title(s) which includes the adjective "psychological" followed by a noun such as "associate," "assistant," "examiner," "technician," etc.

Representation as psychologist prohibited

Sec. 20. After December 31, 1970, no person shall represent himself as a psychologist within the meaning of this Act unless he is certified and registered under the provisions of this Act.

Licensing

Sec. 21. Any person certified as a psychologist by the Board who offers psychological services as defined herein for compensation, must apply to the Board and upon payment of a fee shall be granted a license by the Board.

Exemptions

Sec. 22. Nothing in this Act shall be construed to apply to:

(a) the activities, services and use of official title on the part of a person employed as a psychologist by any federal, state, county or municipal agency, medical clinic organized as an unincorporated association, or research laboratories and business corporations provided such employees are performing those duties for which they are employed by such organizations and within the confines of such organizations, or a duly chartered and accredited educational or charitable institution insofar as such activities and services are a part of the duties of his office or position as a psychologist with such agency or institution; except that persons employed as psychologists who offer or provide psychological services to the public (other than lecture services) for a fee, monetary or otherwise, over and above the salary that they receive for the performance of their regular duties, and/or persons employed as psychologists by organizations that sell psychological services to the public (other than lecture services) for a fee, monetary or otherwise must be licensed under the provisions of this Act;

(b) the activities and services of a student, intern or resident in psychology, pursuing a course of study in preparation for the profession of psychology under qualified supervision in recognized training institutions or facilities, if these activities and services constitute a part of his supervised course of study, provided that such an individual is designated by a title such as "psychological intern," "psychological trainee," or others clearly indicating such training status;

(c) the activities and services of a person who performs psychological services under the direct supervision of a licensed psychologist for whose activities and services the licensed psychologist assumes full responsibility if the person has received the doctoral degree or master's degree based upon a program of studies whose content was primarily psychological from an accredited educational institution, or its substantial equivalent in both subject matter and extent of training;

(d) the activities and services of a person who is not a resident of this state and who has no established offices in this state in rendering consulting or other psychological service when these activities and services are rendered for a period which does not exceed in the aggregate more than thirty days during any year if the person is authorized under the laws of the state or country of his residence to perform these activities and services;

(e) a sociologist who holds a doctoral degree in sociology or social psychology awarded by a recognized institution of higher learning and who elects to represent himself to the public by the title "social psychologist," provided that he has notified the Board of his intention to represent himself as such;

(f) the activities and services of qualified members of other professional groups such as physicians, attorneys, school counselors, social

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workers, Christian Scientist practitioners who are duly recognized by the Church of Christ Scientist as registered and published in the Christian Science Journal, or duly ordained religions from doing work of a psychological nature consistent with their training and consistent with any code of ethics of their respective professions, provided that they do not represent themselves by any title or in any manner prohibited by this Act.

Revocation, cancellation or suspension of license or certification

Sec. 23. The Texas State Board of Examiners of Psychologists shall have the right to cancel, revoke or suspend the license or certification of any psychologist upon proof that the psychologist:

(a) has been convicted of a felony or of a violation of the law involving moral turpitude by any court; the conviction of a felony shall be the conviction of any offense which if committed within this state would constitute a felony under the laws of this state; or

(b) is or has had the habit of intemperance or drug addiction such as the use of morphine, opium, cocaine, or other drugs having similar effect; or

(c) has been guilty of fraud or deceit in connection with his services rendered as a psychologist; or

(d) has aided or abetted a person, not a licensed psychologist, in representing himself as a psychologist within this state; or

(e) has been guilty of unprofessional conduct as defined by the rules established by the Board; or

(f) for any cause for which the Board shall be authorized to refuse to admit persons to its examination.

Proceedings under this section shall be begun by filing charges with the Texas State Board of Examiners of Psychologists in writing and under oath. Said charges may be made by any person or persons. The Chairman of the Board shall set a time and place for hearing, and shall cause a copy of the charges, together with a notice of the time and place fixed for hearing, to be served on the respondent or his counsel at least ten (10) days prior thereto. When personal service is impossible, or cannot be effected, the Board shall cause to be published once a week for two (2) successive weeks a notice of the hearing in a newspaper published in the county wherein the respondent was last known to live, and shall mail a copy of the charges and of such notice to the respondent at his last known address. When publication of the notice is necessary, the date of hearing shall not be less than ten (10) days after the date of the last publication of the notice. At said hearing the respondent shall have the right to appear either personally or by counsel, or both, to produce witnesses or evidence in his behalf, to cross-examine witnesses, and to have subpoenas issued by the Board. The Board shall thereupon determine the charges upon their merits. All charges, complaints, notices, orders, records, and publications authorized or required by the terms of this Act shall be privileged.

Any person whose license or certification has been cancelled, revoked or suspended by the Board may, within twenty (20) days after the making and entering of such order, take an appeal to any of the district courts in the county of his residence, but the decision of the Board shall not be enjoined or stayed except on application to such district court after notice to the Board. The proceeding on appeal shall be under the substantial evidence rule, and which appeal shall be taken in any District Court of the county in which the person whose certificate of registration or license is involved resides. Upon application, the Board may recertify the applicant or reissue a license to a person whose license has been cancelled or suspended, but such application, in the case of cancellation or revocation, shall not be made prior to one (1) year after the cancellation

or revocation and shall be made in such manner and form as the Board may require.

Provided, however, that the Board shall have the right and may, upon majority vote, rule that the order revoking, cancelling, or suspending the psychologists' license or certification be probated so long as the probationer conforms to such orders and rules as the Board may set out as the terms of probation. The Board, at the time of probation, shall set out the period of time which shall constitute the probationary period. Provided further, that the Board may at any time while the probationer remains on probation hold a hearing, and upon majority vote, rescind the probation and enforce the Board's original action in revoking, cancelling, or suspending the psychologists' license or certification, the said hearing to rescind the probation shall be called by the Chairman of the Texas State Board of Examiners of Psychologists who shall cause to be issued a notice setting a time and place for the hearing and containing the charges or complaints against the probationer, said notice to be served on the probationer or his counsel at least ten (10) days prior to the time set for the hearing. When personal service is impossible, or cannot be effected, the same provisions for service in lieu of personal service as heretofore set out in this Act shall apply. At said hearing the respondent shall have the right to appear either personally or by counsel or both, to produce witnesses or evidence in his behalf, to cross-examine witnesses, and to have subpoenas issued by the Board. The Board shall thereupon determine the charges upon their merits. All charges, complaints, notices, orders, records, and publications authorized or required by the terms of this Act shall be privileged. The order revoking or rescinding the probation shall not be subject to review or appeal.

Injunctions

Sec. 24. The Texas State Board of Examiners of Psychologists shall have the right to institute an action in its own name to enjoin the violation of any provisions of this Act. Said action for injunction shall be in addition to any other action, proceeding or remedy authorized by law. The Texas State Board of Examiners of Psychologists shall be represented by the Attorney General and/or the County or District Attorneys of this state.

Violations

Sec. 25. Any person who, after December 31, 1970, represents himself to be a psychologist within this state without being certified or licensed or exempted in accordance with the provisions of this Act is guilty of a misdemeanor and, upon conviction, shall be punished by a fine not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00), and by imprisonment in county jail for not more than thirty (30) days. Each day of violation is a separate offense.

Appropriation

Sec. 26. For the biennium ending August 31, 1971, the monies received in the Psychologists Licensing Fund are hereby appropriated to the Board to be expended by it in the administration of this Act. The salaries paid to persons employed by the Board shall be comparable to those prescribed in the General Appropriations Act for persons holding comparable positions. To the extent applicable, the general rules of the General Appropriations Act shall apply to the expenditure of funds under this appropriation.

Severability clause

Sec. 27. If any provision of this Act or the application thereof to any person or circumstance is held invalid, this invalidity shall not af-

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fect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared severable.

Acts 1969, 61st Leg., p. 2059, ch. 713, eff. Sept. 1, 1969.

Title of Act:

An Act concerning the profession of Psychology; requiring certification and licensing of psychologists; establishing a Texas

State Board of Examiners of Psychologists; making an appropriation; and declaring an emergency. Acts 1969, 61st Leg., p. 2059, ch. 713.

CHAPTER SEVEN—NURSES

Art.

4527—1. Fees to be charged by board of examiners [New].

Art. 4513. Board of Examiners

The Governor shall biennially appoint a Board of Nurse Examiners to consist of six members, and the term of office of those so appointed shall be two for six years; two for four years; and two for two years. The terms of office for members of the Board shall expire on January 31 of odd-numbered years. Each member of said Board shall be a registered nurse at least twenty-five years of age, of good moral character and a graduate of an accredited school of professional nursing, and three members shall have at least three years' teaching experience in educational work among nurses. One of the two persons appointed every two years shall be a person with at least three years' teaching experience in education work among nurses. The members of the Board, the Executive Secretary, and the Educational Secretary shall each make and subscribe to the official oath, and the same shall, within thirty days after their appointment, be filed with the Secretary of State.

Amended by Acts 1969, 61st Leg., p. 1566, ch. 475, § 1, emerg. eff. June 10, 1969.

Art. 4514. Organization of board

The members of the board shall elect from their number a president and a treasurer. Special meetings of said board shall be called by the president acting upon the written request of any two members. The board may make such by-laws and rules as may be necessary to govern its proceedings and to carry into effect the purpose of this law. The executive secretary shall be required to keep a record of each meeting of said board, including a register of the names of all nurses registered under this law, which shall be at all times open to public inspection. Said board shall assist the proper legal authorities in the prosecution of all persons violating any provision of this law.

Amended by Acts 1969, 61st Leg., p. 1566, ch. 475, § 2, emerg. eff. June 10, 1969.

Art. 4515. Per diem, salary, travel and other expenses

The members of the board shall receive such per diem as may be fixed by the board, not to exceed \$25 per day for each day they are actually engaged in the work of the board, and the board may defray all necessary travel and other expenses incurred by its members and personnel in carrying out the work of the board. The board shall determine the salaries and compensation to be paid to employees and persons retained by the board.

Amended by Acts 1969, 61st Leg., p. 1566, ch. 475, § 3, emerg. eff. June 10, 1969.

Art. 4516. Educational secretary

The board shall appoint an educational secretary, who shall be at least thirty years old, and who shall have had at least five years teaching experience in educational work among nurses. The duties of said secretary shall be determined by the board.

Amended by Acts 1969, 61st Leg., p. 1566, ch. 475, § 4, emerg. eff. June 10, 1969.

Art. 4517. Executive secretary and bonds

The board shall employ a qualified executive secretary, who shall not be a member of the board. Under the direction of the board, the executive secretary shall perform duties required by this Act and duties designated by the board. Also, the board shall employ all other persons necessary to carry on the work of the board. The executive secretary and the treasurer shall upon their employment and election, respectively, execute a bond in the sum of One Thousand Dollars payable to the Governor. The bonds are conditioned that the executive secretary and treasurer shall faithfully perform the duties of their respective offices and shall account for funds coming into their hands as executive secretary and treasurer. Each bond shall be signed by two or more sufficient sureties or by a surety company authorized to do business in this state and approved by the president of the board.

Amended by Acts 1969, 61st Leg., p. 1566, ch. 475, § 5, emerg. eff. June 10, 1969.

Art. 4518. Accreditation of schools of nursing and educational programs; certification of graduates; examination by Board of Nurse Examiners and requirement of registration

Section 1. It shall be the duty of the Board of Nurse Examiners to prescribe and publish the minimum requirements and standards for a course of study in programs which prepare professional nurse practitioners. All other regulations necessary to conduct accredited schools of nursing and educational programs for the preparation of professional nurses shall be as prescribed by the Board, provided, however, that the minimum period of time that the Board may require shall be at least two (2) calendar years and the maximum period of time shall not exceed four (4) calendar years. The Board shall accredit such schools of nursing and educational programs as meet its requirements and shall deny or withdraw accreditation from schools of nursing and educational programs which fail to meet the prescribed course of study or other standards.

The Board shall give those persons and organizations affected by its orders or decisions under this Article reasonable notice thereof, not less than twenty (20) days, and an opportunity to appear and be heard with respect to same. The Board shall hear all protests or complaints from such persons and organizations affected by such rule, regulation or decision as to the inadequacy or unreasonableness of any rule, regulation or order promulgated or adopted by it, or the injustice of any order or decision by it. If any person or organization which shall be affected by such order or decision shall be dissatisfied with any regulation, rule or order by such Board, such person or organization shall have the right, within thirty (30) days from the date such order is entered, to bring an action against said Board in the District Court of Travis County, Texas, to have such regulation, rule or order vacated or modified, and shall set forth in a petition therefor the principal grounds of objection to any or all of such rules, regulations or orders. Such appeal as herein provided shall

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be de novo as that term is known and understood in appeals from the Justice Court to the County Court.

Sec. 1 amended by Acts 1969, 61st Leg., p. 1566, ch. 475, § 6, emerg. eff. June 10, 1969.

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Sec. 3. Every applicant for registration under this law shall present to the Board of Nurse Examiners evidence of successful completion of an accredited program of professional nursing education and a sworn application accompanied by such proof as may be required by the Board showing that the applicant is of good moral character and has such basic educational and other preliminary qualifications and requirements as the Board may prescribe, and shall upon payment of required fees be entitled to take the examination prescribed by the Board, and upon making the passing grade of seventy percent (70%) shall be entitled to receive from said Board a certificate signed by the members of said Board, attested by the seal of said Board, entitling such person to practice as a registered nurse in the State of Texas.

Sec. 3 amended by Acts 1969, 61st Leg., p. 1566, ch. 475, § 6, emerg. eff. June 10, 1969.

Sec. 4. Any person practicing or offering to practice professional nursing in this state for compensation, shall hereafter be required to submit evidence to the Board of Nurse Examiners that he or she is qualified to practice and shall be registered as provided by this law.

Sec. 4 amended by Acts 1969, 61st Leg., p. 1571, ch. 476, § 1, emerg. eff. June 10, 1969.

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Art. 4519. Examination and fee

Upon filing application for examination each applicant shall pay an examination fee of fifteen dollars which shall in no case be returned to applicant. If the applicant passes the examination, then no further fee shall be required for registration. Any applicant for registration who fails to successfully pass the examination herein provided for shall have the right to stand a second examination on those subjects wherein he or she has failed to make a grade of seventy per cent without payment of any additional fees. If more than three examinations are necessary, an additional fee of two dollars shall be charged for each. A grade of not less than seventy on any one subject shall be required to pass the examination. The examination shall be of such character as to determine the fitness of the applicant to practice professional nursing. If the result of the examination be satisfactory to the board, a certificate shall be issued to the applicant, signed by the president and executive secretary and attested by the seal of said board, which certificate shall qualify the person receiving the same to practice professional nursing in this State.

Amended by Acts 1969, 61st Leg., p. 1566, ch. 475, § 7, emerg. eff. June 10, 1969.

Art. 4521. Certificate from another State

Any applicant who holds a registration certificate as a registered nurse from another state, district, territory or possession of the United States, or from a foreign country, may be issued a license to practice as a registered nurse in the State of Texas by endorsement and without examination upon the payment of a fee of Twenty Dollars (\$20.), provided in the opinion of the Board of Nurse Examiners such other board issuing such other certificate in its examination required the same general degree of fitness required by this state.

Amended by Acts 1961, 57th Leg., p. 455, ch. 226, § 1, emerg. eff. May 25, 1961; Acts 1969, 61st Leg., p. 1566, ch. 475, § 8, emerg. eff. June 10, 1969.

Art. 4523. Temporary permit

(a) Any nurse who has graduated from an accredited school of nursing, who holds a registration certificate as a Registered Nurse from another state or from a possession of the United States, who is actually engaged in the pursuit of her profession, coming to this State to remain three months or less, shall be permitted to practice under a permit issued by the board of nurse examiners, upon the payment of a fee of two dollars.

(b) Any nurse who has graduated from an accredited school of professional nursing in another state, coming to this State before registering in the State in which she graduated, may practice under a permit until the time of the next State Board Examination in Texas. A fee of Fifteen Dollars shall be sent with the application for such permit, which shall constitute her registration fee.

(c) All nurses graduating from an accredited school of professional nursing between the time of regular examinations, may practice under a permit until the time of the next State Board Examination. A fee of Fifteen Dollars shall be sent with the application for such permit, which shall constitute her registration fee.

Amended by Acts 1969, 61st Leg., p. 1566, ch. 475, § 9, emerg. eff. June 10, 1969.

Art. 4526. Re-registration

On or before the first day of March of each year, the Executive Secretary shall mail to each nurse registered in this state a blank application for re-registration, addressing the same to the post office address as shown by the records of the Board. Upon receipt of such application blank, which shall contain space for such information as the Board shall deem necessary, he or she shall sign and swear to the accuracy of the same before some officer authorized to administer oaths, after which he or she shall forward such sworn statement and application for renewal of his or her registration certificate to the Executive Secretary, together with a fee of \$2.00. Upon receipt of such application and fee, and having verified the accuracy of the same by comparison with the applicant's initial registration statements, the Executive Secretary shall issue and mail to the applicant a certificate of re-registration which shall render the holder thereof a legally qualified registered nurse for the ensuing year. In case of refusal, notice of such fact shall be given. Certificates of re-registration shall bear the date of April of the year of issue, and shall expire on the last day of March in the year following. Should any registered nurse continue to practice professional nursing and caring for the sick beyond the time for which he or she is registered or re-registered, he or she shall be deemed to be an illegal practitioner and his or her license may be suspended or revoked by the Board. All nurses already registered in this state at the time of the passage of this law shall make application to the Executive Secretary for a re-registration blank upon receipt of which he or she shall, in the manner hereinbefore prescribed, make application for re-registration; failing which, the delinquent may be dealt with as provided in regard to the suspension or revocation of license.

Amended by Acts 1969, 61st Leg., p. 1566, ch. 475, § 10, emerg. eff. June 10, 1969.

Art. 4527. Fees

All fees received by said Board under this law shall be paid to the treasurer thereof, who shall pay the same out only on vouchers issued and signed by the president and executive secretary of said board. All money so received and placed in said fund may be used by said board in defraying its expenses in carrying out the provisions of this law. No expenses incurred by said board shall be paid by the State.

Amended by Acts 1969, 61st Leg., p. 1566, ch. 475, § 11, emerg. eff. June 10, 1969.

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Art. 4527—1. Fees to be charged by board of examiners

The board of nurse examiners, in addition to other fees authorized heretofore, shall charge and receive for the use of the board the following fees:

For accreditation of new schools and programs.....	\$100.00
For admission fee to examinations, to be applied to all examinees in each examination.....	\$ 5.00
For approval of Exchange Visitor Programs.....	\$ 50.00
For duplicate or substitute of current certificate	\$ 5.00
For duplicate or substitute of permanent certificate	\$ 10.00
For duplicate permits.....	\$ 3.00
For endorsement of foreign applicants by examination	\$ 20.00
For filing affidavits in re change of name.....	\$ 5.00
For proctoring examinations of examinees from another State	\$ 20.00
For re-registration under Article 4526, Revised Civil Statutes of Texas, 1925, as amended.....	\$ 2.00
For verification of records.....	\$ 5.00

The board of nurse examiners shall set and collect a sales charge for making copies of any paper of record in the office of the board, and for any printed material published by the board, such charges to be in an amount deemed sufficient to reimburse the board for the actual expense. Added by Acts 1969, 61st Leg., p. 1566, ch. 475, § 12, emerg. eff. June 10, 1969.

Art. 4528. Exceptions

This law shall not be construed to apply to: the gratuitous nursing of the sick by friends; the furnishing of nursing care where treatment is by prayer or spiritual means alone; acts done under the control or supervision or at the instruction of one licensed by the Texas State Board of Medical Examiners; Licensed Vocational Nurses; the practice of registered tuberculosis nurses certified under Article 4528b, Vernon's Texas Civil Statutes; nor to acts done by persons licensed by any board or agency of the State of Texas if such acts are authorized by such licensing statutes.

Amended by Acts 1969, 61st Leg., p. 1571, ch. 476, § 2, emerg. eff. June 10, 1969.

CHAPTER NINE—DENTISTRY

Art. 4551b. Exceptions

The definition of dentistry as contained in Chapter 9 of Title 71, of the Revised Civil Statutes of Texas as amended, shall not apply to (1) members of the faculty of a reputable dental college or school where such faculty members perform their services for the sole benefit of such school or college; or to (2) students of a reputable dental college who perform their operations without pay except for actual cost of materials, in the presence of and under the direct personal supervision of a demonstrator or teacher who is a member of the faculty of a reputable dental college; or to (3) persons doing laboratory work on inert matter only, and who do not solicit or obtain work, by any means, from a person or persons not a licensed dentist actually engaged in the practice of dentistry and who do not act as the agents or solicitors of, or have any interest whatsoever in, any dental office, practice or the receipts therefrom; or to (4) phy-

sicians and surgeons legally authorized to practice medicine as defined by the law of this state; or to (5) dental hygienists legally authorized to practice dental hygiene in this state and who practice dental hygiene in strict conformity with the laws of Texas regulating the practice of dental hygiene; or to (6) those persons who as members of an established church practice healing by prayer only; or to (7) employees of a dentist who make dental x-rays in the dental office and under the supervision of such dentist or dentists legally engaged in the practice of dentistry in this state; or to (8) Dental Health Service Corporations legally chartered under Subsection (1) of Article 2.01, of the Texas Nonprofit Corporation Act; or to (9) dental interns, dental residents and dental assistants as defined and regulated by the Texas State Board of Dental Examiners in its rules and regulations. Nothing in this Act applies to one legally engaged in the practice of dentistry in this state at the time of the passage of this law, except as hereinbefore provided."

Amended by Acts 1961, 57th Leg., p. 959, ch. 418, § 3; Acts 1969, 61st Leg., 2nd C.S. p. —, ch. 7, § 2, emerg. eff. Sept. 19, 1969.

Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 7, § 1, amended art. 4551e; section 3 amended Vernon's Ann.P.C. art. 753; section 4 repealed all conflicting laws; and section 5 was a severability clause.

Art. 4551e. Dental hygienists; regulation and licensing

Definitions

Section 1. The term "dental hygiene," and the practice thereof as used in this Act shall mean and is hereby defined as (a) the removal of accumulated matter, tartar, deposits, accretions or stains, except mottled enamel stains, from the natural and restored surfaces of exposed human teeth, and restorations therefor in the human mouth and the polishing of said surfaces; (b) the making of topical application of drugs to the surface tissues of the human mouth and to the exposed surface of human teeth; (c) the making of Dental X-rays; and (d) such other services and procedures as may be prescribed by the Texas State Board of Dental Examiners in its Rules and Regulations.

The term "dental hygienist," as used in this Act shall mean and is hereby defined as a person who practices "dental hygiene."

Sec. 1 amended by Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 7, § 1, emerg. eff. Sept. 19, 1969.

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Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 7, § 2, amended art. 4551b; section 3 amended Vernon's Ann.P.C. art. 753; section 4 repealed all conflicting laws; and section 5 was a severability clause.

Arts. 4552 to 4566—1. Repealed by Acts 1969, 61st Leg., p. 1298, ch. 401, § 6.03

HEALTH—PUBLIC

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CHAPTER TEN—OPTOMETRY [NEW]

ARTICLE 1. GENERAL PROVISIONS

- Art.
4552—1.01 Short title.
4552—1.02 Definitions.

ARTICLE 2. TEXAS OPTOMETRY BOARD

- 4552—2.01 Board created.
4552—2.02 Qualifications of members.
4552—2.03 Terms of office.
4552—2.04 Organization of board.
4552—2.05 Meetings.
4552—2.06 Records.
4552—2.07 Committees.
4552—2.08 Employees of board.
4552—2.09 Suit for injunction.
4552—2.10 Proceedings; subpoenas; oaths.
4552—2.11 Bond of secretary-treasurer.
4552—2.12 Seal; design of license.
4552—2.13 Office.
4552—2.14 Rules and regulations.
4552—2.15 Disposition of fees.

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Former Chapter 10, entitled Optometry, which consisted of articles 4552 to 4566—1, was repealed by Acts 1969, 61st Leg., p. 1298, ch. 401, § 6.03 (art. 4552—6.03).

Articles 4552—1.01 to 4552—6.04, incorporated in Chapter 10, entitled Optometry, were enacted by Acts 1969, 61st Leg., p. 1298, ch. 401.

DISPOSITION TABLE

The following table shows the disposition of the repealed articles of former chapter 10 in the new chapter 10.

Former Articles	New Articles
4552	4552—1.02
4553	4552—2.01, 4552—2.02
4554	4552—2.03
4555	4552—2.04, 4552—2.05
4556	4552—2.06 to 4552—2.14
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4559	4552—3.04, 4552—3.06, 4552—3.07
4560	Repealed 1939
4561	4552—5.02
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Former Articles	New Articles
4563	4552—4.04
4564	4552—5.01
4565	4552—2.15, 4552—3.03
4565a	4552—4.01 to 4552—4.03
4565b	Repealed 1939
4565c	4552—1.02
4565d	4552—1.02
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4566	4552—5.17
4566—1	4552—5.16

ARTICLE 1. GENERAL PROVISIONS

Art. 4552—1.01. Short title

This Act may be cited as the Texas Optometry Act.
Acts 1969, 61st Leg., p. 1298, ch. 401, § 1.01, eff. Sept. 1, 1969.

Title of Act:

An Act relating to the practice of optometry and ophthalmic dispensing and related activities; regulating optometrists, dispensing opticians and the sale and advertising of optical products; creating the Texas Optometry Board and prescribing its membership, organization, powers, duties and functions; abolishing the Texas State Board of Examiners in Optometry;

repealing Chapter 10, Title 71, Revised Civil Statutes of Texas as amended and Chapter 5, Title 12, Penal Code of Texas, 1925, as amended, and other laws in conflict; defining terms; providing for Advertising Permits, their issuance, suspension and cancellation; providing a severability and repealing clause; and declaring an emergency. Acts 1969, 61st Leg., p. 1298, ch. 401.

Art. 4552—1.02 Definitions

As used in this Act:

(1) The "practice of optometry" is defined to be the employment of objective or subjective means, without the use of drugs, for the purpose of ascertaining and measuring the powers of vision of the human eye, and fitting lenses or prisms to correct or remedy any defect or abnormal condition of vision. Nothing herein shall be construed to permit optometrists to treat the eyes for any defect whatsoever in any manner nor to administer nor to prescribe any drug or physical treatment whatsoever, unless such optometrist is a regularly licensed physician or surgeon under the laws of this state. Nothing herein shall be construed to prevent selling ready-to-wear spectacles or eyeglasses as merchandise at retail, nor to prevent simple repair jobs.

(2) "Ascertaining and measuring the powers of vision of the human eye" shall be construed to include:

(A) The examination of the eye to ascertain the presence of defects or abnormal conditions which may be corrected, remedied, or relieved, or the effects of which may be corrected, remedied or relieved by the use of lenses or prisms, or

(B) The employment of any objective or subjective means to determine the accommodative or refractive condition or the range or powers of vision of muscular equilibrium of the human eye, or

(C) The employment of any objective or subjective means for the examination of the human eye for the purpose of ascertaining any departure from the normal, measuring its power of vision or adapting lenses or prisms for the aid or relief thereof, and it shall be construed as a violation of this Act, for any person not a licensed optometrist or a licensed physician to do any one act or thing, or any combination of acts or things, named or described in this subdivision; provided, that nothing herein shall be construed to permit optometrists to treat the eye for any defect whatsoever in any manner, nor to administer any drug or physical treatment whatsoever, unless said optometrist is a duly licensed physician and surgeon, under the laws of this state.

(3) "Fitting lenses or prisms" shall be construed to include:

(A) Prescribing or supplying, directly or indirectly, lenses or prisms, by the employment of objective or subjective means or the making of any measurements whatsoever involving the eyes or the optical requirements thereof; provided, however, that nothing in this Act shall be construed so as to prevent an ophthalmic dispenser, who does not practice optometry, from measuring interpupillary distances or from making facial measurements for the purpose of dispensing, or adapting ophthalmic prescriptions or lenses, products and accessories in accordance with the specific direc-

For Annotations and Historical Notes, see V.A.T.S.

tions of a written prescription signed by a licensed physician or optometrist; provided, however, the fitting of contact lenses shall be done only by a licensed physician or licensed optometrist as defined by the laws of this state, but the lenses may be dispensed by an ophthalmic dispenser on a fully written contact lens prescription issued by a licensed physician or optometrist, in which case the ophthalmic dispenser may fabricate or order the contact lenses and dispense them to the patient with appropriate instructions for the care and handling of the lenses, and may make mechanical adjustment of the lenses, but shall make no measurements of the eye or the cornea or evaluate the physical fit of the lenses, by any means whatsoever; provided that the physician or optometrist who writes or issues the prescription shall remain professionally responsible to the patient.

(B) The adaptation or supplying of lenses or prisms to correct, relieve or remedy any defect or abnormal condition of the human eye or to correct, relieve or remedy or attempt to correct, relieve or remedy the effect of any defect or abnormal condition of the human eye.

(C) It shall be construed as a violation of this Act for any person not a licensed optometrist or a licensed physician to do any one thing or act, or any combination of things or acts, named or described in this Article. Acts 1969, 61st Leg., p. 1298, ch. 401, § 1.02, eff. Sept. 1, 1969.

Derivation:

Former arts. 4565c, 4565d, 4565e.
Vernon's Ann.P.C. art. 735.

ARTICLE 2. TEXAS OPTOMETRY BOARD

Art. 4552—2.01 Board created

The Texas Optometry Board is created. The board is composed of six members appointed by the governor with the advice and consent of the Senate.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 2.01, eff. Sept. 1, 1969.

Derivation:

Former art. 4553.

Art. 4552—2.02 Qualifications of members

To be qualified for appointment as a member of the board, a person must be a licensed optometrist who has been a resident of this state actually engaged in the practice of optometry in this state for the period of five years immediately preceding his appointment. A person is disqualified from appointment to the board if he is a member of the faculty of any college of optometry, if he is an agent of any wholesale optical company, or if he has a financial interest in any such college or company. At all times there shall be a minimum of two-thirds of the board who are members of a state optometric association which is recognized by and affiliated with the American Optometric Association.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 2.02, eff. Sept. 1, 1969.

Derivation:

Former art. 4553.

Art. 4552—2.03 Terms of office

Except for the initial appointees, the members of the board hold office for staggered terms of six years, with the terms of two members expiring on January 31 of odd-numbered years. In making the initial appointments, the governor shall designate two for terms expiring on January 31,

1971, two for terms expiring on January 31, 1973, and two for terms expiring on January 31, 1975.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 2.03, eff. Sept. 1, 1969.

Derivation:

Former art. 4554.

Art. 4552—2.04 Organization of board

At its first meeting after the appointment of any one or more members, the board shall elect a chairman, a vice-chairman, and a secretary-treasurer.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 2.04, eff. Sept. 1, 1969.

Derivation:

Former art. 4555.

Art. 4552—2.05 Meetings

(a) The board shall hold regular meetings at least twice a year at which examinations of applicants for licenses shall be given. Not less than 10 days' notice of each regular meeting shall be given by publication in at least three daily newspapers of general circulation to be selected by the board.

(b) Special meetings shall be held upon the request of four members of the board or upon the call of the chairman.

(c) Four members constitute a quorum for the transaction of business. If a quorum is not present on the day set for any meeting, those present may adjourn from day to day until a quorum is present, but this period may not be longer than three successive days.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 2.05, eff. Sept. 1, 1969.

Derivation:

Former art. 4555.

Art. 4552—2.06 Records

(a) The board shall preserve a record of its proceedings in a book kept for that purpose.

(b) A record shall be kept showing the name, age, and present legal and mailing address of each applicant for examination, the name and location of the school of optometry from which he holds credentials, and the time devoted to the study and practice of optometry, together with such information as the board may desire to record. Said record shall also show whether applicants were rejected or licensed and shall be prima facie evidence of all matters therein contained. The secretary of the board shall on or before March 1 of each year send a certified copy of said record to the secretary of state for permanent record. A certified copy of said record with the hand and seal of the secretary of said board to the secretary of state, shall be admitted as evidence in all courts.

(c) Every license and annual renewal certificate issued shall be numbered and recorded in a book kept by the secretary of the board.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 2.06, eff. Sept. 1, 1969.

Derivation:

Former art. 4556.

Art. 4552—2.07 Committees

The board shall have power to appoint committees from its own membership. The duties of such committees shall be to consider such matters pertaining to the enforcement of this Act and the regulations promulgated in accordance therewith, as shall be referred to said committees, and they shall make recommendations to the board with respect thereto.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 2.07, eff. Sept. 1, 1969.

Derivation:

Former art. 4556.

Art. 4552—2.08 Employees of board

The board shall have the power to employ the services of stenographers, secretaries, inspectors, legal assistants and other personnel necessary to carry out the provisions of this Act. In all hearings before the board, and in all suits in the courts in which the board is a party, the staff attorney employed by the board may at the board's discretion be an attorney of record for the board; provided, however, that when the county attorney, district attorney or attorney general is also an attorney of record, the board's staff attorney shall be subordinate to such county attorney, district attorney, or attorney general, and nothing herein shall be construed to deprive, limit, or exclude the county attorney, district attorney, or attorney general from their right to appear as the board's attorney in the respective courts to which they are assigned by the constitution to represent the state. In all suits in which the board is a party, the board's staff attorney may also be appointed as special assistant to the county attorney, district attorney, or attorney general, provided, however, that such members of the board's staff shall be paid by the board.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 2.08, eff. Sept. 1, 1969.

Derivation:

Former art. 4556.

Art. 4552—2.09 Suit for injunction

The board may sue in its own name to enjoin the violation of any provision of this Act. This remedy is in addition to any other action, proceeding, or remedy authorized by law.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 2.09, eff. Sept. 1, 1969.

Derivation:

Former art. 4556.

Art. 4552—2.10 Proceedings; subpoenas; oaths

The board, any committee, or any member thereof, shall have the power to issue subpoenas and subpoenas duces tecum to compel the attendance of witnesses and the production of books, records and documents, to administer oaths and to take testimony concerning all matters within its or his jurisdiction. The board shall not be bound by strict rules of procedure or by the laws of evidence in the conduct of its proceedings but the determination shall be founded upon sufficient legal evidence to sustain it.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 2.10, eff. Sept. 1, 1969.

Derivation:

Former art. 4556.

Art. 4552—2.11 Bond of secretary-treasurer

Before entering upon the discharge of the duties of his office, the secretary-treasurer of the board shall give such bond for the performance of his duties as the board may require, the premium of which is to be paid from funds in the possession of the board.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 2.11, eff. Sept. 1, 1969.

Derivation:

Former art. 4556.

Art. 4552—2.12 Seal; design of license

The board shall adopt an official seal and a license of suitable design.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 2.12, eff. Sept. 1, 1969.

Derivation:

Former art. 4556.

Art. 4552—2.13 Office

The board shall maintain an office where all the permanent records are kept.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 2.13, eff. Sept. 1, 1969.

Derivation:

Former art. 4556.

Art. 4552—2.14 Rules and regulations

The board shall promulgate procedural rules and regulations only, consistent with the provisions of this Act, to govern the conduct of its business and proceedings. Notwithstanding any other provision of this Act, the board shall not have any power or authority to amend or enlarge upon any provision of this Act by rule or regulation or by rule or regulation to change the meaning in any manner whatsoever of any provision of this Act or to promulgate any rule or regulation which is in any way contrary to the underlying and fundamental purposes of this Act or to make any rule or regulation which is unreasonable, arbitrary, capricious, illegal, or unnecessary.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 2.14, eff. Sept. 1, 1969.

Derivation:

Former art. 4556.

Art. 4552—2.15 Disposition of fees

(a) Except as provided by Subsection (c) of this section, the fund realized from all fees payable under this Act shall first be applied to the payment of all necessary expenses of the board, and the remainder shall be applied, by order of the board, to compensate members of the board. The compensation of the members of the board shall be a per diem of \$25 per day for each day they are actually engaged in performing their duties; provided, however, they shall not draw compensation for more than 40 days in any one fiscal year, and in addition to the per diem provided for herein, they shall be entitled to their actual traveling expenses in performance of their duties. Each board member shall make out, under oath, a complete statement of the number of days engaged and the amount of his expenses when presenting same for payment.

(b) The secretary of the board shall receive compensation to be set by the board exclusive of necessary expenses in the performance of his duties.

(c) The funds realized from annual renewal fees shall be distributed as follows: \$10 of each renewal fee collected by the board shall be dedicated to the University of Houston Development Fund. The license money placed in the development fund pursuant hereto shall be utilized solely for scholarships and improvements in the physical facilities, including library, of the School of Optometry.

The remainder of the fees attributable to annual renewal fees and all other fees payable under this Act shall be placed in the state treasury to the credit of a special fund to be known as the "Optometry Fund," and the comptroller shall upon requisition of the board from time to time draw warrants upon the state treasurer for the amounts specified in such requisition; provided, however, the fees from this optometry fund shall be expended as specified by itemized appropriation in the General Appropriations bill and shall be used by the Texas Optometry Board, and under its direction in carrying out its statutory duties.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 2.15, eff. Sept. 1, 1969.

Derivation:

Former art. 4565.

ARTICLE 3. EXAMINATIONS

Art. 4552—3.01 Must pass examination

Every person hereafter desiring to be licensed to practice optometry in this state shall be required to pass the examination given by the Texas Optometry Board.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 3.01, eff. Sept. 1, 1969.

Derivation:

Former art. 4557.

Art. 4552—3.02 Application

(a) The applicant shall make application, furnishing to the secretary of the board, on forms to be furnished by the board, satisfactory sworn evidence that he has attained the age of 21 years, is of good moral character, is a citizen of the United States, and has at least graduated from a first grade high school, or has a preliminary education equivalent to permit him to matriculate in The University of Texas, and that he has attended and graduated from a reputable university or college of optometry which meets with the requirements of the board, and such other information as the board may deem necessary for the enforcement of this Act.

(b) A university or school of optometry is reputable whose entrance requirements and course of instruction are as high as those adopted by the better class of universities and schools of optometry and whose course of instruction shall be equivalent to not less than six terms of eight months each, and approved by the board. Provided, however, that the provisions of this subsection shall only apply to those students enrolling in school from and after the effective date of this Act.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 3.02, eff. Sept. 1, 1969.

Derivation:

Former art. 4557.

Art. 4552—3.03 Fees

The board shall charge a fee of \$35 for examining an applicant for license, which fee must accompany the application. If the applicant who, because of failure to pass the examination, be refused a license, he shall be permitted to take a second examination upon payment of \$12.50, provided the second examination is taken within a period of one year. The fee for issuing a license shall be \$25 to be paid to the secretary of the board. If anyone successfully passing the examination and meeting the requirements of the board has not paid the fee for issuance of a license within 90 days after having been notified by registered mail at the address given on his examination papers, or at the time of the examination that he is eligible for same, such person shall by his own act have waived his right to obtain his license, and the board may at its discretion refuse to issue such license until such person has taken and successfully passed another examination.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 3.03, eff. Sept. 1, 1969.

Derivation:

Former art. 4565.

Art. 4552—3.04 Notice of examination

Each applicant shall be given due notice of the date and place of the examination.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 3.04, eff. Sept. 1, 1969.

Derivation:

Former art. 4559.

Art. 4552—3.05 Subjects of examination

The examination shall consist of written, oral or practical tests, in practical, theoretical, and physiological optics, in theoretical and practical optometry, and in the anatomy, physiology and pathology of the eye as applied to optometry and in such other subjects as may be regularly taught in all recognized standard optometric universities or schools.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 3.05, eff. Sept. 1, 1969.

Derivation:

Former art. 4558.

Art. 4552—3.06 Conduct of examination

All examinations shall be conducted in writing and by such other means as the board shall determine adequate to ascertain the qualifications of applicants and in such manner as shall be entirely fair and impartial to all individuals and every recognized school of optometry. All applicants examined at the same time shall be given the same written examination.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 3.06, eff. Sept. 1, 1969.

Derivation:

Former art. 4559.

Art. 4552—3.07 Those passing entitled to license

Every candidate successfully passing the examination and meeting all requirements of the board shall be registered by the board as possessing the qualifications required by this law and shall receive from this board a license to practice optometry in the state.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 3.07, eff. Sept. 1, 1969.

Derivation:

Former art. 4559.

ARTICLE 4. LICENSES—RENEWAL, REVOCATION, ETC.**Art. 4552—4.01 Annual renewal**

(a) On or before January 1 of each year, every licensed optometrist in this state shall pay to the secretary-treasurer of the board an annual renewal fee for the renewal of his license to practice optometry for the current year. The amount of the fee shall be as determined by the board, not to exceed \$60.

(b) On receipt of said renewal fee, the board shall issue an annual renewal certificate bearing the number of his license, the year for which renewed, and such other information from the records of the board as said board may deem necessary for the proper enforcement of this Act.

(c) When an optometrist shall fail to pay his annual renewal fee by March 1 of each year, it shall be the duty of the board to notify such optometrist by registered mail at his last known address that said annual renewal fee is due and unpaid. Provided, that if said annual renewal fee is not paid within 60 days from the date of mailing of such notice, the board shall then cancel said license. The board shall notify the county clerk of the county in which such license may have been recorded of such cancellation, and such clerk, upon receipt of such notice from said board, shall enter upon the optometry register of such county the fact that such license has been cancelled for nonpayment of annual renewal fee and shall notify the board in writing that such entry has been made.

(d) Practicing optometry without an annual renewal certificate for the current year as provided herein, shall have the same force and effect and be subject to all penalties of practicing optometry without a license.

For Annotations and Historical Notes, see V.A.T.S.

(e) After the board has cancelled a license as provided for in this section, the board may thereafter, in its discretion, refuse to issue a new license until such optometrist whose license has been cancelled for non-payment of annual renewal fee, has passed the regular examination for license as provided for by this Act.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 4.01, eff. Sept. 1, 1969.

Derivation:

Former art. 4565a.

Art. 4552—4.02 Renewal after discharge from military

Any licensed optometrist whose renewal certificate has expired while he has been engaged in federal service or in active duty with the Army of the United States, the United States Navy, the United States Marine Corps, the United States Coast Guard, the United States Maritime Service or the State Militia called into service or training or education under the supervision of the United States, preliminary to induction into the military service, may have his renewal certificate reinstated without paying any lapsed renewal fee or registration fee, or without passing an examination, if within one year after termination of said service, training or education, other than by dishonorable discharge, he furnishes the board with affidavit to the effect that he has been so engaged and that his service, training or education has been so terminated.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 4.02, eff. Sept. 1, 1969.

Derivation:

Former art. 4565a.

Art. 4552—4.03 Lost or destroyed license

If any license issued under this law shall be lost or destroyed, the holder of said license shall make an affidavit of its loss or destruction, and that he is the same person to whom such license was issued, and such other information as may be desired by the board, and shall, upon payment of a fee of \$2.50 be granted a license under this law.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 4.03, eff. Sept. 1, 1969.

Derivation:

Former art. 4565a.

Art. 4552—4.04 Revocation, suspension, etc.

(a) The board may, in its discretion, refuse to issue a license to any applicant and may cancel, revoke or suspend the operation of any license if it finds that:

- (1) the applicant or licensee is guilty of gross immorality;
- (2) the applicant or licensee is guilty of any fraud, deceit, dishonesty, or misrepresentation in the practice of optometry or in his seeking admission to such practice;
- (3) the applicant or licensee is unfit or incompetent by reason of negligence;
- (4) the applicant or licensee has been convicted of a felony or a misdemeanor which involves moral turpitude;
- (5) the applicant or licensee is an habitual drunkard or is addicted to the use of morphine, cocaine or other drugs having similar effect or has become insane or has been adjudged by a court of competent jurisdiction to be of unsound mind;
- (6) the licensee has directly or indirectly employed, hired, procured, or induced a person, not licensed to practice optometry in this state, to so practice;
- (7) the licensee directly or indirectly aids or abets in the practice of optometry any person not duly licensed to practice under this Act;

(8) the licensee directly or indirectly employs solicitors, canvassers or agents for the purpose of obtaining patronage;

(9) the licensee lends, leases, rents or in any other manner places his license at the disposal or in the service of any person not licensed to practice optometry in this state;

(10) the applicant or licensee has willfully or repeatedly violated any of the provisions of this Act;

(11) the licensee has willfully or repeatedly represented to the public or any member thereof that he is authorized or competent to cure or treat diseases of the eye;

(12) the licensee has his right to practice optometry suspended or revoked by any federal agency for a cause which in the opinion of the board warrants such action;

(13) the applicant or licensee has been finally convicted of violation of Article 773 of the Penal Code.

(b) Proceedings under this section shall be begun by filing charges with the board in writing and under oath. Said charges may be made by any person or persons. The chairman of the board shall fix a time and place for a hearing and shall cause a copy of the charges, together with a notice of the time and place fixed for the hearing, to be served on the respondent or his counsel at least 10 days prior thereto. When personal service cannot be effected, the board shall cause to be published once a week for two successive weeks a notice of the hearing in a newspaper published in the county wherein the respondent was last known to practice, and shall mail a copy of the charges and of such notice to the respondent at his last known address. When publication of the notice is necessary, the date of hearing shall not be less than 10 days after the last date of the publication of the notice.

(c) At said hearing the respondent shall have the right to appear either personally or by counsel, or both, to produce witnesses and evidence on his behalf, to cross examine witnesses and to have subpoenas issued by the board. The board shall thereupon determine the charges upon their merits.

(d) Any person whose license to practice optometry has been refused or has been revoked or suspended by the board may, within 20 days after the making and entering of such order, take an appeal to any of the district courts of the county of his residence, but the decision of the board shall not be stayed or enjoined except upon application to such district court after notice to the board.

(e) Upon application, the board may reissue a license to practice optometry to a person whose license has been revoked but such application shall not be made prior to one year after the revocation and shall be made in such manner and form as the board may require.

(f) Nothing in this Act shall be construed to prevent the administrator or executor of the estate of a deceased optometrist from employing a licensed optometrist to carry on the practice of such deceased during the administration of such estate nor to prevent a licensed optometrist from working for such person during the administration of the estate when the legal representative thereof has been authorized by the county judge to continue the operation of such practice.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 4.04, eff. Sept. 1, 1969.

Derivation:

Former art. 4563.

**ARTICLE 5. DUTIES OF LICENSEES; CONDUCT OF
LICENSEES AND OTHERS**

Art. 4552—5.01 Display of license

Every person practicing optometry in this state shall display his license or certificate in a conspicuous place in the principal office where he practices optometry and whenever required, exhibit such license or certificate to said board, or its authorized representative, and whenever practicing said profession of optometry outside of, or away from said office or place of business, he shall deliver to each person fitted with glasses a bill, which shall contain his signature, post-office address, and number of his license or certificate, together with a specification of the lenses and material furnished and the prices charged for the same respectively.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 5.01, eff. Sept. 1, 1969.

Derivation:

Former art. 4564.

Vernon's Ann.P.C. art. 736.

Art. 4552—5.02 Recordation of license

It shall be unlawful for any person to practice optometry within the limits of this state who has not registered and recorded his license in the office of the county clerk of the county in which he resides, and in each county in which he practices, together with his age, post-office address, place of birth, subscribed and verified by his oath. The fact of such oath and record shall be endorsed by the county clerk upon the license. The absence of record of such license in the office of the county clerk shall be prima facie evidence of the lack of the possession of such license to practice optometry.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 5.02, eff. Sept. 1, 1969.

Derivation:

Former art. 4561.

Vernon's Ann.P.C. art. 735.

Art. 4552—5.03 Optometry register

Each county clerk in this state shall purchase a book of suitable size, to be known as the "Optometry Register" of such county, and set apart at least one full page for the registration of each optometrist, and record in said optometry register the name and record of each optometrist who presents for record a license or certificate issued by the state board. When an optometrist shall have his license revoked, suspended, or cancelled, said county clerk, upon being notified by the board, shall make a note of the fact beneath the record in the optometry register, which entry shall close the record and be prima facie evidence of the fact that the license has been so cancelled, suspended or revoked. The county clerk of each county shall, upon the request of the secretary of the board, certify to the board a correct list of the optometrists then registered in the county, together with such other information as the board may require.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 5.03, eff. Sept. 1, 1969.

Derivation:

Former art. 4562.

Art. 4552—5.04 Practice without license; fraud; house-to-house

It shall be unlawful for any person to:

- (1) falsely impersonate any person duly licensed as an optometrist under the provisions of this Act or to falsely assume another name;

(2) buy, sell, or fraudulently obtain any optometry diploma, license, record of registration or aid or abet therein;

(3) practice, offer, or hold himself out as authorized to practice optometry or use in connection with his name any designation tending to imply that he is a practitioner of optometry if not licensed to practice under the provisions of this Act;

(4) practice optometry during the time his license shall be suspended or revoked;

(5) practice optometry from house-to-house or on the streets or highways, notwithstanding any laws for the licensing of peddlers. This shall not be construed as prohibiting an optometrist or physician from attending, prescribing for and furnishing spectacles, eyeglasses or ophthalmic lenses to a person who is confined to his abode by reason of illness or physical or mental infirmity, or in response to an unsolicited request or call, for such professional services.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 5.04, eff. Sept. 1, 1969.

Derivation:

Vernon's Ann.P.C. art. 738a.

Art. 4552—5.05 Treating diseased eyes

Anyone practicing optometry who shall prescribe for or fit lenses for any diseased condition of the eye, or for the disease of any other organ of the body that manifests itself in the eye, shall be deemed to be practicing medicine within the meaning of that term as defined by law. Any such person possessing no license to practice medicine who shall so prescribe or fit lenses shall be punished in the same manner as is prescribed for the practice of medicine without a license.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 5.05, eff. Sept. 1, 1969.

Derivation:

Vernon's Ann.P.C. art. 738.

Art. 4552—5.06 Spectacles as premiums

It shall be unlawful for any person in this state to give, or cause to be given, deliver, or cause to be delivered, in any manner whatsoever, any spectacles or eyeglasses, separate or together, as a prize or premium, or as an inducement to sell any book, paper, magazine or any work of literature or art, or any item of merchandise whatsoever.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 5.06, eff. Sept. 1, 1969.

Derivation:

Former art. 4565h.

Art. 4552—5.07 Prescribing without examination

No licensed optometrist shall sign, or cause to be signed, a prescription for an ophthalmic lens without first making a personal examination of the eyes of the person for whom the prescription is made.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 5.07, eff. Sept. 1, 1969.

Derivation:

Former art. 4565f.

Art. 4552—5.08 Practice while suffering from contagious disease

No licensed optometrist shall practice optometry while knowingly suffering from a contagious or infectious disease.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 5.08, eff. Sept. 1, 1969.

Derivation:

Former art. 4565f.

For Annotations and Historical Notes, see V.A.T.S.

Art. 4552—5.09 Advertising by optometrists

(a) No optometrist shall publish or display, or knowingly cause or permit to be published or displayed by newspaper, radio, television, window display, poster, sign, billboard, or any other advertising media, any statement or advertisement of any price offered or charged by him for any ophthalmic services or materials, or any statement or advertisement concerning ophthalmic lenses, frames, eyeglasses, spectacles, or parts thereof which is fraudulent, deceitful, misleading, or which in any manner whatsoever tends to create a misleading impression, including statements or advertisements of bait, discount, premiums, gifts, or any statements or advertisements of a similar nature, import, or meaning.

(b) This section shall not operate to prohibit optometrists who also own, operate, or manage a dispensing opticianry from advertising in any manner permitted under any section of this bill so long as such advertising is done in the name of the dispensing opticianry and not in the name of the optometrist in his professional capacity.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 5.09, eff. Sept. 1, 1969.

Art. 4552—5.10 Advertising by dispensing opticians

(a) No person, firm or corporation shall publish or display or cause or permit to be published or displayed in any newspaper or by radio, television, window display, poster, sign, billboard or any other means or media any statement or advertisement concerning ophthalmic lenses, frames, eyeglasses, spectacles or parts thereof which is fraudulent, deceitful or misleading, including statements or advertisements of bait, discount, premiums, price, gifts or any statements or advertisements of a similar nature, import or meaning.

(b) No person, firm or corporation shall publish or display or cause or permit to be published or displayed in any newspaper, or by radio, television, window display, poster, sign, billboard or any other means or media, any statement or advertisement of or reference to the price or prices of any eyeglasses, spectacles, lenses, contact lenses or any other optical device or materials or parts thereof requiring a prescription from a licensed physician or optometrist unless such person, firm or corporation complies with the provisions of Subsections (c)-(j) of this section.

(c) The person, firm or corporation shall obtain from the board an "Advertising Permit," which permit shall be granted to any person, firm or corporation which is engaged in the business of a dispensing optician in Texas.

(d) Such person, firm or corporation shall after receipt of such permit, but before beginning any such advertising, file with the board a list of prices which shall be charged for such eyeglasses, spectacles, lenses, contact lenses or other optical devices or materials or parts thereof in each and all of the following categories:

- (1) single vision lenses;
- (2) kryptok bifocal lenses;
- (3) regular bifocal lenses;
- (4) trifocal lenses;
- (5) aphakic lenses;
- (6) prism lenses;
- (7) double segment bifocal lenses;
- (8) subnormal vision lenses;
- (9) contact lenses.

(e) No change may be made in any such price advertisement until the change has been filed with the board.

(f) Any advertisement or statement published or displayed as above described which contains the price of any of the categories shown above

shall also contain the prices of all other categories and all such items, and the prices thereof, shall be published or displayed with equal prominence. No advertisement which shows the price of items listed in the categories shown above shall contain any language which directly or indirectly compares the prices so quoted with any other prices of similar items. In the event an "Advertising Permit" is issued to a dispensing optician there shall be displayed prominently in each reception room and display room of each office owned or operated by such dispensing optician a complete current list of all prices on file with the board as provided above. In showing the price of "all other categories and all such items" as required by this section, it shall be permissible to combine two or more categories into one general category of "all other lenses" and designate the price thereby of "up to \$_____ " which represents the highest price of any lenses included within this combined general category. Should there be a category in which two or more price differentials exist, it shall be permissible for the category to have a single listing in the advertisement with the lowest and the highest price in the category designated.

(g) In the event the dispensing optician owns more than one office, the prices for all such eyeglasses, spectacles, lenses, contact lenses or other optical devices or materials or parts thereof in the same category shall be the same in all offices located within the geographical limits of a county or a city regardless of the name under which such dispensing optician operates such offices.

(h) All such eyeglasses, spectacles, lenses, contact lenses, or other optical devices or materials or parts thereof must conform to standards of quality as promulgated by the American Standards Association, Inc., and commonly known as Z80.1-1964 standards.

(i) On or before April 1, of each calendar year each person, firm or corporation holding an "Advertising Permit" hereunder shall file with the board a statement sworn to by such person or officer of such firm or corporation specifying separately for each office owned by such person, firm or corporation the percentage of the total unit sales of each such office owned by such person, firm or corporation allocated to sales of single vision lenses, bifocal lenses, trifocal lenses, contact lenses and all other lenses requiring a prescription from a licensed physician or optometrist during the prior calendar year. The person making such sworn statement shall be subject to the obligations and penalties of Article 310 of the Penal Code.

(j) All items advertised by price in accordance with this section shall be available at the advertised price without limit to quantity to all persons including, but not limited to, individuals, physicians, optometrists, dispensing opticians or the employees of any of them.

(k) Willful or repeated violation by any person, firm or corporation holding an "Advertising Permit" hereunder of any provision of Subsections (d)-(j) of this section shall be grounds for suspension of such "Advertising Permit" by the board for a period not to exceed six months. If after the expiration of such suspension, the board, after a hearing, finds that there has been a second or subsequent willful or repeated violation of any provision of Subsections (d)-(j) of this section such "Advertising Permit" shall be permanently cancelled and may not be reissued or renewed.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 5.10, eff. Sept. 1, 1969.

Derivation:

Former art. 4565g.

Art. 4552—5.11 Window displays and signs

(a) It shall be unlawful for any optometrist:

(1) to display or cause to be displayed any spectacles, eyeglasses, frames or mountings, goggles, lenses, prisms, contact lenses, eyeglass

For Annotations and Historical Notes, see V.A.T.S.

cases, ophthalmic material of any kind, optometric instruments, or optical tools or machinery, or any merchandise or advertising of a commercial nature in his office windows or reception rooms;

(2) to make use of or permit the continuance of any colored or neon lights, eyeglasses or eye signs, whether painted, neon, decalcomania, or any other either in the form of eyes or structures resembling eyes, eye-glass frames, eyeglasses or spectacles, whether lighted or not, or any other kind of signs or displays of a commercial nature in his optometric office.

(b) Any optometrist practicing optometry on or after April 15, 1969 in a manner, or under conditions, contrary to any of the provisions of this Section 5.11 by virtue of occupying premises under an existing or negotiated lease in effect on April 15, 1969, shall not be subject to the provisions of this Section 5.11 until the expiration of the primary term of the lease, or until January 1, 1979, whichever occurs sooner, but no such lease may be extended beyond the primary term by the exercise of any option. Provided, however, that as to any such lease expiring on or before June 1, 1970, such lease may be continued in effect until June 1, 1970.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 5.11, eff. Sept. 1, 1969.

Art. 4552—5.12 Basic competence

(a) In order to insure an adequate examination of a patient for whom an optometrist signs or causes to be signed a prescription for an ophthalmic lens, in the initial examination of the patient the optometrist shall make and record, if possible, the following findings of the condition of the patient:

(1) Case History (ocular, physical, occupational and other pertinent information).

(2) Far point acuity, O.D., O.S., O.U., unaided; with old glasses, if available, and with new glasses, if any.

(3) External examination (lids, cornea, sclera, etc.).

(4) Internal ophthalmoscopic examination (media, fundus, etc.).

(5) Static retinoscopy, O.D., O.S.,

(6) Subjective findings, far point and near point.

(7) Phorias or ductions, far and near, lateral and vertical.

(8) Amplitude or range of accommodation.

(9) Amplitude or range of convergence.

(10) Angle of vision, to right and to left.

(b) Every prescription for an ophthalmic lens shall include the following information: interpupillary distance, far and near; lens prescription, right and left; color or tint; segment type, size and position; the optometrist's signature.

(c) The willful or repeated failure or refusal of an optometrist to comply with any of the foregoing requirements shall be considered by the board to constitute prima facie evidence that he is unfit or incompetent by reason of negligence within the meaning of Section 4.04(a) (3) of this Act,¹ and shall be sufficient ground for the filing of charges to cancel, revoke or suspend his license. The charges shall state the specific instances in which it is alleged that the rule was not complied with. At a hearing pursuant to the filing of such charges, the person charged shall have the burden of establishing that compliance with the rule in each instance in which proof is adduced that it was not complied with was not necessary to a proper examination of the patient in that particular case.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 5.12, eff. Sept. 1, 1969.

¹ Article 4552—4.04(a) (3).

Art. 4552—5.13 Professional responsibility

(a) The provisions of this section are adopted in order to protect the public in the practice of optometry, better enable members of the public to fix professional responsibility, and further safeguard the doctor-patient relationship.

(b) No optometrist shall divide, share, split, or allocate, either directly or indirectly, any fee for optometric services or materials with any lay person, firm or corporation, provided that this rule shall not be interpreted to prevent an optometrist from paying an employee in the regular course of employment, and provided further, that it shall not be construed as a violation of this Act for any optometrist to lease space from an establishment on a percentage or gross receipts basis or to sell, transfer or assign accounts receivable.

(c) No optometrist shall divide, share, split or allocate, either directly or indirectly, any fee for optometric services or materials with another optometrist or with a physician except upon a division of service or responsibility provided that this rule shall not be interpreted to prevent partnerships for the practice of optometry. This Act does not prohibit an optometrist from being employed on a salary, with or without bonus arrangements, by a licensed optometrist or physician, regardless of the amount of supervision exerted by the employing optometrist or physician over the office in which the employed optometrist works, provided such bonus arrangements, if any, shall not be based in whole or in part on the business or income of any optical company.

(d) No optometrist shall practice or continue to practice optometry under, or use in connection with his practice of optometry, any assumed name, corporate name, trade name, or any name other than the name under which he is licensed to practice optometry in Texas; provided, however, that optometrists practicing as partners may practice under the full or last names of the partners. Optometrists who are employed by other optometrists shall practice in their own names, but may practice in an office listed under the name of the individual optometrist or partnership of optometrists by whom they are employed. In event of the death or retirement of a partner, the surviving partner or partners practicing optometry in a partnership name may, with the written permission of the retiring partner or the deceased optometrist's widow or other legal representative, as the case may be, continued to practice with the name of the deceased partner in the partnership name for a period not to exceed one year from the date of his death, or during the period of administration of a deceased partner's estate as provided by Section 4.04 (f) of this Act,¹ whichever period shall be the longer.

(e) No optometrist shall use, cause or allow to be used, his name or professional identification, as authorized by Article 4590e, as amended, Revised Civil Statutes of Texas, on or about the door, window, wall, directory, or any sign or listing whatsoever, of any office, location or place where optometry is practiced, unless said optometrist is actually present and practicing optometry therein during the hours such office, location or place of practice is open to the public for the practice of optometry.

(f) No optometrist shall practice or continue to practice optometry in any office, location or place of practice where any name, names or professional identification on or about the door, window, wall, directory, or any sign or listing whatsoever, or in any manner used in connection therewith, shall indicate or tend to indicate that such office, location or place of practice is owned, operated, supervised, staffed, directed or attended by any person not actually present and practicing optometry therein during the hours such office, location or place of practice is open to the public for the practice of optometry.

For Annotations and Historical Notes, see V.A.T.S.

(g) The requirement of Subsections (e) and (f) of this section that an optometrist be "actually present" in an office, location or place of practice holding his name out to the public shall be deemed satisfied if the optometrist is, as to such office, location or place of practice, either:

(1) physically present therein more than half the total number of hours such office, location, or place of practice is open to the public for the practice of optometry during each calendar month for at least nine months in each calendar year; or

(2) physically present in such office, location, or place of practice for at least one-half of the time such person conducts, directs, or supervises any practice of optometry.

(h) Nothing in this section shall be interpreted as requiring the physical presence of a person who is ill, injured, or otherwise incapacitated temporarily.

(i) The requirement of Subsections (e) and (f) of this section that an optometrist be "practicing optometry" at an office, location, or place of practice holding his name out to the public shall be deemed satisfied if the optometrist regularly makes personal examination at such office, location, or place of practice of the eyes of some of the persons prescribed for therein or regularly supervises or directs in person at such office, location or place of practice such examinations.

(j) The willful or repeated failure or refusal of an optometrist to comply with any of the provisions of this section shall be considered by the board to constitute prima facie evidence that such optometrist is guilty of violation of this Act, and shall be sufficient ground for the filing of charges to cancel, revoke or suspend his license. The charges shall state the specific instance or instances in which it is alleged that the rule was not complied with. Alternatively, or in addition to the above, it shall be the duty of the board to institute and prosecute an action in a court of competent jurisdiction to restrain or enjoin the violation of any of the preceding rules.

(k) Any optometrist practicing optometry on or after April 15, 1969 in a manner, or under conditions, contrary to Subsections (b), (c), (d), and (f) of this Section 5.13 by virtue of occupying premises under an existing or negotiated lease in effect on April 15, 1969, shall not be subject to said Subsections (b), (c), (d) and (f) of this Section 5.13 until the expiration of the primary term of the lease, or until January 1, 1979, whichever occurs sooner, but no such lease may be extended beyond the primary term by the exercise of any option. Provided, however, that as to any such lease expiring on or before June 1, 1970, such lease may be continued in effect until June 1, 1970.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 5.13, eff. Sept. 1, 1969.

¹ Article 4552—4.04(f).

Art. 4552—5.14 Lease of premise from mercantile establishment

(a) In order to safeguard the visual welfare of the public and the optometrist-patient relationship, fix professional responsibility, establish standards of professional surroundings, more nearly secure to the patient the optometrist's undivided loyalty and service, and carry out the prohibitions of this Act against placing an optometric license in the service or at the disposal of unlicensed persons, the provisions of this section are applicable to any optometrist who leases space from and practices optometry on the premises of a mercantile establishment.

(b) The practice must be owned by a Texas-licensed optometrist. Every phase of the practice and the leased premises shall be under the exclusive control of a Texas-licensed optometrist.

(c) The prescription files and all business records of the practice shall be the sole property of the optometrist and free from involvement with the mercantile establishment or any unlicensed person. Except, however, that those business records essential to the successful initiation or continuation of a percentage of gross receipts lease of space may be inspected by the applicable lessor.

(d) The leased space shall be definite and apart from the space occupied by other occupants of the premises. It shall be separated from space used by other occupants of the premises by solid, opaque partitions or walls from floor to ceiling. Railings, curtains, and other similar arrangements are not sufficient to comply with this requirement.

(e) The leased space shall have a patient's entrance opening on a public street, hall, lobby, corridor, or other public thoroughfare. The aisle of a mercantile establishment does not comply with this requirement. An entrance to the leased space is not a patient's entrance within the meaning of this subsection unless actually used as an entrance by the optometrist's patients.

(f) No phase of the optometrist's practice shall be conducted as a department or concession of the mercantile establishment; and there shall be no legends or signs such as "Optical Department," "Optometrical Department," or others of similar import, displayed on any part of the premises or in any advertising.

(g) The optometrist shall not permit his name or his practice to be directly or indirectly used in connection with the mercantile establishment in any advertising, displays, signs, or in any other manner.

(h) All credit accounts for patients shall be established with the optometrist and not the credit department of the mercantile establishment. However, nothing in this subsection prevents the optometrist from thereafter selling, transferring, or assigning any such account.

(i) Any optometrist practicing optometry on or after April 15, 1969, in a manner, or under conditions, contrary to any of the provisions of this Section 5.14 by virtue of occupying premises under an existing or negotiated lease in effect on April 15, 1969, shall not be subject to the provisions of this Section 5.14 until the expiration of the primary term of the lease, or until January 1, 1979, whichever occurs sooner, but no such lease may be extended beyond the primary term by the exercise of any option. Provided, however, that as to any such lease expiring on or before June 1, 1970, such lease may be continued in effect until June 1, 1970.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 5.14, eff. Sept. 1, 1969.

Art. 4552—5.15 Relationships with dispensing opticians

(a) The purpose of this section is to insure that the practice of optometry shall be carried out in such a manner that it is completely and totally separated from the business of any dispensing optician, with no control of one by the other and no solicitation for one by the other, except as hereinafter set forth.

(b) If an optometrist occupies space for the practice of optometry in a building or premises in which any person, firm, or corporation engages in the business of a dispensing optician, the space occupied by the optometrist shall be separated from the space occupied by the dispensing optician by solid partitions or walls from floor to ceiling. The space occupied by the optometrist shall have a patient's entrance opening on a public street, hall, lobby, corridor, or other public thoroughfare. An entrance is not a patient's entrance within the meaning of this subsection unless actually used as an entrance by the optometrist's patients.

(c) An optometrist may engage in the business of a dispensing optician, own stock in a corporation engaged in the business of a dispensing

For Annotations and Historical Notes, see V.A.T.S.

optician, or be a partner in a firm engaged in the business of a dispensing optician, but the books, records, and accounts of the firm or corporation must be kept separate and distinct from the books, records, and accounts of the practice of the optometrist.

(d) No person, firm, or corporation engaged in the business of a dispensing optician, other than a licensed optometrist or physician, shall have, own, or acquire any interest in the practice, books, records, files, equipment, or materials of a licensed optometrist, or have, own, or acquire any interest in the premises or space occupied by a licensed optometrist for the practice of optometry other than a lease for a specific term without retention of the present right of occupancy on the part of the dispensing optician. In the event an optometrist or physician who is also engaged in the business of a dispensing optician (whether as an individual, firm, or corporation) does own an interest in the practice, books, records, files, equipment or materials of another licensed optometrist, he shall maintain a completely separate set of books, records, files, and accounts in connection therewith. Any optometrist practicing optometry on or after April 15, 1969 in a manner, or under conditions, contrary to any of the provisions of this Section 5.15 by virtue of occupying premises under an existing or negotiated lease in effect on April 15, 1969, shall not be subject to the provisions of this Section 5.15 until the expiration of the primary term of the lease, or until January 1, 1979, whichever occurs sooner, but no such lease may be extended beyond the primary term by the exercise of any option. Provided, however, that as to any such lease expiring on or before June 1, 1970, such lease may be continued in effect until June 1, 1970.

(e) If, after examining a patient, an optometrist believes that lenses are required to correct or remedy any defect or abnormal condition of vision, the optometrist shall so inform the patient and shall expressly state that the patient has two alternatives for the preparation of the lenses according to the optometrist's prescription: First, that the optometrist will prepare or have the lenses prepared according to the prescription; and second, that the patient may have the prescription filled by any dispensing optician (not naming or suggesting any particular dispensing optician) but should return for an optometrical examination of the lenses. If the patient chooses the first alternative, the optometrist may refer the patient to a particular dispensing optician for selection of frames and filling the prescription.

(f) If any person, on visiting the premises of any dispensing optician without presenting a prescription written by a licensed physician or optometrist, makes any inquiry or request concerning an examination or the obtaining of any ophthalmic materials or services requiring such a prescription, then the optician or his agent or employee may not respond in any manner except to state in effect that the optician cannot examine the patient or prescribe or fit glasses or lenses, but that the patient seeking such service must go to a licensed physician or optometrist. If there is no further inquiry from the prospective patient, the optician or his agent or employee may not make any further statement of any kind. If, however, the prospective patient makes an inquiry as to where or to whom he may go to obtain such service, the optician or his agent or employee shall give the prospective patient the names and addresses of at least three persons, each of whom is either a licensed ophthalmologist or a licensed optometrist whose practice is located within a radius of five miles from the optician's place of business, or if there are fewer than three of these, the name and address of each licensed ophthalmologist or licensed optometrist whose practice is so located.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 5.15, eff. Sept. 1, 1969.

Art. 4552—5.16 Leasing space on percentage basis; transferring accounts receivable

It shall not be construed as a violation of this Act for any optometrist to lease space from an establishment on a percentage or gross receipts basis or to sell, transfer or assign accounts receivable.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 5.16, eff. Sept. 1, 1969.

Derivation:

Former art. 4566—1.

Art. 4552—5.17 Exceptions

Nothing in this Act shall be construed to apply to persons who sell ready-to-wear spectacles and eyeglasses as merchandise at retail or officers or agents of the United States or the State of Texas, in the discharge of their official duties. Nothing in this Act shall prevent, limit, or interfere with the right of a physician duly licensed by the Texas State Board of Medical Examiners to treat or prescribe for his patients or to direct or instruct others under the control, supervision, or direction of such a physician to aid or minister to the needs of his patients according to the physician's specific directions, instructions or prescriptions; and where such directions, instructions, or prescriptions are to be followed, performed, or filled outside or away from the physician's office such directions, instructions, or prescriptions shall be in writing.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 5.17, eff. Sept. 1, 1969.

Derivation:

Former arts. 4565e, 4566.

Art. 4552—5.18 Penalty

A person who violates any provision of this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$50 nor more than \$500 or by confinement in the county jail for not less than two months nor more than six months, or both. A separate offense is committed each day a violation of this Act occurs or continues.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 5.18, eff. Sept. 1, 1969.

Derivation:

Vernon's Ann.P.C. art. 737.

ARTICLE 6. MISCELLANEOUS PROVISIONS**Art. 4552—6.01** Board of examiners abolished

The Texas State Board of Examiners in Optometry is abolished. All property, equipment, records, files, and papers in the possession of that board are transferred to the Texas Optometry Board created by this Act. All references in the statutes to the Texas State Board of Examiners in Optometry shall be construed to mean the Texas Optometry Board.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 6.01, eff. Sept. 1, 1969.

Art. 4552—6.02 Severability

If any provision, section or clause of this Act or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications thereof which can be given effect without the invalid provision, section or clause, and to this end the provisions of this Act are declared to be severable.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 6.02, eff. Sept. 1, 1969.

Art. 4552—6.03 Repealer

Chapter 10, Title 71, Revised Civil Statutes of Texas, 1925, as amended,¹ and Chapter 5, Title 12, Penal Code of Texas, 1925, as amended,² and

For Annotations and Historical Notes, see V.A.T.S.

all other laws and parts of laws in conflict with this Act are hereby repealed.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 6.03, eff. Sept. 1, 1969.

¹ Articles 4552, 4553 to 4566—1.

² Vernon's Ann.P.C. arts. 735 to 738a.

Art. 4552—6.04 Effective date

This Act takes effect September 1, 1969.

Acts 1969, 61st Leg., p. 1298, ch. 401, § 6.04, eff. Sept. 1, 1969.

Arts. 4552 to 4566—1. Repealed by Acts 1969, 61st Leg., p. 1298, ch. 401, § 6.03

See, now, art. 4552—1.01 et seq.

CHAPTER TEN A—HEARING AIDS [NEW]

Art.		Art.	
4566—1.01	Definitions.	4566—1.12	Fees and expenses.
4566—1.02	Board of examiners.	4566—1.13	Renewal of license.
4566—1.03	Board organization and meetings.	4566—1.14	Duty of a licensee.
4566—1.04	Powers and duties of the board.	4566—1.15	Prohibited acts.
4566—1.05	Records.	4566—1.16	Penalty.
4566—1.06	Examination; application.	4566—1.17	Treatment of ear defects and administration of drugs.
4566—1.07	License without examination.	4566—1.18	Employment of licensee.
4566—1.08	Reciprocal arrangements.	4566—1.19	Exceptions.
4566—1.09	Temporary training permit.	4566—1.20	Exceptions from the Basic Science Law.
4566—1.10	Refusal to license and revocation or suspension of license—grounds.	4566—1.21	Severability.
4566—1.11	Procedure.	4566—1.22	Effective date.

Art. 4566—1.01 Definitions

In this Act, unless the context requires a different definition:

(a) "Board" means the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids.

(b) "License" means license issued by the Board under this Act to person authorized to fit and dispense hearing aids.

(c) "Temporary Training Permit" means a permit issued by the Board to persons authorized to fit and dispense hearing aids only under the supervision of a person who holds a license under this Act.

(d) "Hearing aid" means any instrument or device designed for, or represented as, aiding, improving or correcting defective human hearing, but as used herein shall not mean repair services, replacements for defective parts and shall not include batteries, cords and accessories.

(e) "Sell" or "sale" includes a transfer of title or of the right to use by lease, bailment, or any other contract. Provided, for the purpose of this Act, the term "sell" or "sale" shall not include sales at wholesale by manufacturers to persons licensed under this Act, or to distributors for distribution and sale to persons licensed under this Act.

(f) "Fitting and Dispensing hearing aids" means the measurement of human hearing by the use of an audiometer or by any means for the purpose of making selections, adaptations and/or sales of hearing aids. The term also includes the sale of hearing aids, and the making of impressions for earmolds to be used as a part of the hearing aid.

Acts 1969, 61st Leg., p. 1122, ch. 366, § 1, eff. Jan. 1, 1970.

Title of Act:

An Act relating to the licensing of persons to fit and dispense hearing aids; relating to the creation, organization, powers, duties, and procedures of the Texas

Board of Examiners in the Fitting and Dispensing of Hearing Aids; defining the Fitting and Dispensing of Hearing Aids; providing certain prohibited acts; provid-

ing for examinations for applicants for license; providing for issuance of license without examination; providing for the issuance of temporary training permits; providing grounds for the refusal to license and the revocation and suspension of license; providing fees for examination, issuance of license and training permits; providing for renewal of license; providing duties of licensees; providing for penalties; prohibiting licensees to treat a per-

son or to administer drugs; providing for the sale of hearing aids by persons licensed under this Act; providing persons excepted from the Act; providing licensees under this Act exempt from the provisions of Chapter 95, Acts of the 51st Legislature, Regular Session, 1949, as amended; providing for severability; and providing an effective date. Acts 1969, 61st Leg., p. 1122, ch. 366.

Art. 4566—1.02 Board of examiners

(a) The Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids is hereby created. The Board shall be composed of nine members with the following qualifications, to-wit:

(1) Six of such members shall possess the necessary qualifications to fit and dispense hearing aids in this state and have been residents of this state actually engaged in fitting and dispensing hearing aids for at least five years immediately preceding their appointment. No more than two of such six members shall be employed by, franchised by, or associated exclusively with the same hearing aid manufacturer;

(2) One of such members shall be a citizen of the United States and a resident of this state for a period of at least two years immediately preceding his appointment and such member shall not have a financial interest in a hearing aid manufacturing company or a wholesale hearing aid company;

(3) One of such members shall be a citizen of the United States and a resident of this state for a period of at least two years immediately preceding his appointment, shall be an active practicing physician or surgeon duly licensed to practice in this state by the Texas State Board of Medical Examiners, and specialize in the practice of otolaryngology. Such member shall not have a financial interest in a hearing aid manufacturing company or a wholesale or retail hearing aid company; and

(4) One of such members shall be a citizen of the United States and a resident of this state for a period of at least two years immediately preceding his appointment and shall be an active practicing audiologist. Such member shall not have a financial interest in a hearing aid manufacturing company or a wholesale or retail hearing aid company.

(b) One who has served two full consecutive terms on the Board shall not be eligible for a reappointment to the Board for a period of 12 months immediately following the expiration of the second full term.

(c) In the event of death, resignation or removal of any members, the vacancy of the unexpired terms shall be filled by the Governor in the same manner as other appointments. Each appointee to the Board shall, within 15 days from the date of his appointment, qualify by taking the constitutional oath of office. Upon presentation of such oath, the Secretary of State shall issue commissions to appointees as evidence of their authority to act as members of the Board.

(d) The members of the initial Board, to be appointed by the Governor to take office on the effective date of this Act, shall be divided into three classes, to-wit: Class One, Class Two, and Class Three, and their terms of office shall be determined by lot at the first meeting of the Board. The three Class One members shall hold office for two years; and the three Class Two members shall hold office for four years; and the three Class Three members shall hold office for six years respectively, from the time of their appointment. Biennially thereafter, the Governor shall appoint three members of the Board to hold office for a term of six years.

(e) The Board shall be represented by the Attorney General and the District and County Attorneys of the state.

Acts 1969, 61st Leg., p. 1122, ch. 366, § 2, eff. Jan. 1, 1970.

For Annotations and Historical Notes, see V.A.T.S.

Art. 4566—1.03 Board organization and meetings

Within 60 days after their appointment and qualification the initial Board shall hold its first meeting and elect a President, Vice-President, and Secretary-Treasurer. The term of office for all officers of the Board shall be for a period of one year.

The Board shall hold regular meetings at least twice a year at which an examination of applicants for license shall be given. Not less than 30 days notice of such meeting shall be given by publication in at least three daily newspapers of general circulation to be selected by the Board. Written notice of such regular meetings of the Board shall be given to the members by the Secretary-Treasurer of the Board by certified mail not less than 30 days prior to the date of such regular meeting. Special meetings of the Board shall be held upon the written request of a majority of the members or upon the call of the President. Written notice of such special meetings of the Board shall be given to members by the Secretary-Treasurer of the Board by certified mail not less than 30 days prior to the date of the special meetings. A majority of the Board shall constitute a quorum for the transaction of business and should a quorum not be present on the day appointed for any meeting, those present may adjourn from day to day until a quorum be present provided such period shall not be longer than three successive days.

Acts 1969, 61st Leg., p. 1122, ch. 366, § 3, eff. Jan. 1, 1970.

Art. 4566—1.04 Powers and duties of the board

(a) The Board shall have the power to make such procedural rules consistent with this Act as may be necessary for the performance of its duties.

(b) The Board shall have the power to appoint committees from its own membership, the duties of which shall be to consider such matters, pertaining to the enforcement of this Act, as shall be referred to said committees, and they shall make recommendations to the Board in respect thereto.

(c) The Board shall have the power to employ the services of stenographers, inspectors, agents, attorneys, and other necessary assistants in carrying out the provisions of this Act.

(d) The Board, by majority vote, shall have the power to issue subpoenas and subpoenas duces tecum to compel the attendance of witnesses and the production of books, records and documents, to administer oaths and to take testimony concerning all matters within its jurisdiction.

(e) The Board shall have the right to institute an action in its own name to enjoin the violation of any of the provisions of this Act. Said action for injunction shall be in addition to any other action, proceeding or remedy authorized by law.

(f) The Board is charged with the duty of aiding in the enforcement of this Act, and any member of the Board may present to the Attorney General or a County or District Attorney of this state complaints relating to violations of any provision of this Act; and the Board through the members, officers, counsel, and agents may assist in the trial of any case involving alleged violations of this Act, subject to the control of the Attorney General, County Attorney, or District Attorney charged with the responsibility of prosecuting such case.

(g) Before entering upon the discharge of the duties of such office, the Secretary-Treasurer of the Board shall give such bond for the performance of this duty as the Board may require, the premium of such bond is to be paid from any available funds.

(h) The Board shall adopt an official seal and the form of a license of suitable design and shall have an office where all the permanent records shall be kept.

Acts 1969, 61st Leg., p. 1122, ch. 366, § 4, eff. Jan. 1, 1970.

Art. 4566—1.05 Records

(a) The Board shall preserve an accurate record of all meetings and proceedings of the Board.

(b) A record shall be kept showing the name, age and present legal and mailing address of each applicant for examination. The record shall also show whether applicants were rejected or licensed and shall be prima facie evidence of all matters therein contained.

(c) The Secretary-Treasurer of the Board shall on or before March 1st of each year send a certified copy of such record to the Secretary of State for permanent record. A certified copy of said record with the hand and seal of the Secretary-Treasurer of the Board to the Secretary of State, shall be admitted as evidence in all courts.

(d) The Board shall keep a record of each license issued under this Act containing the name, residence, place of business of the person to whom each license has been issued, and the date of issuance of each of such license and all information pertaining to renewals, revocations and suspensions of such licensee.

Acts 1969, 61st Leg., p. 1122, ch. 366, § 5, eff. Jan. 1, 1970.

Art. 4566—1.06 Examination; application

(a) Every person desiring to engage in fitting and dispensing hearing aids in the State of Texas shall be required to pass an examination given by the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids.

(b) The applicant shall make application, furnishing to the Secretary-Treasurer of the Board on forms to be furnished by the Board, sworn evidence that he has attained the age of 18 years, is of good moral character, is free of contagious or infectious disease, and has graduated from an accredited high school or equivalent, and such other information as the Board may deem necessary for the enforcement of this Act.

(c) The examination shall consist of written, oral or practical tests in the following areas as they pertain to the fitting and dispensing of hearing aids, to-wit:

- (1) Basic physics of sound;
- (2) The structure and function of hearing aids;
- (3) Fitting of hearing aids;
- (4) Pure tone audiometry, including air conduction testing and bone conduction testing;
- (5) Live voice and/or record voice speech audiometry;
- (6) Masking when indicated;
- (7) Recording and evaluation of audiograms and speech audiometry to determine the hearing aid candidacy;
- (8) Selection and adaption of hearing aids and testing of hearing aids; and
- (9) Taking of earmold impressions.

(d) No part of the examination shall consist of tests requiring knowledge of the diagnosis and/or treatment of any disease or injury to the human body.

(e) Each applicant shall be given due notice of the date and place of the examination and the subjects, areas, and/or skills that will be included within such examination, and there shall be no changes in said subjects, areas, and/or skills after the date of the examination has been announced and publicized nor shall there be more than one change or group of changes in any one calendar year. All examinations shall be conducted in writing and by such other means as the Board shall determine adequate to ascertain the qualifications of applicants. All applicants examined

For Annotations and Historical Notes, see V.A.T.S.

during a given calendar year shall be given the same examination. Every applicant successfully passing the examination and meeting all the requirements of this Act shall be registered by the Board as possessing the qualifications required by this Act and shall receive from the Board a license to fit and dispense hearing aids in this state.

Acts 1969, 61st Leg., p. 1122, ch. 366, § 6, eff. Jan. 1, 1970.

Art. 4566—1.07 License without examination

Within 120 days after the effective date of this Act, and not thereafter, any person engaged in fitting and dispensing hearing aids on the effective date of this Act, shall be registered by the Board as passing the qualifications of this Act and shall receive from the Board a license to fit and dispense hearing aids in this state without taking the examination provided for in this Act upon presentation, in writing, by such person to the Secretary-Treasurer of the Board on forms to be furnished by the Board, sworn evidence that such person has attained the age of 18 years of age, is of good moral character, is free of contagious or infectious diseases and has been engaged in fitting and dispensing hearing aids in the United States of America for a period of at least one year immediately prior to the effective date of this Act.

Acts 1969, 61st Leg., p. 1122, ch. 366, § 7, eff. Jan. 1, 1970.

Art. 4566—1.08 Reciprocal arrangements

(a) Upon proper application, the Texas Board of Examiners in Fitting and Dispensing of Hearing Aids shall grant a license to fit and dispense hearing aids without requiring an examination to licentiates of other states or territories having requirements equivalent to or higher than those in effect pursuant to this Act for fitting and dispensing hearing aids.

(b) Applications for license under the provisions of this section shall be in writing and upon a form prescribed by the Board. Such applications shall be filed with the Secretary-Treasurer of the Board. The application shall be accompanied by a license or a certified copy of a license to fit and dispense hearing aids, lawfully issued to the applicant by some other state or territory; and shall also be accompanied by an affidavit of the President or Secretary of the Board of Examiners in Fitting and Dispensing Hearing Aids who issued the license. The affidavit shall recite that the accompanying certificate or license has not been cancelled or revoked, and that the statement of qualifications made in this application for license in Texas is true and correct.

(c) Applicants for a license under the provisions of this section shall subscribe to an oath in writing which shall be a part of said application, stating that the license, certificate or authority under which the applicant fits and dispenses hearing aids in the state or territory from which the applicant is removed, was at that time of such removal in full force and not suspended or cancelled; that the applicant is the identical person to whom the said certificate or license was issued and that no proceeding was pending at the time of such removal, or at the present time pending against the applicant for the cancellation, suspension or revocation or such certificate or license in the state or territory in which the same was issued and that no prosecution was then or at the time of application pending against the applicant in any state or federal court for any offense under the laws of Texas which is a felony.

Acts 1969, 61st Leg., p. 1122, ch. 366, § 8, eff. Jan. 1, 1970.

Art. 4566—1.09 Temporary training permit

(a) The Board shall grant a temporary training permit to fit and dispense hearing aids to any person applying to the Board who has never

taken the examination provided in the Act and who possesses the qualifications in Subsection (b) of Section 6, of this Act,¹ upon written application to the Secretary-Treasurer of the Board, the applicant shall make application on forms to be furnished by the Board furnishing sworn evidence that he possesses the qualifications contained in Subsection (b), Section 6, of this Act, that he has never taken the examination provided in this Act, and that he has never previously been issued a temporary training permit to fit and dispense hearing aids by the Board.

(b) The application for a temporary permit shall be accompanied by the affidavit of a person duly licensed and qualified to fit and dispense hearing aids in this state. The accompanying affidavit shall state that the applicant, if granted a temporary training permit, will be supervised by the affiant in all work done by applicant under such temporary training permit, that affiant will notify the Board within 10 days following applicant's terminating of supervision by affiant.

(c) A temporary training permit shall authorize the holder thereof, to fit and dispense hearing aids for a period of one year or until the holder thereof shall have successfully passed the examination required for a license under this Act, whichever occurs first.

(d) A temporary training permit shall automatically become void at the end of the period of 6 months from the date of its issuance unless extended for an additional period not to exceed 6 months by the Board. The Board shall never extend a temporary training permit more than one time.

Acts 1969, 61st Leg., p. 1122, ch. 366, § 9, eff. Jan. 1, 1970.

¹ Article 4566—1.06(b).

Art. 4566—1.10 Refusal to license and revocation or suspension of license—grounds

The Board may, in its discretion, refuse to issue a license to any applicant and may cancel, revoke or suspend the operation of any license by it granted, for any of the following reasons:

- (1) The applicant or licensee is guilty of gross immorality.
- (2) The applicant or licensee is unfit or incompetent by reason of negligence.
- (3) The applicant or licensee is guilty of any fraud, deceit or misrepresentation in the fitting and dispensing hearing aids or in his seeking of a license under this Act.
- (4) The applicant or licensee has been convicted of a felony or a misdemeanor which involved moral turpitude.
- (5) The applicant or licensee is a habitual drunkard or is addicted to the use of morphine, cocaine, or other drugs having similar effects or has become insane or has been adjudged by a court of competent jurisdiction to be of unsound mind.
- (6) The applicant or licensee has violated any of the provisions of this Act.
- (7) The licensee has knowingly, directly or indirectly employed, hired, procured, or induced a person not licensed to fit and dispense hearing aids in this state, to so fit and dispense hearing aids.
- (8) The licensee aids or abets any person not duly licensed under this Act in the fitting or dispensing of hearing aids.
- (9) The licensee lends, leases, rents, or in any other manner places his license at the disposal or in the service of any person not licensed to fit and dispense hearing aids in this state.
- (10) The licensee knowingly used or caused or promoted the use of any advertising matter, promotional literature, guarantees, warranty, disseminated or published with misleading, deceiving or false information.

For Annotations and Historical Notes, see V.A.T.S.

It is the intention of the Legislature that the provisions of this Subsection (10) and the following Subsection (11) be interpreted insofar as possible to coincide with the orders and rules of the Federal Trade Commission on such subjects.

(11) The licensee advertised a particular model, type or kind of hearing aid for sale when purchasers or prospective purchasers responding to the advertisement cannot purchase or are dissuaded from purchasing the advertised model, type, or kind when it is established that the purpose of the advertisement is to obtain prospects for the sale of a different model, type or kind than was advertised.

(12) The licensee represented that the service or advice of a person licensed to practice medicine by the Texas State Board of Medical Examiners is used or made available in the selection, fitting, adjustment, maintenance, or repair of a hearing aid when such representation was not true.

(13) The licensee used the term "doctor," "clinic" or any like words, abbreviations or symbols in the conduct of his business which would tend to connote that the licensee was a physician or surgeon.

(14) The licensee defamed another licensee under this Act by falsely imputing to him dishonorable conduct, inability to perform contracts, questionable credit standing, or any other false representation or falsely disparaging the products of such other licensee in any respect, or the business methods, selling prices, values, credit terms, policies, or services of such other licensee.

(15) The licensee displayed competitive products in his place of business, or in the advertising in such manner as to falsely disparage them.

(16) The licensee quoted prices of competitive hearing aids or devices without disclosing that the prices were not the present, correct, current prices, or falsely showed, demonstrated or represented competitive hearing aids models as being the correct, current model of such hearing aids.

(17) The licensee imitated or simulated the trademark, tradename, brand, or label of another licensee under this Act with the intent to mislead or deceive purchasers or prospective purchasers.

(18) The licensee used in his advertising the name, model name or trademark of a particular manufacturer of hearing aids with the intent to falsely imply a relationship with such manufacturer that does not exist.

(19) The licensee obtained or attempted to obtain information concerning the business of another licensee under this Act by bribery, or attempting to bribe an employee or agent of such other licensee or by the impersonation of one in authority.

(20) The licensee directly or indirectly gave, or offered to give or permitted or caused to be given money or anything of value to any person who advises others in a professional capacity as an inducement to influence such person to influence those persons such person advises in a professional capacity to purchase or contract to purchase products sold or offered for sale by licensee or to refrain from purchasing or contracting to purchase products sold or offered for sale by any other licensee under this Act.

(21) The licensee falsely represented to a purchaser that a hearing aid was "custom-made," "made to order," "prescription-made" or any other representations that such hearing aid was specially fabricated for the purchaser.

(22) The licensee refused to accept responsibility for the acts of a temporary training permittee in a licensee's employ and under licensee's supervision.

(23) The licensee with fraudulent intent, engaged in the fitting and dispensing of hearing aids under a false name or alias.

(24) The licensee had failed to actively engage in the fitting and dispensing of hearing aids for a period of three consecutive years. Acts 1969, 61st Leg., p. 1122, ch. 366, § 10, eff. Jan. 1, 1970.

Art. 4566—1.11 Procedure

(a) Proceedings for revocation or suspension of a license shall be commenced by filing charges with the Board in writing and under oath. The charges may be made by any person or persons.

(b) The president of the Board shall fix a time and place for a hearing and shall cause a copy of the charges, together with a notice of the time and place fixed for the hearing to be served upon the applicant or licensee against whom charges have been filed at least 30 days prior thereto. Service of such charges and notice of hearing thereon may be given by certified mail to the last known address of such licensee or applicant.

(c) At the hearing, such applicant or licensee shall have the right to appear either personally or by counsel or both to produce witnesses, and to have subpoenas issued by the Board and cross-examine opposing or adverse witnesses.

(d) The Board shall not be bound by strict rules of procedure or by the laws of evidence in the conduct of its proceedings but the determination shall be founded upon sufficient legal evidence to sustain it.

(e) The Board shall determine the charges upon their merits. The Board shall enter an order in the permanent records of the Board setting forth the findings of fact and law of the Board and its action thereon. A copy of such order of the Board shall be mailed to such applicant or licensee to his last known address by certified mail.

(f) Any person whose license to fit and dispense hearing aids has been refused or has been cancelled, revoked or suspended by the Board, may, within 20 days after making and entering of such order, take an appeal to any district court of Travis County or any district court of the county of his residence.

(g) A case reviewed under the provisions of this section proceeds in such district court by trial de novo as that term is used and understood in appeals from justice of the peace courts to the county courts of this state. Appeal from the judgment of such district court will lie as other civil cases.

(h) Upon application, the Board may reissue a license to fit and dispense hearing aids to a person whose license has been cancelled or revoked but such application shall not be made prior to the expiration of a period of six months after the order of cancellation or revocation has become final, and such application shall be made in such manner and form as the Board may require.

Acts 1969, 61st Leg., p. 1122, ch. 366, § 11, eff. Jan. 1, 1970.

Art. 4566—1.12 Fees and expenses

(a) The Board shall charge a fee of \$10.00 for issuing a temporary training permit, which fee must accompany the application for a temporary training permit.

(b) The Board shall charge a fee of \$25.00 for examining an applicant for a license, which fee must accompany the application.

(c) The Board shall charge a fee of \$50.00 for issuing a license.

(1) Any person making application for a license without an examination as provided in Sections 7 and 8¹ must submit such fee with such application.

(2) Every person passing the examination and meeting the requirements of the Board shall be notified that he is eligible for such license upon payment of the fee herein provided. Such notice shall be by certified mail at the address given on his examination papers. The fee for

For Annotations and Historical Notes, see V.A.T.S.

issuance of such license must be paid by the applicant within 90 days after having been notified. Failure to pay such fee within such time shall constitute a waiver of the right to such person to obtain his license.

(d) The Board shall charge a fee of \$5.00 for each duplicate license or duplicate temporary training permit.

(e) The Secretary-Treasurer of the Board shall, on or before the 10th day of each month, remit to the State Treasurer all of the fees collected by the Board during the preceding month for deposit in the general fund.

(f) The compensation and travel expenses allowance for members of the Board and its employees shall be provided in the General Appropriations Act.

(g) The number of days for which compensation may be paid to members of the Board shall not exceed two days in any calendar month except in those months in which examinations are held, but compensations may never be allowed to exceed six days in those months in which examinations are held.

(h) The Board may authorize all necessary disbursements to carry out the provisions of this Act, including payment of the premium on the bond of the Secretary-Treasurer, stationery expenses, purchase and maintain or rent equipment and facilities necessary to carry out the examinations of applications for license; pay for printing of all licenses; rent and furnish an office to maintain the permanent records of the Board.

(i) After the Act has been effective for a period of two years, the total appropriations to the Board shall never exceed the total amount received for all fees collected for the two-year period immediately prior to such appropriation.

Acts 1969, 61st Leg., p. 1122, ch. 366, § 12, eff. Jan. 1, 1970.

¹ Articles 4566—1.07, 4566—1.08.

Art. 4566—1.13 Renewal of license

(a) On or before the first day of January of each year, every licensee under this Act shall pay to the Secretary-Treasurer of the Board an annual renewal fee of \$50.00 for the renewal of his license to fit and dispense hearing aids for the current year. On receipt of said renewal fee, the Board shall issue an annual renewal certificate bearing the number of his license, the year for which it is renewed and such other information from the records of the Board as the Board may deem necessary for the proper enforcement of this Act.

(b) When a licensee shall fail to pay his annual renewal fee by February 1st of each year, it shall be the duty of the Board to notify such licensee by certified mail at his last known address that said annual renewal fee is due and unpaid; if the annual renewal fee is not paid within 60 days from the said date of mailing such notice, the Board shall then cancel said license.

(c) Fitting and dispensing hearing aids without an annual renewal certificate for the current year as provided herein shall have the same force and effect and be subject to the same penalties as fitting and dispensing hearing aids without a license.

(d) After the Board shall have cancelled a license for nonpayment of the annual renewal fee, the Board may refuse to issue a new license until such fitter and dispenser of hearing aids has paid all previous unpaid annual fees.

(e) The Board shall issue a duplicate license to any licensee whose license has been lost or destroyed and the Board shall have the authority to prescribe the procedure and requirements for the issuance of the duplicate license.

Acts 1969, 61st Leg., p. 1122, ch. 366, § 13, eff. Jan. 1, 1970.

Art. 4566—1.14 Duty of a licensee

(a) Every person engaged in the fitting and dispensing of hearing aids in this state shall display his license in a conspicuous place in his principal office and whenever required, exhibit such license to the Board or its authorized representatives.

(b) Every licensee shall deliver to each person supplied with a hearing aid, by the licensee or under his direction, a bill of sale which shall contain his signature, his printed name, the address of his principal office, the number of his license, a description of the make and model of the hearing aid furnished and the amount charged therefor, and whether the hearing aid is new, used or rebuilt.

(c) Such receipt as required in Subsection (b) of this section shall be accompanied by the following statement in no smaller type than the largest type used in the body portion of such receipt, to-wit:

"The purchaser has been advised at the outset of his relationship with the undersigned fitter and dispenser of hearing aids that any examination or representation made by a licensed fitter and dispenser of hearing aids in connection with the fitting and selling of this hearing aid is not an examination, diagnosis or prescription by a person duly licensed and qualified as a physician or surgeon authorized to practice medicine in the State of Texas and, therefore, must not be regarded as medical opinion or advice."

(d) Every licensee must, when dealing with a child 10 years of age or under, ascertain whether the child has been examined by an otolaryngologist for his recommendation within 90 days prior to the fitting. If such is not the case, a recommendation by the licensee to do so must be made and this fact noted on the bill of sale required in Subsection (b) of this Section.

Acts 1969, 61st Leg., p. 1122, ch. 366, § 14, eff. Jan. 1, 1970.

Art. 4566—1.15 Prohibited acts

(a) It is unlawful for any person to:

(1) Buy, sell, or fraudulently obtain a license to fit and dispense hearing aids or aid or abet therein;

(2) Alter a license to fit and dispense hearing aids with the intent to defraud;

(3) Willfully make a false statement in an application to the Texas Board of Examiners of Fitters and Dispensers of Hearing Aids for a license, a temporary training permit or for the renewal of a license;

(4) Falsely impersonate any person duly licensed as a fitter and dispenser of hearing aids under the provisions of this Act.

(5) Offer or hold himself out as authorized to fit and dispense hearing aids, or use in connection with his name any designation tending to imply that he is authorized to engage in the fitting and dispensing of hearing aids, if not so licensed under the provisions of this Act; or

(6) Engage in the fitting and dispensing of hearing aids during the time his license shall be cancelled, suspended or revoked.

(b) It is unlawful for any person not a licensed fitter and dispenser of hearing aids or holder of a temporary training permit provided in this Act, or a licensed physician or surgeon to do any one act or thing or any combination of acts or things named or described in Subsection (b) of Section 1 of this Act.¹

Acts 1969, 61st Leg., p. 1122, ch. 366, § 15, eff. Jan. 1, 1970.

¹ Article 4566—1.01(b).

For Annotations and Historical Notes, see V.A.T.S.

Art. 4566—1.16 Penalty

Whoever violates any provision of this Act shall be fined not less than \$100.00 nor more than \$500.00 or be confined in jail for a period of not more than 90 days, or both.

Acts 1969, 61st Leg., p. 1122, ch. 366, § 16, eff. Jan. 1, 1970.

Art. 4566—1.17 Treatment of ear defects and administration of drugs

Nothing contained in this Act shall be construed to permit persons licensed under this Act to treat the ear for any defect whatsoever in any manner, nor to administer any drug or physical treatment whatsoever unless the licensee is a duly qualified physician and surgeon and licensed to practice by the Texas State Board of Medical Examiners. Nothing in this Act shall be construed to amend or modify the laws regulating the practice of medicine as defined by Article 4510, Revised Civil Statutes of Texas.

Acts 1969, 61st Leg., p. 1122, ch. 366, § 17, eff. Jan. 1, 1970.

Art. 4566—1.18 Employment of licensee

(a) Nothing in this Act shall prohibit a corporation, partnership, trust, association or other like organization maintaining an established business in this state from engaging in the practice of fitting and dispensing hearing aids at retail or selling or offering for sale hearing aids at retail without a license, provided that it employs only persons licensed under this Act in the direct fitting and dispensing of such products, instruments or devices.

(b) Any person licensed under this Act who is employed by a corporation, partnership, trust, association or other like organization to sell and/or fit hearing aids shall supply the Board with the name and address of such employer at the time such licensee applies for an annual renewal of his license.

Acts 1969, 61st Leg., p. 1122, ch. 366, § 18, eff. Jan. 1, 1970.

Art. 4566—1.19 Exceptions

Nothing in this Act shall be construed to apply to the following:

(1) Persons engaged in the practice of measuring human hearing as a part of the academic curriculum of an accredited institution of higher learning.

(2) Persons engaged in the practice of measuring human hearing as a part of a program conducted by a nonprofit organization, provided such organization or its employees does not sell hearing aids.

(3) Physicians and surgeons duly licensed by the Texas State Board of Medical Examiners and qualified to practice in the State of Texas.

(4) Persons employed and directly supervised by a physician and surgeon to test or measure human hearing, provided such persons do not sell hearing aids.

Acts 1969, 61st Leg., p. 1122, ch. 366, § 19, eff. Jan. 1, 1970.

Art. 4566—1.20 Exceptions from the Basic Science Law

The provisions of Chapter 95, Acts of the 51st Legislature, Regular Session, 1949, as amended commonly referred to as the Basic Science Law do not apply to fitters and dispensers of hearing aids duly qualified and licensed under this Act who confine their activity to the fitting and dispensing of hearing aids.

Acts 1969, 61st Leg., p. 1122, ch. 366, § 20, eff. Jan. 1, 1970.

Art. 4566—1.21 Severability

If any portion of this Act or the application thereof to any person, case or circumstance is held invalid, such invalidity shall not affect any other provision or application which can be given effect without the invalid provision or application, and to this end this provision of this Act is declared to be severable.

Acts 1969, 61st Leg., p. 1122, ch. 366, § 21, eff. Jan. 1, 1970.

Art. 4566—1.22 Effective date

This Act shall become effective January 1, 1970.

Acts 1969, 61st Leg., p. 1122, ch. 366, § 22, eff. Jan. 1, 1970.

CHAPTER TWELVE—EMBALMING

Art. 4582b. Funeral directing and embalming

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Licenses—funeral directors and embalmers

Sec. 3.

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D. It shall be the duty of the Board to prescribe and supervise the course of instruction received by an apprentice while serving his or her apprenticeship, consistent with the following requirements to establish such an apprenticeship registration procedure:

1. Apprenticeship for embalmer: A license to practice the science of embalming shall not be issued unless and until the applicant therefor has served an apprenticeship period of not less than twenty-four (24) months under the personal supervision and instruction of a licensed embalmer and has successfully completed all requirements of apprenticeship. The only exception to this requirement shall be in the case of an applicant under reciprocity.

(a) Apprenticeship for a license to practice the science of embalming may be served in two ways: Any person, nineteen (19) years of age, or more, who desires to practice the science of embalming in this state, files application therefor, and meets the requirements of the law and this Board, may be registered as an apprentice. The applicant may, also, apply for and serve twelve (12) months apprenticeship before entry into a school of embalming or college of mortuary science, and the remaining twelve (12) months may be served after having attended an approved school or college of mortuary science, and graduating therefrom, or, the applicant may serve the full twenty-four (24) months period after completing and graduating from a school or college of mortuary science, if, in the discretion of the Board, such applicant is of good moral character and possesses such qualification to enter into apprenticeship training. No part of the apprenticeship time may be served during the year in which the applicant is attending a school or college of mortuary science as defined herein. Applicant shall pay a fee of not to exceed Ten Dollars (\$10) at the time he requests such apprenticeship registration.

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(2) An applicant for a license to practice the science of embalming who attains a grade of 70% or higher on the written examination given by the Board upon payment of a fee not to exceed Ten Dollars (\$10) therefor, shall be registered as an apprentice within six (6) months of such examination.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 3, D, 1(a) (2) amended by Acts 1969, 61st Leg., p. 368, ch. 138, § 1, emerg. eff. May 6, 1969.

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2. **Apprentice for Funeral Director:** The term of apprenticeship for a funeral director's license shall be a period of not less than twelve (12) months, and may be served concurrently with apprenticeship for an embalmer's license; however, apprenticeship must be served either before or after the examination. A person desiring to become an apprentice funeral director shall make application to the Board on a form provided by the Board, and if the Board desires, he shall appear before at least one (1) member of the Board, or a designated representative thereof, for approval of his application, subject to review of it by the entire Board. Applicant must be not less than nineteen (19) years of age, a person of good moral character and have completed the education requirements prescribed for a funeral director, except an applicant for a funeral director's license may elect to serve apprenticeship therefor in like manner to that of one who has applied for a license to practice the science of embalming, by serving one (1) year of apprenticeship prior to completing a course of study in funeral directing prescribed by the Board and graduating from a school of embalming or college of mortuary science. The application for registration shall be sworn to and accompanied by a fee of not to exceed Ten Dollars (\$10). If the application is accepted, applicant will be issued a certificate of apprenticeship registration upon determination by the Board that his qualifications are satisfactory.

(a) An applicant for a funeral director's license and the examination therefor who has not completed one (1) year of apprenticeship prior to graduation from a school of embalming or college of mortuary science shall be admitted to apprenticeship only in the event he shall have attained a grade of 70% or higher on the written, oral and practical examinations given by the Board, and the payment of a fee of not to exceed Ten Dollars (\$10) therefor, whereupon he shall be registered as an apprentice. Provided, however, applicant must register as an apprentice within six (6) months of such examination.

Sec. 3, D, 2(a) amended by Acts 1969, 61st Leg., p. 367, ch. 137, § 1, emerg. eff. May 6, 1969.

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CHAPTER THIRTEEN—ANATOMICAL BOARD

Art.

4590—2. Anatomical gifts [New].

Art. 4590—1. Repealed Acts 1969, 61st Leg., p. 1176, ch. 375, § 9, emerg. eff. May 29, 1969

Prior to repeal, this article was amended by Acts 1961, 57th Leg., 1st C.S., p. 150, ch. 37, § 1. See, now, art. 4590—2.

Art. 4590—2. Anatomical gifts

Short title

Section 1. This Act may be cited as the Texas Anatomical Gift Act.

Definitions

Sec. 2. (a) "Bank or storage facility" means a facility licensed, accredited or approved under the laws of any state for storage of human bodies or parts thereof.

(b) "Decedent" means a deceased individual and includes a stillborn infant or fetus.

(c) "Donor" means an individual who makes a gift of all or part of his body.

(d) "Hospital" means a hospital licensed, accredited or approved under the laws of any state and includes a hospital operated by the United States government, a state, or a subdivision thereof, although not required to be licensed under state laws.

(e) "Part" includes organs, tissues, eyes, bones, arteries, blood, other fluids and other portions of a human body, and "part" includes "parts."

(f) "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association or any other legal entity.

(g) "Physician" or "surgeon" means a physician or surgeon licensed or authorized to practice under the laws of any state.

(h) "State" includes any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States of America.

Persons who may execute an anatomical gift

Sec. 3. (a) Any individual who has testamentary capacity under the Texas Probate Code may give all or any part of his body for any purpose specified in Section 4, the gift to take effect upon death.

(b) Any of the following persons, in order of priority stated, when persons in prior classes are not available at the time of death, and in the absence of actual notice of contrary indications by the decedent, or actual notice of opposition by a member of the same or a prior class, may give all or any part of the decedent's body for any purposes specified in Section 4:

- (1) the spouse,
- (2) an adult son or daughter,
- (3) either parent,
- (4) an adult brother or sister,
- (5) a guardian of the person of the decedent at the time of his death,
- (6) any other person authorized or under obligation to dispose of the body.

(c) If the donee, or the physician of a donee, has actual notice of contrary indications by the decedent, or that a gift by a member of a class is opposed by a member of the same or a prior class, the donee shall not accept the gift. The persons authorized by subsection (b) may make the gift after death or immediately before death.

(d) A gift of all or part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.

(e) The rights of the donee created by the gift are paramount to the rights of others except as provided by Section 8(d).

Persons who may become donees, and purposes for which anatomical gifts may be made

Sec. 4. The following persons may become donees of gifts of bodies or parts thereof for the purposes stated:

(1) any hospital, surgeon, or physician, for medical or dental education, research, advancement of medical or dental science, therapy or transplantation; or

(2) any accredited medical or dental school, college or university for education, research, advancement of medical or dental science or therapy; or

For Annotations and Historical Notes, see V.A.T.S.

(3) any bank or storage facility, for medical or dental education, research, advancement of medical or dental science, therapy or transplantation; or

(4) any individual specified by a licensed physician for therapy or transplantation needed by him.

Manner of executing anatomical gifts

Sec. 5. (a) A gift of all or part of the body under Section 3(a) may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.

(b) A gift of all or part of the body under Section 3(a) may also be made by document other than a will. The gift becomes effective upon the death of the donor. The document, which may be a card designed to be carried on the person, must be signed by the donor, in the presence of 2 witnesses who must sign the document in his presence. If the donor cannot sign, the document may be signed for him at his direction and in his presence, and in the presence of 2 witnesses who must sign the document in his presence. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

(c) The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. The physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a part.

(d) Notwithstanding Section 8(b), the donor may designate in his will, card or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation, or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose.

(e) Any gift by a person designated in Section 3(b) shall be made by a document signed by him, or made by his telegraphic, recorded telephonic or other recorded message.

Delivery of document of gift

Sec. 6. If the gift is made by the donor to a specified donee, the will, card or other document, or an executed copy thereof, may be delivered to the donee to expedite the appropriate procedures immediately after death, but delivery is not necessary to the validity of the gift. The will, card or other document, or an executed copy thereof, may be deposited in any hospital, bank or storage facility or registry office that accepts them for safekeeping or for facilitation of procedures after death. On request of any interested party upon or after the donor's death, the person in possession shall produce the document for examination.

Amendment or revocation of the gift

Sec. 7. (a) If the will, card or other document or executed copy thereof, has been delivered to a specified donee, the donor may amend or revoke the gift by:

- (1) the execution and delivery to the donee of a signed statement, or
- (2) an oral statement made in the presence of 2 persons and communicated to the donee, or

(3) a statement addressed to an attending physician and communicated to the donee, or

(4) a signed card or document found on his person or in his effects.

(b) Any document of gift which has not been delivered to the donee may be revoked by the donor in the manner set out in subsection (a) or by destruction, cancellation, or mutilation of the document and all executed copies thereof.

(c) Any gift made by a will may also be amended or revoked in the manner provided for amendment or revocation of wills, or as provided in subsection (a).

Rights and duties at death

Sec. 8. (a) The donee may accept or reject the gift. If the donee accepts a gift of the entire body, the surviving spouse or any other person authorized to give all or any part of the decedent's body may authorize embalming and have the use of the body for funeral services, subject to the terms of the gift. If the gift is of a part of the body, the donee, upon the death of the donor and prior to embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the surviving spouse, next of kin or other persons under obligation to dispose of the body.

(b) The time of death shall be determined by a physician who attends the donor at his death, or, if none, the physician who certifies the death. This physician shall not participate in the procedures for removing or transplanting a part.

(c) A person who acts in good faith in accordance with the terms of this Act, is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for his act, so long as the prerequisites for an anatomical gift have been met under the laws applicable at the time and place of the making of the anatomical gift.

(d) The provisions of this Act are subject to the laws of this state prescribing powers and duties with respect to autopsies.

Acts 1969, 61st Leg., p. 1176, ch. 375, §§ 1-8, emerg. eff. May 29, 1969.

Title of Act:

An Act relating to the gift of all or part of a human body after death for certain purposes; repealing Chapter 63, Acts of the 56th Legislature, as amended (Article 4590—

1. Vernon's Texas Civil Statutes); and declaring an emergency. Acts 1969, 61st Leg., p. 1176, ch. 375.

CHAPTER EIGHTEEN—IDENTIFICATION OF SYSTEM OF HEALING

Art. 4590e. Healing Art Identification Act

Healing art identifications

Sec. 3.

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(6) If a practitioner of the healing art is licensed by the State Board of Podiatry Examiners, he shall use one of the following identifications: chiropodist; doctor, D.S.C.; Doctor of Surgical Chiropody; D.S.C.; podiatrist; doctor, D.P.M.; Doctor of Podiatric Medicine; D.P.M. Amended by Acts 1963, 58th Leg., p. 39, ch. 26, § 1; Acts 1965, 59th Leg., p. 963, ch. 476, § 1, eff. Aug. 30, 1965; Acts 1969, 61st Leg., p. 68, ch. 26, § 1, eff. Sept. 1, 1969.

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For Annotations and Historical Notes, see V.A.T.S.

Section 2 of the amendatory act of 1969 provided: "Nothing in this Act in any way invalidates or affects or shall be construed to invalidate or affect any valid license duly issued by the State Board of Podiatry Examiners (formerly known as the State Board of Chiropractic Examiners) and in effect on the effective date of this Act, or the lawful renewal or reinstatement of any license issued by that Board."

TITLE 72—HOLIDAYS—LEGAL

Art. 4591. [4606] [2939] Enumeration

The first day of January, the 19th day of January, the third Monday in February, the second day of March, the 21st day of April, the last Monday in May, the third day of June, the fourth day of July, the first Monday in September, the second Monday in October, the fourth Monday in October, the fourth Thursday in November, and the 25th day of December, of each year, and every day on which an election is held throughout the state, are declared legal holidays, on which all the public offices of the state may be closed and shall be considered and treated as Sunday for all purposes regarding the presenting for the payment or acceptance and of protesting for and giving notice of the dishonor of bills of exchange, bank checks and promissory notes placed by the law upon the footing of bills of exchange.

Amended by Acts 1967, 60th Leg., p. 948, ch. 416, § 1, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 600, ch. 205, § 1, eff. Jan. 1, 1971.

TITLE 73—HOTELS AND BOARDING HOUSES

Art. 4596a. Repealed by Acts 1969, 61st Leg., p. 1374, ch. 416, § 9, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 1374, ch. 416, relating to the use of public facilities by persons blind or otherwise handicapped, repealed article 4596a.

See, now, art. 4419e.

TITLE 75—HUSBAND AND WIFE

CHAPTER ONE—CELEBRATION OF MARRIAGE

Acts 1969, 61st Leg., p. 2706, ch. 888, enacts Title 1 of a new Family Code, and repeals enumerated existing Articles of the Texas Civil Statutes, effective January 1, 1970.

Title 1 of the Family Code is published in a separate Special Pamphlet for convenient reference pending publication of a fully annotated edition in bound volume form as a unit of Vernon's Texas Codes Annotated.

Art. 4602. [4608] [2954] [2838] Who authorized to celebrate

Repeal

Acts 1969, 61st Leg., p. 2706, ch. 888, enacting Title 1 of a new Family Code, repeals this Article effective January 1, 1970.

Arts. 4603, 4604. Repealed by Acts 1969, 61st Leg., p. 2707, ch. 888, § 6, eff. Jan. 1, 1970

Arts. 4604c, 4604d. Repealed by Acts 1969, 61st Leg., p. 2707, ch. 888, § 6, eff. Jan. 1, 1970

Art. 4605. [4611] [2957] [2841] Consent of parent or guardian and issuance of license

Repeal

Acts 1969, 61st Leg., p. 2706, ch. 888, enacting Title 1 of a new Family Code, repeals this Article effective January 1, 1970.

Arts. 4606 to 4609. Repealed by Acts 1969, 61st Leg., p. 2707, ch. 888, § 6, eff. Jan. 1, 1970

CHAPTER TWO—MATRIMONIAL PROPERTY AGREEMENTS

Acts 1969, 61st Leg., p. 2706, ch. 888, enacts Title 1 of a new Family Code, and repeals enumerated existing Articles of the Texas Civil Statutes, effective January 1, 1970.

Title 1 of the Family Code is published in a separate Special Pamphlet for convenient reference pending publication of a fully annotated edition in bound volume form as a unit of Vernon's Texas Codes Annotated.

Art. 4610. Matrimonial property agreements

Repeal

Acts 1969, 61st Leg., p. 2706, ch. 888, enacting Title 1 of a new Family Code, repeals this Article effective January 1, 1970.

CHAPTER THREE—RIGHTS OF SPOUSES

Acts 1969, 61st Leg., p. 2706, ch. 888, enacts Title 1 of a new Family Code, and repeals enumerated existing Articles of the Texas Civil Statutes, effective January 1, 1970.

Title 1 of the Family Code is published in a separate Special Pamphlet for convenient reference pending publication of a fully annotated edition in bound volume form as a unit of Vernon's Texas Codes Annotated.

Art. 4613. Separate and community property of spouses

Repeal

Acts 1969, 61st Leg., p. 2706, ch. 888, enacting Title 1 of a new Family Code, repeals this Article effective January 1, 1970.

Art. 4614. Duty to support

Repeal

Acts 1969, 61st Leg., p. 2706, ch. 888, enacting Title 1 of a new Family Code, repeals this Article effective January 1, 1970.

Art. 4615. Recovery for personal injuries

Repeal

Acts 1969, 61st Leg., p. 2706, ch. 888, enacting Title 1 of a new Family Code, repeals this Article effective January 1, 1970.

Art. 4617. Unusual circumstances

Repeal

Acts 1969, 61st Leg., p. 2706, ch. 888, enacting Title 1 of a new Family Code, repeals this Article effective January 1, 1970.

Art. 4618. Homestead of spouses

Repeal

Acts 1969, 61st Leg., p. 2706, ch. 888, enacting Title 1 of a new Family Code, repeals this Article effective January 1, 1970.

Art. 4619. Presumption of community property

Repeal

Acts 1969, 61st Leg., p. 2706, ch. 888, enacting Title 1 of a new Family Code, repeals this Article effective January 1, 1970.

Art. 4620. Liability of community property

Repeal

Acts 1969, 61st Leg., p. 2706, ch. 888, enacting Title 1 of a new Family Code, repeals this Article effective January 1, 1970.

Art. 4621. Powers of management, control and disposition**Repeal**

Acts 1969, 61st Leg., p. 2706, ch. 888, enacting Title 1 of a new Family Code, repeals this Article effective January 1, 1970.

Art. 4622. Dealings with third persons**Repeal**

Acts 1969, 61st Leg., p. 2706, ch. 888, enacting Title 1 of a new Family Code, repeals this Article effective January 1, 1970.

Art. 4624. [4625] [2971] [2855] Judgment and execution**Repeal**

Acts 1969, 61st Leg., p. 2706, ch. 888, enacting Title 1 of a new Family Code, repeals this Article effective January 1, 1970.

Art. 4624a. Partition or exchange of community property between spouses**Repeal**

Acts 1969, 61st Leg., p. 2706, ch. 888, enacting Title 1 of a new Family Code, repeals this Article effective January 1, 1970.

Art. 4625. Capacity of spouses**Repeal**

Acts 1969, 61st Leg., p. 2706, ch. 888, enacting Title 1 of a new Family Code, repeals this Article effective January 1, 1970.

Art. 4626. Suits**Repeal**

Acts 1969, 61st Leg., p. 2706, ch. 888, enacting Title 1 of a new Family Code, repeals this Article effective January 1, 1970.

Art. 4627. Persons married elsewhere**Repeal**

Acts 1969, 61st Leg., p. 2706, ch. 888, enacting Title 1 of a new Family Code, repeals this Article effective January 1, 1970.

CHAPTER FOUR—DIVORCE**Art. 4628. Repealed by Acts 1969, 61st Leg., p. 2707, ch. 888, § 6, eff. Jan. 1, 1970****Art. 4629. [4631—2] Grounds for divorce****Repeal**

Acts 1969, 61st Leg., p. 2706, ch. 888, enacting Title 1 of a new Family Code, repeals this Article effective January 1, 1970.

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HUSBAND AND WIFE

Art. 4641

For Annotations and Historical Notes, see V.A.T.S.

Arts. 4630 to 4638. Repealed by Acts 1969, 61st Leg., p. 2707, ch. 888, § 6, eff. Jan. 1, 1970

Arts. 4640, 4641. Repealed by Acts 1969, 61st Leg., p. 2707, ch. 888, § 6, eff. Jan. 1, 1970

INSURANCE CODE

CHAPTER ONE—THE BOARD, ITS POWERS AND DUTIES

Art. 1.14—1. Unauthorized Insurance

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Sec. 12A. Exception in Respect of Filing of Reports of Taxes Due. As respects corporations, the Franchise Tax Report filed with the Comptroller of Public Accounts will report the amount of taxes due and payable to the State of Texas under the provisions or under authority of Section 12 of this Article, and such taxes shall not be due until the Franchise Tax Report is due, any other provision of this Article to the contrary notwithstanding. All companies or persons other than corporations filing franchise tax returns shall report to the State Board of Insurance.

Sec. 12A added by Acts 1969, 61st Leg., p. 2298, ch. 775, § 1, emerg. eff. June 14, 1969.

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Art. 1.14—2. Surplus Lines Insurance

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Sec. 2. Definitions, Classification, and Qualification. (a) (1) "Surplus lines agent" (i) is an agent authorized under Article 21.14 who is granted a surplus lines license in accordance with this Article, or (ii) is a managing general agent (authorized to be licensed and licensed under the Managing General Agents' Licensing Act, Acts, 1967, 60th Legislature, Chapter 727, codified by Vernon as Article 21.07—3) who is granted a surplus lines license in accordance with this Article and who complies with the provisions of this Article, except it is not necessary that the managing general agent be licensed as a recording agent.

(2) Each "surplus lines agent," as a condition of being licensed as a surplus lines agent and as a condition of continuing to be licensed as a surplus lines agent, shall offer proof of financial solvency and demonstrate capacity in respect of responsibility to insureds under policies of surplus lines insurance, or in the alternative show proof of adequate bond and surety in respect of his transactions with insureds under policies of surplus lines insurance and as the reasonable rules and regulations of the State Board of Insurance shall provide.

(3) Any surplus lines license granted to an agency authorized under the Managing General Agents' Licensing Act, Acts, 1967, 60th Legislature, Chapter 727, that is not also licensed under Article 21.14 of the Insurance Code shall be limited to the acceptance of business originating through a regularly licensed recording agent and shall not authorize such surplus lines agency to transact business directly with the applicant for insurance.

(4) The State Board of Insurance is authorized to classify surplus lines agents and to issue licenses to surplus lines agents in accordance with such classification and as the reasonable rules and regulations of the Board shall prescribe.

Sec. 2(a) amended by Acts 1969, 61st Leg., p. 2121, ch. 725, § 1, emerg. eff. June 12, 1969.

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CHAPTER THREE—LIFE, HEALTH AND ACCIDENT INSURANCE

SUBCHAPTER C. RESERVES AND INVESTMENTS

Art. 3.39. Authorized Investments and Loans for "Domestic" Life Insurance Companies

PART I. AUTHORIZED INVESTMENTS

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A. ANY OF ITS FUNDS AND ACCUMULATIONS

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15A. Other Bonds.

A company may also invest its funds and accumulations in:

(1) bonds issued, assumed, or guaranteed by the Inter-American Development Bank; and

(2) bonds issued, assumed, or guaranteed by the State of Israel.

Par. 15A added by Acts 1967, 60th Leg., p. 1829, ch. 707, § 1, eff. Aug. 28, 1967. Amended by Acts 1969, 61st Leg., p. 2132, ch. 736, § 1, emerg. eff. June 12, 1969.

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C. CAPITAL, SURPLUS AND CONTINGENCY FUNDS OVER AND ABOVE POLICY RESERVES

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4. Certain Life Income Interests.

(a) Life income interest in an irrevocable express testamentary trust that has as the fee simple recipient of all the corpus of the trust one or more Texas public charities, Texas churches, Texas educational institutions or Texas scientific institutions; provided each recipient is recognized by the Internal Revenue Service of the United States as exempt from payment of income taxes and provided further that (1) the corpus of any such trust is in whole or in part composed of interests in real estate, stocks, bonds, debentures and other securities of an aggregate total value of not less than \$5,000,000; and (2) the corpus of any such trust produces annual income of not less than \$100,000.

(b) No life insurance company's interest in any such trust shall exceed ten per cent (10%) of its admitted assets.

(c) Before such interest shall be acquired, satisfactory evidence shall be presented to the Commissioner of Insurance as follows:

(1) That the interest is subject to and recognized as transferable,

(2) That the interest is capable of reasonable valuation,

(3) That a market for sale of such interest exists,

(4) That the life income interest is supported by life insurance in an amount not less than its admitted value and in form approved by the Commissioner of Insurance.

(d) In valuing such interest on its books, the life insurance company shall value the interest only on the basis of the lesser of, (1) the recognized market established in accordance with Section (c) (3) above, or (2) the ratio that such fractional life income interest in the income of the trust bears to the total market value of the properties held by the trust that are of the type of property a life insurance company can lawfully acquire under the investment statutes of the State of Texas.

Part 1, subd. C 4 added by Acts 1969, 61st Leg., p. 229, ch. 91, § 1, emerg. eff. April 5, 1969.

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Art. 3.40 May hold real estate

Every such insurance company may secure, hold and convey real property only for the following purposes and in the following manner:

1(a). One building site and office building for its accommodation in the transaction of its business and for lease and rental; and such office building may be on ground on which the company owns a lease having not less than fifty (50) years to run from the date of its acquisition by the company, provided that the company shall own, or be entitled to the use of, all the improvements thereon, and that the value of such improvements shall at least equal the value of the ground, and shall be not less than twenty (20) times the annual average ground rentals payable under such lease; and provided such office building shall have an annual average net rental of at least twice such annual ground rental; and provided further; that such company shall be liable for and shall pay all State and local taxes levied and assessed against such ground and the improvements thereon, which for the purposes of taxation shall be deemed real estate owned by the company. Provided that an acquisition of such an office building on leased ground shall be approved by the State Board of Insurance before such investment.

Branch office buildings in the State of Texas and elsewhere within the United States wherein such company is authorized to do business as shall be requisite for its convenient accommodation in the transaction of its business and for lease and rental and also parking facilities adjacent to or in the vicinity of each office building owned by such insurance company as shall be reasonably requisite for such insurance company and tenants of the buildings; however, at least fifty per cent (50%) of the space in each such branch office building which is available for occupancy for business purposes shall be used by such insurance company for the transaction of its business and not for lease and rental to others; provided, however, that such investments in the properties described in this paragraph shall only be made in towns or cities having a population of fifteen thousand (15,000) or more according to the last Federal Census.

1(b). No such company shall make any investment in the properties described in Subdivision 1(a) above if, after making such investment, the total investment of the company in such properties is in excess of thirty-three and one-third per cent ($33\frac{1}{3}\%$) of its admitted assets as of December 31st next preceding the date of such investment; provided, however, that such investment may be increased to as much as fifty per cent (50%) of the company's admitted assets upon advance approval by the State Board of Insurance; provided further, that such investment may be further increased if the amount of such additional increase is paid for only from surplus funds and is not included as an admitted asset of the company.

1(c). The value of each such investment in the properties described in Subdivision 1(a) shall be subject to the approval by the State Board of Insurance; and the Board may, in its discretion, at the time such investment is made or any time when an examination of the company is being made, cause any such investment to be appraised by an appraiser appointed or approved by the Board, and the reasonable expense of such appraisal shall be paid by such insurance company and shall be deemed to be a part of the expense of examination of such company. No such insurance company may hereafter make any increase in the valuation of any of the properties described in Subdivision 1(a) unless and until such increased valuation shall be likewise approved by the Board, subject to the limitations and conditions set out in Subdivision 1(b);

2. Such as have been acquired in good faith by way of security for loans previously contracted or for moneys due;

3. Such as have been conveyed to it in the satisfaction of debts previously contracted in the course of its dealings;

For Annotations and Historical Notes, see V.A.T.S.

4. Such as have been purchased at sales under judgment or decrees of court, or mortgage or other liens held by such companies.

5. All such real property specified in Subdivisions 2, 3, and 4 of this Article which shall not be necessary for its accommodation in the convenient transactions of its business, except interests in minerals and royalties reserved upon the sale of land acquired under such Subdivisions 2, 3, and 4 hereof prior to January 1, 1942, and further excepting interests in producing minerals or producing royalties otherwise acquired prior to April 1, 1959, shall be sold and disposed of within five (5) years after the company shall have acquired title to the same, or within five (5) years after the same shall have ceased to be necessary for the accommodation of its business. It shall not hold such property for a longer period, unless it shall procure a certificate from the Board that its interests will suffer materially by the forced sale thereof; in which event the time for the sale may be extended to such time as the Board shall direct in such certificate.

In addition to, and without limitation on, the purposes for which real property may be acquired, secured, held or retained pursuant to other provisions of this Article, every such insurance company may secure, hold, retain and convey production payments as an investment for the production of income; provided, however, that the total amount of all such investments in production payments plus the total amount of investments in home office and branch office properties under Subdivision 1(a) of this Article shall not exceed the total amount permitted by and shall be subject to all of the limitations and restrictions of Subdivisions 1(b) and 1(c) of this Article and for this purpose all investments in production payments pursuant to the provisions of this paragraph shall be deemed to be "properties described in Subdivision 1(a)" of this Article; and provided further, that in valuing each such production payment for the purposes of Subdivision 1(c) of this Article the State Board of Insurance may establish such value as being the maximum amount which the company purchasing such production payment could loan against a first lien on such production payment under the provisions of Section 2 of Article 3.39 of the Insurance Code; and provided further, no such company shall make any investment in such production payments solely as an investment for the production of income if, after making such investment, the total investment of the company at cost in such production payments is in excess of ten per cent (10%) of its admitted assets as of December 31st next preceding the date of such investment. For the purposes of this paragraph, a production payment is defined to mean a right to oil, gas or other minerals in place or as produced that entitles its owner to a specified fraction of production until a specified sum of money, or a specified number of units of oil, gas or other minerals, has been received, and shall not include fee interests, leasehold interests or working interests, and shall not include royalties, overriding royalties, or other mineral interests which are not limited as set forth in the foregoing definition. Amended by Acts 1969, 61st Leg., p. 1529, ch. 464, § 1, eff. Sept. 1, 1969.

SUBCHAPTER E. GROUP INDUSTRIAL AND CREDIT INSURANCE

Art. 3.50. Group Life Insurance

Section 1. Definitions.—No policy of group life insurance shall be delivered in this state unless it conforms to one of the following descriptions:

* * * * *

(3) A policy issued to any association of employees of the United States Government or any subdivision thereof, provided the majority of

the members of such association are residents of this state, an association of public employees, an incorporated city, town or village, an independent school district, common school district, state colleges or universities, any association of state employees, any association of state, county and city, town or village employees, and any association of any combination of state, county or city, town or village employees and any department of the state government which employer or association shall be deemed the policyholder to insure the employees of any such incorporated city, town or village, of any such independent school district, of any common school district, of any such state college or university, of any such department of the state government, members of any association of state, county or city, town or village or of the United States Government or any subdivision thereof, provided the majority of such employees reside in this state, employees for the benefit of persons other than the policyholder subject to the following requirements:

(a) The persons eligible for insurance under the policy shall be all of the employees of the employer or if the policyholder is an association, all of the members of the association.

(b) The premium for a policy issued to any policyholder authorized to be such policyholder under Subsection (3) of Section 1, Article 3.50, Texas Insurance Code, may be paid in whole or in part from funds contributed by the employer, or in whole or in part from funds contributed by the persons insured under said policy; or in whole or in part from funds contributed by the insured employees who are members of such association of employees; provided, however, that any monies or credits received by or allowed to the policyholder pursuant to any participation agreement contained in or issued in connection with the policy shall be applied to the payment of future premiums and to the pro rata abatement of the insured employees' contribution therefor; and provided further, that the employer may deduct from the employees' salaries the employees' contributions for the premiums when authorized in writing by the respective employees so to do. Such policy may be placed in force only if at least 75% of the eligible employees or if an association of employees is the policyholder, 75% of the eligible members of said association, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required premium contributions and become insured thereunder. Any group policies heretofore issued to any of the groups named in Section 1(3) above and in existence on the effective date of this Act shall continue in force even though the number of employees or members insured thereunder is less than 75% of the eligible employees or members on the effective date of this Act.

(c) The policy must cover at least ten (10) employees at date of issue, or if an association of employees is the policyholder, ten (10) members of said association at date of issue.

(d) The term employees as used herein in addition to its usual meaning shall include elective and appointive officials of the state.

Sec. 1(3)(b) amended by Acts 1967, 60th Leg., p. 1007, ch. 437, § 1, eff. Aug. 28, 1967; Sec. 1(3) amended by Acts 1969, 61st Leg., p. 1371, ch. 414, § 1, eff. Sept. 1, 1969.

* * * * *

(8) Any policy of group term life insurance may be extended, in the form of group term life insurance only, to insure the spouse and minor children, natural or adopted, of an insured employee, provided the policy constitutes a part of the employee benefit program established for the benefit of employees of the United States government or any subdivision thereof, and provided further, that the spouse or children of other employees covered by the same employee benefit program in other states of

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the United States are or may be covered by group term life insurance, subject to the following requirements:

(a) The premiums for the group term life insurance shall be paid by the policyholder from funds solely contributed by the insured employee.

(b) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured employee or by the policyholder, provided that group term life insurance upon the life of a spouse shall not exceed the lesser of (1) Five Thousand Dollars (\$5,000.00) or (2) one-half of the amount of insurance on the life of the insured employee under the group policy; and provided that group term life insurance on the life of any minor child shall not exceed One Thousand Dollars (\$1,000.00).

(c) Upon termination of the group term life insurance with respect to the spouse of any insured employee by reason of such person's termination of employment or death, or termination of the group contract, the spouse insured pursuant to this section shall have the same conversion rights as to the group term life insurance on his or her life as is provided for the insured employee.

(d) Only one certificate need be issued for delivery to an insured employee if a statement concerning any dependent's coverage is included in such certificate.

Sec. 1 (8) added by Acts 1969, 61st Leg., p. 500, ch. 166, § 1, emerg. eff. May 9, 1969.

Sec. 2. Group Life Insurance Standard Provisions. No policy of group life insurance shall be issued or delivered in this State unless and until a copy of the form thereof has been filed with the State Board of Insurance of the State of Texas and formally approved by such Board, nor shall any policy of group life insurance be delivered in this State unless it contains in substance the following provision, or provisions which in the opinion of the Commissioner are more favorable to the persons insured, or at least as favorable to the persons insured and more favorable to the policyholder, provided, however, (a) that provisions (6) to (10) inclusive shall not apply to policies issued to a creditor to insure debtors of such creditor; (b) that the standard provisions required for individual life insurance policies shall not apply to group life insurance policies; and (c) that if the group life insurance policy is on a plan of insurance other than the term plan, it shall contain a non-forfeiture provision or provisions which in the opinion of the Commissioner is or are equitable to the insured persons and to the policyholder, but nothing herein shall be construed to require that group life insurance policies contain the same non-forfeiture provisions as are required for individual life insurance policies; and provided further that subject to the terms of the policy any person insured under a group life insurance contract, whether issued before or after the effective date of this provision, may make to any person, other than his employer, an absolute or collateral assignment of all of the rights and benefits conferred on him by any provision of such policy or by this section, but nothing herein shall be construed to have prohibited an insured from making an assignment of all or any part of his rights and privileges under the policy before the effective date of this section and subject to the terms of the policy an assignment by an insured before the effective date of this provision is valid for the purpose of vesting in the assignee all rights and privileges so assigned, but without prejudice to the insurer on account of any payment it may make or individual policy it may issue prior to receipt of notice of the assignment.

(1) A provision that the policyholder is entitled to a grace period of thirty-one (31) days for the payment of any premium due except the first, during which grace period the death benefit coverage shall continue in force, unless the policyholder shall have given the insurer writ-

ten notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy. The policy may provide that the policyholder shall be liable to the insurer for the payment of a pro rata premium for the time the policy was in force during such grace period.

(2) A provision that the validity of the policy shall not be contested, except for nonpayment of premiums, after it has been in force for two (2) years from its date of issue; and that no statement made by any person insured under the policy relating to his insurability shall be used in contesting the validity of the insurance with respect to which such statement was made after such insurance has been in force prior to the contest for a period of two (2) years during such person's lifetime nor unless it is contained in a written instrument signed by him.

(3) A provision that a copy of the application, if any, of the policyholder shall be attached to the policy when issued, that all statements made by the policyholder or by the persons insured shall be deemed representations and not warranties, and that no statement made by any person insured shall be used in any contest unless a copy of the instrument containing the statement is or has been furnished to such person or to his beneficiary.

(4) A provision setting forth the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition to part or all of his coverage.

(5) A provision specifying an equitable adjustment of premiums or of benefits or of both to be made in the event the age of a person insured has been misstated, such provision to contain a clear statement of the method of adjustment to be used.

(6) A provision that any sum becoming due by reason of the death of a person insured shall be payable to the beneficiary designated by the person insured, subject to the provisions of the policy in the event there is no designated beneficiary as to all or any part of such sum living at the death of the person insured, and subject to any right reserved by the insurer in the policy and set forth in the certificate to pay at its option a part of such sum not exceeding Two Hundred and Fifty (\$250) Dollars to any person appearing to the insurer to be equitably entitled thereto by reason of having incurred funeral or other expenses incident to the last illness or death of the person insured.

(7) A provision that the insurer will issue to the policyholder for delivery to each person insured an individual certificate setting forth a statement as to the insurance protection to which he is entitled, to whom the insurance benefits are payable, and the rights and conditions set forth in (8), (9), and (10) following.

(8) A provision that if the insurance, or any portion of it, on a person covered under the policy ceases because of termination of employment or of membership in the class or classes eligible for coverage under the policy, such person shall be entitled to have issued to him by the insurer, without evidence of insurability, an individual policy of life insurance without disability or other supplementary benefits, provided application for the individual policy shall be made, and the first premium paid to the insurer, within thirty-one (31) days after such termination, and provided further that:

(a) The individual policy shall, at the option of such person, be on any one of the forms, except term insurance, then customarily issued by the insurer at the age and for the amount applied for;

(b) The individual policy shall be in an amount not in excess of the amount of life insurance which ceases because of such termination, provided that any amount of insurance which shall have matured on or be-

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fore the date of such termination as an endowment payable to the person insured, whether in one sum or in installments or in the form of an annuity, shall not, for the purpose of this provision, be included in the amount which is considered to cease because of such termination; and

(c) The premium on the individual policy shall be at the insurer's then customary rate applicable to the form and amount of the individual policy, to the class of risk to which such person then belongs, and to his age attained on the effective date of the individual policy.

(9) A provision that if the group policy terminates or is amended so as to terminate the insurance of any class of insured persons, every person insured thereunder at the date of such termination whose insurance terminates and who has been so insured for at least five (5) years prior to such termination date shall be entitled to have issued to him by the insurer an individual policy of life insurance, subject to the same conditions and limitations as are provided by (8) above, except that the group policy may provide that the amount of such individual policy shall not exceed the smaller of (a) the amount of the person's life insurance protection ceasing because of the termination or amendment of the group policy, less the amount of any life insurance for which he is or becomes eligible under any group policy issued or reinstated by the same or another insurer within thirty-one (31) days after such termination, and (b) Two Thousand (\$2,000) Dollars.

(10) A provision that if a person insured under the group policy dies during the period within which he would have been entitled to have an individual policy issued to him in accordance with (8) or (9) above and before such an individual policy shall have become effective, the amount of life insurance which he would have been entitled to have issued to him under such individual policy shall be payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium therefor has been made.

Sec. 2 amended by Acts 1969, 61st Leg., p. 1704, ch. 557, § 1, eff. Sept. 1, 1969.

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Art. 3.51. Group Insurance for Employees of State and Its Subdivisions and College and School Employees

Sec. 1. (a) The State of Texas and each of its political, governmental and administrative subdivisions, departments, agencies, associations of public employees, and the governing boards and authorities of each state university, colleges, common and independent school districts or of any other agency or subdivision of the public school system of the State of Texas are authorized to procure contracts with any insurance company authorized to do business in this state insuring their respective employees, or if an association of public employees is the policyholder, insuring its respective members, or any class or classes thereof under a policy or policies of group health, accident, accidental death and dismemberment, disability income replacement and hospital, surgical and/or medical expense insurance or a group contract providing for annuities. The dependents of any such employees or association members, as the case may be, may be insured under group policies which provide hospital, surgical and/or medical expense insurance. The insureds' contributions to the premiums for such insurance or annuities issued to the employer or to an association of public employees as the policyholder may be deducted by the employer from the insureds' salaries when authorized in writing by the respective employees so to do. The premium for the policy or contract may be paid in whole or in part from funds contributed by the employer or in whole or in part from funds contributed by the insured employees. When an association of public

employees is the holder of such a policy of insurance or contract, the premium for employees that are members of such association may be paid in whole or in part by the State of Texas or other agency authorized to procure contracts or policies of insurance under this section, or in whole or in part from funds contributed by the insured employees that are members of such association; provided, however, that any monies or credits received by or allowed to the policyholder or contract holder pursuant to any participation agreement contained in or issued in connection with the policy or contract shall be applied to the payment of future premiums and to the pro rata abatement of the insured employee's contribution therefor.

The term employees as used herein in addition to its usual meaning shall include elective and appointive officials of the state.

Sec. 1(a) amended by Acts 1967, 60th Leg., p. 1007, ch. 437, § 2, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 1371, ch. 414, § 2, eff. Sept. 1, 1969.

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SUBCHAPTER G. ACCIDENT AND SICKNESS INSURANCE

Art. 3.70—3. Accident and Sickness Policy Provisions

(A) Required Provisions. * * *

* * * * *

(2) A provision as follows:

Time Limit on Certain Defenses: (a) After two years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such two-year period.

(The foregoing policy provision shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during such initial two-year period, nor to limit the application of Section 3(B), (1), (2), (3), (4), and (5) in the event of misstatement with respect to age or occupation or other insurance.)

(A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium (1) until at least age 50 or, (2) in the case of a policy issued after age 44, for at least five years from its date of issue, may contain in lieu of the foregoing the following provision (from which the clause in parentheses may be omitted at the insurer's option) under the caption "incontestible":

After this policy has been in force for a period of two years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestible as to the statements contained in the application.)

(b) No claim for loss incurred or disability (as defined in the policy) commencing after two years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy.

Subsec. (A) (2) amended by Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 11, § 1, emerg. eff. Sept. 19, 1969.

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CHAPTER FOUR—TAXES AND FEES

Art. 4.01. Tax Other Than Premium Tax.

All insurance companies incorporated under the laws of this state shall hereafter be required to render for county and municipal taxation all of their real estate and all furniture, fixtures, automobiles, equipment, and data processing systems, as other such real estate and tangible personal property is rendered in the city and county where such property is located.

All other personal property owned by such insurance companies, except fire insurance companies and casualty insurance companies, shall be valued as other such property is valued for assessment by the taxing authority in the following manner:

From the total valuation of the entire assets of each insurance company shall be deducted:

(a) All the debts of every kind and character owed by such insurance company;

(b) All intangible personal property owned by such insurance company;

(c) All reserves, being the amount of the debts of such insurance company by reason of its outstanding policies in gross.

From the remainder shall be deducted the assessed value of all real estate and the assessed value of all furniture, fixtures, automobiles, equipment, and data-processing systems, rendered for taxation, and the remainder, if any there be, shall be taxable as personal property by the city and county where the principal business office of any such company is fixed by its charter.

All other personal property of fire insurance companies and casualty insurance companies incorporated under the laws of this state shall be valued as other such property is valued for assessment by the taxing authority in the following manner:

From the total valuation of the entire assets of each insurance company shall be deducted:

(a) All the debts of every kind and character owed by such insurance company;

(b) All intangible personal property owned by such insurance company;

(c) All reserves, which reserves shall be computed in such manner as may be prescribed by the rules and regulations of the State Board of Insurance, for unearned premiums and for all bona fide outstanding losses.

From the remainder shall be deducted the assessed value of all real estate and the assessed value of all furniture, fixtures, automobiles, equipment, and data-processing systems, rendered for taxation, and the remainder, if any there be, shall be taxable as personal property by the city and county where the principal business office of any company is fixed by its charter.

Domestic insurance companies shall not be required to pay any occupation or gross receipts tax except as otherwise provided by this code. Amended by Acts 1969, 61st Leg., p. 2470, ch. 831, § 1, eff. Jan. 1, 1970.

Sections 2-5 of the amendatory act of 1969 provided:

"Sec. 2. If any part, section, subsection, paragraph, sentence, clause, phrase or word contained in this Act shall be held by the courts to be invalid, then, in that event, this Act, in its entirety, shall be invalid and of no force and effect and Art. 4.01 of the Insurance Code of Texas, 1951, as amended by Section 3 of Chapter 344 Acts of the 55th Legislature, Regular Ses-

sion, 1957, shall remain in full force and effect, to the same extent as if this Act had not been enacted.

"Sec. 3. All laws and parts of laws in conflict herewith are hereby repealed.

"Sec. 4. Nothing in this Act shall be construed as amending or in any way changing the provisions, applicability or effect of Article 7166, Texas Civil Statutes.

"Sec. 5. This Act shall take effect on January 1, 1970."

CHAPTER FIVE—RATING AND POLICY FORMS

SUBCHAPTER A. MOTOR VEHICLE OR
AUTOMOBILE INSURANCE

Art.

5.06—2. Garage Insurance [New].

SUBCHAPTER A. MOTOR VEHICLE OR
AUTOMOBILE INSURANCE

Art. 5.06—2. Garage Insurance

(1) Definitions. As used in this Act:

(a) "Garage Insurance" means motor vehicle or automobile insurance as defined in Article 5.01 hereof issued to a named insured engaged in the business of selling, servicing or repairing motor vehicles as now or hereafter defined by rules, regulations or orders of the State Board of Insurance.

(b) "Garage Customer" means any person or organization other than the named insured, or an employee, director, officer, stockholder, partner, or agent of the named insured; or a resident of the same household as the named insured, such employee, director, officer, stockholder, partner, or agent;

(c) "Financial Responsibility Limits" means the minimum limits specified by the Texas Motor Vehicle Safety-Responsibility Act.

(2) A policy of garage insurance may contain a provision to the effect that garage customers are not insureds under the garage insurance policy and that the garage insurance shall not apply to garage customers, except to the extent that other valid and collectible insurance, if any, available to the garage customer is not equal to the financial responsibility limits. Notwithstanding any provision to the contrary in such other policy or policies of insurance as to whether such insurance is primary, excess, or contingent insurance, or otherwise, such other valid and collectible insurance shall be primary insurance as to the garage customer. Any garage insurance policy containing such a provision shall not cover garage customers except to such extent, notwithstanding the terms and provisions of such other policy or policies of insurance.

(3) This Act shall apply only to insurance policies issued or renewed or made subject to this Act by endorsement after the effective date hereof.

Added by Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 35, § 1, emerg. eff. Sept. 19, 1969.

Section 2 of Act of 1969 was a severability clause.

Title of Act:

An Act relating to certain motor vehicle liability insurance policies involving vehicles owned or held for sale or repair by a person engaged in such business and the

applicability of such policies to persons other than the named insured; amending the Texas Insurance Code by adding Article 5.06—2; providing for severability; and declaring an emergency. Acts 1969, 61st Leg., 2nd C.S., ch. 35.

CHAPTER SEVEN—SURETY AND TRUST COMPANIES

Art.

7.20—1. Bail Bond Certificates Issued by
Automobile Clubs; Sureties
[New].

**Art. 7.20—1. Bail Bond Certificates Issued by Automobile Clubs;
Sureties**

Any insurance company which has qualified to transact fidelity and surety insurance business in this state may, in any year, become surety in an amount not to exceed \$200 with respect to each bail bond certificate issued in such year by an automobile club, duly licensed to transact business within this state, or by any truck and bus association incorporated in this state. Bail bond certificate means a printed card or other certificate issued by an automobile club, authorized to transact business within this state, or by any truck and bus association incorporated in this state to any of its members, which is signed by such member, and contains a printed statement that a fidelity and surety company authorized to do business in this state guarantees the appearance of the person whose signature appears on the card or certificate, and that such company will, in the event of the failure of said person to appear in court at the time of trial, pay any fine or forfeiture imposed on such person in an amount not to exceed \$200.

Acts 1969, 61st Leg., p. 2033, ch. 697, § 1, eff. Sept. 1, 1969.

Article 7.20—1 was not enacted as part of the Insurance Code of 1951.

CHAPTER EIGHT—GENERAL CASUALTY COMPANIES

**Art. 8.24. Mexican Casualty Insurance Companies; Policies in Force
While Persons or Property Are in Mexico; Requirements for
Issuance in State; Premium Tax; Rates; Enforcement**

* * * * *

(j) The State Board of Insurance shall revoke the certificate of authority to transact business in this state of any alien insurance company that fails to service claims properly, in compliance with the provisions of this Code.

Subsec. (j) added by Acts 1969, 61st Leg., p. 1637, ch. 509, § 1, emerg. eff. June 10, 1969.

CHAPTER TWENTY ONE—GENERAL PROVISIONS

SUBCHAPTER A. AGENTS AND AGENTS' LICENSES

Art. 21.07. Licensing of Agents

Section 1. Applicability of Act.—No person shall act as an agent of any (i) local mutual aid association, (ii) local mutual burial association, (iii) statewide mutual assessment corporation, (iv) stipulated premium company, (v) county mutual insurance company, (vi) casualty company writing accident and health insurance, or (vii) any other type of insurance carrier licensed to do business in the State of Texas and which insurance carrier's agents are required to be licensed under the provisions of Article 21.07, Texas Insurance Code, 1951, as amended, on the date that this Act shall become effective, unless he shall have first procured a license from the State Board of Insurance as in this Article 21.07,

as amended hereby, is provided, and no such insurance carrier shall appoint any person to act as its agent unless such person shall have obtained a license under the provisions of this Article, and no such person who obtains a license shall engage in business as an agent until he shall have been appointed to act as an agent by some duly authorized insurance carrier designated by the provisions of this Article 21.07 and authorized to do business in the State of Texas. Any person desiring to act as an agent of any insurance carrier licensed to do business in the State of Texas and writing health and accident insurance may obtain a separate license as an agent to write health and accident insurance provided such person complies with the provisions of this Article and has been appointed to act as an agent by some duly authorized insurance carrier authorized to do health and accident insurance business in the State of Texas.

Sec. 2. Application for License.—Hereafter, when any person shall desire to become an agent for a (i) local mutual aid association, (ii) a local mutual burial association, (iii) a state-wide mutual assessment corporation, (iv) a stipulated premium company, (v) a county mutual insurance company, (vi) a casualty company writing accident and health insurance, or (vii) any other type of insurance carrier licensed to do business in the State of Texas and which insurance carrier's agents are required to be licensed under the provisions of Article 21.07, Texas Insurance Code, 1951, as amended, such person shall, in such form and giving such information as may be reasonably required, make application to the State Board of Insurance for a license to act as an agent. The application shall be accompanied by a certificate on forms to be prescribed and furnished by the State Board of Insurance and signed by an officer or properly authorized representative of the insurance carrier the applicant proposes to represent, stating that the insurance carrier has investigated the character and background of the applicant and is satisfied that he is trustworthy and qualified to hold himself out in good faith to the general public as an insurance agent, and that the insurance carrier desires that the applicant act as an insurance agent to represent it in this state.

Sec. 3. Issuance of License Under Certain Circumstances.—After the State Board of Insurance has determined that such applicant is of good character and trustworthy, the State Board of Insurance shall issue a license to such person in such form as it may prepare authorizing such applicant to write the types of insurance authorized by law to be issued by applicant's appointing insurance carrier, except that such applicant shall not be authorized to write health and accident insurance unless: (i) applicant shall have first passed a written examination as provided for in this Article 21.07, as amended, or (ii) applicant will act only as a ticket-selling agent of a public carrier with respect to accident life insurance covering risks of travel or as an agent selling credit life, health and accident insurance issued exclusively in connection with credit transactions, or (iii) applicant will write policies or riders to policies providing only lump sum cash benefits in the event of the accidental death, or death by accidental means, or dismemberment, or providing only ambulance expense benefits in the event of accident or sickness.

Sec. 4. Examination of Applicant for License to Write Health and Accident Insurance.

“(a) Each applicant for a license under the provisions of this Article 21.07, Texas Insurance Code, 1951, as amended, who desires to write health and accident insurance, other than as excepted in Section 3 of this Article 21.07, within this State shall submit to a personal written examination prescribed and administered by the State Board of Insurance to determine his competency with respect to health and accident insurance and his familiarity with the pertinent provisions of the laws of the State of Texas

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relating to health and accident insurance, and shall pass the same to the satisfaction of the State Board of Insurance; except that no written examination shall be required of:

(i) An applicant for the renewal^{*} of a license issued by the State Board of Insurance pursuant to Article 21.07, Texas Insurance Code, 1951, as amended, which is currently in force at the effective date of this Act; or

(ii) An applicant whose license expired less than one year prior to the date of application may, in the discretion of the State Board of Insurance, be issued a license without written examination, provided such prior license granted such applicant the right to sell health and accident insurance.

(b) (i) The State Board of Insurance shall, within sixty (60) days from the effective date of this Act, establish reasonable rules and regulations with respect to the scope, type and conduct of such written examination and the times and places within this State where such examinations shall be held; applicants, shall, however, be permitted to take such examinations at least once in each week at the office of the State Board of Insurance. The rules and regulations of the State Board of Insurance shall designate text books, manuals and other materials to be studied by applicants in preparation for examination pursuant to this Section. Such text books, manuals and other materials may consist of matter available to applicants by purchase from the publisher or may consist of matter prepared at the direction of the State Board of Insurance and distributed to applicants upon request therefor and payment of the reasonable cost thereof. All examination questions shall be prepared from the contents of the text books, manuals and other materials designated or prepared by the State Board of Insurance pursuant to this Section and such questions shall be limited to and substantially similar to the questions relating to health and accident insurance contained in the written examination prescribed by the State Board of Insurance pursuant to Article 21.07—1 of this Insurance Code. The State Board of Insurance shall charge each applicant a fee of \$10.00 for the privilege of taking such written examination and which fee shall not be returned under any circumstance.

(ii) The State Board of Insurance may also establish reasonable rules and regulations whereby, in the discretion of the State Board of Insurance, any insurance carrier may be permitted to conduct written examinations for its agents who have received temporary licenses by appointment of such carrier, subject to such reasonable conditions, requirements and standards as the State Board of Insurance shall require and establish as a predicate for the granting of such authority and for the reasonable supervision, examination and inspection of each such carrier's procedures in giving examinations to its temporary licensees, but provided further that such authority so granted to any insurance carrier to give such examinations may be terminated by the State Board of Insurance on notice and hearing if it shall find that such authorized insurance carrier shall have violated the conditions, requirements and standards required of such carrier to qualify to conduct written examinations.

(c) After the State Board of Insurance shall determine that such applicant has successfully passed the written examination or it has been waived, and is a person of good character and reputation, the State Board of Insurance shall forthwith issue a license to such applicant which shall also authorize such applicant to write health and accident insurance for the designated insurance carrier.

(d) The State Board of Insurance is hereby authorized in its sole discretion to appoint an Advisory Board to make recommendations to it with respect to the scope, type and conduct of written examinations and

the Advisory Board, if so appointed, shall consist of individuals experienced in the health and accident insurance business, and may include company officers, managers and employees, general managers and licensed agents. The members of the Advisory Board shall serve without pay.

(e) Whenever the State Board of Insurance shall receive any evidence indicating that an agent who obtained his license under the provisions of Section 4(a) (i) of this Article 21.07 is not competent, or not trustworthy or not of good character, the State Board of Insurance may at any time thereafter require such licensee to submit to the taking of such written examination within ninety (90) days after written notice thereof from the State Board of Insurance, and if upon taking such written examination as provided for in this Section 4 of this Article 21.07 such licensee shall fail to pass the said written examination or if such licensee shall fail to take such written examination within such ninety (90) day period, the license of such licensee may thereupon be terminated by the State Board of Insurance and such license shall thereafter be of no further force and effect.

Sec. 5. Failure of applicant to qualify for license.—If the State Board of Insurance is not satisfied that the applicant for a license is trustworthy and of good character, or, if applicable, that the applicant, if required to do so, has not passed the written examination to the satisfaction of the State Board of Insurance, the State Board of Insurance shall forthwith notify the applicant and the insurance carrier in writing that the license will not be issued to the applicant, and return to said agent the \$10.00 fee for application for license and the \$4.00 fee for appointment.

Sec. 6. Agent May Be Licensed to Represent Additional Insurers.—Any agent licensed under this Article may represent and act as an agent for more than one insurance carrier at any time while his license is in force, if he so desires. Any such agent and the insurance carrier involved must give notice to the State Board of Insurance of any additional appointment or appointments authorizing him to act as agent for an additional insurance carrier or carriers. Such notice must set forth the insurance carrier or carriers which the agent is then licensed to represent, and shall be accompanied by a certificate from each insurance carrier to be named in each additional appointment, that said insurance carrier desires to appoint the applicant as its agent. This notice shall also contain such other information as the State Board of Insurance may require. The agent shall be required to pay a fee of \$4.00 for each additional appointment applied for, which fee shall accompany the notice.

Sec. 7. Expiration and Renewal of License.

(a) Each license issued to an agent shall expire one year following the date of issue, unless prior thereto it is suspended or revoked by the State Board of Insurance or the authority of the agent to act for the insurance carrier is terminated.

(b) Licenses which have not expired or which have not been suspended or revoked may be renewed from year to year upon request in writing of the agent.

(c) Upon the filing of a request for renewal of license and payment of a renewal fee of \$10.00 for such license, prior to the date of expiration, the current license shall continue in force until the renewal license is issued by the State Board of Insurance or until the State Board of Insurance has refused, for cause, to issue such renewal license, as provided in this Article, and has given notice of such refusal in writing to the insurance carrier and the agent.

(d) The appointment or appointments given under any Section of this Article authorizing the agents to act as an agent for an insurance carrier shall continue in full force and effect without the necessity

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of renewal until terminated and withdrawn by the insurance carrier in accordance with Section 9 of this Article 21.07 or otherwise terminated in accordance with this Article 21.07, and each renewal license issued to the agent shall authorize him to represent and act for the insurance carriers for which he holds an appointment until the appointment is so terminated, and the agent shall prima facie be deemed, for the purpose of this Article 21.07, to be the agent of the appointing insurance carriers, provided that on or before April 1st of each and every calendar year, commencing on or before April 1, 1970, each such insurance carrier so appointing such agent shall file with the State Board of Insurance a certificate, upon forms promulgated by the State Board of Insurance, certifying that such insurance carrier desires to continue the appointment of such agent, and if such insurance carrier shall for any reason fail to file such certificate for any year as relates to such agent, it shall be deemed and considered for all purposes that such insurance carrier has terminated the appointment of such agent in like manner as if compliance had been made by such insurance carrier with Section 9 of this Article.

Sec. 8. Temporary License.—The State Board of Insurance, if it is satisfied with the honesty and trustworthiness of any applicant who desires to write health and accident insurance, may issue a temporary agent's license, authorizing the applicant to write health and accident insurance, as well as all other insurance authorized to be written by the appointing insurance carrier, effective for ninety (90) days, without requiring the applicant to pass a written examination, as follows:

To any applicant who has been appointed or who is being considered for appointment as an agent by an insurance carrier authorized to write health and accident insurance immediately upon receipt by the State Board of Insurance of an application executed by such person in the form required by this Article, together with a certificate signed by an officer or properly authorized representative of such insurance carrier certifying:

(a) that such insurance carrier has investigated the character and background of such person and is satisfied that he is trustworthy and of good character;

(b) that such person has been appointed or is being considered for appointment by such insurance carrier as its agent; and

(c) that such insurance carrier desires that such person be issued a temporary license; provided that if such temporary license shall not have been received from the Board within seven days from the date on which the application and certificate were delivered to or mailed to the Board, the insurance carrier may assume that such temporary license will be issued in due course and the applicant may proceed to act as an agent; provided, however, that no temporary license shall be renewable or issued more than once in a consecutive six months period to the same applicant; and provided further, that no temporary license shall be granted to any person who does not intend to actively sell health and accident insurance to the public generally and it is intended to prohibit the use of a temporary license to obtain commissions from sales to persons of family employment or business relationships to the temporary licensee, to accomplish which purposes an insurance carrier is hereby prohibited from knowingly paying directly or indirectly to the holder of a temporary license under this Section any commissions on the sale of a contract of health and accident insurance to any person related to temporary licensee by blood or marriage, and the holder of a temporary license is hereby prohibited from receiving or accepting commissions on the sale of a contract of health and accident insurance to any person included in the foregoing classes of relationship.

Sec. 9. Insurance Carrier to Notify State Board of Insurance of Termination of Contract; Communications Privileged.

(a) Every insurance carrier shall, upon termination of the appointment of any agent, immediately file with the State Board of Insurance

a statement of the facts relative to the termination of the appointment and the date and cause thereof. The Board shall thereupon terminate the license of such agent to represent such insurance carrier in this State.

(b) Any information, document, record or statement required to be made or disclosed to the Board pursuant to this Article shall be deemed a privileged communication and shall not be admissible in evidence in any court action or proceeding except pursuant to subpoena of a court of record.

Sec. 10. Denial, Refusal, Suspension or Revocation of Licenses.

(a) A license may be denied, or a license duly issued may be suspended or revoked or the renewal thereof refused by the State Board of Insurance if, after notice and hearing as hereafter provided, it finds that the applicant for, or holder of, such license:

(1) Has wilfully violated any provision of the insurance laws of this State; or

(2) Has intentionally made a material misstatement in the application for such license; or

(3) Has obtained, or attempted to obtain, such license by fraud or misrepresentation; or

(4) Has misappropriated or converted to his own use or illegally withheld money belonging to an insurance carrier or an insured or beneficiary; or

(5) Has otherwise demonstrated lack of trustworthiness or competence to act as an agent; or

(6) Has been guilty of fraudulent or dishonest practices; or

(7) Has materially misrepresented the terms and conditions of any insurance policy or contract; or

(8) Has made or issued, or caused to be made or issued, any statement misrepresenting or making incomplete comparisons regarding the terms or conditions of any insurance contract legally issued by any insurance carrier, for the purpose of inducing or attempting to induce the owner of such contract to forfeit or surrender such contract or allow it to lapse for the purpose of replacing such contract with another; or

(9) Is not of good character or reputation.

(b) Before any license shall be denied (except for failure to pass a required written examination), or suspended or revoked, or the renewal thereof refused hereunder, the Board shall give notice of its intention so to do, by registered mail, to the applicant for, or holder of, such license and the insurance carrier whom he represents or who desires that he be licensed, and shall set a date not less than twenty days from the date of mailing such notice when the applicant or licensee and a duly authorized representative of the insurance carrier may appear to be heard and produce evidence. In the conduct of such hearing, the Board or any regular salaried employee specially designated by it for such purpose shall have power to administer oaths, to require the appearance of and examine any person under oath, and to require the production of books, records or papers relevant to the inquiry upon its own initiative or upon the request of the applicant or licensee. Upon termination of such hearings, findings shall be reduced to writing and, upon approval by the Board, shall be filed in its office and notice of the findings sent by registered mail to the applicant or licensee and the insurance carrier concerned.

(c) No applicant or licensee whose license has been denied, refused or revoked hereunder (except for failure to pass a required written examination) shall be entitled to file another application for a license as an agent within one year from the effective date of such denial, refusal or revocation, or, if judicial review of such denial, refusal or revocation is sought, within one year from the date of final court order

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or decree affirming such action. Such application, when filed after one year, may be refused by the Board unless the applicant shows good cause why the denial, refusal or revocation of his license shall not be deemed a bar to the issuance of a new license.

Sec. 11. Judicial Review of Acts of State Board of Insurance.—If the said Board shall refuse an application for any license provided for in this Article, or shall suspend, revoke or refuse to renew any such license or permit at said hearing, then any such applicant or accused may appeal from said order by filing suit against the State Board of Insurance as defendant in any of the District Courts of Travis County, Texas, or in any District Court in the county of the applicant's residence, and not elsewhere, within twenty (20) days from the date of the order of said State Board of Insurance.

Said action shall have precedence over all other causes of a different nature on the docket. The action shall not be limited to questions of law and shall be tried and determined upon a trial de novo to the same extent as now provided for in the case of an appeal from the justice court to the county court. Either party to said action may appeal to the appellate court having jurisdiction of said cause, and said appeal shall be at once returnable to said appellate court having jurisdiction of said cause and said action so appealed shall have precedence in said appellate court over all causes of a different character therein pending. The State Board of Insurance shall not be required to give any appeal bond in any cause arising hereunder.

Sec. 12. Penalty.—Any person who individually, or as an officer or employee of an insurance carrier, or other corporation, wilfully violates any of the provisions of this Article shall, in addition to any other penalty specifically provided, be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$500.00 or imprisoned not more than six (6) months, or both, each such violation being a separate offense hereunder. In addition, if such offender holds a license as an agent, such license shall automatically expire upon such conviction.

Sec. 13. State Board of Insurance May Establish Rules and Regulations.—The State Board of Insurance is hereby authorized to establish, and from time to time to amend, reasonable rules and regulations for the administration of this Article 21.07.

Sec. 14. Fees and Use of Funds.—It shall be the duty of the State Board of Insurance to collect from every agent of any insurance carrier writing insurance in the State of Texas under the provisions of this Article, an annual licensing fee of Ten Dollars (\$10.00) and an initial appointment fee of Four Dollars (\$4.00) for each and every appointment by any insurance carrier, which fees shall constitute a fund to be used by the State Board of Insurance to enforce the provisions of this Article 21.07 and all laws of this State governing and regulating agents for such insurance carriers; and the State Board of Insurance is hereby given full power and authority under the provisions of this Article to use any portion of the funds herein created for the purpose of enforcing the provisions of this Article 21.07; and said State Board of Insurance is authorized to employ such person or persons as it may deem necessary to investigate and make reports upon any and all alleged violations of said laws and misconduct on the part of such agents and to pay the salaries and expenses of such person or persons so designated by it and all office employees and expenses necessary in the enforcement of this Article 21.07 out of the funds created hereunder and such person or persons so appointed by the State Board of Insurance are hereby authorized and empowered to administer the oath and to examine under oath any person deemed necessary in gathering information and evidence and to have the same reduced to writing if deemed necessary and all such expenses shall be paid out of said fund. If any residue for any years shall remain

in said fund over and above the amount necessary to carry on the work and investigation and pay the expenses herein provided for, the same shall be carried over to the following year or years and used in the continuation of the enforcement of this Article 21.07 and the insurance laws of this State and all such funds are hereby appropriated for such purpose. The funds collected under this provision shall be paid into the State Treasury at least once each week and kept in a special fund and shall be paid out for salaries, traveling expenses, office expenses and other incidental expenses incurred by the State Board of Insurance hereunder upon proper account duly approved by the State Board of Insurance.

Provided, however, that at the termination of each biennium after the payment of all expenses of enforcement hereinbefore provided, any surplus of the enforcement fund created by the collection of the fees provided herein shall be transferred by the State Treasurer to the Examination Fund of the State Board of Insurance for such use as the State Board of Insurance may deem necessary in furthering the duties of the Examining Division of the State Board of Insurance.

Sec. 15. Dual licensing.—Any person who holds a license under the provisions of Article 21.07—1, Texas Insurance Code, 1951, as amended, shall be entitled to receive a license under this Article 21.07, and be authorized to write health and accident insurance without being required to pass the examination as required under this Article 21.07. Any person who holds a license under the provisions of Article 21.14, Texas Insurance Code, 1951, as amended, shall be entitled to write health and accident insurance written by those companies for whom he is licensed under Article 21.14 without being required to pass the examination required under this Article 21.07.

Sec. 16. Stamping of license.—When any license shall be issued by the State Board of Insurance to an applicant entitled to write health and accident insurance, the license shall have stamped thereon the words **HEALTH AND ACCIDENT INSURANCE**.

Sec. 17. Expiration of existing licenses.—Each license issued prior to the effective date hereof under the provisions of Art. 21.07 and remaining in force at the effective date of this Act shall continue in full force and effect until such license would otherwise expire, and each such license so expiring shall be subject to renewability in accordance with the provisions of this Act upon each respective license expiration date. Any such license so continuing in force may, however, be revoked by the State Board of Insurance in accordance with the other provisions of this Act.

Amended by Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 25, § 1, emerg. eff. Sept. 19, 1969.

Sections 2 and 3 of Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 25, provided:

“Section 2. This Act shall be cumulative of all other existing laws but in the event of any conflict between the provisions of this Act and the provisions of any existing law, the provisions of this Act shall prevail, and all laws, or parts of laws, in conflict with the provisions of this Act are hereby repealed to the extent of such conflict only.

“Section 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions and applications of this Act which can be given effect without the valid provisions and application, and to this end the provisions of this Act are declared to be severable.”

For Annotations and Historical Notes, see V.A.T.S.

Art. 21.07—1. Legal Reserve Life Insurance Agents; Examination; Licenses

Section 1. Legal Reserve Life Insurance Agent Defined.

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(b) The term "life insurance agent" for the purpose of this Act means any person who is an authorized agent of a legal reserve life insurance company, and any person who is a sub-agent of such agent, who acts as such in the solicitation of, negotiation for, or procurement of, or collection of premiums on, an insurance or annuity contract with a legal reserve life insurance company; except that the term "life insurance agent" shall not include:

(1) any regular salaried officer or employee of a legal reserve life insurance company, or of a licensed life insurance agent, who devotes substantially all of his or her time to activities other than the solicitation of applications for insurance or annuity contracts and receives no commission or other compensation directly dependent upon the business obtained, and who does not solicit or accept from the public applications for insurance or annuity contracts;

(2) employers or their officers or employees, or the trustees of any employee benefit plan, to the extent that such employers, officers, employees or trustees are engaged in the administration or operation of any program of employee benefits involving the use of insurance or annuities issued by a legal reserve life insurance company, provided that such employers, officers, employees or trustees are not in any manner compensated, directly or indirectly, by the legal reserve life insurance company issuing such insurance or annuity contracts;

(3) banks or their officers and employees to the extent that such banks, officers and employees collect and remit premiums by charging same against accounts of depositors on the orders of such depositors;

(4) a ticket-selling agent of a public carrier with respect to accident life insurance tickets covering risks of travel;

(5) an agent selling credit life, health and accident insurance issued exclusively in connection with credit transactions, or acting as agent or solicitor for health and accident insurance under license issued pursuant to the provisions of Article 21.14 of the Texas Insurance Code.

Sec. 1(b) amended by Acts 1969, 61st Leg., p. 2047, ch. 703, § 1, emerg. eff. June 12, 1969.

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Sec. 10. Temporary License.

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(b) * * * * *

(4) The Commissioner shall have the authority to cancel, suspend, or revoke the temporary appointment powers of any life insurance company, if, after notice and hearing, he finds that such company has abused such temporary appointment powers. In considering such abuse, the Commissioner may consider, but is not limited to, the number of temporary appointments made by a company, the number of appointees sitting for examination as life insurance agents under this Article, and the number of appointees successfully passing said examination. Appeals from the Commissioner's decision shall be made in accordance with Section 13 hereof.

Sec. 10(b) (4) added by Acts 1969, 61st Leg., p. 1990, ch. 679, § 1, eff. Sept. 1, 1969.

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Art. 21.07—2 Life Insurance Counselor

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Sec. 4a. Prohibition of Dual Compensation.—A person licensed under the provisions of this Act who is also licensed under Article 21.07 or Article 21.07—1 of this Code who receives a commission or compensation for his services as an agent licensed under Article 21.07 or Article 21.07—1, shall not be entitled to receive a fee for his service to the same client as a Life Insurance Counselor.”

Sec. 4a added by Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 13, § 2, emerg. eff. Sept. 19, 1969.

Sec. 5. Mode of Licensing and Regulation.—The licensing and regulation of a Life Insurance Counselor, as that term is defined herein, shall be in the same manner and subject to the same requirements as applicable to the licensing of agents of legal reserve life insurance companies as provided in Article 21.07—1 of the Texas Insurance Code, 1951, or as provided by any existing or subsequent applicable law governing the licensing of such agents, and all the provisions thereof are hereby made applicable to applicants and licensees under this Act, except that a Life Insurance Counselor shall not advertise in any manner and shall not circulate materials indicating professional superiority or the performance of professional service in a superior manner; provided, however, that an appointment to act for an insurer shall not be a condition to the licensing of a Life Insurance Counselor.

In addition to the above requirements, the applicant for licensure as a Life Insurance Counselor shall submit to the Commissioner evidence of high moral and ethical character, documentation that he has been licensed as a life insurance agent in excess of three years. After the Insurance Commissioner has satisfied himself as to these requirements, he shall then cause the applicant for a Life Insurance Counselor’s license to sit for an examination which shall include the following:

Such examination shall consist of five subjects and subject areas:

- (a) Fundamentals of life and health insurance;
- (b) Group life insurance, pensions and health insurance;
- (c) Law, trust and taxation;
- (d) Finance and economics; and
- (e) Business insurance and estate planning.

No license shall be granted until such individual shall have successfully passed each of the five parts above enumerated. Such examinations may be given and scheduled by the Commissioner at his discretion. Individuals currently holding Life Insurance Counselor licenses issued by the Texas State Board of Insurance, who do not have the equivalent of the requirements above listed, shall have one year from the date of enactment hereof to so qualify.

Sec. 5 amended by Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 13, § 1, emerg. eff. Sept. 19, 1969.

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Art. 21.14. Licensing of Local Recording Agents and Solicitors; Life, Health and Accident Insurance Excepted; Other Exceptions

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Sec. 3. Application for License; To Whom License May Be Issued.

(a) When any person, partnership or corporation shall desire to engage in business as a local recording agent for an insurance company, or insurance carrier, he or it shall make application for a license to the State Board of Insurance, in such form as the Board may require. Such application shall bear a signed endorsement by a general, state or special

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agent of a qualified insurance company, or insurance carrier that applicant or each member of the partnership or each stockholder of the corporation is a resident of Texas, trustworthy, of good character and good reputation, and is worthy of a license.

(b) The Board shall issue licenses to individuals or to individuals engaging as partners in the insurance business, provided the names of all persons interested in any such partnership are named in the license, and each named as active in the business of the partnership qualify, and it be established that none not active have interest in the partnership principally to have written and be compensated therefor for insurance on property controlled through ownership, mortgage or sale, family relationship, or employment; and provided further, that all licensed agents must be residents of Texas. Provided, that a person who may reside in a town through which the state line may run and whose residence is in the town in the adjoining state may be licensed, if his business office is being maintained in this state. All persons acting as agent or solicitor for health and accident insurance within the provisions hereof, and who represent only fire and casualty companies, and not life insurance companies, shall be required to procure only one license, and such license as is required under the provisions of this article.

(c) The Board shall issue a license to a corporation if the Board finds:

(1) That the corporation is a Texas corporation organized or existing under the Texas Business Corporation Act having its principal place of business in the State of Texas and having as one of its purposes the authority to act as a local recording agent; and

(2) That every officer, director and shareholder of the corporation is individually licensed as a local recording agent under the provisions of this Insurance Code; and

(3) That such corporation will have the ability to pay any sums up to Twenty-Five Thousand Dollars (\$25,000.00) which it might become legally obligated to pay on account of any claim made against it by any customer and caused by any negligent act, error or omission of the corporation or any person for whose acts the corporation is legally liable in the conduct of its business as a local recording agent. The term "customer" as used herein shall mean any person, firm or corporation to whom such corporation sells or attempts to sell a policy of insurance, or from whom such corporation accepts an application for insurance. Such ability shall be proven in one of the following ways:

(a) An errors and omissions policy issued by an insurance company licensed to do business in the State of Texas insuring such corporation against errors and omissions in at least the sum of Fifty Thousand Dollars (\$50,000.00), with no more than a Two Thousand Five Hundred Dollars (\$2,500.00) deductible feature; or

(b) A bond executed by such corporation as principal and a surety company authorized to do business in this state, as surety, in the principal sum of Twenty-Five Thousand Dollars (\$25,000.00), payable to the State Board of Insurance for the use and benefit of customers of such corporation, conditioned that such corporation shall pay any final judgment recovered against it by any customer; or

(c) A deposit of cash or securities of the class authorized by Articles 2.08 and 2.10 of this Code, having a fair market value of Twenty-Five Thousand Dollars (\$25,000.00) with the State Treasurer. The State Treasurer is hereby authorized and directed to accept and receive such deposit and hold it exclusively for the protection of any customer of such corporation recovering a final judgment against

such corporation. Such deposit may be withdrawn only upon filing with the Board evidence satisfactory to it that the corporation has withdrawn from business, and has no unsecured liabilities outstanding, or that such corporation has provided for the protection of its customers by furnishing an errors and omissions policy or a bond as hereinbefore provided. Securities so deposited may be exchanged from time to time for other qualified securities.

A binding commitment to issue such a policy or bond, or the tender of such securities, shall be sufficient in connection with any application for license.

Nothing contained herein shall be construed to permit any unlicensed employee or agent of any corporation to perform any act of a local recording agent without obtaining a local recording agent's license. The Board shall not require a corporation to take the examination provided in Section 6 of this Article 21.14.

If at any time, any corporation holding a local recording agent's license does not maintain the qualifications necessary to obtain a license, the license of such corporation to act as a local recording agent shall be cancelled or denied in accordance with the provisions of Sections 16, 17 and 18 of this Article 21.14; provided, however, that should any person who is not a licensed local recording agent acquire shares in such a corporation by devise or descent, they shall have a period of ninety (90) days from date of acquisition within which to obtain a license as a local recording agent or to dispose of the shares to a licensed local recording agent.

Should such an unlicensed person acquire shares in such a corporation and not dispose of them within said period of ninety (90) days to a licensed local recording agent, then they must be purchased by the corporation for their book value, that is, the value of said shares of stock as reflected by the regular books and records of said corporation, as of the date of the acquisition of said shares by said unlicensed person. Should the corporation fail or refuse to so purchase such shares, its license shall be cancelled.

Any such corporation shall have the power to redeem the shares of any shareholder, or the shares of a deceased shareholder, upon such terms as may be agreed upon by the Board of Directors and such shareholder or his personal representative, or at such price and upon such terms as may be provided in the Articles of Incorporation, the Bylaws, or an existing contract entered into between the shareholders of the corporation.

Each corporation licensed as a local recording agent shall file, under oath, a list of the names and addresses of all of its officers, directors and shareholders with its yearly application for renewal license.

Each corporation licensed as a local recording agent shall immediately notify the State Board of Insurance upon any change in its officers, directors or shareholders.

The term "firm" as it applies to local recording agents in Sections 2, 12 and 16 of this Article 21.14 shall be construed to include corporations. Sec. 3 amended by Acts 1969, 61st Leg., p. 668, ch. 225, § 1, eff. Sept. 1, 1969.

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Sec. 4. Acting Without License Forbidden.

It shall be unlawful for any person, firm, partnership or corporation or any officer, director or shareholder of a corporation to act as a local recording agent or solicitor in procuring business for any insurance company, corporation, interinsurance exchange, mutual, reciprocal, associa-

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tion, Lloyds or other insurance carrier, until he or it shall have in force the license provided for herein.

Sec. 4 amended by Acts 1969, 61st Leg., p. 668, ch. 225, § 2, eff. Sept. 1, 1969.

Sec. 5. Active Agents or Solicitors Only to be Licensed.

No license shall be granted to any person, firm, partnership or corporation, either as a local recording agent or solicitor, for the purpose of writing any form of insurance, unless it is found by the State Board of Insurance that such person, firm, partnership or corporation, is or intends to be, actively engaged in the soliciting or writing of insurance from the public generally; that each person or individual of a firm is a resident of Texas, of good character and good reputation, worthy of a license, and is to be actively engaged in good faith in the business of insurance, and that the application is not being made in order to evade the laws against rebating and discrimination either for the applicant or for some other person, firm, partnership or corporation. Nothing herein contained shall prohibit an applicant insuring property which the applicant owns or in which the applicant has an interest; but it is the intent of this Section to prohibit coercion of insurance and to preserve to each citizen the right to choose his own agent or insurance carrier, and to prohibit the licensing of an individual, firm, partnership or corporation to engage in the insurance business principally to handle business which the applicant controls only through ownership, mortgage or sale, family relationship or employment, which shall be taken to mean that an applicant who is making an original application for license shall show the State Board of Insurance that he or it has a bona fide intention to engage in business in which at least twenty-five per cent (25%) of the total volume of premiums shall be derived from persons or organizations other than applicant and from property other than that on which the applicant shall control the placing of insurance through ownership, mortgage, sale, family relationship or employment; and which shall be taken to mean, in the case of application for renewal of license, that at least twenty-five per cent (25%) of applicant's total volume of premiums, during the year preceding such application for renewal, shall have been derived from persons other than applicant and from property other than that on which the applicant controlled the placing of insurance through ownership, mortgage, sale, family relationship or employment. Nothing herein contained shall be construed to authorize a corporation to receive a license as a solicitor.

Sec. 5 amended by Acts 1969, 61st Leg., p. 668, ch. 225, § 3, eff. Sept. 1, 1969.

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Sec. 24. Violation of Act.

Any person or any member of any firm, or any corporation, or any officer, director, shareholder or employee of any corporation who violates any of the provisions of Sections 4, 15 and 22 of this Article shall be guilty of a misdemeanor, and on conviction in a court of competent jurisdiction, shall be punished by a fine of not less than One Dollar (\$1.00) nor more than One Hundred Dollars (\$100.00).

Sec. 24 amended by Acts 1969, 61st Leg., p. 668, ch. 225, § 4, eff. Sept. 1, 1969.

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Acts 1969, 61st Leg., p. 668, ch. 225, §§ 1-4, amended sections 3-5 and 24 of this article, and section 5 provided: "Sec. 5. Precedent of Act in Cases of Conflict.

The rights, power, authority and procedures created in the foregoing sections of this Act shall be deemed to be in addition to all of the rights, authorities and procedures now existing and conferred by the

laws of the State of Texas, and any pre-existing Act which tends to hamper or limit the rights, authorities and procedures created in this Act shall be deemed to be superseded by the provisions hereof and, to the extent that any other law is in conflict with, or inconsistent with the provisions hereof, the provisions of the Act shall take precedence and be effective."

SUBCHAPTER B. MISREPRESENTATION AND DISCRIMINATION

Art. 21.21. Unfair competition and unfair practices

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Sec. 13. Rules and Regulations. The State Board of Insurance is authorized to promulgate and may promulgate and enforce reasonable rules and regulations and may order such provision as is necessary in the accomplishment of the purposes of this Article and Article 21.20, including, but not limited to, such express provision within the purposes of these Articles as it deems necessary or as is required to effect necessary uniformity with the laws of other states or the United States or in conformity with the adopted procedures of the National Association of Insurance Commissioners notwithstanding any previous definition or interpretation of terms used in these Articles had in or derived from the common law or other statutory law of this state.

Sec. 13 added by Acts 1969, 61st Leg., p. 2051, ch. 706, § 1, emerg. eff. June 12, 1969.

SUBCHAPTER E. MISCELLANEOUS PROVISIONS

Art. 21.48A. Prohibiting Certain Practices Relating to Insurance of Real Property

* * * * *

Sec. 2. Prohibited Practices.

No Mortgage Lender shall require a fee of over Seven and 5/100ths Dollars (\$7.50) for the substitution by the Borrower of an insurance policy for another insurance policy still in effect, or require any fee for the substitution by the Borrower of an insurance policy for an existing policy upon termination of the existing policy, when such existing or substituted insurance policy is provided through an insurance company duly licensed to do business in the State of Texas pursuant to the provisions of this Insurance Code; provided, however, nothing herein shall prevent a Mortgage Lender who is a duly licensed local recording agent from soliciting insurance on the mortgaged property. No Mortgage Lender shall directly or indirectly impose or require as a condition of any financing or lending of money or the renewal or the extension thereof, that the purchaser or borrower or his successors, shall procure any policy of insurance or the renewal or extension thereof, covering the property involved in the transaction, from or through any particular agent or agents, solicitor or solicitors, broker or brokers, insurer or insurers, or any other person or persons, or from or through any particular type or class of any of the foregoing.

Sec. 2 amended by Acts 1969, 61st Leg., p. 1447, ch. 428, § 1, emerg. eff. June 2, 1969.

Sec. 3. Exceptions.

Nothing contained in Section 2 hereof shall be deemed to prevent such Mortgage Lender from exercising the rights to:

- (a) require evidence, to be produced at a reasonable time prior to the commencement or renewal of the risk, that the insurance with a fixed termination date providing adequate coverage has been obtained in an amount sufficient to cover the debt or loan and will not be cancelled without reasonable notice to the lender;

For Annotations and Historical Notes, see V.A.T.S.

(b) require insurance in an insurer authorized to do business and having a licensed resident agent in this state; and

(c) refuse to accept or approve insurance in any particular insurer on reasonable and nondiscriminatory grounds relating to its financial soundness, or its facility to service the policy.

Sec. 3 amended by Acts 1969, 61st Leg., p. 1447, ch. 428, § 2, emerg. eff. June 2, 1969.

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CHAPTER TWENTY TWO—STIPULATED PREMIUM INSURANCE COMPANIES

Art. 22.13 Policy Form Approval

Section 1. Life Policy Forms:

(a) Every policy of life insurance issued by a stipulated premium company shall state on the front page the amount of death benefit to be paid, and the circumstances or conditions under which it shall be paid. An application for each policy must be signed by the applicant, unless the applicant is a minor, in which event the application may be signed by a parent or guardian. The policy, or the policy and the application if a copy of the application is attached to the policy, shall constitute the entire contract. If the policy is to provide that misstatement as to the health or physical condition of the applicant may void the policy within the contestable period, the application shall so state in not less than ten (10) point type in language approved by the State Board of Insurance. All statements in the application shall in the absence of fraud be regarded as representations and not warranties. All conditions of the policy must be stated therein. Each policy must provide that it shall be incontestable, after having been in force during the lifetime of the insured for a period of two (2) years from date of issue, except for non-payment of premiums. It shall also provide that in case the age of the insured is misstated, the amount of insurance shall be that which the premium actually paid would purchase at the correct age, based on premium rates in force at the time of the death of the insured. No policy nor the application therefor shall contain language or be in such form as to mislead the applicant or policyholder as to the type of insurance afforded nor as to his rights or benefits.

(b) It shall be unlawful for any stipulated premium company to assume liability on a life insurance risk on any one life in an amount in excess of Five Thousand Dollars (\$5,000.00).

(c) The approval of life policy forms shall be made in accordance with the provisions of Article 3.42 of Chapter 3 of this Code.

(d) It shall be unlawful for any stipulated premium company to issue any paid up or endowment type policy.

Sec. 1 amended by Acts 1969, 61st Leg., p. 2309, ch. 780, § 1, emerg. eff. June 14, 1969.

Sec. 2. Health, Accident, Sickness and Hospitalization Policies.

(a) All health, accident, sickness and hospitalization policies shall be issued in accordance with the provisions of Article 3.70, of Chapter 3 of this Code.

(b) All health, accident, sickness and hospitalization policies issued, reinsured or assumed by a stipulated premium company shall contain therein a premium redetermination clause so as to permit a rate readjustment by action of the Board of Directors of the stipulated premium company.

(c) The approval of health, accident, sickness and hospitalization policy forms shall be made in accordance with the provisions of Article 3.42 of Chapter 3 of this Code.

Sec. 2 amended by Acts 1969, 61st Leg., p. 2309, ch. 780, § 2, emerg. eff. June 14, 1969.

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**TITLE 79—INTEREST—CONSUMER CREDIT—
CONSUMER PROTECTION**

SUBTITLE TWO—CONSUMER CREDIT

CHAPTER 3—REGULATED LOANS

Art. 5069—3.17. Loans secured by pledge of tangible personal property

* * * * *

(9) The licensee shall keep a record of all personal property taken as security for a loan. The record shall contain a description of the property, specifying the manufacturer, model or model number, serial number, color, or any other information prescribed by the Commissioner. The Commissioner shall prescribe the form for the keeping of records.

(10) Before entering into an agreement for the loan of money upon the acceptance of personal property as security, the licensee shall require proof of identity of the borrower. The licensee shall keep a record of the names of all borrowers who transfer possession of personal property to the licensee as security for a loan, along with a description of the identification shown by the borrower, in the form and in the manner prescribed by the commissioner. Proof of the identity of the borrower may be made by the presentation of a current driver's license or other current identification or card issued by a state, the United States, or any association, corporation, or legal entity, which includes a number or other symbol peculiar to the lawful holder and which is capable of being verified by the Commissioner.

(11) The licensee shall make and keep a record of all sales of personal property which were received by the licensee as security. The record shall include the name and address of the purchaser and any other information which may be required by the Commissioner.

(12) Any record required to be made and kept by this Section shall be kept up to date by daily entries and shall be legible. The records shall be open for inspection at any reasonable time by the Commissioner and other employees of the Finance Commission and by any peace officer, without need of judicial writ or other process.

(13) Any licensee who fails to make and keep a record required by this Article in the form prescribed by the Commissioner or who wilfully makes a false entry in a required record is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000.

(14) A borrower who transfers possession of personal property to a licensee as security for a loan and who gives the licensee a false or fictitious name or presents false or fictitious identification to a licensee is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$500.

Subsecs. (9)–(14) added by Acts 1969, 61st Leg., p. 1640, ch. 512, § 1, emerg. eff. June 10, 1969.

SUBTITLE THREE—CONSUMER PROTECTION

CHAPTER 10—DECEPTIVE TRADE PRACTICES

Art.

- 5069—10.06. Reports and examinations
[New].
- 5069—10.07. Civil investigative demand
[New].
- 5069—10.08. Penalties [New].

Art. 5069—10.01. Definitions

For the purposes of this Chapter, unless the context otherwise requires:

(a) "Trade" and "Commerce" mean the advertising, offering for sale, sale, or distribution of any services and any property, tangible or intangible, real, personal or mixed, and any other article, commodity, or thing of value wherever situate, and shall include any trade or commerce directly or indirectly affecting the people of this State.

(b) "Deceptive practices" means any one or more of the following:

- (1) passing off goods or services as those of another;
- (2) causing confusion or misunderstanding as to the source, sponsorship, approval or certification of goods or services;
- (3) causing confusion or misunderstanding as to affiliation, connection, or association with, or certification by, another;
- (4) using deceptive representations or designations of geographic origin in connection with goods or services;
- (5) representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that he does not have;
- (6) representing that goods are original or new if they are deteriorated, altered, reconditioned, reclaimed, used, or second-handed;
- (7) representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another;
- (8) disparaging the goods, services, or business of another by false or misleading representation of fact;
- (9) advertising goods or services with intent not to sell them as advertised;
- (10) advertising goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity;
- (11) making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions; or
- (12) engaging in any other conduct which similarly creates confusion or misunderstanding; or
- (13) advertising of a liquidation sale, auction sale or other sale fraudulently representing that the person is going out of business.
- (14) conducting or sponsoring in connection with the sale of, or offer to sell, goods, merchandise or anything of value, any contest, sweepstakes, puzzle or game of chance by which a person may, as determined by drawing, guessing, matching, or chance, receive gifts, prizes, discounts, coupons, certificates or gratuities if such contest, sweepstakes, puzzle or game or the promotion of such contest, sweepstakes, puzzle or game:
 - (1) misrepresents by any means or in any form the participants' chances of winning any such gifts, prizes, discounts, coupons, certificates or gratuities; or

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(2) fails to disclose to participants in such contest, sweepstakes, puzzle or game on a permanent poster in case such contest or game is conducted by a retail outlet, or, in case such contest or game is not conducted in a retail outlet, on any card game piece, entry blank, or any paraphernalia required for participation in such contest or game, the following:

(a) The geographical area or number of outlets in which the contest or game is proposed to be conducted;

(b) An accurate description of each type of gift, prize, discount, coupon, certificate or gratuity to be made available;

(c) The minimum number and minimum amount of cash gifts, prizes, discounts, and gratuities to be made available; and

(d) The minimum number of each other type of gift, prize, discount, coupon, certificate or gratuity to be made available.

For contests, sweepstakes, puzzles or games of 30 days duration or longer, such producer, distributor or seller of such contests, sweepstakes, puzzles or games, if requested by the commissioner, shall make available to the commissioner a report setting forth the minimum number of gifts, prizes, discounts, coupons, certificates or gratuities in the value or amount of \$25 or more, which are still available as the contest progresses and major prizes are awarded.

(3) manipulates or rigs any contest, sweepstakes, puzzle or game of chance so that winning such gifts, prizes, discounts, coupons, certificates or gratuities are dispersed to predetermined individuals or retail establishments, provided that this subsection shall not prevent the distribution of gifts, prizes, discounts, coupons, certificates or gratuities of equal value in a uniform ratio to the total number of contest and game pieces distributed to those establishments. The producer, distributor or seller of such contest, sweepstakes, puzzle or game shall file with the commissioner prior to the first use in Texas of such contest, sweepstakes, puzzle or game a report setting forth the minimum number of game pieces and the number of prize winning pieces to be distributed in connection with such contest, sweepstakes, puzzle or game, the minimum number and minimum amount of cash gifts, prizes, discounts, and gratuities to be made available and the minimum number of each other type of gift, prize, discount, coupon, certificate or gratuity to be made available, and the geographical area or number of outlets in which the contest, sweepstakes, puzzle, or game is proposed to be conducted. Such producer, distributor or seller of such contest, sweepstakes, puzzle or game, within 6 months following the completion of such game, shall report that fact to the commissioner and, if requested by the commissioner, shall make available to the commissioner the name of the person who wins a cash prize of \$25 or more or a non-cash prize of value of more than \$25, the description of the non-cash prize, and the date when such prize was delivered to each such winning participant.

(15) the coercion of a retailer, lessee, agent or dealer by a supplier, wholesaler, distributor, or manufacturer, or any employees or representatives of such supplier, wholesaler, distributor or manufacturer, to use contests, sweepstakes, puzzles or games of chance in any form or by any means.

(c) "Person" includes natural persons, corporations, trusts, partnerships, incorporated or unincorporated associations, and any other legal entity.

(d) "Documentary material" includes the original or a copy of any book, record, report, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription, or other tangible document or recording, wherever situate.

Acts 1967, 60th Leg., p. 658, ch. 274, § 2, eff. Oct. 1, 1967. Amended by Acts 1969, 61st Leg., p. 1504, ch. 452, § 1, emerg. eff. June 10, 1969. Sec.

(b) (14), (15) added by Acts 1969, 61st Leg., p. 2344, ch. 794, § 1, eff. Sept. 1, 1969.

Acts 1969, 61st Leg., p. 2344, ch. 794, which added subsections (14) and (15) of section (b) of this article, provided in section 2:

"The provisions of this Act shall not apply to any contest, sweepstake, puzzle or other promotional trade game of chance,

which is regulated by the rule promulgated by a federal regulatory commission, board or agency, or to any person or persons whose sponsoring, conducting or use of such contest, sweepstake, puzzle or other promotional trade game of chance, is regulated by such federal rules."

Art. 5069—10.02. Deceptive practices unlawful

(a) False, misleading, or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful.

(b) It is the intent of the legislature that in construing Section (a) of this Article, the courts, to the extent possible, will be guided by Section (b) of Article 10.01 of this Chapter and the interpretations given by the Federal Trade Commission and the Federal Courts to Section 5 (a) (1) of the Federal Trade Commission Act (15 U.S.C., 45(a) (1)).¹ Nothing in this Chapter either enlarges or diminishes the rights of parties in private litigation.

Acts 1967, 60th Leg., p. 658, ch. 274, § 2, eff. Oct. 1, 1967. Amended by Acts 1969, 61st Leg., p. 1504, ch. 452, § 1, emerg. eff. June 10, 1969.

¹ 15 U.S.C.A. § 45(a) (1).

Art. 5069—10.03. Exemptions

(a) Nothing in this Chapter shall apply to actions or transactions permitted under laws administered by a public official acting under statutory authority of this State or the United States.

(b) Nothing in this Chapter shall apply to the owner or personnel of any advertising medium, including, but not limited to, newspapers, magazines, telephone directories, broadcast stations, and billboards, wherein any advertisement in violation of this Chapter is published or disseminated, unless it is established that the owner or personnel of the advertising medium had knowledge of the intent, design, or purpose of the advertiser at the time of publication or dissemination.

(c) Nothing in this Chapter shall apply to any act or practice which is subject to, and complies with, the rules and regulations of, and the statutes administered by, the Federal Trade Commission.

(d) Nothing in this Chapter shall in any way apply to the insurance business, or to any person, insofar as said person is engaged in the practice of the insurance business, or to any act or practice regulated by the Texas Insurance Code. For the purposes of this Act the terms "insurance business" and "insurer" shall be defined in the same manner as said terms are respectively defined in the Texas Insurance Code. For the purposes of this Section (d) the term "person" shall mean any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds insurer, fraternal benefit society, and any other legal entity engaged in the business of insurance, including agents, brokers, adjusters and life insurance counselors.

Acts 1967, 60th Leg., p. 658, ch. 274, § 2, eff. Oct. 1, 1967. Amended by Acts 1969, 61st Leg., p. 1504, ch. 452, § 1, emerg. eff. June 10, 1969.

Art. 5069—10.04. Restraining orders

(a) Whenever the Consumer Credit Commissioner receives a written complaint or has reason to believe that any person is engaging in, has engaged in, or is about to engage in any practice declared by Article 10.02 of this Chapter to be unlawful, and that proceedings would be in the public interest, he may request the Attorney General to bring an action in the name of the State against such person to restrain by tem-

For Annotations and Historical Notes, see V.A.T.S.

porary or permanent injunction the use of such method, act, or practice. The action shall be brought in the District Court of the county in which such person resides or does business, or with the consent of the parties, in the District Court of Travis County, Texas. The court is authorized to issue temporary or permanent injunctions to restrain and prevent violations of this Chapter, and such injunctions shall be issued without bond.

(b) Whenever the Attorney General has reason to believe that any person is engaging in, has engaged in, or is about to engage in any act or practice declared by Article 10.02 of this Chapter to be unlawful, and that proceedings would be in the public interest, he may bring an action in the name of the state against the person to restrain by temporary or permanent injunction the use of such method, act, or practice. Venue in such an action shall be as provided in Section (a) of this Article. The court is authorized to issue temporary or permanent injunctions to restrain and prevent violations of this chapter, and such injunctions shall be issued without bond.

Acts 1967, 60th Leg., p. 658, ch. 274, § 2, eff. Oct. 1, 1967. Amended by Acts 1969, 61st Leg., p. 1504, ch. 452, § 1, emerg. eff. June 10, 1969.

Art. 5069—10.05. Voluntary compliance

In the administration of this Chapter, the Attorney General or the Consumer Credit Commissioner may accept an assurance of voluntary compliance with respect to any act or practice deemed to be violative of this Chapter from any person who is engaging in, has engaged in, or is about to engage in such act or practice. Any such assurance shall be in writing and be filed with and subject to the approval of the District Court in the county in which the alleged violator resides or does business, or in the District Court of Travis County, Texas. Such assurance of voluntary compliance shall not be considered an admission of violation for any purpose. Matters thus closed may at any time be reopened by the Attorney General or the Commissioner for further proceedings in the public interest.

Acts 1967, 60th Leg., p. 659, ch. 274, § 2, eff. Oct. 1, 1967. Amended by Acts 1969, 61st Leg., p. 1504, ch. 452, § 1, emerg. eff. June 10, 1969.

The former provisions of this article, which related to a civil penalty, are now covered in art. 5069—10.08(c).

Art. 5069—10.06. Reports and examinations

Whenever the Consumer Credit Commissioner has reason to believe that a person is engaging in, has engaged in, or is about to engage in any act or practice declared to be unlawful by this Chapter, or when he reasonably believes it to be in the public interest to conduct an investigation to ascertain whether any person is engaging in, has engaged in, or is about to engage in any such act or practice, he may:

(a) require the person to file on the prescribed forms a statement or report in writing, under oath or otherwise, as to all the facts and circumstances concerning the alleged violation and such other data and information as the Commissioner may deem necessary;

(b) examine under oath any person in connection with the alleged violation;

(c) examine any merchandise or sample thereof he may deem necessary and proper; and

(d) pursuant to an order of the appropriate court, impound any sample of merchandise that is produced in accordance with this Chapter, and retain it in his possession until the completion of all proceedings in connection with which the merchandise is produced.

Acts 1969, 61st Leg., p. 1504, ch. 452, § 1, emerg. eff. June 10, 1969.

Art. 5069—10.07. Civil investigative demand

(a) Whenever the Consumer Credit Commissioner believes that any person may be in possession, custody, or control of the original or a copy of any documentary material relevant to the subject matter of an investigation of a possible violation of this Chapter, he may execute in writing and serve upon such a person, a civil investigative demand requiring such person to produce such documentary material and permit inspection and copying.

(b) Each such demand shall:

(1) state the statute and section thereof, the alleged violation of which is under investigation, and the general subject matter of the investigation;

(2) describe the class or classes of documentary material to be produced thereunder with reasonable specificity so as fairly to indicate the material demanded;

(3) prescribe a return date within which the documentary material is to be produced; and

(4) identify the members of the Commissioner's staff to whom such documentary material is to be made available for inspection and copying.

(c) No such demand shall:

(1) contain any requirement which would be unreasonable or improper if contained in a subpoena duces tecum issued by a court of this State; or

(2) require the disclosure of any documentary material which would be privileged, or which for any other reason would not be required by a subpoena duces tecum issued by a court of this State.

(d) Service of any such demand may be made by:

(1) delivering a duly executed copy thereof to the person to be served or to a partner or to any officer or agent authorized by appointment or by law to receive service of process on behalf of such person;

(2) delivering a duly executed copy thereof to the principal place of business in this State of the person to be served; or

(3) mailing by registered or certified mail a duly executed copy thereof addressed to the person to be served at the principal place of business in this State or, if said person has no place of business in this State, to his principal office or place of business.

(e) Documentary material demanded pursuant to the provisions of this Article shall be produced for inspection and copying during normal business hours at the principal office or place of business of the person served, or at such other times and places as may be agreed upon by the person served and the Commissioner.

(f) No documentary material produced pursuant to a demand under this Article shall, unless otherwise ordered by a court for good cause shown, be produced for inspection or copying by, nor shall the contents thereof be disclosed to, any person other than the authorized employee of the Commissioner or the attorney general without the consent of the person who produced such material; provided, that, under such reasonable terms and conditions as the Commissioner shall prescribe, such documentary material shall be available for inspection and copying by the person who produced such material or any duly authorized representative of such person. The Commissioner or any attorney designated by him may use such documentary material or copies thereof as he determines necessary in the enforcement of this Chapter, including presentation before any court. Any such material which contains trade secrets shall not be presented except with the approval of the court in which the action is pending after adequate notice to the person furnishing such material.

For Annotations and Historical Notes, see V.A.T.S.

(g) At any time before the return date specified in the demand, or within twenty days after the demand has been served, whichever period is shorter, a petition to extend the return date for, or to modify or set aside the demand, stating good cause, may be filed in the District Court in the county where the parties reside, or the District Court of Travis County, Texas.

(h) A person upon whom a demand is served pursuant to the provisions of this Article shall comply with the terms thereof unless otherwise provided by a court order.

Acts 1969, 61st Leg., p. 1504, ch. 452, § 1, emerg. eff. June 10, 1969.

Art. 5069—10.08. Penalties

(a) Any person who, with intent to avoid, evade, or prevent compliance, in whole or in part, with Article 10.06 or 10.07 of this Chapter¹ removes from any place, conceals, withholds, or destroys, mutilates, alters, or by any other means falsifies any documentary material or merchandise or sample thereof is guilty of a misdemeanor and on conviction is punishable by confinement in the county jail for not more than one year, or by a fine of not more than Five Thousand Dollars, or both.

(b) Whenever any person fails to comply with a directive of the Commissioner pursuant to Article 10.06 of this Chapter, or whenever any person fails to comply with any civil investigative demand for documentary material duly served upon him under Article 10.07 of this Chapter, or whenever satisfactory copying or reproduction of any such material cannot be done and such person refuses to surrender such material, the Attorney General, through such officers or attorneys as he may designate, may file, in the District Court in the county in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of Article 10.06 or 10.07 of this Chapter, except that if such person transacts business in more than one county, the petition shall be filed in the county in which such person maintains his principal place of business, or in such other county as may be agreed upon by the parties to such petition. Whenever any petition is filed in the District Court in any county under this Article, the court shall have jurisdiction to hear and determine the matter so presented and to enter such order or orders as may be required to carry into effect the provisions of Article 10.06 or 10.07 of this Chapter. Any final order so entered shall be subject to appeal to the Texas Supreme Court. Disobedience of any final order entered under this Article by any court is punishable as contempt of that order.

(c) Any person who violates the terms of an injunction issued under Article 10.04 of this Chapter² shall forfeit and pay to the State a civil penalty of not more than Ten Thousand Dollars per violation. For the purposes of this Article, the District Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General, acting in the name of the State, may petition for recovery of civil penalties.

Acts 1969, 61st Leg., p. 1504, ch. 452, § 1, emerg. eff. June 10, 1969.

¹ Articles 5069—10.06, 5069—10.07.

² Article 5069—10.04.

The subject matter of section (c) of this article was formerly covered by article 5069—10.05.

TITLE 82—JUVENILES

Art.		Art.
5139YY.	Moore County Juvenile Board [New].	5139AAA. Anderson, Henderson and Houston Counties; Juvenile Boards [New].
5139ZZ.	Orange County Juvenile Board [New].	

Art. 5139E—1. Juvenile Boards

* * * * *

(3) As compensation for the added duties hereby imposed upon members of such Juvenile Board, each member thereof may, if approved by the Commissioners Court of the county, be compensated by an annual salary not to exceed \$6,000 payable in 12 equal monthly installments; and such compensation shall be in addition to all other compensation now provided for or allowed County and District Judges by law, and shall be paid out of the general fund of the county.

Subd. (3) amended by Acts 1969, 61st Leg., p. 1872, ch. 625, § 1, eff. Sept. 1, 1969.

Art. 5139J. Juvenile Boards in Harrison and Rusk counties

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Sec. 3a. The juvenile board of Harrison County may appoint a juvenile officer, whose salary shall be fixed by the Commissioners Court of said county in an amount not less than Six Thousand Dollars (\$6,000) per year, and whose allowance for expenses shall not be less than Six Hundred Dollars (\$600) per year. The juvenile officer shall have the powers and duties prescribed by Article 5142 of the Revised Civil Statutes of Texas, 1925, and any amendments thereto. All claims for expenses of the juvenile officer shall be certified by the chairman of the juvenile board as being necessary in the performance of the duties of the juvenile officer. The Commissioners Court shall provide the necessary funds for payment of the salary and expenses of the juvenile officer.

Sec. 3a amended by Acts 1967, 60th Leg., p. 983, ch. 427, § 1, emerg. eff. June 12, 1967; Acts 1969, 61st Leg., p. 1055, ch. 348, § 1, emerg. eff. May 27, 1969.

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Art. 5139M. Juvenile Board in Bowie county

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Sec. 3. The Juvenile Board established by this Act shall have all the powers conferred on Juvenile Boards created under Article 5139 of the Revised Civil Statutes of 1925 and any amendments thereto. The Board may appoint a Juvenile Officer, whose salary shall be fixed by the Commissioners Court of the County in an amount not to exceed Six Thousand Dollars (\$6,000) per year, and whose allowance for expenses shall not exceed One Thousand Dollars (\$1,000) per year. The Juvenile Officer shall have the powers and duties prescribed by Article 5142 of the Revised Civil Statutes of 1925 and any amendments thereto. All claims for expenses of the Juvenile Officer shall be certified by the Chairman of the Board as being necessary in the performance of the duties of the Juvenile Officer. The Commissioners Court shall provide the necessary funds for payment of the salary and expenses of the Juvenile Officer.

Sec. 3 amended by Acts 1969, 61st Leg., p. 1759, ch. 584, § 1, emerg. eff. June 10, 1969.

Art. 5139Y. Nolan county juvenile board

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Sec. 3. The person appointed as juvenile officer shall be a person trained and qualified in the field of juvenile and parental counseling,

For Annotations and Historical Notes, see V.A.T.S.

truancy and law enforcement. The juvenile officer shall have all the powers and duties prescribed by Article 5142 of the Revised Civil Statutes of Texas, 1925, and any amendments thereto, and shall be directly accountable to the juvenile board. The juvenile officer shall receive an annual salary to be fixed by the board and shall receive an annual allowance for expenses in an amount to be determined by the board.

Sec. 3 amended by Acts 1969, 61st Leg., p. 391, ch. 143, § 1, emerg. eff. May 6, 1969.

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Art. 5139AA. Marion County Juvenile Board

Section 1. There is hereby established the Marion County Juvenile Board, which shall be composed of the County Judge of Marion County and the Judge of the 76th Judicial District. The Judge of the Court which is designated as the Juvenile Court for Marion County shall be Chairman of the Board and its chief administrative officer.

Sec. 1 amended by Acts 1969, 61st Leg., p. 519, ch. 181, § 5, emerg. eff. May 9, 1969.

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Art. 5139FF. Hutchinson County Juvenile Board

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Sec. 2. The Hutchinson County Juvenile Board shall have all the powers conferred on Juvenile boards created under Article 5139 of the Revised Civil Statutes of Texas, 1925, and any amendments thereto. The board shall appoint a juvenile officer, whose salary shall be fixed by the Commissioners Court. The juvenile officer may be allowed his reasonable and necessary expenses, subject to such maximum amount as may be fixed by the Commissioners Court.

Sec. 2 amended by Acts 1969, 61st Leg., p. 1758, ch. 583, § 1, emerg. eff. June 10, 1969.

Sec. 3. If the board determines that it is desirable to have one or more assistant juvenile officers it may appoint such assistant juvenile officers whose salaries shall be set by the Commissioners Court. All appointments made by the Hutchinson County Juvenile Board shall be made subject to the approval of the Commissioners Court of Hutchinson County. If the Commissioners Court fails to approve within thirty (30) days any appointment made by the juvenile board, the appointee is automatically approved. The juvenile board by majority vote shall have the power to discharge any appointee and such discharge need not be approved by the Commissioners Court. The juvenile officer shall have the powers and duties prescribed by Article 5142 of the Revised Civil Statutes of 1925 and any amendments thereto. All claims for expenses of the juvenile officer shall be certified by the chairman of the juvenile board as being necessary in the performance of the duties of the juvenile officer. The Commissioners Court shall provide the necessary funds for payment of the salary and expenses of the juvenile officer.

Sec. 3 amended by Acts 1969, 61st Leg., p. 1758, ch. 583, § 1, emerg. eff. June 10, 1969.

Art. 5139NN. Coleman County Juvenile Board

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Section 2. As compensation for the added duties hereby imposed upon him, the chairman of such board may be allowed additional compensation in the amount not to exceed One Thousand, Eight Hundred Dollars (\$1,800) per annum, which shall be paid in twelve (12) equal installments out of the General Fund or any other available fund of Coleman County. The Commissioners Court of Coleman County may allow each other member of the board additional compensation in an amount not to exceed Three Hundred Dollars (\$300) per annum, to be paid in twelve (12) equal

installments out of the General Fund or any other available fund of Coleman County. Such compensation shall be in addition to all other compensation now provided or allowed by law for county judges and district judges.

Sec. 2 amended by Acts 1969, 61st Leg., p. 263, ch. 102, § 1, eff. Sept. 1, 1969.

Section 2a. The Juvenile Board of Coleman County shall, with the consent of the county commissioners court, appoint a juvenile officer for Coleman County, who shall meet all the qualifications and perform all the duties of a juvenile officer as prescribed by the laws of this state. The juvenile officer shall be paid a salary as fixed by the juvenile board and approved by the county commissioners court.

Sec. 2a added by Acts 1969, 61st Leg., p. 263, ch. 102, § 2, eff. Sept. 1, 1969.

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Art. 5139UU. Ector County Juvenile Board

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Section 2. The county judge of Ector County, the judge of the County Court at Law of Ector County, and the judges of the district courts of Ector County are each entitled to additional compensation of their service on the board of not less than \$600 a year nor more than \$1,200 a year. The amount of such additional compensation shall be fixed by the commissioners court and shall be paid in 12 equal monthly installments out of the general fund of the county.

Sec. 2 amended by Acts 1969, 61st Leg., p. 252, ch. 99, § 1, emerg. eff. April 26, 1969.

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Art. 5139XX. Kaufman County Juvenile Board

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Compensation

Sec. 4. * * *

(b) The juvenile officer is entitled to an annual salary in an amount fixed by the board not to exceed \$6,500 a year; he is also entitled to reimbursement for his reasonable and necessary expenses, in an amount not to exceed \$1,800 a year, incurred while performing his duties as juvenile officer. The juvenile officer's expenses are payable on voucher signed by the chairman of the board. The Commissioners Court of Kaufman County shall pay the juvenile officer's salary and expenses from the general fund.

Sec. 4(b) amended by Acts 1969, 61st Leg., p. 1672, ch. 535, § 1, eff. Sept. 1, 1969.

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Art. 5139YY. Moore County Juvenile Board

Section 1. There is hereby established a juvenile board for Moore County to be called the Moore County Juvenile Board, which shall be composed of seven non-salaried members: The county judge of Moore County being one member; two members appointed by the Moore County Commissioners Court; two members appointed by the Dumas City Commission; and two members appointed by the board of trustees of the Dumas Independent School District. The terms of office of the appointive members of this board shall be for alternating terms of two years each. The terms of three of the appointed members, one each from the city, county, and school district, will expire on December 31st of each odd-numbered year, and the terms of the remaining three appointed members, one each from the city, county, and school district, will expire on December 31st of

For Annotations and Historical Notes, see V.A.T.S.

each even-numbered year. It is understood that the terms of three members originally appointed will expire on December 31, 1969, and that the terms of the remaining three members originally appointed will expire on December 31, 1970. The members of the board shall select a chairman from among their number.

Sec. 2. The Moore County Juvenile Board shall have all the powers conferred on juvenile boards created under Article 5140, Revised Civil Statutes of Texas, 1925, and any amendments thereto. If the board determines that it is desirable to have a juvenile officer and/or officers for Moore County, it may appoint a juvenile officer and/or officers for a term not to exceed two years, at the end of which term, the board may appoint another juvenile officer or officers for succeeding terms not exceeding two years for each term. No person or persons shall be disqualified from serving as juvenile officer for the reason that he has previously served in that capacity.

Sec. 3. The person or persons appointed as juvenile officer shall be a person trained, qualified, and experienced in the field of juvenile and parental counseling, and/or having such other qualifications as may be specified by the Moore County Juvenile Board. The board shall be the final judge of the qualifications for such juvenile officer or officers. The juvenile officer shall have all the powers and duties prescribed by Article 5142, Revised Civil Statutes of Texas, 1925, and any amendments thereto, and shall be directly accountable to the juvenile board. The juvenile officer shall receive an annual salary to be fixed by the board, and shall receive an annual allowance for expenses in an amount to be determined by the board.

Sec. 4. The Commissioners Court of Moore County may enter into an agreement with the city commission of Dumas and the board of trustees of the Dumas Independent School District to provide the necessary funds for payment of the salary and expenses of the juvenile department. The agreement shall provide that the commissioners court pay 33- $\frac{1}{3}$ percent, the city commission of Dumas pay 33- $\frac{1}{3}$ percent, and the board of trustees of the Dumas Independent School District pay 33- $\frac{1}{3}$ percent of the funds necessary for the payment of the salary or salaries and other expenses of the juvenile department.

Acts 1969, 61st Leg., p. 869, ch. 288, §§ 1-4, emerg. eff. May 22, 1969.

Title of Act:

An Act relating to the creation and operation of the Moore County Juvenile Board; and declaring an emergency. Acts 1969, 61st Leg., p. 869, ch. 288.

Art. 5139ZZ. Orange County Juvenile Board

Section 1. The Orange County Juvenile Board is composed of the County Judge of Orange County, and the District Judges of Orange County.

Sec. 2. (a) The commissioners court may pay each member of the juvenile board an amount not to exceed \$3,000 per year as compensation for serving as a member of the juvenile board.

(b) The commissioners court may reimburse the judge of the juvenile court for actual and necessary expenses incurred in attending seminars and other educational or instructional meetings pertaining to juvenile problems. The amount payable under this subsection is limited to a maximum of \$600 per year.

Sec. 3. The juvenile board may

- (1) appoint a qualified person, trained or experienced in the field of juvenile and parental counseling, as juvenile probation officer;
- (2) suspend or remove any employee at any time for good cause;
- (3) require any person employed by the board to enter into a bond, payable to the board, conditioned on the faithful performance of his duties, with the premium for the bond payable by the board;

(4) authorize the use of foster homes for the temporary care of delinquent, dependent, or neglected children; and

(5) accept gifts or grants of real or personal property, subject to the terms and conditions on which they are made.

Sec. 4. The juvenile board shall

(1) prescribe the duties and conditions of employment of its employees;

(2) control and supervise all homes, schools, farms, and other institutions or places of housing maintained and used chiefly by the county for the training, education, detention, support, or correction of juveniles;

(3) appoint superintendents of institutions maintained and used chiefly by the county for the training, education, detention, support, or correction of juveniles;

(4) designate the juvenile court in accordance with Chapter 204, Acts of the 48th Legislature, Regular Session, 1943, as amended (Article 2338—1, Vernon's Texas Civil Statutes); and

(5) submit an annual proposed budget to the Orange County Commissioners Court.

Sec. 5. The juvenile probation officer has all the powers of a peace officer for the purpose of performing his duties under this Act.

Sec. 6. The juvenile probation officer shall

(1) appoint assistant juvenile probation officers with the approval of the juvenile board;

(2) appoint, with the approval of the juvenile board, a minimum of one field worker for each 50,000 inhabitants of Orange County according to the last preceding federal census;

(3) investigate all cases referred to him by the board;

(4) investigate all cases brought before the juvenile court;

(5) take charge of juveniles and perform services for them as directed by the board or the juvenile court;

(6) represent the interest of the juvenile before the juvenile court;

(7) furnish the board and the juvenile court any information and assistance required by them;

(8) make a written report to the judge of the juvenile court showing facts relating to the environment, treatment, education, welfare, and other information which may assist the court in determining the proper disposition to be made of any juvenile; and

(9) keep a record which will at all times show the names of all referrals and delinquent juveniles within Orange County and the names and addresses of the persons having custody of them.

Sec. 7. The commissioners court shall fix the salary of persons employed by the juvenile board. The commissioners court may appropriate money from the general fund to the juvenile board for the administration of this Act. The juvenile board shall administer this Act with money appropriated by the commissioners court.

Sec. 8. (a) For the purpose of maintaining the child support office, there shall be taxed, collected, and paid as other costs the sum of \$5 in each divorce case hereafter filed in any district court of Orange County. Such costs shall be collected by the district clerk and taxed as other costs, and when collected shall be paid by said district clerk to the county probation department to be kept in a separate fund known as the "Child Support Fund." This fund shall be administered by the Juvenile Board of Orange County for the purpose of assisting in paying the costs of maintaining the child support office in the Probation Department of Orange County, including payment of salaries and other expenses of the collector of child support and his assistants, the purchase of supplies and equipment, and all other necessary expenses of the office. This fund shall be supplemented out of the general fund, or other available funds of the county where necessary.

For Annotations and Historical Notes, see V.A.T.S.

(b) Each month for which a person has been ordered by a District Court of Orange County to pay child support, alimony, or separate maintenance into the Orange County Probation Department, the payor of such child support, alimony, or separate maintenance shall pay into the Orange County Probation Department a child support service fee in the sum of \$1 per month payable annually in advance; provided, however, that in those instances where the payor of child support, alimony, or separate maintenance is a member of the armed services and where such child support, alimony, or separate maintenance is paid into the Orange County Probation Department by government check in behalf of such military personnel, and wherein the monthly payments exceed that amount ordered by the court, the recipient (payee) of such child support, alimony, or separate maintenance shall be the person responsible for paying such annual child support service fee into the Orange County Probation Department.

(c) The first such child support service fee shall be due on the date such payor of child support, alimony, or separate maintenance has been ordered by a District Court of Orange County to commence payments of child support, alimony, or separate maintenance following passage of this Act and thereafter for all such persons ordered to pay child support, alimony, or separate maintenance on each succeeding annual anniversary of the original court order for payment. In those instances where the payee is charged with the responsibility of making such service fee payments, the first such payment shall become due on the date of receipt of the initial child support payment and annually thereafter on the anniversary of the date of the receipt of the first child support allotment check so long as the payor is a member of the armed services and so long as child support allotment payments exceed the amount of child support ordered by the court.

(d) Such child support service fees shall be for the purpose of meeting certain expenses of the child support office, including postage, equipment, stationery, office supplies, subpoenas, salaries and other expenses of the probation department authorized by the Orange County Juvenile Board.

(e) A record shall be kept of all child support service fees collected and expended, and such moneys shall be deposited in the child support fund and shall be administered by the Juvenile Board of Orange County.

(f) Failure or refusal of a person to pay such child support service fee on time and in the amount ordered by the court shall make such person susceptible to an action for contempt of court.

(g) This fund shall be subject to regular audit by the county auditor or other duly authorized persons. Annual report of receipts and expenditures in this account shall be made to the commissioners court.

Sec. 8a. (a) For purposes of providing legal services, court costs, and expenses of service in the handling of child support, separate maintenance, and temporary alimony, there shall be assessed the sum of \$10 in all matters involving contempt of court for failure and refusal to pay such child support, separate maintenance, or temporary alimony, and in matters involving contempt of court for failure or refusal to abide by orders of the court with respect to child visitation privileges in all such contempt action initiated through the Orange County Probation Department.

(b) Such fee of \$10 shall be paid into the Orange County Probation Department by the person initiating such contempt proceedings, but this sum, in addition to any other expenses incurred by the complainant in the prosecution of the contempt action may, in the judgment of the court, be assessed against the contemner for reimbursement to the complainant.

(c) In any such actions filed with the Orange County Probation Department for alleged contempt of court, the \$10 assessment shall be used, as needed, for the payment of services rendered by the office of

the district clerk and/or any peace officer. Provided, however, that the complainant may be required to deposit an additional sum when the cost of service in such action for contempt is expected to exceed the \$10 assessment. In such instance, however, any unused funds over and above the \$10 assessment shall be refunded to the depositor by the probation department.

(d) Receipts of all disbursements of moneys paid into the probation department for matters involving actions of contempt shall be kept on file and all such funds received by the probation department shall be deposited to the child support account. This fund shall be administered by the Orange County Juvenile Board and shall be subject to regular audit by the county auditor or other duly authorized person. Annual report of receipts and expenditures in this account shall be made to the commissioners court.

(e) The fee prescribed by this section shall not be collected from any person who has applied for or receives public assistance under the law of this state.

Sec. 9. For the purpose of maintaining adoption investigation services, there shall be taxed, collected, and paid as other costs the sum of \$10 in each adoption case hereafter filed in any district court of Orange County. Such cost shall be collected by the district clerk, and when collected, shall be paid by said district clerk to the county probation department to be kept by that department in a separate fund and such fund to be known as the "Adoption Investigation Fund." This fund shall be administered by the Juvenile Board of Orange County for the purpose of assisting in paying the cost of maintaining adoption investigation services in the Probation Department of Orange County, including salaries and other expenses of the adoption investigator and his assistants, the purchase of supplies and equipment, and all other necessary expenses of the investigator. This fund shall be supplemented out of the general fund or other available funds of the county where necessary.

Sec. 10. In all suits for divorce filed in any district court of Orange County, where it appears from the petition or otherwise that the parties to such suit have a child or children under 18 years of age, it shall be the duty of the chief probation officer, upon order of the court, to make a complete and thorough examination into the merits of the claim of the parties for custody of the children involved and to report his findings to the court in connection therewith, and to make a thorough and complete investigation as to the necessities of the child or children, and to make a report thereof to the court prior to the trial of said case, and if desired by the court, to produce such evidence as may have been developed in connection with such matters.

Sec. 11. It shall be the duty of the chief probation officer to keep a record which will at all times show the names of all dependent, neglected, or delinquent juveniles within Orange County, and the names and addresses of the persons having custody of such juveniles; and visitations by such officer and his assistants shall be made at such reasonable times as seem necessary or proper or as may be directed by the juvenile board, and a written report shall be made to the judge of the juvenile court showing such facts relating to the environment, treatment, education, welfare and other information which may assist the court in determining the proper disposition to be made of any juvenile.

Acts 1969, 61st Leg., p. 1010, ch. 325, §§ 1-11, emerg. eff. May 27, 1969.

Title of Act:

An Act relating to the establishment of the Orange County Juvenile Board and the Juvenile Probation Department; providing for the powers and duties of the board and the department; providing for the financ-

ing of the board from county funds and of the department from certain court costs, certain fees, and county funds; and declaring an emergency. Acts 1969, 61st Leg., p. 1010, ch. 325.

For Annotations and Historical Notes, see V.A.T.S.

Art. 5139AAA. Anderson, Henderson and Houston Counties; Juvenile Boards

Section 1. (a) The Juvenile Board of Anderson County is created. The board consists of the County Judge of Anderson County, the judges of the district courts in Anderson County, and the District Attorney for the 3rd Judicial District. The judge of the court which is designated as the juvenile court of the county shall be chairman of the board and its chief administrative officer.

(b) As compensation for the added duties imposed by service on the juvenile board, each member shall be paid by the county an amount not less than \$50 per month nor more than \$250 per month, to be determined by the commissioners court. The compensation shall be in addition to all other compensation provided or allowed by law for county and district judges and shall not be counted as fees of office.

(c) This Act is cumulative of existing laws relating to compensation for district and county judges.

Sec. 2. (a) The Juvenile Board of Henderson County is created. The board consists of the County Judge of Henderson County, the judges of the district courts in Henderson County, and the District Attorney for the 3rd Judicial District. The judge of the court which is designated as the juvenile court of the county shall be chairman of the board and its chief administrative officer.

(b) As compensation for the added duties imposed by service on the juvenile board, each member shall be paid by the county an amount not less than \$50 per month nor more than \$250 per month, to be determined by the commissioners court. The compensation shall be in addition to all other compensation provided or allowed by law for county and district judges and shall not be counted as fees of office.

(c) This Act is cumulative of existing laws relating to compensation for district and county judges.

(d) This section takes effect January 1, 1971.

Sec. 3. (a) The Juvenile Board of Houston County is created. The board consists of the County Judge of Houston County, the judges of the district courts in Houston County, and the District Attorney for the 3rd Judicial District. The judge of the court which is designated as the juvenile court of the county shall be chairman of the board and its chief administrative officer.

(b) As compensation for the added duties imposed by service on the juvenile board, each member shall be paid by the county an amount not less than \$50 per month nor more than \$250 per month, to be determined by the commissioners court. The compensation shall be in addition to all other compensation provided or allowed by law for county and district judges and shall not be counted as fees of office.

(c) This Act is cumulative of existing laws relating to compensation for district and county judges.

(d) This section takes effect January 1, 1971.

Acts 1969, 61st Leg., p. 1636, ch. 508, § 1, eff. Sept. 1, 1969, §§ 2, 3, eff. Jan. 1, 1971.

Title of Act:

An Act establishing juvenile boards in Anderson, Henderson, and Houston counties; and declaring an emergency. Acts 1969, 61st Leg., p. 1636, ch. 508.

Art. 5142c—1. Juvenile officers in counties in two judicial districts of four counties

Section 1. In every county in this state, which comprises a part of two Judicial Districts, each of which Districts consists of four and the same four counties, which four counties have a combined population of not less than one hundred sixteen thousand (116,000) according to

the last preceding Federal Census, the District Judges of such two Judicial Districts shall appoint a Juvenile Officer and such assistants as in their judgment may be necessary for a term of two years. The salaries of the Juvenile Officer and his assistants shall be fixed by the Commissioners Court of the four counties within the districts and shall be paid in equal monthly installments by such counties out of the General Fund thereof. Such Juvenile Officers and their assistants may be allowed such expenses as the Commissioners Court of such counties may think reasonable and proper.

Sec. 1 amended by Acts 1969, 61st Leg., p. 1740, ch. 572, § 1, emerg. eff. June 11, 1969.

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Art. 5143d. Texas Youth Council

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Sec. 9a. Subject to such policies as the Texas Youth Council may adopt, the Corsicana State Home, the West Texas Children's Home at Pyote, and the Waco State Home may accept for admission any child between the ages of three (3) years and eighteen (18) years who is a full orphan, a half-orphan, or a dependent and neglected child, and may offer, if needed, care, treatment, education, and training to such children as are admitted thereto until they have reached the age of twenty-one (21) years.

Sec. 9a amended by Acts 1969, 61st Leg., p. 1594, ch. 488, § 2, emerg. eff. June 10, 1969.

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For Annotations and Historical Notes, see V.A.T.S.

TITLE 83—LABOR

CHAPTER THREE—PAYMENT OF WAGES

Art.
5159d. Minimum wages [New].

Art. 5159a. Construction of public works in State and municipal or political subdivisions; prevailing wage rate to be maintained

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Sec. 4. Any construction or repair work done under contract, and paid for in whole or in part out of public funds, other than work done directly by any public utility company pursuant to order of the Railroad Commission or other public authority, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds, shall be held to be "public works" within the meaning of this Act. The term "locality in which the work is performed" shall be held to mean the county, city and county, city, town, district or other political subdivision of this state in which the building, highway, road, excavation, or other structure, project development or improvement is situated in all cases in which the contract is awarded by the state, or any public body thereof, and shall be held to mean the limits of the county, city and county, city, town, district or other political subdivisions on whose behalf the contract is awarded in all other cases. The term "general prevailing rate of per diem wages" shall be the rate determined upon as such rate by the public body awarding the contract, or authorizing the work, whose decision in the matter shall be final. It is mandatory that the public body state such prevailing wage as a sum certain, in dollars and cents. Nothing in this Act, however, shall be construed to prohibit the payment to any laborer, workman or mechanic employed on any public work as aforesaid of more than the said general prevailing rate of wages.

Sec. 4 amended by Acts 1969, 61st Leg., p. 1354, ch. 410, § 1, emerg. eff. June 2, 1969.

Art. 5159d. Minimum wages

Purpose

Section 1. The Legislature hereby finds that a substantial number of the people of this state are working for wages that are not sufficient, in view of the cost of living, to enable them to maintain a standard of living necessary for the health, efficiency, and general well-being of themselves or their families. The Legislature also finds that this condition is a contributing cause of certain social disorders which have an adverse effect upon the economy of the state and the general welfare of its people, among which disorders are school dropouts, the disintegration of family units, and undue dependency upon public and private welfare programs. It is hereby declared to be the policy of this state to alleviate and as rapidly as practicable eliminate these conditions without undue curtailment of employment or earning power.

Short title

Sec. 2. This Act may be cited as the Texas Minimum Wage Act of 1970.

Definitions

Sec. 3. In this Act, unless the context requires a different definition:

(a) "Person" means any individual, partnership, association, corporation, business trust, legal representative, or any organized group of persons.

(b) "Employer" includes any person acting directly or indirectly in the interest of an employer in relation to an employee.

(c) "Employee" includes any individual employed by an employer.

(d) "Employ" includes to suffer or permit to work.

(e) "Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than \$20 a month in tips.

(f) "Agriculture" includes farming in all its branches and among other things includes

(1) the cultivation and tillage of the soil;

(2) dairying;

(3) the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities including commodities defined as agricultural commodities in Section 15(g) of the federal Agricultural Marketing Act, as amended;¹

(4) the raising of livestock, bees, fur-bearing animals, or poultry; and

(5) any practices, including any forestry or lumbering operations, performed by a farmer or on a farm as an incident to or in conjunction with the farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.

(g) "Piece rate worker" means any person who is employed as a hand harvest laborer in agriculture and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been paid on a piece rate basis in the region of employment.

(h) "Contract labor" means any person or group of persons whose services are furnished to an employer by someone other than the laborer himself to perform agricultural labor.

(i) "Man-day" means any day during which an employee performs any agricultural labor for not less than four hours.

(j) "Commissioner" means the Commissioner of Agriculture.

(k) "Pay period" means the period of time which an employee works for which salary or wages are regularly paid under his employment agreement.

(l) "Range production of livestock" includes any livestock operation, regardless of size or type of location, where the land produces forage or feedstuffs either revegetated naturally or artificially and shall be considered to include the breeding, feeding, watering, containing, maintaining, and caring for livestock, and all other activities necessary or useful to the raising of livestock; provided that "range production of livestock" does not include production of livestock in feed lots.

Exemptions

Sec. 4. (a) The provisions of this Act shall not apply to any person covered by provisions of the federal Fair Labor Standards Act of 1938, as amended.²

(b) Employers are exempt from the provisions of this Act with respect to employment of the following:

(1) any person who is a member of a religious order while performing any service for or at the direction of the order and any duly ordained, commissioned, or licensed minister, priest, rabbi, sexton, or Christian Science reader while performing services as such for a church, synagogue, or religious organization;

(2) any person who is less than 18 years of age and is not a high school graduate or a graduate of a vocational training program, and any person who is less than 20 years of age and who is a student regularly enrolled in a high school, college, university, or vocational training program.

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Provided, that this exemption shall not apply to persons employed in agriculture who are paid on a piece rate basis;

(3) any person employed in a bona fide executive, administrative, or professional capacity;

(4) any person employed as an outside salesman or collector and who is paid on a commission basis;

(5) any switchboard operator employed by an independently owned public telephone company which has not more than 750 stations;

(6) any person who performs domestic services in or about a private home, including any person performing the duties of baby sitting in or out of the home of the employer, and any person who lives in or about the private home and furnishes personal care for any resident of the home;

(7) any person who performs any services while imprisoned in the state penitentiary or confined in a local jail;

(8) any person engaged in the activities of an educational, charitable, religious, or nonprofit organization in which the employer-employee relationship does not in fact exist or in which the services are rendered to the organization gratuitously;

(9) any person employed by his brother, sister, brother-in-law, sister-in-law, son, daughter, spouse, parent, or parent-in-law, guardian, or person in loco parentis;

(10) any handicapped person who is not more than 21 years of age and who is a client of vocational rehabilitation and is participating in a cooperative school-work program;

(11) any employee employed by an establishment which is an amusement or recreational establishment, if it does not operate for more than seven months in any calendar year, or during the preceding calendar year, its average receipts for any six months of such year were not more than thirty-three and one-third percent of its average receipts for the other six months of the year;

(12) any person employed by organizations known as Boy Scouts of America, Girl Scouts of America, or any local organization affiliated with these organizations;

(13) any person who is employed by any camp of a religious, educational, charitable, or nonprofit organization;

(14) any person employed in dairy farming.

(c) Except with respect to employment of persons in agriculture, employers who are not subject to liability for payment of contributions to the Unemployment Compensation Fund under the provisions of the Texas Unemployment Compensation Act, as amended,³ are exempt from the provisions of this Act.

The Texas Employment Commission, during the months of January and June of each year, shall furnish to the Bureau of Labor Statistics a list of the names and addresses of all employers in this state who are then liable for the payment of contributions to the Unemployment Compensation Fund under the provisions of the Texas Unemployment Compensation Act as disclosed by the records of the Texas Employment Commission. Each list of employers shall be retained by the Bureau of Labor Statistics for a period of two years. Upon written request, the Commissioner of the Bureau of Labor Statistics shall furnish to any person applying therefor, a certificate stating whether or not the name and address of a specified employer appears on any list or lists of employers furnished by the Texas Employment Commission during the two years preceding the date of the request and, if so, the date of the list or lists upon which it appears. The certificates shall be admissible in evidence in any cause of action brought by an employee or employees under the provisions of Section 13 of this Act, and, in the absence of evidence to the contrary, it shall be presumed that the facts stated in

such certificates are true and the certificate shall be conclusive as to the issue of whether or not the named employer is exempt from the provisions of this Act under Section 4(c). Except for the furnishing of certificates with respect to a specified employer as provided in this section, the lists of the names and addresses of employers provided to the Bureau of Labor Statistics by the Texas Employment Commission shall be confidential and shall not be removed from the office of the Bureau of Labor Statistics or released to any person nor shall the Commissioner of the Bureau of Labor Statistics permit any person to make a copy of any such list and remove it from his office. The Commissioner of the Bureau of Labor Statistics may require payment of a fee not to exceed \$5 for the issuance of a certificate as provided in this section and all fees collected for issuing certificates shall be deposited in the State Treasury to the credit of the General Revenue Fund.

Minimum wage

Sec. 5. (a) Except as provided in Sections 6 and 7 of this Act, every employer shall pay to each of his employees (1) not less than \$1.25 an hour on and after February 1, 1970; and (2) not less than \$1.40 an hour on and after February 1, 1971.

(b) In determining the wage of a tipped employee, the amount paid the employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, but not by an amount in excess of 50 percent of the applicable minimum wage rate.

(c) The cost to the employer of furnishing meals or lodging, or both, to an employee may be included in computing the wages paid to the employee if meals or lodging are customarily furnished by the employer to his employees, provided that the cost of the meals and of the lodging are separately stated and identified in the earnings statement furnished to the employee under the provisions of Section 11 of this Act.

(d) No employer who has an employee that lives on the premises of a business and is assigned certain working hours plus additional hours when the employee will be subject to call shall be required to pay the employee for more than the number of hours the employee actually worked or was on duty because of assigned working hours.

Minimum wage for agricultural employees

Sec. 6. (a) Except for persons covered by Subsections (b) and (c) of this section and Section 7 of this Act, any person employed in agriculture on and after February 1, 1970, shall be entitled to receive for each hour that he works not less than 20 cents less than the federal hourly minimum wage for agriculture as provided in the Fair Labor Standards Act of 1938, as amended, but in no event shall the minimum hourly wage established in this Act for agriculture exceed the amount specified in Section 5 of this Act.

(b) On and after February 1, 1970, when a person employed in agriculture lives on the premises of the employer in quarters furnished by the employer, the employer, in addition to furnishing living quarters and other benefits, shall pay to the employee in cash a minimum weekly salary of not less than \$30 a week.

(c) When a person is employed as provided in Subsection (b) of this section and the employer, in addition to furnishing on-premises living quarters for the employee also furnishes on-premises living quarters for members of the employee's family, any member of the employee's family living in the quarters may be employed in agriculture by the employer without regard to the minimum wage and salary provisions of this Act.

(d) The provisions of this section take effect on February 1, 1970.

Piece rate workers

Sec. 7. (a) On and after February 1, 1971, any person employed in agriculture as a piece rate worker to harvest a commodity for which

For Annotations and Historical Notes, see V.A.T.S.

a piece rate has been established by the commissioner under the provisions of this section shall be entitled to receive not less than the piece rate established by the commissioner for harvesting the particular commodity involved.

(b) The commissioner shall determine a piece rate for each agricultural commodity commercially produced in substantial quantity in this state in the manner provided in this section. The piece rate in each case shall be equivalent to the minimum hourly wage for other agricultural workers, as provided for in Section 6(a) of this Act, in that when payment by unit of production is applied to a worker of average ability and diligence in harvesting a particular commodity he shall receive an amount equal to the minimum hourly wage for agricultural workers. It is the intent and understanding of the Legislature that if a piece rate worker does not harvest the number of units of a particular commodity that would provide the minimum wage as established for a worker of average ability and diligence, none the less that worker need be paid for only those number of units of production harvested by him.

(c) The commissioner shall accumulate data regarding the actual productivity of hand harvesters of agricultural commodities in this state in sufficient quantity to serve as a reasonable basis for establishing a piece rate for each commodity. On the basis of this data the average hourly productivity of hand harvest laborers with respect to each agricultural commodity commercially produced in substantial quantity in this state shall be calculated in terms of units of each commodity or units of the weight or measure customarily used with respect to each commodity. The minimum wage for agriculture provided for in Section 6(a) of this Act shall then be divided by the average hourly production of hand harvesters of each commodity and in each case the result, rounded to the nearest cent, shall be the piece rate established by the commissioner for that commodity.

(d) When, in the judgment of the commissioner, insufficient data is available for determining the average hourly productivity of hand harvesters of a particular commodity, or when in the judgment of the commissioner a particular commodity is not commercially produced in this state in sufficient quantity or volume to warrant the determination of a piece rate, then no piece rate shall be established for the harvesting of the commodity and the provisions of Section 6(a) of this Act shall be applicable to employers employing hand harvest laborers to harvest any commodity for which piece rate has not been established. The decision of the commissioner not to establish a piece rate for a particular commodity at any given time shall not preclude the establishment of a piece rate for the commodity at any subsequent time when, in the judgment of the commissioner, sufficient data are available and the volume of production of the commodity warrants the establishment of a piece rate.

(e) The commissioner shall retain all data used in determining any piece rate for the period of time that the piece rate based on the data is in effect, and all the data shall be available for public inspection.

(f) Before issuing an order establishing any piece rate or rates the commissioner, or such person as may be designated by the commissioner for such purpose, shall hold a public hearing at which the proposed rate or rates and the data upon which the rate or rates are based shall be presented. A reasonable opportunity shall be afforded to agricultural employers and employees, or their representatives, to be heard and to protest the establishment of any proposed rate, and following the hearing the commissioner may modify any proposed rate before finally establishing it. The judgment of the commissioner in establishing any piece rate shall be final and binding upon all parties subject to this Act

unless set aside by judgment of a court of competent jurisdiction. In the event a piece rate for any commodity is set aside by final judgment of a court of competent jurisdiction, the minimum hourly wage provided in Section 6(a) of this Act shall apply to harvesting the commodity until a valid piece rate is established.

(g) The provisions of this section relating to the duties and authority of the commissioner shall become effective on the effective date of this Act and the commissioner shall proceed forthwith to collect data for the establishment of piece rates to become applicable on February 1, 1971. Initial piece rates shall be established and promulgated by the commissioner not later than December 31, 1970, and thereafter all orders of the commissioner establishing or modifying piece rates shall be issued at least 30 days in advance of the date when the rates become effective.

(h) After the establishment of any piece rate or rates the order establishing same shall be kept on file in the office of the commissioner in Austin, Texas, and shall be available for public inspection. The commissioner shall make copies available to anyone on request and may charge a reasonable amount to cover the cost of making and distributing the copies. A copy of each order establishing a piece rate or rates shall be furnished by the commissioner to the Bureau of Labor Statistics.

(i) At any time the data available to the commissioner indicates a substantial change in condition a new piece rate may be established for any commodity in the manner provided in this Act for the establishment of piece rates in the first instance. The commissioner shall review all piece rates at least once a year and determine whether any new rates are needed.

(j) The provisions of this section apply to contract labor as well as to any person directly employed by any owner, operator, or manager of a farm.

(k) In case of emergency caused by flood, hurricane, or other natural calamity or other disaster or by any occurrence that may result in the excessive loss of agricultural products, piece rates may be suspended by order of the commissioner for not more than 30 days in any area defined in the order of suspension.

(l) The commissioner may make rules and regulations necessary for the proper administration of this Act, including procedures for giving notice of and conducting hearings.

Agricultural exemption

Sec. 8. The provisions of Sections 5, 6 and 7 shall not apply to any agricultural employer who during any calendar quarter during the preceding calendar year did not use more than 300 man-days of agricultural labor, nor to any agricultural employer with respect to employees engaged in the production of livestock and in activities in support thereof.

Special provisions for certain workers

Sec. 9. (a) In order to prevent curtailment of employment opportunities, any person whose earning or productive capacity is impaired by age, physical or mental deficiency, or injury or who is over the age of 65 years may be employed at wages lower than the minimum wage applicable under this Act, but at not less than 60 percent of the minimum wage. Provided, that the provisions of the section shall not be applicable to persons employed in agriculture as piece rate workers.

(b) An employer employing a person mentioned in Subsection (a) of this section at a wage lower than the applicable minimum wage under this Act shall not be relieved of liability under Section 13 of this Act, unless, prior to the employment of the person or within 90 days after the

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effective date of this Act, the employer secures a medical certificate signed by a physician licensed to practice medicine by the Texas State Board of Medical Examiners, certifying that because of age, physical or mental deficiency, or injury the productive or earning capacity of the person seeking employment is materially impaired.

(c) The medical certificate shall be retained by the employer during the period of employment of the person and for two years after the employment is terminated. The statement of earnings given to the person by the employer, as required by Section 11 of this Act, shall include the words "medical certificate."

Sheltered workshops

Sec. 10. Nonprofit charitable organizations which are engaged in evaluating, training, and employment services for handicapped clients and which comply with federal regulations covering these activities will be considered to have complied with this Act.

Employer's statement

Sec. 11. (a) At the end of each pay period, the employer shall give each employee an earnings statement in writing covering that pay period. The earnings statement shall be signed by the employer or his agent and shall include:

- (1) the name of the employee;
- (2) the rate of pay;
- (3) the total amount of pay earned by the employee during the pay period;
- (4) any deductions made from the employee's pay;
- (5) the amount of pay after all deductions are made; and
- (6) the total number of hours worked by the employee if paid on an hourly basis, or the total amount of work done by the employee during the pay period in units of production if the employee is paid on the piece rate basis.

(b) If the employee is employed in agriculture under the provisions of Section 6(a), 6(b), or 6(c) of this Act, the employer's statement shall include a notation to that effect.

(c) The earnings statement may be in any form determined by the employer and it shall be sufficient if the information required by Subsection (a) of this section is stated on a check voucher or bank draft given to the employee for his wages.

Criminal penalty

Sec. 12. Any employer, who, for the purpose of depriving an employee of any wages to which the employee is entitled, shall furnish to the employee a statement required under the provisions of Section 11 of this Act which the employer knows to be false, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$100 nor more than \$500 or by confinement in the county jail for not less than 5 nor more than 30 days or by both.

Civil penalty

Sec. 13. (a) Any employer who violates the provisions of Section 5, 6, 7, or 9 of this Act is liable to the employee or employees affected in the amount of the unpaid wages plus an additional equal amount as liquidated damages.

(b) An action to recover the liability may be maintained in any court of competent jurisdiction in the county where the cause of action accrued by one or more employees for himself or themselves and other em-

ployees similarly situated. No employee shall be a party plaintiff to any action brought under this section unless he gives his written consent and his written consent is filed in the court in which the action is brought.

(c) At the trial of any cause of action brought under this section, the plaintiff shall recover if the jury or the court finds from a preponderance of the evidence that

(1) the plaintiff or plaintiffs are or have been employed by the defendant at any time during the two years immediately preceding the institution of the suit;

(2) the defendant has failed, up until the time of the filing of the suit, to furnish plaintiff or plaintiffs a statement or statements of earnings as required by Section 11 of this Act;

(3) the original petition filed by or on behalf of plaintiff or plaintiffs is verified and contains a demand for the defendant to furnish the statement or statements of wages paid;

(4) the defendant persisted in failing or refusing to furnish the statement or statements; and

(5) that the defendant had failed to pay to plaintiff or plaintiffs the minimum wage as set forth in Section 5, 6, 7 or 9 of this Act.

(d) In addition to any judgment awarded to the plaintiff or plaintiffs, the court shall allow a reasonable attorney's fee and costs of the action to be paid by the defendant.

(e) An action to recover upon any liability imposed by this section must be commenced within two years after the unpaid wages are due and payable.

Collective bargaining not impaired

Sec. 14. Nothing in this Act shall be considered to interfere with, impede, or in any way diminish the right of employees to bargain collectively with their employers through representatives of their own choosing in order to establish wages in excess of the applicable minimum under the provisions of this Act.

Dissemination of information

Sec. 15. The Bureau of Labor Statistics shall disseminate information to the public regarding the provisions of this Act to the end that both employers and employees in this state will be fully aware of their respective rights and responsibilities, the exemptions specified, and the penalties and liabilities which may be incurred for violations of the provisions of this Act.

Severability

Sec. 16. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Acts 1969, 61st Leg., p. 2348, ch. 796, eff. Sept. 1, 1969, § 6, eff. Feb. 1, 1970.

¹ 12 U.S.C.A. § 1141j(g).

² 29 U.S.C.A. § 201 et seq.

³ Article 5221b—1 et seq.

Title of Act:

An Act relating to the establishment and operation of a minimum wage; providing a

penalty; and declaring an emergency. Acts 1969, 61st Leg., p. 2347, ch. 796.

CHAPTER FOUR—BOND TO SECURE WAGES

Art. 5160. Bond for labor and material; performance bond

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Rights of persons furnishing labor or material. Notice required

B. Every claimant who has furnished labor or material in the prosecution of the work provided for in such contract in which a Payment Bond is furnished as required hereinabove, and who has not been paid in full therefor, shall have the right, if his claim remains unpaid after the expiration of sixty (60) days after the filing of the claim as herein required, to sue the principal and the surety or sureties on the Payment Bond jointly or severally for the amount due on the balance thereof unpaid at the time of filing the claim or of the institution of the suit plus reasonable attorneys' fees; provided:

(a) Notices Required for Unpaid Bills, other than notices solely for Retainages as hereinafter described.

Such claimant shall have given within ninety (90) days after the 10th day of the month next following each month in which the labor was done or performed, in whole or in part, or material was delivered, in whole or in part, for which such claim is made, written notices of the claim by certified or registered mail, addressed to the prime contractor at his last known business address, or at his residence, and to the surety or sureties. Such notices shall be accompanied by a sworn statement of account stating in substance that the amount claimed is just and correct and that all just and lawful offsets, payments, and credits known to the affiant have been allowed. Such statement of account shall include therein the amount of any retainage or retainages applicable to the account that have not become due by virtue of terms of the contract between the claimant and the prime contractor or between the claimant and a subcontractor. When the claim is based on a written agreement, the claimant shall have the option to enclose, with the sworn statement of account, as such notice a true copy of such agreement and advising completion or value of partial completion of same.

(1) When no written contract or written agreement exists between the claimant and the prime contractor or between the claimant and a subcontractor, except as provided in subparagraph B(a) (2) hereof, such notices shall state the name of the party for whom the labor was done or performed or to whom the material was delivered, and the approximate dates of performance and delivery, and describing the labor or materials or both in such a manner so as to reasonably identify the said labor or materials or both and amount due therefor. The claimant shall generally itemize his claim and shall accompany same with true copies of documents, invoices or orders sufficient to reasonably identify the labor performed or material delivered for which claim is being made. Such documents and copies thereof shall have thereon a reasonable identification or description of the job and destination of delivery.

(2) When the claim is for multiple items of labor or material or both to be paid for on a lump sum basis such notice shall state the name of the party for whom the labor was done or performed or to whom the material was delivered, the amount of the contract and whether written or oral, the amount claimed and the approximate date or dates of performance or delivery or both and describing the labor or materials or both in such a manner as to reasonably identify the said labor or materials.

(3) When a claimant who is a subcontractor or materialman to the prime contractor or to a subcontractor has a written unit price agreement, completed or partially completed, such notices shall be sufficient

if such claimant shall attach to his sworn statement of account a list of units and unit prices as fixed by said contract and a statement of such units completed and of such units partially completed.

(b) **Additional Notices Required of Claimants Who Do Not Have a Direct Contractual Relationship With the Prime Contractor.**

Excepting an individual mechanic or laborer who is a claimant for wages, no right of action shall be legally enforceable, nor shall any suit be maintained under any provision of this Act by a claimant not having a direct contractual relationship with any prime contractor for material furnished or labor performed under the provisions of this Act unless such claimant has complied with those of the following additional requirements which are applicable to the claim:

(1) If any agreements exist between the claimant and any subcontractors by which payments are not to be made in full therefor in the month next following each month in which the labor was performed or the materials were delivered or both, such claimant shall have given written notice by certified or registered mail addressed to the prime contractor at his last known business address, or at his residence, within thirty-six (36) days after the 10th day of the month next following the commencement of the delivery of materials or the performance of labor that there has been agreed upon between the claimant and such subcontractors such retention of funds. Such notice shall indicate generally the nature of such retainage.

(2) Such Claimant shall have given written notice by certified or registered mail as described in the preceding subparagraph B(b) (1) to the prime contractor within thirty-six (36) days after the 10th day of the month next following each month in which the labor was done or performed, in whole or in part, or material delivered, in whole or in part, that payment therefor has not been received. A copy of the statement sent to the subcontractor shall suffice as such notice.

(3) If the basis of the claim is an undelivered specially fabricated item or items as described in paragraph C(b) (2), such claimant shall have given written notice by certified or registered mail as described in the preceding subparagraph B(b) (1) to the prime contractor within forty-five (45) days after the receipt and acceptance of an order for hereinafter described specially fabricated material that such an order has been received and accepted.

(c) **Notices of Unpaid Retainages Required. Retainage Defined.**

Retainage as referred to in this Act is defined as any amount representing any part of the contract payments which are not required to be paid to the claimant within the month next following the month in which the labor was done or material furnished or both.

When a contract between the prime contractor and such claimant, or between a subcontractor and such claimant provides for retainage, such claimant shall have given, on or before ninety (90) days after the final completion of the contract between the prime contractor and the awarding authority, written notices of the claim for such retainage by certified or registered mail to the prime contractor at his last known business address, or at his home address, and to the surety or sureties. Such notices shall consist of a statement showing the amount of the contract, the amount paid, if any, and the balance outstanding. No claim for such retainage contained in such notices shall be valid to an extent greater than the amount specified in the contract between the prime contractor or the subcontractor and the claimant to be retained, and in no event greater than ten per cent (10%) of such contract. However, such notices shall not be required if the amount claimed is part of a prior claim which has been made as heretofore described.

Sec. B amended by Acts 1969, 61st Leg., p. 1390, ch. 422, § 1, emerg. eff. June 2, 1969.

CHAPTER TEN—INDUSTRIAL COMMISSION

Art. 5185. Officers

The commission shall elect one of their members as chairman of the commission, to preside at all hearings had under the provisions of this law, with power and authority usually exercised by chairmen in such capacity. The commission shall appoint an executive director who shall serve as executive head of the agency. He shall keep full and accurate minutes of all transactions and proceedings of the commission; he shall be the custodian of all files and records of the commission; and he shall perform such other duties as may be required by the commission. The executive director shall be the administrator of the Industrial Commission's activities.

Amended by Acts 1969, 61st Leg. p. 69, ch. 27, § 1, emerg. eff. March 26, 1969.

CHAPTER THIRTEEN—EMPLOYMENT AGENTS

Art. 5221a—6. Private Employment Agency Law

Definitions as used in the act

Section 1. (a) The term "person" means an individual, partnership, association, corporation, legal representative, trustee in bankruptcy, or receiver.

(b) "Fee" means anything of value including money or other valuable consideration or services or the promise of any of the foregoing received by an employment agency from any person seeking employment or employers in payment for any service, either directly or indirectly.

(c) "Employer" means any person employing or seeking to employ any employee.

(d) "Applicant" means any person engaging the services of a private employment agency for the purpose of securing employment or any person placed by a private employment agency with an employer.

(e) "Private Employment Agency" means any person, place or establishment within this state who for a fee or without a fee offers or attempts, either directly or indirectly, to procure employment for employees or procures or attempts to procure employees for employers, except as hereinafter exempted from the provisions hereof.

(f) "Commissioner" shall mean the Commissioner of the Bureau of Labor Statistics, and he shall administer and enforce the provisions of this Act and the rules and regulations promulgated by the board and in all matters relating to the enforcement of this Act, shall be guided by the instructions and decisions of the board.

(g) "Deputy or inspector" shall mean any person who is duly authorized by the commissioner to act in that capacity.

(h) "Operator" shall mean the individual or individuals who have the responsibility for the day-to-day management, supervision and conduct of a private employment agency; and an operator may manage more than one office.

(i) "Board" shall mean the Texas Private Employment Agency Regulatory Board.

Exceptions

Sec. 2. The provisions of this Act shall not apply to agencies engaged solely in the procurement of employment for public school teachers and administrators; the provisions of this Act shall not apply to any employment agency established and operated by this state, the United States

government, or any municipal government of this state; the provisions of this Act shall not apply to any person who may operate a labor bureau or employment office in conjunction with his own business for the sole and exclusive purpose of employing help for his own use within or without this state, nor to any common carrier operating in this state who may operate an employment office in conjunction with his own business for the exclusive purpose of employing help for his own use within or without this state, provided that no fee or other charge or reduction is exacted from the salary or wages of the worker for employment given. If a fee or charge of any kind, either directly or indirectly is exacted from a worker, then said employer is deemed a private employment agency and is subject to the provisions of this Act. The provisions of this Act shall not apply to farmers or stock raisers acting jointly or severally in securing laborers for their own use in this state where no fee is charged or collected, either directly or indirectly for employment given; the provisions of this Act shall not apply to persons acting for members of their own family. The provisions of this Act shall not apply to any person, corporation, or charitable association chartered under the laws of Texas for the purpose of conducting a free employment bureau or agency, nor to any veterans' association or organization or labor union; nor to any nurses' organization operated and conducted by registered nurses for the enrollment of its professional members only for the purpose of providing professional service to the public; the provisions of this Act shall not apply to a labor agency engaged exclusively in the business of procuring common laborers or agricultural workers for employers or any person engaged exclusively in the business of procuring or attempting to procure jobs for common laborers or agricultural workers; the provisions of this Act shall not apply to any person conducting a business which consists of employing individuals directly for the purpose of furnishing part-time or temporary help to others.

Creation and composition of the board

Sec. 3. (a) The Texas Private Employment Agency Regulatory Board is hereby created. Its main office is in Austin, Texas, at the location of the office of the commissioner.

(b) The board is composed of nine members appointed by the governor with the advice and consent of the Senate.

(c) To be qualified for appointment as a member of the board, a person must be a citizen of the United States and a resident of Texas and shall have been actively engaged in the private employment agency business as an operator owning an interest in a private employment agency in the State of Texas for a period of five years next preceding the date of his appointment.

(d) No more than two members of the board may be from any one senatorial district and no more than two members of the board may be from the same county. Further, the board shall be composed of three members who at the time of their appointment operate an agency in which not more than eight persons are engaged in the operations thereof and such agency is not, directly or indirectly, a part of a multiple-office or franchise operation; three members who at the time of their appointment operate an agency in which more than eight persons but not more than 25 persons are engaged in the operation thereof and such agency is not, directly or indirectly, a part of a multiple-office or franchise operation; three members who at the time of their appointment operate an agency which is a single-office operation in which more than 25 persons are engaged in the operation thereof, or is either a part of a multiple-office operation or of a franchise operation, but not more than one per-

For Annotations and Historical Notes, see V.A.T.S.

son from any one such multiple-office or franchise operation may serve on the board simultaneously. For the purpose of this section agencies belonging or subscribing to a referral system shall not be considered as a multiple-office or franchise operation because of such membership in or subscription to such referral service.

(e) Except for the initial appointees, the members of the board hold office for terms of six years, with the terms of three members expiring on January 31 of each odd-numbered year. In making the initial appointments, the governor shall designate three for terms expiring on January 31, 1971, three for terms expiring on January 31, 1973, and three for terms expiring on January 31, 1975. The governor shall make the appointments in such a way that the term of one member from each of the three categories described in Subsection (d) of this section expires every two years. If any member of the board ceases to own an interest in a private employment agency, he automatically vacates his office, which shall be filled by appointment as in the case of other vacancies.

(f) Members of the board qualify by taking the constitutional oath of office before an officer authorized to administer oaths in this state. When a board member presents his oath of office and the certificate of his appointment to the secretary of state, the secretary of state shall issue a commission to him. The commission from the secretary of state is evidence of authority to act as a member of the board.

(g) The board shall formally elect a chairman and secretary-treasurer from its members. The board may adopt rules necessary for the orderly conduct of its business.

(h) Six members of the board constitute a quorum for the transaction of business and may act for the board. The board shall adopt a seal. The board shall prepare and preserve minutes and other records of its proceedings and action.

(i) Members of the board do not receive a salary for their services but each member is entitled to \$25 for each day spent in attending meetings of the board, including time spent in travel to and from the meetings, not to exceed \$500 a year. Members of the board are also entitled to be reimbursed for travel and other necessary expenses incurred while performing their official duties if the expenses are evidenced by voucher approved by the chairman or secretary-treasurer of the board.

Applications for license to maintain and operate a private employment agency

Sec. 4. Applications for license to maintain and operate a private employment agency shall be made by a licensed operator and shall be accompanied by a fee of \$150. Separate applications shall be made for each unit or location where a private employment agency is to be operated and for which a license is sought. Each license shall expire on August 31 of each year and shall be renewable as hereinafter provided. The commissioner shall allow credit for any unused portion of the licenses outstanding on the effective date hereof.

Application for license as an operator

Sec. 5. (a) Application for a license as an operator may be made by and shall be issued to any person who (1) is a citizen of the United States, (2) has been a resident of the State of Texas for one year next preceding the filing of said application, (3) is of good moral character, (4) has never been convicted of an offense involving moral turpitude, and (5) successfully passes the examination prescribed herein.

(b) The application shall be accompanied by the annual license fee of \$15 plus an examination fee of \$25. In the event the examination is not passed, the \$15 fee shall be refunded but the \$25 shall not. All operators' licenses shall expire on August 31st of each year.

Application forms

Sec. 6. All applications for a license hereunder shall be made upon forms provided by the Bureau of Labor Statistics and shall state such information as the board and the commissioner may require, which shall include affirmative evidence of ability to comply with reasonable standards, rules, and regulations as are lawfully prescribed hereunder.

Renewal of licenses

Sec. 7. (a) A private employment agency license may be renewed annually by the operator thereof filing an application upon the forms provided and the payment of a \$150 renewal fee.

(b) An operator's license may be renewed annually by the operator by the filing of application for renewal upon forms provided for such renewal and the payment of \$15 renewal fee.

Bond

Sec. 8. Each applicant for a private employment agency license or renewal shall, before such license is issued, make and file with the commissioner a good and sufficient bond executed by the applicant with good and sufficient surety in the penal sum of \$5,000 payable to the State of Texas; said bond shall be conditioned that the obligor will not violate any of the duties, terms, conditions, and requirements of this Act, and that the principal, his agents or representatives will not make any false representation or statement to any person soliciting assistance from him for employees or employment, or solicited by him to accept employment. Said bond is to further recite that any person injured or aggrieved by any false or fraudulent statement of such agent, his subagent or representatives, or any violation of any provision of this Act thereof by such agent, subagent or representative, shall be entitled to bring suit thereon. Provided, however, that one such bond shall suffice where the same person shall make application for more than one office.

Examinations

Sec. 9. (a) The examination for an operator's license shall be prepared by the board and shall cover the laws and regulations relating to the operations of a private employment agency, the laws relating to discrimination in employment and related to labor legislation, and general matters related to the management and operation of a private employment agency. The questions for such examination shall be taken from a list of questions which shall have been furnished to the individual taking such examination together with a form of acceptable answers there-to upon request.

(b) All examinations required by this Act shall be given at such times and places as the board may direct, provided, however, such examinations shall be given at least every 60 days.

Processing of applications

Sec. 10. The commissioner, upon receiving an application for any type of license, shall inspect or cause to be inspected said application and shall make such investigation as may be necessary to determine that

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the applicant is qualified; provided, however, that all applications must be accepted and approved, or a date set for examination, or rejected, as the case may be, within 30 days of the date of filing thereof. In the event of examination being necessary, the license shall be issued or denied within 30 days of the taking of said examination. Any applicant, upon request to the commissioner, may see his examination papers within 90 days immediately following the announcement of the date a license has been denied to him as a result of his having failed his examination.

Grandfather clause

Sec. 11. All private employment agencies in business and operating and holding a license as a private employment agent on September 1, 1969, shall be entitled to be licensed under this Act, and all individuals functioning as an operator of a private employment agency holding a license from the State of Texas on September 1, 1969, shall be entitled to receive a license as an operator under this Act, upon filing an application before December 1, 1969, upon a form provided, and upon payment of the fee as prescribed herein, without meeting the examination requirements of Section 5 hereof.

Inspection

Sec. 12. The commissioner, his deputies or inspectors, are hereby authorized and directed to enforce the provisions of this Act and the rules and regulations promulgated by the board.

Conduct

Sec. 13. (a) Employment agencies licensed under this act shall not:

(1) impose any fees for the registration of applicants for employment or any fee of applicants except for furnishing of employment obtained directly through the efforts of such agency;

(2) engage or attempt to engage in the splitting or sharing of fees with an employer, an agent or other employee of an employer, or other person to whom employment service has been furnished or any other person not authorized to charge a fee under this act;

(3) charge a fee greater than that authorized and promulgated by the Board;

(4) make, give, or cause to be made or given to any applicant for employees or employment any false promise, misrepresentation or inaccurate or misleading statement or information if such agency had knowledge or should have had knowledge of such falsity, misrepresentation, or inaccurate or misleading statement or information;

(5) procure or attempt to procure the discharge of any person from his employment;

(6) unduly influence an employee to quit his employment for the purpose of obtaining other employment through such agency;

(7) require applicants for employment to subscribe to any publication or incidental service or contribute to the cost of advertising;

(8) refer any person to employment deleterious to health or morals if the agency had knowledge or should have had knowledge of such conditions;

(9) refer any employee or applicant for employment to a place where a strike or lockout exists without furnishing such employee or applicant with a written statement as to the existence of such strike or lockout, if the agency had knowledge or should have had knowledge of such facts or conditions, a copy of which statement signed by the employee or applicant shall be kept on file for one year after the date thereof:

(10) make any referral to an employment or occupation prohibited by law;

(11) refer any applicant for employment except upon a valid job order therefor;

(12) make or cause to be made or use any name, sign, or advertising device bearing a name which may be similar to or reasonably be confused with the name of a government agency or which is false or misleading relating to their employment agency;

(13) knowingly and willfully violate any law of this state or the United States.

(b) Employment agencies licensed under this act shall:

(1) include their agency name and the address of such agency in all advertising;

(2) keep, maintain and permit inspection thereof, adequate records to evidence compliance with this law and all other laws of this state and of the United States;

(3) furnish receipts to all applicants for all payments made by such applicants in a form prescribed by the Board.

(c) No employer seeking employees, and no person seeking employment, shall knowingly make any false statement or conceal any material fact for the purpose of obtaining employees, or employment by or through any private employment agency.

(d) The Board, the Commissioner or his deputies may inspect the records of any licensee hereunder under reasonable circumstances during normal business hours and the Board shall have subpoena duces tecum powers for all records relating to the services of an agency performing services hereunder.

Injunction

Sec. 14. Any person who shall operate a private employment agency, or who shall conduct an employment office, without first procuring such licenses as required and provided for in this Act may be enjoined from unlawfully pursuing such business or occupation, and the attorney general shall bring suit for such purpose in the name of the State of Texas in Travis County, and the district or county attorney of any county wherein such person engages in such business or conducts an employment office in violation of this Act is hereby authorized to maintain in the proper court of said county a suit in the name of the State of Texas to enjoin and prevent such person from unlawfully pursuing such occupation. In all such cases it shall not be necessary for the attorney bringing suit to verify the pleadings or for the state to execute any bond as a condition precedent to the issuing of any injunction or restraining order hereunder.

Powers of the board

Sec. 15. (a) The board is authorized to establish and promulgate a schedule of permissible maximum fees allowed to be charged to applicants by private employment agencies in the performance of their services.

(b) The board may promulgate provisions for the issuance of a temporary license for operators for emergency situations and for transfer of a private employment agency license.

(c) The board shall promulgate procedural rules and regulations only, consistent with the provisions of this Act, to govern the conduct of its business and proceedings. Notwithstanding any other provisions of this Act, the board shall not have any power or authority to amend or

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enlarge upon any provision of this Act by rule or regulation to change the meaning in any manner whatsoever of any provision of this Act or to promulgate any rule or regulation which is in any way contrary to the underlying and fundamental purposes of this Act or to make any rule or regulation which is unreasonable, arbitrary, capricious, illegal, or unnecessary.

(d) All board meetings considering any of the matters contained in this section except under subsection (e) hereof shall be held only after notice of such meeting and the matters to be considered thereat have been given to every license holder by mail at least ten (10) days prior to the date of hearing.

(e) Any license issued under this Act may be revoked by the board upon a finding by the board that the holder of such license has been convicted of violating any of the laws of the United States or of this state involving moral turpitude or is guilty of violating any of the provisions of this act; provided, however, the holder of such license shall be entitled to notice, and such notice shall contain a statement which will accurately apprise such license holder of that of which he is accused and shall set the time for hearing not sooner than 30 days after the date of mailing of such notice, and such license holder shall be entitled to be present at the hearing and represented by an attorney. All notices under this section shall be mailed to the last known address of the license holder as reflected in the license holder's file by certified or registered mail.

Appeal

Sec. 16. (a) Any person aggrieved by any decision of the board relating to the issuance, denial, revocation, or refusal to renew a license may, within 60 days after the date of the decision, appeal by filing a petition in the district court of the county of his residence. Any person aggrieved by any other decision of the board may, within 60 days after the date of the decision, appeal by filing a petition in a district court of Travis County. All such appeals shall be tried de novo, and the substantial evidence rule shall not apply.

(b) Any person affected or aggrieved by any rule or regulation promulgated under this Act may sue in a district court of Travis County for a declaratory judgment as to the validity of the rule or regulation or the validity of its application to him. Process shall be served on the attorney general and the commissioner. The provisions of the Uniform Declaratory Judgments Act (Article 2524-1, Vernon's Texas Civil Statutes) apply to the extent they may be made applicable.

Penalty

Sec. 17. From and after the effective date hereof it shall be unlawful for any person to engage in the private employment agency business as herein defined without having first complied with all of the requirements hereof and any person who violates or fails to so comply with the provisions hereof shall be guilty of a misdemeanor and shall be fined not less than \$100 nor more than \$500 or by imprisonment of not more than 6 months or by both such fine and imprisonment. Each day of such violation shall constitute a separate offense.

Disposition of fees

Sec. 18. The commissioner shall deposit all money received by him from license fees under the provisions of this Act in the state treasury to the credit of the general revenue fund. All money derived from examination fees shall be deposited in a bank and shall be used only to

cover the expense of preparing, giving, and grading examinations, as authorized by the board.

Sec. 8 amended by Acts 1963, 58th Leg., p. 1131, ch. 436, § 1, eff. Aug. 23, 1963; Secs. 1-18 amended by Acts 1969, 61st Leg., p. 2625, ch. 871, § 1, eff. Sept. 1, 1969.

Disposition of Sections		Former section	New section
In the 1969 amendment of this article, the subject matter of former sections appears in new sections as follows:		6	13(b)
		7	15, 16
		8 to 11	13
		12	omitted
		13	17
Former section	New section	14	12, 13, 15
1	1	15	14
2	2	16	omitted
3	4, 6, 7, 10	17	18
4	8	18, 19	omitted
5	omitted		

CHAPTER FOURTEEN—UNEMPLOYMENT COMPENSATION

Art. 5221b—2. Benefit eligibility conditions

An unemployed individual shall be eligible to receive benefits with respect to any benefit period only if the Commission finds that:

(a) He has registered for work at, and thereafter has continued to report at, an employment office in accordance with such regulations as the Commission may prescribe;

(b) He has made a claim for benefits in accordance with the provisions of Subsection 6(a) of this Act;

(c) He is able to work;

(d) He is available for work;

(e) He has within his base period received benefit wage credits for employment by employers of not less than Five Hundred Dollars (\$500) and has total benefit wage credits in his base period of not less than one and one-half (1½) times his high quarter benefit wage credits in his base period, or within at least one quarter of his base period received wages for employment by employers equal to two-thirds (⅔) of the maximum amount of wages as defined in the Federal Insurance Contributions Act (Section 3121, Chapter 21, Subtitle C, Internal Revenue Code), as amended, or as it may hereafter be amended, provided that any claimant who has had a prior benefit year must have earned wages of Two Hundred Fifty Dollars (\$250) or more subsequent to the beginning date of the prior benefit year.

(f) Prior to the first payment of benefits following an initial claim he has been totally or partially unemployed for a waiting period of seven (7) consecutive days. No week shall be counted as a waiting period week for the purposes of this Subsection:

(1) Unless he has registered for work at an employment office in accordance with Subsection (a) of this Section;

(2) Unless it is a week following the filing of an initial claim;

(3) Unless he reports at an office of the Commission and certifies that he has met the waiting period requirements herein prescribed for the preceding seven (7) days;

(4) If benefits have been paid or are payable with respect thereto;

(5) If the individual does not meet the eligibility conditions of Subsections (c) and (d) of this Section 4;

(6) If the individual has been disqualified for benefits for such seven (7) day period under the provisions of Subsections (a), (b), (c), or (d) of Section 5 of this Act;

(7) Provided, notwithstanding any other provision of this Subsection (f), when an individual has been paid benefits in his current benefit year

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equal to four times his weekly benefit amount, he shall be eligible to receive benefits on his waiting period claim in accordance with the terms of the Act.

Subsec. (e) amended by Acts 1967, 60th Leg., p. 684, ch. 287, § 2, eff. Oct. 1, 1967; Subsecs. (a)-(f) amended by Acts 1969, 61st Leg., p. 2054, ch. 709, § 1, emerg. eff. June 12, 1969.

Sections 2 and 3 of the 1969 amendatory act of 1969 provided:

"Sec. 2. All laws or parts of laws in conflict herewith, insofar as they do conflict herewith are hereby repealed but such repeal shall in no way be construed as forfeiting or waiving any rights of the State of Texas or of the Texas Employment Commission which have accrued thereunder; nor shall such repeal in any way be construed as forfeiting or waiving the rights of any individual to benefits which have accrued thereunder; provided that the Commission's determinations of the benefit year, the benefit amount for total

unemployment, and the duration of benefits made with respect to an initial claim filed prior to the effective date of this Act shall be effective for the remainder of such benefit year.

"Sec. 3. If any word, phrase, sentence, paragraph, subsection, or section of this Act shall be held invalid or unconstitutional, such holding shall not invalidate any word, phrase, sentence, paragraph, subsection, or section hereof, and the Legislature hereby expressly declares that it would have passed such remaining words, phrases, sentences, paragraphs, subsections, and sections despite such invalidity."

CHAPTER SIXTEEN—MISCELLANEOUS PROVISIONS

Art.
5221f. Uniform Standards Code for Mobile
Homes [New].

Art. 5221f. Uniform Standards Code for Mobile Homes

Short title

Section 1. This Act shall be known and may be cited as "Uniform Standards Code for Mobile Homes."

Definitions

Sec. 2. As used in this Act, unless the context requires a different definition:

(a) "mobile home" means a movable or portable dwelling constructed to be towed by a motor vehicle on its own chassis, over Texas roads and highways under special permit, connected to utilities, and designed without a permanent foundation for year-round living. It may consist of one or more units that can be telescoped when towed and expanded later for additional capacity, or of two or more units, separately towable but designed to be joined into one integral unit;

(b) "code" means the uniform standards code that meets the United States of America Standards Institute standards set up for mobile homes for electrical systems, plumbing and heating;

(c) "seal" means a device or insignia issued by the Bureau of Labor Statistics, certifying that a manufacturer or dealer has been licensed to do business in the State of Texas, to be displayed on the exterior of the mobile home;

(d) "dealer" means any person other than a manufacturer "as defined" who sells three or more mobile homes in any consecutive twelve month period;

(e) "manufacturer" means any person who manufactures mobile homes, and sells to dealers;

(f) "department" means the Bureau of Labor Statistics;

(g) "person" means a person, partnership, company, corporation, or association engaged in manufacturing or selling mobile homes.

Establishment of uniform standards code**Sec. 3.**

(a) All plumbing, heating, and electrical systems installed in mobile homes manufactured more than six months after the effective date of this Act and sold or offered for sale in this state must meet the standards approved by the United States of America Standards Institute for the installation of plumbing, heating, and electrical systems in mobile homes and in Book A-119.1-1963, approved March 12, 1963, for mobile homes.

(b) The department may adopt and promulgate any changes in and additions to the standards referred to in Subsection (a) of this Section made by the United States of America Standards Institute or its successor.

(c) At least 30 days before the adoption or promulgation of any change in or addition to the standards set in Subsection (a) of this Section or under the authority of Subsection (b) of this Section, the department shall mail to all dealers and manufacturers licensed under this Act a notice including:

- (1) a copy of the proposed changes and additions; and
- (2) the time and place that the department will consider any objections to the proposed changes and additions.

(d) After giving the notice required by Subsection (c) of this Section, the department shall afford interested persons an opportunity to participate in the rule making through submission of written data, views or arguments with or without opportunity to present the same orally in any matter.

Issue of license and seals

Sec. 4. Any manufacturer or dealer within or without this state shall apply for license to sell to licensed dealers or to the public of this state. A license may be issued when the requirements are met. Seals may be issued upon application to which is attached an affidavit certifying that any mobile home bearing a seal will be built in compliance with the code as set out in Section 3. Any licensed dealer who has acquired a used mobile home without a seal may apply for a seal with an affidavit certifying that the unit was brought up to or meets the code.

Seal of certification required

Sec. 5. No person may sell or offer for sale in this state any mobile home manufactured more than six months following the effective date of this Act unless it bears a seal along with certification by manufacturer, or by dealer when a used unit originally sold out of this state and manufactured after effective date of this Act. A certificate certifying that such mobile home meets or exceeds the code with respect to plumbing, heating, and electrical systems established by this Act shall be displayed in the manner prescribed by the department. No person may manufacture in this state any mobile home more than six months following the effective date of this Act unless it bears a seal along with a certificate of certification certifying that such mobile home meets or exceeds the code with respect to plumbing, heating, and electrical systems established by this Act.

Reciprocity

Sec. 6. If any other state has plumbing, heating and electrical codes for mobile homes at least equal to those established by this Act, the de-

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partment, upon determining that such standards are being enforced by such other state, shall place such other state on a reciprocity list, which list shall be available to any interested person. Any mobile home which bears a seal of any state which has been placed on the reciprocity list may not be required to bear the seal of this state provided for in Section 5.

Fees and charges

Sec. 7.

(a) A license issued by the department has a charge of \$50 per year renewable by the first of each calendar year.

(b) Seals, as provided for in this article, shall be furnished by the department, for which the applicant shall pay a fee of \$3 each. The manufacturer or dealer shall have the authority to affix such seal to any mobile home manufactured in conformity with the code established under the Act.

(c) All fees shall be paid to the department and deposited in the General Revenue Fund of the State of Texas.

Certified mobile home

Sec. 8. A mobile home which does not bear the seal herein provided for shall not be permitted to be offered for sale, or manufactured, by a dealer or manufacturer anywhere within the geographical limits of the State of Texas unless the mobile home is designated for delivery into a state that has a code that is in direct conflict with this Act.

Administration of act

Sec. 9.

(a) The department is hereby charged with the administration of this Act. It shall make and amend, alter or repeal general rules and regulations of procedure for carrying into effect all provisions of this Act, and to prescribe means, methods, and practice to make effective such provisions.

(b) No person may interfere, obstruct or hinder an authorized representative of the department in the performance of its duty as set forth in the provision of this Act.

(c) The department through its authorized representatives may enter any place or establishment where mobile homes are manufactured, sold or offered for sale, for the purpose of ascertaining whether the requirements of this Act and the regulations of the department have been met.

Penalties

Sec. 10. Any person who violates or fails to comply with this Act shall be notified of the violation and instructed to correct the violation within 90 days. Should the person fail to make the necessary correction(s) within the specified time, a fine, not exceeding \$100 per day, shall be levied until such corrections are made.

Serial number

Sec. 11. A serial number shall be stamped on top of the draw bar or A-frame on the left hand side so that it may be easily read. It may not contain more than 15 digits. Any multiple units shall contain the same serial number with letters of the alphabet designating that each is a different separate unit. Starting with the letter "A," each additional unit shall be in alphabetical order. The letters shall be stamped at the end of the numbers.

Severability

Sec. 12. If any provision of this Act or the application thereof to any person, company, association or circumstance is held invalid or unconstitutional, the remainder of the Act and application of such provision to other person, companies, associations or circumstances is not thereby rendered invalid or unconstitutional nor affected thereby.

Acts 1969, 61st Leg., p. 1954, ch. 656, eff. Sept. 1, 1969.

Title of Act:

An Act establishing a Uniform Standards Code for Mobile Homes approved by the United States of America Standards institute for installation of plumbing, heating, and electrical systems in mobile homes; to require a license to be issued by the Bureau of Labor Statistics to mobile home dealers and manufacturers engaged in business in this state; to require all mobile

homes to bear a Seal of Certification of License issued by the Bureau of Labor Statistics; to provide for reciprocity; to provide for inspection; to establish fees and charges and to provide for their disposition; to provide for enforcement and penalties; to provide for restrictions and placement of serial numbers; to provide for severability; and declaring an emergency. Acts 1969, 61st Leg., p. 1954, ch. 656.

TITLE 84—LANDLORD AND TENANT

Art.

5238a. Baggage lien for rent [New].

Art. 5238a. Baggage lien for rent

Section 1. The operator of any residential house, apartment, duplex or other single or multi-family dwelling, shall have a lien upon all baggage and all other property found within the tenant's dwelling for all rents due and unpaid by the tenant thereof; and said operator shall have the right to take and retain possession of such baggage and other property until the amount of such unpaid rent is paid. Such baggage and other property shall be exempt from attachment or execution to the same extent as set out in Article 4594, Revised Civil Statutes of Texas, 1925, as amended, regulating baggage liens for hotels, boarding houses, rooming houses, inns, tourist courts and motels.

Sec. 2. In any sale to satisfy said lien, said operator shall be subject to the same duties and shall follow the same procedures as set out for proprietors of hotels, boarding houses, inns, tourist courts, and motels, in Article 4595, Revised Civil Statutes of Texas, 1925, as amended.

Sec. 3. Notwithstanding any provisions to the contrary contained in Article 3840, Revised Civil Statutes of Texas, 1925, as amended, there shall be exempt from the lien set out in Section 1 of this Act, the following: (1) all wearing apparel and (2) all tools, apparatus and books belonging to any trade or profession. Additionally, the following shall be exempt from such lien when said house, duplex or apartment is occupied by a family, defined as a person and others whom he is under a legal or moral obligation to support: (1) one automobile and one truck, (2) family library and all family portraits and pictures, (3) household furniture to the extent of one couch, two living room chairs, dining table and chairs, all beds and bedding, and all kitchen furniture and utensils, (4) all agricultural implements, saddles, and bridles, and, (5) goods subject to a recorded chattel mortgage lien or financing agreement.

Sec. 4. In the event the lessor is unable to determine who owns said baggage or property, or whether said baggage or property is subject to a chattel mortgage or financing statement, or whether said baggage or property is exempt under Section 3 hereof, then the lessor, upon retaining said baggage or other property, shall be liable to safely store said baggage or property and to return it immediately upon request to the rightful owner or mortgagee, if owner or mortgagee is other than the lessee or if the amount due is paid in full. In the event of loss, destruction, theft, or sale thereof, the lessor shall be liable for the full replacement cost of such baggage or other property.

Sec. 5. Nothing contained herein shall prejudice any contractual agreements entered into by lessors and lessees concerning the subject matter of this article.

Sec. 6. All laws and parts thereof, in conflict herewith, are hereby repealed to the extent of the conflict and this Act shall take precedence over all other laws in conflict with this Act.

Acts 1969, 61st Leg., p. 2008, ch. 686, eff. Sept. 1, 1969.

Title of Act:

An Act relating to Articles 4594, 4595, and 3840, Revised Civil Statutes of Texas, 1925, as amended; providing that the operator of any residential house, apartment, duplex, or other single or multi-family dwelling, shall have a lien upon all baggage and all other property found therein for all rents due and unpaid by the tenant thereof; providing that such operator shall have the right to take and retain possession of such baggage and other property until the amount

of such unpaid rent is paid; and providing that such baggage and other property shall be exempt from attachment or execution to the same extent as set out in Article 4594, regulating baggage liens for hotels, boarding houses, rooming houses, inns, tourist courts and motels; providing for certain exemptions; providing for procedures and means of enforcement; repealing all laws in conflict herewith; and declaring an emergency. Acts 1969, 61st Leg., p. 2008, ch. 686.

TITLE 86—LANDS—PUBLIC

CHAPTER TWO—SURVEYORS AND SURVEYS

2. COUNTY SURVEYORS

Art. 5298a. Abolition of office of county surveyor in counties of 39,800 to 39,900 [New].

1. LICENSED LAND SURVEYORS

Art. 5282a. Registered Public Surveyors Act of 1955

* * * * *

Power and Duties of the Board

Sec. 5. The Board shall have the duty and responsibility of administering this Act, and may adopt all rules and regulations it deems necessary therefor. At its first meeting it shall elect one (1) of its members as Chairman of the Board, and he shall serve as such Chairman for such length of time, not exceeding his term as member of the Board, as the Board may prescribe. The Board may, for good cause and after hearing, remove a Chairman, but such removal as Chairman shall not affect the right of such member to serve on the Board for the remainder of his appointed term. Upon the death, resignation or removal of a Chairman, the Board shall elect a successor from among its members. Four (4) members of the Board shall constitute a quorum for the transaction of any of its business, and a majority of those present at any meeting may decide any question before the Board, provided, however, that the Chairman of the Board may not be removed as Chairman except by a vote of two-thirds (2/3) of the members of the Board at a meeting called for that purpose. The Board may adopt such reasonable rules and regulations for the orderly conduct of its affairs as it may deem necessary, and may from time to time amend such rules and regulations.

The first Board appointed under the provisions of this Act shall hold its first meeting within thirty (30) days after the members have been qualified. It shall hold at least two (2) regular meetings each year at such time and place as the Chairman may designate. It may hold special meetings at such times and places as a majority thereof may deem necessary after giving reasonable notice thereof to all the members. The Board is authorized to employ an Executive Secretary who shall devote full time to his work and shall have such duties and responsibilities as the Board may prescribe. The Board is authorized to employ such other persons as it may deem necessary to administer the provisions of this Act. The salaries of the Secretary and all other employees of the Board shall be fixed by the Board, and shall be paid out of the Registered Public Surveyors' Fund as provided for in this Act. All salaries paid by the Board shall be reasonably comparable in amount to salaries paid by other departments of the state government to employees engaged in similar capacities. All persons employed by the Board shall hold their positions at the pleasure of the Board. Each member of the Board shall receive the sum of Twenty-Five Dollars (\$25.00) per day for each day he is actually engaged in the discharge of his duties as such member, and the said sum so received by him shall compensate for all legitimate expenses incurred in the discharge of such duties, but his necessary time of travel in connection with his duties shall be considered as time actually engaged in such duties. All payments to Board members or employees, and all expenses of the administration of this Act, shall be paid out of the Registered Public Surveyors' Fund provided for herein, and no part of the

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expense of administering this Act shall ever be a charge against the General Funds of the State of Texas. The Board shall arrange for such suitable office space and equipment as it may deem necessary and the rental for such office space and the cost of such equipment shall be considered administration expense. The Board shall, as of December 31, of each year after the passage of this Act, make a written report to the Governor accounting for all receipts and disbursements under this Act. A roster showing the names and places of business of all Registered Public Surveyors shall be prepared by the Secretary of the Board during the month of July of each year. Copies of this roster shall be mailed to each person so registered, placed on file with the Secretary of State, and furnished to the public upon request.

Sec. 5 amended by Acts 1969, 61st Leg., p. 173, ch. 71, § 1, eff. Sept. 1, 1969.

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2. COUNTY SURVEYORS

Art. 5298a. Abolition of office of county surveyor in counties of 39,800 to 39,900

(a) In any county which has a population of not less than 39,800 nor more than 39,900 according to the last preceding federal census, the office of county surveyor is abolished.

(b) The person who is serving as the county surveyor on the effective date of this Act shall continue to serve until his present term expires.

(c) At the expiration of the county surveyor's present term, the county surveyor shall deliver to the county clerk all records, maps, and papers which belong to the office of the county surveyor and the office shall cease to exist.

(d) After the office of county surveyor ceases to exist, the commissioners court, when it finds it necessary, may employ a qualified person to perform one or more of the functions formerly performed by the county surveyor.

Acts 1969, 61st Leg., p. 986, ch. 315, eff. Sept. 1, 1969.

Title of Act:

An Act relating to the abolition of the office of county surveyor in certain counties; and declaring an emergency. Acts 1969, 61st Leg., p. 986, ch. 315.

CHAPTER FOUR—OIL AND GAS

Art. 5344c. Oil, gas and mineral leases; terms; extension

* * * * *

Sec. 2. Any lease heretofore granted and in good standing covering any of the lands or areas referred to in Section 1 of this Act, upon application by any owner thereof to the Commissioner of the General Land Office before January 1, 1971, may be amended under the terms of this Act so as to provide that such lease shall remain in effect as long after the expiration of its primary term as oil, gas, or other mineral covered by such lease is produced therefrom, provided any amendment executed by virtue of this Act shall include only those minerals covered in the original agreement to which said amendment is made; and providing further, that in amending such leases same shall be amended and renewed separately as to each mineral thereunder, except as to "oil and gas" which may be contained in one lease and each such lease shall remain in effect as long after the expiration of its primary term as such mineral covered by such lease is produced therefrom in paying quantities.

The School Land Board shall fix the consideration for each such amendment, which shall not be less than Two Dollars (\$2) per acre, provided that any such amendment shall not change the original consideration in any lease to the extent that the state shall thereafter receive less than the original royalty provided in said leases. If the consideration so fixed is paid in cash within ninety (90) days after such consideration has been fixed, the Commissioner of the General Land Office shall execute and deliver to the owner of such lease an instrument evidencing such amendment. If the consideration is not paid within the ninety (90) days, the application shall be conclusively presumed to have been withdrawn. This Act shall not authorize the Commissioner of the General Land Office or the School Land Board to change or amend the lease involved in any other respect.

Sec. 2 amended by Acts 1963, 58th Leg., p. 485, ch. 174, § 1; Acts 1965, 59th Leg., p. 1537, ch. 672, § 1, eff. June 18, 1965; Acts 1969, 61st Leg., p. 1498, ch. 449, § 1, emerg. eff. June 10, 1969.

* * * * *

Art. 5380. Payment of royalty

All royalties shall be paid to the State on or before the last day of each month for the preceding month during the life of the lease, accompanied by the affidavit of the owner, manager or other authorized agent, showing the gross amount of oil produced and saved since the last report and the amount of gas produced and sold off the area, and the market value of the oil and gas, together with a copy of gas meter readings, pipeline receipts, gas line receipts and other checks or memoranda of amount produced and put into pipelines, tanks, or pools and gas lines or gas storage. The books and accounts, receipts and discharges of all lines, tanks, pools and meters and all contracts and other records pertaining to the production, transportation, sale and marketing of the oil and gas shall at any time be subject to inspection and examination by the Commissioner, the Attorney General, the Governor, or the representative of either.

Amended by Acts 1967, 60th Leg., p. 912, ch. 400, § 5, emerg. eff. June 8, 1967; Acts 1969, 61st Leg., p. 1687, ch. 545, § 2, emerg. eff. June 10, 1969.

CHAPTER SEVEN—GENERAL PROVISIONS

- | | |
|---|--|
| <p>Art.
5415b—1. Acceptance of jurisdiction over ceded land [New].</p> <p>5415d—1. Public beaches bordering Gulf; maintenance; state funds [New].</p> <p>5415d—2. Public beaches bordering Gulf; denial of access by posting, etc.; penalty [New].</p> <p>5415d—3. Counties bordering Gulf; beach park boards; powers [New].</p> <p>5415d—4. State-owned beaches bordering Gulf; business establishments; licenses [New].</p> <p>5415f. State-owned submerged lands and islands; sale or leasing of surface estate; moratorium [New].</p> | <p>Art.
5415g. Gulf coast and public beach areas; excavation of sand, etc., permits [New].</p> <p>5421c—11. Sulphur production agreements [New].</p> <p>5421c—12. Publication of notice of intended sale of land by political subdivision [New].</p> <p>5421q. Taking park recreational, etc., land for other public use; notice; hearing [New].</p> |
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Art. 5415b—1. Acceptance of jurisdiction over ceded land

Section 1. The State of Texas hereby accepts as part of its territory, and assumes civil and criminal jurisdiction over, the tract or parcel of land lying adjacent to the State of Texas which was acquired by the

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United States of America from the United Mexican States by virtue of the Convention for the Solution of the Problem of the Chamizal, signed August 29, 1963, and ceded to Texas by Act of Congress. Said land shall be a part of El Paso County.

Sec. 2. Nothing herein shall affect the ownership of said land.
Acts 1969, 61st Leg., p. 2050, ch. 705, emerg. eff. June 12, 1969.

Title of Act:

An Act accepting as part of the State of Texas the land acquired by the United States of America from the United Mexican States by virtue of the Convention for the Solution of the Problem of the Chamizal, signed August 29, 1963; and declaring an emergency. Acts 1969, 61st Leg., p. 2050, ch. 705.

Art. 5415d—1. Public beaches bordering Gulf; maintenance; state funds

Declaration of purpose and policy

Section 1. (a) It is the purpose of this Act to allocate responsibility for cleaning the beaches of this state, and to preserve and protect local initiative in the maintenance and administration of beaches.

(b) The public policy of this state that the public, individually and collectively, shall have the free and unrestricted right of ingress and egress to and from the state-owned beaches bordering on the seaward shore of the Gulf of Mexico in the event the public has acquired a right of use or easement to or over such area by prescription, dedication, or continuous use, creates a responsibility for the state, in its position as trustee for the public, to assist local governments in the cleaning of beach areas which are subject to the access rights of the public as defined by Chapter 19, Acts of the 56th Legislature, 2nd Called Session, 1959, as amended (Article 5415d, Vernon's Texas Civil Statutes).

(c) The provisions of this Act shall not be construed to interfere with local initiative and responsibility in the cleaning, maintenance, and supervision of public beaches. The administration of public beaches, the selection of personnel, and, insofar as is consistent with the purposes of this Act, the determination of the best uses of the funds provided by this Act, shall be reserved to the several political subdivisions receiving funds under this Act.

Applicability of Act

Sec. 2. This Act shall apply to home-rule cities having a population in excess of 60,000 which are situated or border upon the Gulf of Mexico, and to all counties which are situated or border upon the Gulf of Mexico, provided that such city or county making application for funds under this Act has within its boundaries public beaches as defined in this Act.

Application for state funds; conditions

Sec. 3. Any such county or city seeking state funds under this Act to clean public beaches must first submit an application to the Parks and Wildlife Department. To be approved, such application must:

(a) Provide for the administration or supervision of the public beaches of such county or city by a Beach Park Board of Trustees, County Parks Board, Commissioners Court, or other such administrative body that the Legislature may from time to time authorize, and provide that such Board or agency will have adequate authority to administer an effective program of keeping the public beaches within its jurisdiction clean.

(b) Provide for the receipt by the county or city treasurer, or other officer exercising similar functions if there be no county or city treasurer,

of all funds paid to such county or city pursuant to this Act, and provide for the proper safeguarding of such funds by such officer, provide that such funds shall be expended solely for the purposes for which paid, and provide for the repayment by the county or city of any such funds lost or diverted from the purposes for which paid.

(c) Provide that the governing body of such county or city will make such reports as to amounts and categories of expenditures as the Parks and Wildlife Department may from time to time require.

(d) Provide that entrance to all public beaches under the jurisdiction of the governing body of such county or city shall be free of charge. This subsection shall not be construed to prohibit the assessment of a reasonable fee for off-beach parking, nor shall this subsection be construed to prohibit the assessment of a reasonable fee for the use of facilities provided for the use and convenience of the public.

(e) Provide for the establishment, maintenance, and administration of at least one beach park by such county or city, which shall meet such minimum requirements of size and facilities available to the public as shall be determined by the Parks and Wildlife Department.

Approval of application

Sec. 4. The department shall not approve any application which does not fulfill the conditions specified in Section 3 of this Act.

Duties of cities and counties bordering Gulf, and the state

Sec. 5. (a) It shall be the duty and responsibility of the governing body of any incorporated city, town, or village situated or bordering upon the Gulf of Mexico to clean and maintain the condition of all public beaches within its corporate boundaries; provided that such duty shall not extend to any public beach within its corporate boundaries which is owned by the county in which it is located.

(b) It shall be the duty and responsibility of the commissioners court of any county situated or bordering upon the Gulf of Mexico to clean and maintain the condition of all public beaches within its boundaries and not within the boundaries of any incorporated city situated or bordering upon the Gulf of Mexico. It shall further be the duty and responsibility of such commissioners court to clean any public beach owned by the county but situated within the corporate limits of any incorporated city, town, or village.

(c) It shall be the duty and responsibility of the State of Texas to clean and maintain the condition of all public beaches located within state parks so designated by the Parks and Wildlife Department.

Counties bordering Gulf; expenditures

Sec. 6. Pursuant to the duties established by this Act, the commissioners court of any county situated or bordering upon the Gulf of Mexico is hereby authorized to expend from any available fund such sums as it deems necessary to carry out its responsibilities under this Act.

Distribution of "state shore" of funds to cities and counties

Sec. 7. (a) From the appropriation available therefor, the Parks and Wildlife Department shall from time to time pay to each county or city which has its application approved under Section 3 of this Act, an amount hereinafter referred to as the "state share," provided that no payments shall be made to any such county or city until the department finds that (1) there will be available in the budget of such county or city not less than \$20,000 for the purpose of cleaning and maintaining public beaches

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within its jurisdiction for the state fiscal year for which reimbursement is sought, and (2) there will be available in the budget of such city or county for the purpose of cleaning and maintaining public beaches within its jurisdiction for the state fiscal year for which reimbursement is sought not less than the total amount expended by such county or city for the purpose of cleaning the beaches in the state fiscal year ending August 31, 1969.

(b) The Parks and Wildlife Department shall advise eligible cities and counties on the Gulf of Mexico of a period not less than sixty days after the effective date of this Act within which such eligible cities and counties may apply for a "state share" of beach cleaning funds and counties and cities seeking reimbursement under the provisions of this Act shall submit proposed expenditures for the purpose of cleaning and maintaining public beaches to the Parks and Wildlife Department. The department shall distribute in a fair and impartial manner the "state share" to counties and cities in accordance with procedures and accounting methods to be adopted by the Department.

(c) No county or city shall receive as its "state share" a sum greater than one-half the amount such county or city expends for the purpose of cleaning and maintaining public beaches within its jurisdiction during the state fiscal year for which reimbursement is sought, nor shall any such county or city receive as its "state share" a sum greater than \$50,000 for any state fiscal year.

(d) The Parks and Wildlife Department is authorized to use not more than 10 percent of the appropriated funds for any state fiscal year for administrative purposes.

Contracts between cities bordering Gulf and situate counties; rebates by department; off-beach parking fees

Sec. 8. The governing body of any incorporated city situated or bordering upon the Gulf of Mexico which is not entitled to receive funds under this Act, may contract with the commissioners court of the county in which such city is located, for the purpose of allowing such county to clean the beaches within the corporate limits of such city. Such city may apply to the Parks and Wildlife Department for rebates of 40 percent of the contract price, provided that such city need not meet the terms and conditions imposed in Section 3 of this Act, except as otherwise provided. The department shall make such rebates at the close of each state fiscal year, upon a showing by such city that entrance to all public beaches under the jurisdiction of such city are free of charge.

This Section shall not be construed to prohibit the assessment of a reasonable fee for off-beach parking, nor shall this Section be construed to prohibit the assessment of a reasonable fee for the use of facilities provided for the use and convenience of the public.

Contracts between adjacent counties bordering Gulf; rebates by department; off-beach parking fees

Sec. 9. The commissioners court of any county which is not entitled to receive funds under this Act, may contract with the commissioners court of any adjacent county which is entitled to receive funds under this Act, for the purpose of allowing such adjacent county to clean the public beaches of the county which is not entitled to receive funds under this Act. Such contracting counties not entitled to receive funds under this Act may apply to the Parks and Wildlife Department for rebates of 40 percent of the contract price, provided that such contracting counties need not meet the terms and conditions imposed in Section 3 of this Act, except as otherwise provided. The department shall make such rebates at the close of each state fiscal year, upon a showing by such county that entrance to all public beaches under the jurisdiction of such county

is free of charge. This section shall not be construed to prohibit the assessment of a reasonable fee for off-beach parking, nor shall this section be construed to prohibit the assessment of a reasonable fee for the use of facilities provided for the use and convenience of the public.

Discontinuance of payments to cities or counties; failure to comply with Act; notice and hearing

Sec. 10. If the department finds after reasonable notice and opportunity for a hearing to any county or city receiving funds under the provisions of this Act, that such county or city no longer complies with the requirements of this Act, it shall notify such county or city that further payments will not be made to such county or city until the department is satisfied that there is no longer any such failure to comply.

Definitions

Sec. 11. For the purposes of this Act:

(a) "Department" shall mean the Parks and Wildlife Department.

(b) "Public beach" shall mean that beach area, whether publicly or privately owned, to which the public has acquired the right of access, either by prescription, dedication, or by virtue of the right of continuous use, including but not limited to that area extending from the line of mean low tide on the Gulf of Mexico to the line of vegetation bordering on the Gulf of Mexico, or to a line 200 feet inland from the line of mean low tide, whichever shall be nearer the line of mean low tide, in the event the public has acquired a right of use or easement to or over such area by prescription, dedication, or has retained a right by virtue of continuous use.

(c) "Clean and maintain" shall refer to the collection and removal of litter and debris, and to the elimination of sanitary and safety conditions which would pose a threat to personal health or safety if not removed or otherwise corrected. The phrase "clean and maintain" may also be construed as permitting but not requiring the removal of driftwood or seaweed in instances that such material constitutes a public nuisance. The cleaning and maintaining of public beaches shall never be construed to refer to protection against erosion, the replacing of sand, or the rebuilding of structures.

Inapplicability of Act

Sec. 12. Nothing in this Act shall apply to any beach area not bordering on the Gulf of Mexico. This Act shall not apply to any island or peninsula that is not accessible by a public road or common carrier ferry facility, so long as such condition shall exist.

Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 17, emerg. eff. Sept. 19, 1969.

Section 13 of the Act of 1969 was a severability provision.

Title of Act:

An Act declaring the public policy of the State of Texas concerning the maintenance and cleaning of public beaches; authorizing certain cities and counties to apply for state funds; providing certain requisites for an application for state funds by a city or county; allocating duties and responsibilities relating to the maintenance and clean-

ing of public beaches; providing for payment of state funds to certain cities and counties through the Parks and Wildlife Department; providing certain restrictions and limitations; authorizing contracts between certain cities and counties and between certain counties relating to cleaning of beaches; defining certain terms; providing certain exemptions; providing for severability; and declaring an emergency. Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 17.

Art. 5415d—2. Public beaches bordering Gulf; denial of access by posting, etc.; penalty

Section 1. (a) Any person or association of persons, corporate or otherwise, who shall display or cause to be displayed, on any public beach

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any sign, marker, warning, or who shall make or cause to be made any other communication, written or oral, which states that such public beach is private property or in any other manner states that the public does not have the right of access to such public beach, in violation of the lawful access rights of the public guaranteed by Article 5415d, Revised Civil Statutes of Texas, shall be fined not less than \$10 nor more than \$200.

(b) Each day that such communication is made shall constitute a separate offense.

(c) This Act shall not apply to any island or peninsula that is not accessible by public road or common carrier ferry facility, so long as such condition shall exist.

Sec. 2. Any person or association of persons, corporate or otherwise, violating the provisions of this Act, shall be prosecuted in the county in which such public beach is located.

Sec. 3. For the purposes of this Act, "public beach" shall mean that area extending from the line of mean low tide of the Gulf of Mexico to the line of vegetation bordering on the Gulf of Mexico, or to a line 200 feet inland from the line of mean low tide, whichever shall be nearer the line of mean low tide, in the event the public has acquired a right of use or easement to or over such area by prescription, dedication, or has retained a right by virtue of continuous right in the public.

Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 18, emerg. eff. Sept. 1, 1969.

Title of Act:

An Act providing for the imposition of criminal penalties for the display of any communication at any public beach which states that the public does not have the right of access to such public beach; pro-

viding certain exemptions; providing for venue; defining "public beach"; and declaring an emergency. Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 18, eff. Sept. 1, 1969.

Art. 5415d—3. Counties bordering Gulf; beach park boards; powers

Applicability of Act

Section 1. This Act shall apply to counties which are situated or border upon the Gulf of Mexico and have within their boundaries beaches which are suitable for park purposes. The suitability of such beaches for park purposes shall be conclusively established when the commissioners court of any such county shall have made a finding that a beach or beaches located within its boundaries but not located within the boundaries of any incorporated city are suitable for park purposes.

This Act shall not apply to any island or peninsula that is not accessible by a public road or common carrier ferry facility, so long as such condition shall exist.

Be it further provided, that nothing in this Act shall ever be construed to interfere with, pre-empt, or in any other manner restrict or usurp the authority of the General Land Office over state-owned beaches.

Beach Park Board of Trustees; creation authorized; election

Sec. 2. Any such county, for the purposes of improving, equipping, maintaining, financing, and operating any such public park or parks, or any facilities owned by such county, or to be acquired by such county, or to be managed by such county under the terms of a written contract, may, after a favorable majority vote of the qualified voters of the county voting at an election held on such proposition, create a board to be designated "Beach Park Board of Trustees," hereinafter sometimes in this Act referred to as the "board." Any such board shall have the powers authorized in and shall perform the duties specified in this Act. Such election shall be called by the commissioners court and notice thereof shall be given in the manner provided by Chapter 1, Title 22, Revised

Civil Statutes of Texas, 1925, as amended. The ballots shall contain the following proposition: "FOR Establishing a Beach Park Board of Trustees" and the contrary thereof.

Membership of board; terms; compensation

Sec. 3. The Beach Park Board of Trustees shall be composed of seven members appointed by the commissioners court, one of whom shall be a member of the commissioners court. Such trustees shall serve for a term of two years from the date of their appointment and any vacancies shall be filled by appointment of the commissioners court; provided that three trustees first appointed shall serve for one year and four shall serve for two years; the original term of each trustee to be designated by the commissioners court. Each trustee shall serve without compensation but shall be reimbursed for all necessary expenses, including traveling, incurred in the performance of his official duties.

Oath and bond of trustees

Sec. 4. Each trustee so appointed shall within 15 days after his appointment qualify by taking the official oath and by filing a good and sufficient bond with the county clerk of such county, payable to such county and approved by the commissioners court thereof. Such bond shall be in such sum as approved by the commissioners court of such county, but in no event shall it exceed \$5,000. Such bond shall be conditioned upon the faithful performance of the duties of such trustee, including his proper handling of all moneys that may come into his hands in his capacity as a member of the Beach Park Board of Trustees, the cost of such bond to be paid by the board.

Officers of board; meetings; disposition of funds

Sec. 5. At the time of the appointment of the first trustees, the commissioners court shall designate one of the trustees as chairman of the board, who shall serve in that capacity for a period of one year, and annually thereafter the board shall elect a chairman from among its members. The board shall also elect annually from among its members a vice-chairman, a secretary, and a treasurer and the office of secretary and treasurer may be held by the same person. The board shall hold regular meetings at times to be fixed by the board and may hold special meetings at such times as business or necessity may require, which special meetings may be called by the chairman or any three members of the board. The money belonging to or under control of the board shall be deposited and shall be secured in the same manner prescribed by law for county funds.

Records of board

Sec. 6. The board shall keep a true and full record of all its meetings and proceedings and preserve its minutes, contracts, accounts, and all other records in a fireproof safe or vault. All such records shall be the property of the board and shall be subject to inspection by the commissioners court of such county at all reasonable times. The board may contract with the commissioners court of such county to have the county keep and maintain its records. An annual audit by independent auditors selected by the board shall be made of all financial transactions and records of the board.

Jurisdiction and powers of board

Sec. 7. All lands used as parks in connection with public beaches but not located within the boundaries of any incorporated city and not within the area bordering on the Gulf of Mexico from the line of mean low tide to the line of vegetation as that term is defined in Chapter 19,

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Acts of the 56th Legislature, 2nd Called Session, 1959, as amended (Article 5415d, Revised Civil Statutes of Texas), and all public beaches owned in fee by the county, shall be under the jurisdiction of the board. The commissioners court of such county may designate any additional parks and facilities owned by the county, or to be managed by the county under the terms of a written contract, to be under the management and control of the board. In addition to the powers and authority herein granted, the board shall have and exercise the following powers and authority:

(a) To manage, operate, maintain, equip, and finance any and all existing public parks placed under its jurisdiction by the commissioners court;

(b) To improve, manage, operate, maintain, equip, and finance additional parks acquired by gift, but not by the exercise of the power of eminent domain;

(c) To accept, receive, and expend gifts of money or other things of value from any person, group of persons, corporation, or association for the purpose of performing any function, power or authority herein invested in the board;

(d) To advertise the county's recreational advantages for the purposes of attracting tourists, residents, and other users of the public facilities operated by the board;

(e) To accept and receive from the county and to expend such funds as may be appropriated by the county from time to time for the purpose of improving, equipping, maintaining, operating, and promoting recreational facilities under the board's supervision and control;

(f) To enter into contracts, leases, or other agreements connected with or incident to or in any manner affecting the financing, construction, equipping, maintaining, or operating all facilities located or to be located on or pertaining to any lands under its jurisdiction, or any facilities under its control, and to execute and perform its lawful powers and functions on lands leased from others;

(g) To have general power to make and enter into all contracts, leases, and agreements with persons, associations, and corporations relating to the management, operation, and maintenance of any concession, facility, improvement, leasehold, lands, or other property of any nature whatsoever over which such board shall have jurisdiction and control; provided that the board shall not enter into any such lease or agreement for a longer term than 40 years;

(h) To adopt, promulgate, and enforce all reasonable rules and regulations for the use of parks and facilities under the jurisdiction and control of the board by the public or by lessees, concessionaires, and other persons or corporations carrying on any business activity within the area of such public parks and facilities;

(i) To employ secretaries, stenographers, bookkeepers, accountants, technical experts, and other such agents and employees, permanent or temporary, as it may require, and shall determine their qualifications, duties, and compensation. In addition, the board may also employ and compensate a manager for any parks or facilities and may give him full authority in the management and operation of the park or parks or facilities subject only to the direction and orders of the board. For such legal services as it may require the board may call upon the county attorney of such county and in lieu thereof or in addition thereto the board may employ and compensate its own counsel and legal staff. The board shall adopt a seal which shall be placed on all leases, deeds, and other instruments which are usually executed under seal, and on other such instruments as may be required by the board;

(j) To sue and be sued in its own name;

(k) To expend any moneys appropriated by the commissioners court for the purpose of cleaning and maintaining lands within its jurisdiction and public beaches including any moneys appropriated to the commissioners court by the State of Texas for such purpose;

(l) To issue revenue bonds in the name of the board which shall be payable solely from the revenues of all or any designated part or parts of the properties or facilities under the jurisdiction and control of the board, for the purpose of improving and enlarging public parks and facilities. Such bonds may be issued in one or more installments or series by resolutions adopted by the board without the necessity of an election, shall bear interest at a rate not to exceed six percent per annum, shall mature serially or otherwise within 40 years from their date or dates, shall be sold by the board on the best terms obtainable but not for less than par and accrued interest, shall be executed by the chairman and secretary of the board, shall be signed by the chairman and the secretary of the board, or shall bear the facsimile signature of either or both, shall display the seal of the board either impressed, printed, or lithographed thereon, shall not be delivered until a transcript of the proceedings authorizing their issuance has been submitted to the Attorney General of Texas and by him approved as to legality and the bonds registered by the Comptroller of Public Accounts of the State of Texas, and shall be issued upon such terms and conditions in regard to the security, manner, place and time of payment, pledge of designated revenue, redemption before maturity, and the issuance of additional parity or junior lien bonds as the board shall specify in the resolution or resolutions authorizing such bonds. All bonds issued under the provisions of this Act are hereby declared to be legal and authorized investments for banks, saving banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, or other political corporations or subdivisions of the State of Texas, and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value when accompanied by all unmatured interest coupons appurtenant thereto;

(m) The board shall not have the power or authority to issue any bonds payable in whole or in part from ad valorem taxes but shall be authorized to receive and expend the proceeds of any bonds payable from taxes which may be issued by the governing body of the county for park purposes after the same have been authorized at an election held in the manner required by law;

(n) To issue refunding bonds for the purpose of refunding one or more series or installments of original or refunding revenue bonds of the board outstanding which refunding bonds shall be issued, approved as to legality by the Attorney General of Texas, and registered by the Comptroller of Public Accounts of Texas, in the manner and upon the terms and conditions prescribed for the issuance of original revenue bonds herein, such refunding bonds to bear interest at a rate or rates not exceeding that herein provided for the original bonds;

(o) To enter into contracts with adjacent counties, with Beach Park Boards in adjacent counties, and with Beach Park Boards in any city of the same county as the board, to accomplish any of the purposes authorized by this Act;

(p) To charge and collect a reasonable fee for access or entrance to, or parking upon, any lands under its jurisdiction other than public beaches owned by the county, or for the use of any facility located on land under the jurisdiction of the board.

National or state parks; jurisdiction

Sec. 8. The board shall have no jurisdiction over any public beach situated within the boundaries of such county which has been designated a national park, national seashore, or state park.

Cumulative effect

Sec. 9. This Act shall be cumulative of all other laws relating to county parks but this Act shall take precedence in the event of conflict. Specifically, the powers and authorities of the Beach Park Board of Trustees preempts the right of the county Board of Park Commissioners to act with regard to any beach, park, or facility within the jurisdiction of the Beach Park Board of Trustees.

Home-rule cities; boards

Sec. 10. The provisions of this Act shall not be construed as prohibiting the creation of, or limiting the lawful actions of, any Beach Park Board of Trustees of any home-rule city as provided for in Article 6081g—1, Vernon's Texas Civil Statutes.

Public access to gulf coast areas

Sec. 11. Nothing in this Act shall be construed to permit any interference whatsoever with any right the public might otherwise have under the provisions of Chapter 19, Acts of the 56th Legislature, 2nd Called Session, 1959, as amended (Article 5415d, Vernon's Texas Civil Statutes), to the free and unrestricted use of, and to ingress and egress to, the area bordering on the Gulf of Mexico from mean low tide to the line of vegetation as that term is defined in Chapter 19, Acts of the 56th Legislature, 2nd Called Session, 1959, as amended (Article 5415d, Vernon's Texas Civil Statutes), and such rights in the public shall persist as if this Act had not been passed. No county nor county officials nor anyone acting under authority of this Act shall exercise any authority, contract out any right to exercise authority or otherwise delegate authority beyond that specifically granted to it in Section 8 of Chapter 19, Acts of the 56th Legislature, 2nd Called Session, 1959, as amended (Article 5415d, Vernon's Texas Civil Statutes), over such area notwithstanding any of the specific provisions of this Act. It is the intent of the Legislature in passing this Act that the rights established or recognized in Chapter 19, Acts of the 56th Legislature, 2nd Called Session, 1959, as amended (Article 5415d, Vernon's Texas Civil Statutes), are to be paramount over any rights or interests which might otherwise be deemed created by this Act, and nothing herein shall trench upon those rights nor encroach upon lands, or interests in land, which may ultimately be held subject to those rights.

Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 20, emerg. eff. Sept. 19, 1969.

Section 12 of Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 20, was a severability provision.

Title of Act:

An Act providing for the creation of beach park boards in counties bordering on the Gulf of Mexico; providing certain exceptions; describing the duties and powers of such boards; making this Act cumula-

tive of all other acts relating to county parks; providing for the autonomy of city beach park boards; providing for severability; reiterating rights, authority, and limitations delegated by Chapter 19, Acts of 56th Legislature, 2nd Called Session, 1959, as amended; and declaring an emergency. Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 20.

Art. 5415d—4. State-owned beaches bordering Gulf; business establishments; licenses**Declaration of policy**

Section 1. It is hereby declared and affirmed to be the public policy of this state that the state-owned beaches bordering on the seaward shore of the Gulf of Mexico, and such larger area extending from the line of mean low tide to the line of vegetation bordering on the Gulf of Mexico, in the event the public has acquired a right of use or easement to or over such area by prescription, dedication, or has retained a right by virtue of continuous right in the public, shall be used primarily for recreational purposes; and any use which substantially interferes with the enjoyment of such beach area by the public shall constitute an offense against the public policy of this state. Be it provided, however, that nothing in this Act shall prevent any agency, department, political subdivision, or municipal corporation of this state from exercising its lawful authority under the laws of this state to regulate safety conditions on any beach area subject to public use.

Business establishments at fixed locations; undesirability

Sec. 2. The Legislature finds that the operation and maintenance of business establishments at fixed or permanent locations on the public beaches of this state bordering on the seaward shore of the Gulf of Mexico constitute a potential public health hazard and a substantial interference with the free and unrestricted rights of ingress and egress of the public, individually and collectively, to and from the state-owned beaches bordering on the seaward shore of the Gulf of Mexico, or such larger area extending from the line of mean low tide to the line of vegetation bordering on the Gulf of Mexico, in the event the public has acquired a right of use or easement to or over such area by prescription, dedication, or has retained a right by virtue of continuous right in the public.

Mobile business establishments; desirability; application to department for license

Sec. 3. The Legislature finds that a reasonable number of mobile business establishments which traverse the public beach while doing business are beneficial to the public interest and do not interfere with the free and unrestricted rights of ingress and egress of the public as heretofore described in this Act. Any person desiring to operate a mobile business establishment on any public beach located outside the municipal limits of any incorporated city shall first make written application therefor to the Parks and Wildlife Department.

Contents of application; filing fee; territorial limits

Sec. 4. (1) Such application shall set forth the name and street address of the applicant; the commodity or commodities to be sold or leased; the limits of the territory within which such mobile business establishment shall operate; and shall include payment of a filing fee in an amount to be determined by the Department, but in no event to exceed \$25. Such fee shall be deposited in the State Treasury in the Land and Water Recreation and Safety Fund 63, and the Department is authorized to fund the expenses of carrying out the provisions of this Act out of this fund.

(2) Any applicant seeking to operate more than one mobile business establishment must file a separate application accompanied by a separate filing fee for each mobile business establishment sought to be licensed.

(3) The Department may in its discretion establish maximum territorial limits over which mobile business establishments may operate;

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provided that such territorial limitations are applied uniformly to all applicants seeking to operate mobile business establishments in such territory; and further provided that a license to sell or lease only surf boards and related equipment shall in no way be limited as to the territory over which such mobile business establishment may operate.

Licenses; issuance

Sec. 5. Upon a finding that the issuance of a license would be consistent with recreational needs and the public welfare, and that the mobile business establishment authorized thereby would not create a traffic or safety hazard, the Department shall grant such license, provided that the applicant has complied with the provisions of this Act, and such license shall be valid for one year from the date of issuance thereof. In the event the Department does not grant the application, it shall return the filing fee to the applicant.

Assignability and revocation of license

Sec. 6. No license shall be assignable, and a failure or refusal of the holder to comply with the terms and conditions of such permit shall operate as an immediate termination and revocation of all rights conferred therein or claimed thereunder, after notice duly delivered by mail to the address of applicant listed on the application for a license.

Definitions

Sec. 7. For the purposes of this Act:

(1) "Department" shall mean the Parks and Wildlife Department.

(2) "Public Beach" shall mean that beach area, whether publicly or privately owned, to which the public has acquired the right of access, either by statute, prescription, dedication, or by retaining a right by virtue of continuous right in the public, including but not limited to that area extending from the line of mean low tide on the Gulf of Mexico to the line of vegetation bordering on the Gulf of Mexico, or to a line 200 feet inland from the line of mean low tide, whichever shall be nearer the line of mean low tide, in the event the public has acquired a right of use or easement to or over such area by prescription, dedication, or has retained a right by virtue of continuous right in the public.

(3) "Business Establishment" shall mean any structure or vehicle where any commodity or commodities, including memberships in any private club or other such organization, are offered to the public for sale or lease, but shall not include any structure or vehicle where only services are offered to the public for sale.

Number of licenses; multiple licensees

Sec. 8. It is the intention of the Legislature that, in addition to the standards already set forth in this Act, the Parks and Wildlife Department shall exercise the authority delegated in this Act according to the following considerations:

(1) That the number of mobile business establishments licensed by the Department not be such as to constitute a substantial interference with the free and unrestricted rights of ingress and egress of the public, as described heretofore in this Act.

(2) That the number of licenses issued by the Department under the provisions of this Act for any public beach in this state be sufficient to insure free and unrestricted competition in the selling or leasing of commodities to the public; and that no person or association of persons, corporate or otherwise, be allowed to operate a mobile business establishment, or mobile business establishments, on any public beach in restraint of trade or competition, whereby such person or association of persons controls all or substantially all of the business establishments licensed by the Department on such public beach.

Applicability of Act

Sec. 9. The provisions of this Act shall not apply to any public beach which is within the boundaries of a state park so designated by the Parks and Wildlife Department, nor shall this Act apply to any remote beach on any island or peninsula not accessible by public road or common carrier ferry facility, for so long as such condition shall exist.

Restrictions

Sec. 10. The Department shall not grant any application for a business establishment to be situated at a fixed or permanent location on a public beach, or for any business establishment which does not traverse the beach while doing business, nor shall it grant any application which otherwise does not meet the terms and provisions of this Act.

Operation without license; penalty

Sec. 11. Whoever shall, for himself or for or on behalf of or under the direction of another person, or association of persons, corporate or otherwise, operate any business establishment, whether mobile or at a fixed or permanent location, on any public beach outside the boundaries of any incorporated city, without first having obtained a license to operate such business establishment from the Parks and Wildlife Department, shall be fined not less than \$10, nor more than \$200.

Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 26, eff. Dec. 9, 1969.

Title of Act:

An Act declaring the public policy of this state regarding the recreational use of certain beaches; authorizing the licensing of certain business establishments which do

not interfere with such use; providing for certain exemptions; providing a penalty for violations; and declaring an emergency. Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 26.

Art. 5415f. State-owned submerged lands and islands; sale or leasing of surface estate; moratorium

Pending delivery of the final report of the Interagency Natural Resources Council to the Legislature covering its comprehensive study and recommendation concerning the state's submerged lands, beaches, islands, estuaries, and estuarine areas pursuant to S. C. R. No. 38 of this 61st Legislature, or until May 31, 1973, whichever date shall first occur, there is hereby declared a moratorium and suspension of the sale or leasing of, and of the establishment of any bulkhead line on, the surface estate of any state-owned submerged lands, beaches, and islands for any purpose under any existing law of this state.

Be it provided, however, that this moratorium shall not apply to any application for a lease of state-owned submerged lands or islands under the provisions of Chapter 377, Acts of the 57th Legislature, Regular Session, 1961, where the submerged lands or islands sought to be leased are within 2500 feet of submerged lands or islands already under lease to the applicant pursuant to the terms of Chapter 377, Acts of the 57th Legislature, Regular Session, 1961.

It is further provided that this Act shall not be construed to repeal, modify, or suspend the provisions of Chapter 3, Title 67, Revised Civil Statutes of Texas, as amended, as it relates to the powers and duties of the Parks and Wildlife Department with respect to all matters pertaining to the sale, taking, carrying away, or disturbing of marl, sand, gravel, or shell of commercial value, and all gravel, shells, mud shell, and oyster beds and their protection from free use and unlawful disturbing or appropriation as provided in said Chapter 3.

Be it provided, however, that this Act shall not apply to any island or peninsula that is not accessible by a public road or common carrier ferry facility, so long as such condition shall exist.

Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 21, § 1, emerg. eff. Sept. 19, 1969.

For Annotations and Historical Notes, see V.A.T.S.

Section 2 of Acts 1969, 61st Leg., 2nd C.S., p. 85, ch. 21, provided:

"The facts that the state-owned submerged lands, islands, estuaries, and estuarine areas in the Texas Gulf Coast Area, including the submerged lands of the state seaward of the mean of lower low water marks in the Gulf of Mexico, and the natural resources and the environmental natural beauty with which they are so richly endowed, constitute an important and valuable property right belonging to the Public Free School Fund and to all of the people of Texas, and they are of immediate and potential value to the present and future generations of Texans;

"That it is the declared policy of the state that such submerged lands, islands, estuaries, and estuarine areas shall be so managed and used as to insure the conservation, protection, and restoration of such submerged lands, islands, estuaries, and estuarine areas with resources and natural beauty and, consistent with such protection, conservation and restoration, their development and utilization in a manner that adequately and reasonably maintains a balance between the need for such protection in the interest of conserving the natural resources and natural beauty of the state and the need to develop these submerged lands, islands, estuaries, and estuarine areas to further the growth and development of the state;

"That the people of the State of Texas have a primary interest in the correction and prevention of irreparable damage to or unreasonable impairment of the uses of the coastal waters of the state and inland waters of the state in such estuaries and estuarine areas caused by drainage, waste water disposal, industrial waste disposal, and all other activities that may contribute to the contamination and pollution of such waters;

"That the people of the State of Texas also have primary interests in the value of such lands, islands, estuaries, and estuarine areas as public property for production and marketing of oil and gas and other minerals and mineral resources, for the production of living resources, for shell and other fisheries and fishing, hunting, and other recreation, for wildlife conservation, and for health and other uses in which

the public at large may participate and enjoy;

"That it is also the declared policy of this state that the public, individually and collectively, shall have the free and unrestricted right of ingress and egress to and from the state-owned beaches bordering on the seaward shore of the Gulf of Mexico and hence the people of the State of Texas have a further primary interest in conserving the natural beauty of the state's beaches and protecting and conserving them for the use of the public;

"That the Interagency Natural Resources Council has been directed by the Legislature to make a comprehensive study to prepare the way for constructive legislation for the present and future protection of the interest of the people of the State of Texas in such submerged lands, beaches, islands, estuaries, and estuarine areas; and

"That the purpose, intent, and effectiveness of such constructive legislation for the present and future protection of the people of the State of Texas cannot be achieved if the sale and leasing of the state-owned submerged lands, beaches, and islands is continued under the existing laws of this state without regard to detailed modern scientific knowledge of these submerged lands, beaches, and islands which will result from the Council study and before such information can be collected and finally reported to the Legislature,

"All create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and this Rule is hereby suspended; and that this Act shall take effect and be in force from and after its passage, and it is so enacted."

Title of Act:

An Act declaring a moratorium on the sale or leasing of the surface estate in state-owned submerged lands, beaches, and islands under any existing laws of this state, pending receipt of the Interagency Natural Resources Council study of these submerged lands, beaches, and islands or until May 31, 1973, whichever is earlier; providing certain exemptions; and declaring an emergency. Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 21.

Art. 5415g. Gulf coast and public beach areas; excavation of sand, etc.; permits

Policy and purpose

Section 1. The Legislature finds that the unregulated excavation, taking, removing, or carrying away of sand, marl, gravel and shell from islands and peninsulas bordering on the Gulf of Mexico and from the public beaches of this state constitute a substantial interference with public enjoyment of Texas beaches, a hazard to life and property.

Application for permit

Sec. 2. Any person or association of persons, corporate or otherwise, desiring to excavate, take, remove, or carry away sand, marl, gravel, or

shell from any land located on any exposed island or peninsula bordering on the Gulf of Mexico, or from land located within 1500 feet of any public beach of this state, where such land is situated outside the boundaries of any incorporated city, town or village, shall first make written application therefor to the commissioners court of the county in which such excavation, taking, removing, or carrying away shall take place.

Contents of application; filing fee certification

Sec. 3. Such application shall set forth the name of the applicant; the location and dimensions of the proposed excavation; the property interest or contractual right which enables applicant to excavate, take, remove, or carry away sand, marl, gravel, or shell; and shall include certification by the county treasurer, or if there be no county treasurer, other official exercising similar authority, that applicant has deposited a filing fee of \$50.

Permits; issuance

Sec. 4. Upon a finding that the proposed excavation, taking, removing or carrying away would not create hazardous conditions or imperil lives or property by exposing the island or peninsula or public beach to the ravages of storm waters, the commissioners court may issue a permit to such applicant and it shall be valid for six months from the date of issuance thereof. The decision of the commissioners court shall be made with the advice and counsel of the county engineer, in those counties where such official is employed by the commissioners court.

Refusal of permit; recovery of filing fee

Sec. 5. If the commissioners court shall refuse the permit, applicant may recover his filing fee from the county treasurer, or if there be no county treasurer, other official exercising similar authority.

Ownership of land or consent of owner; necessity for permit

Sec. 6. No permit shall be issued by the commissioners court pursuant to the provisions of this Act to excavate, take, remove, or carry away any sand, marl, gravel, or shell from any land owned by the State of Texas, nor from any public beach in the State of Texas; nor shall any permit be issued by the commissioners court to excavate, take, remove, or carry away any sand, marl, gravel, or shell from any privately-owned land subject to the provisions of this Act which is not located on a public beach, unless applicant is the owner of the land where the proposed excavation, taking, removing, or carrying shall take place, or unless applicant is acting with the knowledge and consent of such owner.

Exemptions

Sec. 7. The provisions of this Act shall not apply:

(1) to any taking, removing, carrying away, or excavation of sand, marl, gravel, or shell made for the purpose of constructing improvements upon real property, where such improvements are constructed upon the property where said taking, removing, carrying away, or excavation occurs.

(2) to any landowner desiring to shift sand, marl, gravel, or shell from one location to another on land wholly owned by such landowner.

(3) to any agency of the federal or state government, nor to any agent nor officer thereof acting in his official capacity; nor shall the provisions of this Act apply to any agency of any county, city, or other political subdivision, nor to any agent nor officer thereof acting in his official capacity.

Be it provided, however, that for the purposes of this Act, any person or association of persons, corporate or otherwise, holding a lease from

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the State of Texas under the provisions of Chapter 377, Acts of the 57th Legislature, Regular Session, 1961 (Article 5415e, Revised Civil Statutes of Texas), shall be treated as an owner of such land and shall be entitled to excavate, take, remove, and carry away sand, marl, gravel, or shell for the purposes set forth in this Section without first obtaining a permit from the commissioners court.

Saving clause

Sec. 8. Nothing in this Act shall be construed to repeal or modify the provisions of Chapter 3, Title 67, Revised Civil Statutes of Texas, as amended, as it relates to the powers and duties of the Parks and Wildlife Department with respect to all matters pertaining to the sale, taking, carrying away, or disturbing of sand, marl, gravel, or shell of commercial value, and all gravel, shells, mud shell, and oyster beds and their protection from free use and unlawful disturbing or appropriation as provided in said Chapter 3; nor shall anything in this Act be construed to create any additional or supplemental requirements or procedures to those set forth in the said Chapter 3, Title 67, insofar as the matters therein involved are concerned.

Assignability and revocation of permits

Sec. 9. No permit shall be assignable without the approval of the commissioners court, and a failure or refusal of the holder to comply with the terms and the conditions of such permit shall operate as an immediate termination and revocation of all rights conferred therein or claimed thereunder.

Public notices and hearing on applications

Sec. 10. The commissioners court shall give public notice of all applications received for permits to excavate, take, remove, or carry away sand, marl, gravel, or shell. Such notice shall be published once in a newspaper of general circulation in the county, and shall include the name of the applicant and the location and dimensions of the proposed activity. A public hearing shall be held by the commissioners court in any case in which such is requested by any citizen within ten days after such publication. Notice of such public hearing shall be published at least once a week for at least two weeks in a newspaper of general circulation in the county, and such hearing may not be held less than thirty days from the date of the first such publication.

Definition of "public beach"

Sec. 11. For the purposes of this Act, "public beach" shall mean that beach area, whether publicly or privately owned, to which the public has acquired the right of access, either by statute, prescription, dedication, or by retaining a right by virtue of continuous right in the public, including but not limited to that area extending from the line of mean low tide bordering on the Gulf of Mexico to the line of vegetation bordering on the Gulf of Mexico, or to a line 200 feet inland from the line of mean low tide, whichever shall be nearer the line of mean low tide, in the event the public has acquired a right of use or easement to or over such area by prescription, dedication, or has retained a right by virtue of continuous right in the public.

Applicability of Act

Sec. 12. This Act shall not apply to any island or peninsula that is not accessible by a public road or common carrier ferry facility, so long as such condition shall exist.

Injunctive remedies; enforcement

Sec. 13. The Attorney General, any County Attorney, District Attorney, or Criminal District Attorney of the State of Texas is hereby authorized and empowered, and it shall be his, or their duty to file in the District Court of the county where such conduct is taking place, actions seeking either temporary or permanent court orders or injunctions to prohibit any excavation, taking, removing, or carrying away any sand, marl, gravel, or shell from any land located on any exposed island or peninsula bordering on the Gulf of Mexico, or from land located within 1500 feet of any public beach of this state, where such land is situated outside the boundaries of any incorporated city, town, or village, in violation of the provisions of this Act.

Offense; penalty

Sec. 14. Whoever shall, for himself, or for or on behalf of or under the direction of another person, or association of persons, corporate or otherwise, excavate, take, remove, or carry away any sand, marl, gravel, or shell from any land located on any exposed island or peninsula bordering on the Gulf of Mexico, or from land located within 1500 feet of any public beach of this state, where such land is situated outside the boundaries of any incorporated city, town, or village, in violation of the provisions of this Act, shall be fined not less than \$10 nor more than \$200. Each day's operation shall constitute a separate offense.

Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 19, eff. Dec. 9, 1969.

Title of Act:

An Act relating to permits for the excavation of sand, marl, gravel, or shell from islands or peninsulas bordering on the Gulf of Mexico, or from land within 1500 feet of a public beach; providing certain exemptions; providing for public notice; defining

"public beach;" providing for enforcement of injunctive remedies by the Attorney General and other officials; providing a penalty for violations; and declaring an emergency. Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 19.

Arts. 5416, 5416a. Repealed by Acts 1969, 61st Leg. p. —, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Art. 5421c—11. Sulphur production agreements

Section 1. Subject to the provisions of this Act, the Commissioner of the General Land Office, on behalf of the State of Texas or any fund belonging thereto, is authorized to execute agreements that provide for the operation of areas as a unit for the exploration, development, and production of sulphur, and to commit to such agreements the royalty interests in sulphur reserved to or provided for the state or any fund thereof by law, in or in connection with any patent, award, or mining claim, in any contract of sale, or under the terms of any lease lawfully made by an official, board, agent, agency or authority of the state; provided (a) that agreements that commit such royalty interests in lands set apart by the Constitution and laws of this state for the Permanent Free School Fund and the several asylum funds, in river beds, inland lakes, and channels, and the area within tidewater limits, including islands, lakes, bays, inlets, marshes, reefs, and the bed of the sea, are approved by the School Land Board, and are executed by the owners of the soil if they cover lands leased for sulphur under Article 5421c—10, Vernon's Texas Civil Statutes, Acts, 1967, 60th Legislature, page 35, Chapter 16; (b) that agreements that commit such royalty interests in lands or

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areas other than those mentioned in the preceding clause (a) of this Section 1, are approved by the board, official, agent, agency, or authority of the state vested with authority to lease or to approve the leasing of said lands or areas for sulphur; and (c) that any such agreement is found by the Commissioner of the General Land Office to be in the best interest of the state.

Sec. 2. Any agreement authorized to be executed by this Act may include the following provisions: (1) that operations incident to the drilling of a well upon any portion of the unit shall be deemed for all purposes to be the conduct of such operations upon each tract in the unit; (2) that the production allocated by the agreement to each tract included in a unit shall, when produced, be deemed for all purposes to have been produced from such tract; (3) that the royalty interest reserved to or provided for the state or any fund thereof as aforesaid on production from any tract included in the unit shall be paid only on that portion of the production from the unit which is allocated to the tract in accordance with the agreement; (4) that each such lease included in the unit shall remain in force as long as the agreement remains in effect, and upon termination of the agreement each such lease shall thereafter continue in force in accordance with the terms and provisions of such lease; and (5) such other terms, conditions, and provisions as may be deemed to be in the best interest of the state by the Commissioner of the General Land Office and any board, official, agent, agency or authority of the state vested with authority to lease or approve the leasing of said lands or areas for sulphur.

Sec. 3. The provisions of this Act are and shall be held and construed to be cumulative of all laws of this state on the subject treated of and embraced in this Act, and those prior laws in conflict herewith, to the extent only that they may be in conflict, are hereby repealed. Provided, however, that the provisions of this Act shall not be construed to apply to any land under the control and management of the Board of Regents of The University of Texas System.

Sec. 4. Agreements, and operations thereunder, in accordance with this Act, being necessary to prevent waste and conserve the natural resources of this state, shall not be construed to be in violation of the provisions of Title 126, Revised Civil Statutes, 1925, as amended, nor Chapter 3, Title 19, Penal Code of Texas, 1925, as amended, known as Anti-Trust Acts. However, if any court should find a conflict between this Act and Title 126, Revised Civil Statutes of Texas, 1925, as amended, or Chapter 3, Title 19, Penal Code of Texas, 1925, as amended, then this Act is intended as a reasonable exception thereto, necessary for the above stated public interests; provided further, that if any court should find that a conflict exists between this and the above mentioned laws, and that this Act is not a reasonable exception thereto, then it is the intent of the Legislature that this Act, or any conflicting portion hereof, shall be declared invalid rather than declaring the above mentioned Anti-Trust Laws, or any portion thereof, invalid.

Acts 1969, 61st Leg., p. 197, ch. 79, emerg. eff. April 17, 1969.

Title of Act:

An Act to provide that the Commissioner of the General Land Office, on behalf of the State of Texas or any fund belonging thereto, is authorized to execute agreements that provide for the operation of areas as a unit for the exploration, development and production of sulphur and to commit to such agreements the royalty interests in sulphur reserved to or provided for the state or any fund thereof by law, in or in connection with any patent, award or mining claim, in any contract of sale, or

under the terms of any lease lawfully made by an official, board, agent, agency or authority of the state; providing for the approval of such agreements by the School Land Board if the agreements commit royalty interests in lands set apart by the Constitution and laws of this state for the Permanent Free School Fund and the several asylum funds, in river beds, inland lakes, and channels, and the area within tidewater limits, including islands, lakes, bays, inlets, marshes, reefs, and the bed of the sea; providing for execution of such agreements by the owners of the soil

if they cover lands leased for sulphur under Article 5421c—10, Vernon's Texas Civil Statutes, Acts, 1967, 60th Legislature, page 35, Chapter 16; providing for approval of such agreements that commit such royalty interests in other lands by the board, official, agent, agency, or authority vested with authority to lease or approve the leasing of said lands for sulphur; providing the conditions under which the Commissioner may execute such agreements; prescribing certain provisions which may be included in such agreements; providing that this Act shall be cumulative and repealing all prior laws to the extent that they may be in conflict herewith; providing that this Act shall not be construed to apply to any land under the con-

trol and management of the Board of Regents of The University of Texas System; providing that such agreements and operations thereunder shall not be construed in violation of the anti-trust laws but that if any court should find a conflict between this Act and the anti-trust laws, then this Act is intended as a reasonable exception thereto; providing further, that if any court should find that such a conflict with the anti-trust laws exists and that this Act is not a reasonable exception thereto, then this Act or any conflicting portion hereof shall be declared invalid rather than declaring the anti-trust laws or any portion thereof invalid; providing a savings and severability clause; and declaring an emergency. Acts 1969, 61st Leg., p. 197, ch. 79.

Art. 5421c—12. Publication of notice of intended sale of land by political subdivision

Section 1. No land owned by a political subdivision of the State of Texas may be sold without first publishing in a newspaper of general circulation in the county where the land is located or in an adjoining county, if there is no such newspaper, a notice that the land is to be offered for sale to the general public, its description, its location and the procedures under which sealed bids to purchase the land may be submitted. Notice shall be so given at least on two separate occasions and no sale shall be held less than 14 days after the last notice.

Sec. 2. Land owned by a political subdivision that wishes to contract with an independent foundation for the development of that land need not be offered for sale on public bid nor sold to the highest bidder.

Sec. 3. Nothing in this Act shall require the governing body of any such political subdivision to accept any bid or be required to consummate any sale.

Acts 1969, 61st Leg., p. 1512, ch. 455, emerg. eff. June 10, 1969.

Title of Act:

An Act providing for the publication of notices in a newspaper of general circulation in the county where the land is located or in an adjoining county, if there is no such newspaper, advising that land owned by a political subdivision of the State of

Texas is to be offered for sale to the general public; making certain provisions relating to the authority of such political subdivisions in the offering of land for sale on public bid and the acceptance of bids; and declaring an emergency. Acts 1969, 61st Leg., p. 1512, ch. 455.

Art. 5421q. Taking park, recreational, etc., land for other public use; notice; hearing

Section 1. No department, agency, political subdivision, county, or municipality of this state shall approve any program or project that requires the use or taking of any public land designated and utilized prior to the arrangement of such program or project as a park, recreation area, scientific area, wildlife refuge, or historic site, unless such department, agency, political subdivision, county, or municipality, acting through its duly authorized governing body or officer, shall determine, after notice and a public hearing as required herein, that (1) there is no feasible and prudent alternative to the use or taking of such land, and (2) such program or project includes all reasonable planning to minimize harm to such land, as a park, recreation area, scientific area, wildlife refuge, or historic site, resulting from such use or taking; clearly enunciated local preferences shall be considered, and the provisions of the Act do not constitute a mandatory prohibition against the use of such area if the findings are made that justify the approval of a program or project.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 2. When any program or project requires notice and a public hearing before approval, notice thereof shall be given in writing to the person, organization, department or agency that has supervision of the land proposed to be used or taken. The notice shall state clearly the proposed program or project, and the date and place for the public hearing, and the notice be given at least 30 days before the date for the public hearing. Notice shall also be given to the public by publishing a notice similar to that specified in this section once a week for three consecutive weeks. The last days of publication shall not be less than one week or more than two weeks before the date of the hearing. The notice shall be published in a newspaper of general circulation, which paper must be published at least six days a week in the county where the land proposed to be used or taken is situated. If there be no such newspaper, then the notice shall be published in such a newspaper that is published in any county adjoining the county where the land is situated; and, if there be no such newspaper published in any adjoining county, then in such a newspaper published in the nearest county to the county where the land is situated. Provided, that if there be no such daily newspaper published therein, said notice shall be published in any newspaper of general circulation published in the political subdivision affected. And if no newspaper be published in such political subdivision, notice shall be published in a newspaper published in the nearest political subdivision thereto.

Sec. 3. Judicial review of the validity or invalidity of the approval or disapproval of a program or project is barred unless the petition for review is filed within thirty days after the approval or disapproval is announced.

Acts 1969, 61st Leg., p. 838, ch. 276, emerg. eff. May 22, 1969.

Title of Act:

An Act providing restrictions on government approval of programs or projects requiring the use or taking of public land devoted to certain use by the public and prescribing requirements as to notice, public hearing, and findings; providing that clearly enunciated local preferences shall

be considered, and that the provisions of the Act do not constitute a mandatory prohibition against the use of such area; providing time for filing of petition by dissatisfied party; and declaring an emergency. Acts 1969, 61st Leg., p. 838, ch. 276.

TITLE 89—LIBRARY AND HISTORICAL COMMISSION

Art.

5444a. Legislative reference library [New].

5446a. Library systems act [New].

Art. 5441. [5606] Duties of Librarian

The duties of the State Librarian, acting under the direction of said Commission shall be as follows:

* * * * *

3. He shall endeavor to collect all manuscript records relating to the history of Texas in the hands of private individuals, and where the originals cannot be obtained he shall endeavor to procure authenticated copies. He shall be authorized to expend the money appropriated for the purchase of books relating to Texas, and he shall seek diligently to procure a copy of every book, pamphlet, map or other printed matter giving valuable information concerning this state. He shall collect portraits or photographs of as many of the prominent men of Texas as possible. He shall endeavor to complete the files of the early Texas newspapers in the State Library and other publications of this state as seem necessary to preserve in the State Library an accurate record of the history of Texas.

Sec. 3 amended by Acts 1969, 61st Leg., p. 1931, ch. 643, § 1, emerg. eff. June 12, 1969.

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Art. 5442. Distribution of publications

On the requisition of the State Librarian therefor, the Board of Control shall cause to be printed and furnished to the State Library for distribution and exchange the following publications, or such additional number as said librarian shall request: 150 copies of all annual, biennial and special reports of state departments, boards and institutions, findings of all investigations, bulletins, circulars, laws issued as separates, and legislative manuals, and 150 copies of all other publications, except routine business forms and court reports. No accounts for such printing shall be approved and no warrants shall be issued therefor, until the Board of Control is furnished by the contract printer with the receipt of the Librarian for such publications.

Amended by Acts 1969, 61st Leg., p. 154, ch. 55, § 11, eff. Sept. 1, 1969.

Art. 5442a. Depository libraries for state documents

* * * * *

Sec. 2. The term "depository libraries" as used in this Act means the Texas State Library, the legislative reference library, libraries of state institutions of higher education, and other libraries so designated by the Texas Library and Historical Commission upon determination that such designations are necessary to provide adequate access to state documents.

Sec. 2 amended by Acts 1969, 61st Leg., p. 154, ch. 55, § 10, eff. Sept. 1, 1969.

Sec. 3. Each state agency shall furnish the Texas State Library or the legislative reference library with state documents in the quantity specified in Article 5442, Revised Civil Statutes of Texas, 1925, as amended.

Sec. 3 amended by Acts 1969, 61st Leg., p. 154, ch. 55, § 10, eff. Sept. 1, 1969.

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For Annotations and Historical Notes, see V.A.T.S.

Art. 5444. Repealed by Acts 1969, 61st Leg., p. 154, ch. 55, § 13, eff. Sept. 1, 1969

See, now, art. 5444a.

Art. 5444a. Legislative reference library

Section 1. In this Act, unless the context requires a different meaning,

- (1) "library" means the legislative reference library;
- (2) "board" means the legislative library board;
- (3) "director" means the director of the legislative reference library.

Sec. 2. The functions and duties now performed by the legislative reference section of the state library are transferred to the legislative reference library, which is established as an independent agency of the legislature.

Sec. 3. (a) The library is under the control of, and administered by, the legislative library board composed of the lieutenant governor, the speaker of the House of Representatives, the chairman of the Senate finance committee, the chairman of the appropriations committee of the House of Representatives, and one other member of the Senate and one other member of the House of Representatives, appointed by the president of the Senate and the speaker of the House of Representatives, respectively.

(b) Members of the legislative library board are not entitled to compensation for service on the board, but each member is entitled to reimbursement for actual and necessary expenses incurred in attending meetings and performing official duties, to be paid out of funds appropriated to the board.

Sec. 4. The library shall maintain for the use and information of the members of the legislature, the heads of state departments, and citizens of the state, a legislative reference library containing checklists and catalogues of current legislation in this and other states, catalogues of bills and resolutions presented in either House of the Legislature, checklists of public documents of the several states, including all reports issued by departments, agencies, boards, and commissions of this state, and digests of public laws of this and other states as may best be made available for legislative use. The director and employees of the library shall give any aid and assistance requested by members of the Legislature in researching and preparing bills and resolutions.

Sec. 5. The present director of the legislative reference section of the state library shall be the director of the library, shall continue in the same capacity and at the same compensation, and shall be accountable only to the board. The director may, with the approval of the board, employ professional and clerical personnel at salaries fixed by the board.

Sec. 6. All books, documents, files, records, equipment, and property of all kinds owned or used by the legislative reference section of the state library, and all facilities used for storage, are transferred to the library. The director and librarian of the state library and the director of the library and shall sign a written agreement showing an inventory of all property to be transferred. When the agreement is signed, the comptroller of public accounts shall transfer to the library the property listed, enter the property in the inventory of the library, and delete the property from the inventory of the state library.

Sec. 7. (a) The library is a depository library, as that term is defined by Section 2, Chapter 438, Acts of the 58th Legislature, 1963 (Article 5442a, Vernon's Texas Civil Statutes), and shall receive state documents and documents and publications from other states which are distributed by the state library, in the manner in which they were received by the legislative section of the state library.

(b) All printed daily legislative journals, bills, resolutions, and other legislative documents shall be delivered daily to the library, and at the close of each legislative session all daily journals, bills, and resolutions in the hands of the sergeant-at-arms of the House of Representatives and the Senate shall be delivered to the library to be disposed of at the discretion of the director.

Sec. 8. All money appropriated by the legislature to the state library and historical commission for the purpose of operating and administering the legislative reference section of the state library is transferred to the board to be used only for operating and administering the library.

Sec. 9. The board shall make all reasonable rules and regulations which are necessary to insure efficient operation of the library.
Acts 1969, 61st Leg., p. 154, ch. 55, eff. Sept. 1, 1969.

Art. 5446a. Library systems act

CHAPTER A. GENERAL PROVISIONS

Short title

Section 1. This Act may be cited as the Library Systems Act.

Definitions

Sec. 2. In this Act, unless the context requires a different definition:

(1) "public library" means a library operated by a single public agency or board that is freely open to all persons under identical conditions and receives its financial support in whole or in part from public funds;

(2) "Commission" means the Texas State Library and Historical Commission;

(3) "State Librarian" means the director and librarian of the Texas State Library;

(4) "library system" means two or more public libraries cooperating in a system approved by the Commission to improve library service and to make their resources accessible to all residents of the area which the member libraries collectively serve;

(5) "state library system" means a network of library systems, inter-related by contract, for the purpose of organizing library resources and services for research, information, and recreation to improve state-wide library service and to serve collectively the entire population of the state;

(6) "major resource system" means a network of library systems attached to a major resource center, consisting of area libraries joined cooperatively to the major resource center and of community libraries joined cooperatively to area libraries or directly to the major resource center;

(7) "major resource center" means a large public library serving a population of 200,000 or more within 4,000 or more square miles, and designated as the central library of a major resource system for referral service from area libraries in the system, for cooperative service with other libraries in the system, and for federated operations with other libraries in the system;

(8) "area library" means a medium-sized public library serving a population of 25,000 or more, which has been designated as an area library by the Commission and is a member of a library system interrelated to a major resource center;

(9) "community library" means a small public library serving a population of less than 25,000, which is a member of a library system interrelated to a major resource center;

(10) "contract" means a written agreement between two or more libraries to cooperate, consolidate, or receive one or more services;

For Annotations and Historical Notes, see V.A.T.S.

(11) "standards" means the criteria established by the Commission which must be met before a library may be accredited and eligible for membership in a major resource system;

(12) "accreditation of libraries" means the evaluation and rating of public libraries and library systems using the standards as a basis;

(13) "governing body" means that body which has the power to authorize a library to join, participate in, or withdraw from a library system; and

(14) "library board" means the body which has the authority to give administrative direction or advisory counsel to a library or library system.

CHAPTER B. STATE LIBRARY SYSTEM

Establishment

Sec. 3. The Commission shall establish and develop a state library system.

Advisory board

Sec. 4. (a) The Commission shall appoint an advisory board of five librarians qualified by training, experience, and interest to advise the Commission on the policy to be followed in the application of the provisions of this Act.

(b) The term of office of a board member is three years, except that the initial members shall draw lots for terms, one to serve a one-year term, two to serve a two-year term, and two to serve a three-year term.

(c) The board shall meet at least once a year. Other meetings may be called by the Commission during the year.

(d) The members of the board shall serve without compensation, but shall be reimbursed their actual and necessary expenses incurred in the performance of their official duties.

(e) Vacancies shall be filled for the remainder of the unexpired term in the same manner as original appointments.

(f) No member may serve more than two consecutive terms.

Plan of service

Sec. 5. The State Librarian shall submit an initial plan for the establishment of the state library system and an annual plan for the development of the system for review by the advisory board and approval by the Commission.

CHAPTER C. MAJOR RESOURCE SYSTEM

Authority to establish

Sec. 6. The Commission may establish and develop major resource systems in conformity with the plan for a state library system as provided in Chapter B, Sec. 5 of this Act.

Membership in system

Sec. 7. (a) Eligibility for membership in the system is dependent on accreditation of the library by the Commission on the basis of standards established by the Commission.

(b) To meet population change, economic change, and changing service strengths of member libraries, a major resource system may be reorganized, merged with another system, or partially transferred to another system by the Commission with the approval of the appropriate governing bodies of the libraries comprising the system.

Operation and management

Sec. 8. (a) Governing bodies within a major resource system area may join in the development, operation, and maintenance of the system and appropriate and allocate funds for its support.

(b) Governing bodies of political subdivisions of the state may negotiate separately or collectively a contract with the governing bodies of member libraries of a major resource system for all library services or for those services defined in the contract.

(c) On petition of 10 percent of the qualified electors in the latest general election of a county, city, town, or village within the major resource system service area, the governing body of that political subdivision shall call an election to vote on the question of whether or not the political subdivision shall establish contractual relationships with the major resource system.

(d) The governing body of a major resource center and the Commission may enter into contracts and agreements with the governing bodies of other libraries, including but not limited to other public libraries, school libraries and media centers, academic libraries, technical information and research libraries, or systems of such libraries, to provide specialized resources and services to the major resource system in effecting the purposes of this Act.

Withdrawal from major resource system

Sec. 9. (a) The governing body of any political subdivision of the state may by resolution or ordinance withdraw from the system. Notice of withdrawal must be made not less than 90 days before the end of the major resource center fiscal year.

(b) The provision for termination of all or part of a major resource system does not prohibit revision of the system by the Commission, with approval of the appropriate governing bodies, by reorganization, by transfer of part of the system, or by merger with other systems.

(c) The governing body of a public library which proposes to become a major resource center shall submit an initial plan of service for the major resource system to the State Librarian. Thereafter, the governing body of the major resource center shall submit an annual plan of system development, made in consultation with the advisory council, to the State Librarian.

Advisory council

Sec. 10. (a) An advisory council for each major resource system is established, consisting of six lay members representing the member libraries of the system.

(b) The governing body of each member library of the system shall elect or appoint a representative for the purpose of electing council members. The representatives shall meet within 10 days following their selection and shall elect the initial council from their group. Thereafter, the representatives in an annual meeting shall elect members of their group to fill council vacancies arising due to expiration of terms of office. Other vacancies shall be filled for the unexpired term by the remaining members of the council. The major resource center shall always have one member on the council.

(c) The term of office of a council member is three years, except that the initial members shall draw lots for terms, two to serve a one-year term, two to serve a two-year term, and two to serve a three-year term. No individual may serve more than two consecutive terms.

(d) The council shall elect a chairman, vice chairman, and secretary.

(e) The council shall meet at least once a year. Other meetings may be held as often as is required to transact necessary business. A majority

For Annotations and Historical Notes, see V.A.T.S.

of the council membership constitutes a quorum. The council shall report business transacted at each meeting to all member libraries of the system.

(f) The members of the council shall serve without compensation, but shall be reimbursed their actual and necessary expenses incurred in the performance of their official duties.

(g) The council shall serve as a liaison agency between the member libraries and their governing bodies and library boards to:

(1) advise in the formulation of the annual plan for service to be offered by the system;

(2) recommend policies appropriate to services needed;

(3) evaluate services received;

(4) counsel with administrative personnel; and

(5) recommend functions and limitations of contracts between cooperating agencies.

(h) The functions of the advisory council in no way diminish the powers of local library boards.

CHAPTER D. CONSTITUENTS OF MAJOR RESOURCE SYSTEMS

Major resource center

Sec. 11. (a) The Commission may designate major resource centers. Designation shall be made from existing public libraries on the basis of criteria approved by the Commission and agreed to by the governing body of the library involved.

(b) The governing body of the library designated by the Commission as a major resource center may accept the designation by resolution or ordinance stating the type of service to be given and the area to be served.

(c) The Commission may revoke the designation of a major resource center which ceases to meet the criteria for a major resource center or which fails to comply with obligations stated in the resolution or ordinance agreements. The Commission shall provide a fair hearing on request of the major resource center.

(d) Funds allocated by governing bodies contracting with the major resource center and funds contributed from state grants-in-aid for the purposes of this Act shall be deposited with the governing body operating the major resource center following such procedures as may be agreed to by the contributing agency.

(e) The powers of the governing board of the major resource center in no way diminish the powers of local library boards.

Area library

Sec. 12. (a) The Commission may designate area libraries within each major resource system service area to serve the surrounding area with library services for which contracts are made with participating libraries. Area libraries may be designated only from existing public libraries and on the basis of criteria approved by the Commission and agreed to by the governing body of the library involved.

(b) The governing body of the library designated by the Commission as an area library may accept the designation by resolution or ordinance stating the type of service to be given and the area to be served.

(c) The Commission may revoke the designation of an area library which ceases to meet the criteria for an area library or fails to comply with obligations stated in the resolution or ordinance agreement. The Commission shall provide a fair hearing on request of the major resource center or area library.

(d) Funds allocated by governing bodies contracting with the area library and funds contributed from state grants-in-aid for the purposes of this Act shall be deposited with the governing body operating the area library following such procedures as may be agreed to by the contributing agency.

Community library

Sec. 13. (a) Community libraries accredited by the Commission are eligible for membership in a major resource system.

(b) A community library may join a system by resolution or ordinance of its governing body and execution of contracts for service.

(c) The Commission may terminate the membership of a community library in a system if the community library loses its accreditation by ceasing to meet the minimum standards established by the Commission or fails to comply with obligations stated in the resolution or ordinance agreement.

CHAPTER E. STATE GRANTS-IN-AID TO LIBRARIES**Establishment**

Sec. 14. (a) A program of state grants within the limitations of funds appropriated by the Texas Legislature shall be established.

(b) The program of state grants shall include one or more of the following:

(1) system operation grants, to strengthen major resource system services to member libraries, including grants to reimburse other libraries for providing specialized services to major resource systems;

(2) incentive grants, to encourage libraries to join together into larger units of service in order to meet criteria for major resource system membership;

(3) establishment grants, to help establish libraries which will qualify for major resource system membership in communities without library service; and

(4) equalization grants, to help libraries in communities with relatively limited taxable resources to meet criteria for major resource system membership.

Rules and regulations

Sec. 15. (a) Proposed initial rules and regulations necessary to the administration of the program of state grants, including qualifications for major resource system membership, shall be formulated by the State Librarian with the advice of the advisory board.

(b) These proposed rules and regulations shall be published in the official publication of the Texas State Library. Such publication shall include notice of a public hearing before the Commission on the proposed rules and regulations to be held on a date certain not less than 30 nor more than 60 days following the date of such publication.

(c) Following the public hearing, the Commission shall approve the proposed rules and regulations or return them to the State Librarian with recommendations for change. If the Commission returns the proposed rules and regulations to the State Librarian with recommendations for change, the State Librarian shall consider the recommendations for change in consultation with the advisory board and resubmit the proposed rules and regulations to the Commission for its approval.

(d) Revised rules and regulations shall be adopted under the same procedure provided in this Chapter for the adoption of the initial rules and regulations.

Administration

Sec. 16. The State Librarian shall administer the program of state grants and shall promulgate the rules and regulations approved by the Commission.

Funding

Sec. 17. (a) The Commission may use funds appropriated by the Texas Legislature for personnel and other administrative expenses necessary to carry out the provisions of the Act.

(b) Libraries and library systems may use state grants for materials; for personnel, equipment, and administrative expenses; and for financing programs which enrich the services and materials offered a community by its public library.

(c) State grants may not be used for site acquisition, construction, or for acquisition, maintenance, or rental of buildings, or for payment of past debts.

(d) State aid to any free tax-supported public library is a supplement to and not a replacement of local support.

(e) Exclusive of the expenditure of funds for administrative expenses as provided in Section 17(a) of this Act, all funds appropriated pursuant to Section 14 of this Act shall be apportioned among the major resource systems on the following basis:

Twenty-five percent of such funds shall be apportioned equally to the major resource systems and the remaining seventy-five percent shall be apportioned to them on a per capita basis determined by the last decennial census.

CHAPTER F. OTHER PROVISIONS**Severability**

Sec. 18. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Emergency clause

Sec. 19. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and this Rule is hereby suspended.

Acts 1969, 61st Leg., p. 61, ch. 24, eff. Sept. 1, 1969.

Title of Act:

An Act relating to the establishment, operation, and financing of a state library system consisting of a network of inter-related cooperating library systems designed to provide adequate library facilities and services to the public; and declaring an emergency. Acts 1969, 61st Leg., p. 61, ch. 24.

TITLE 90—LIENS**CHAPTER TWO—MECHANICS, CONTRACTORS
AND MATERIAL MEN****Art. 5460. Lien on Homestead**

When material is furnished, labor performed, or improvements as defined in this title are made, or when erections or repairs are made upon homesteads, if the owner thereof is a married man or woman, then to fix and secure the lien upon the same it shall be necessary for the person or persons who furnish the material or perform the labor, before such material is furnished or such labor is performed, to make and enter into a contract in writing, setting forth the terms thereof, which shall be signed by both the husband and wife. And such contract shall be recorded in the office of the county clerk in the county where such homestead is situated, in a well bound book to be kept for that purpose. When such contract has been made and entered into by the husband and wife and the contractor or builder, and the same has been recorded, as heretofore provided, then the same shall inure to the benefit of any and all persons who shall furnish material or labor thereon for such contractor or builder.

Amended by Acts 1967, 60th Leg. p. 741, ch. 309, § 5, eff. Jan. 1, 1968; Acts 1969, 61st Leg., p. 2707, ch. 888, § 3, eff. Jan. 1, 1970.

TITLE 91—LIMITATIONS

2. LIMITATIONS OF PERSONAL
ACTIONS

Art.
5536a. Actions against architects and engineers for faulty design, planning or inspection [New].

3. GENERAL PROVISIONS

Art.
5539c. Counterclaims and cross claims; period of limitations; extension [New].

2. LIMITATIONS OF PERSONAL ACTIONS

Art. 5536a. Actions against architects and engineers for faulty design, planning or inspection

Section 1. There shall be commenced and prosecuted within ten years after the substantial completion of any improvement to real property or the commencement of operation of any equipment attached to real property, and not afterward, all actions or suits in court for damages for any injury, damages or loss to property, real or personal, or for any injury to a person, or for wrongful death, arising out of the defective or unsafe condition of any such real property or any equipment or improvement attached to such real property, for contribution or indemnity for damages sustained on account of such injury, damage, loss or death against any registered or licensed engineer or architect in this state performing or furnishing the design, planning, inspection of construction of any such improvement, equipment or structure or against any such person so performing or furnishing such design, planning, inspection of construction of any such improvement, equipment, or structure; provided, however, if the claim for damages, contribution or indemnity has been presented in writing to the registered or licensed engineer or architect performing such services within the ten-year period of limitation, said period shall be extended to include two years from the time such notice in writing is presented.

Acts 1969, 61st Leg., p. 1379, ch. 418, eff. Sept. 1, 1969.

Title of Act:

An Act creating a time limitation within which actions must be brought against any registered or licensed engineer or architect in this state performing or furnishing de-

sign, planning or inspection of construction of any structure or improvement thereon; and declaring an emergency. Acts 1969, 61st Leg., p. 1379, ch. 418.

3. GENERAL PROVISIONS

Art. 5539c. Counterclaims and cross claims; period of limitation; extension

Section 1. In the event a pleading asserting a cause of action is filed under circumstances where at the date when answer thereto is required by law a counterclaim or cross claim would otherwise be barred by the applicable statute of limitation, then the party so answering may, within 30 days following such answer date file a counterclaim or cross claim in such cause and the period of limitation is hereby extended for such period of time provided that the counterclaim or cross claim arises out of the same transaction or occurrence that is the subject matter of the opposing party's claim.

Acts 1969, 61st Leg., p. 701, ch. 240, eff. Sept. 1, 1969.

Title of Act:

An Act relating to extension of the period of limitation for cross claims and counterclaims arising out of the same subject

matter as the opposing party's claim; and declaring an emergency. Acts 1969, 61st Leg., p. 701, ch. 240.

TITLE 92—MENTAL HEALTH

I. MENTAL HEALTH CODE

CHAPTER FOUR—GENERAL HOSPITALIZATION PROVISIONS

Art. 5547—75A. Transfer to schools for mentally retarded [New].

Art. 5547—75A. Transfer to schools for mentally retarded

The head of a mental hospital under the control and management of the Texas Department of Mental Health and Mental Retardation may transfer persons under involuntary commitment to the mental hospital of which he is head to a State school for the mentally retarded under control and management of the Department when an examination of such person indicates symptoms of mental retardation to the extent that training, education, rehabilitation, care, treatment and supervision in a State school for the mentally retarded would be in the best interest of such person. A certificate evidencing the diagnosis of mental retardation and containing the recommendation of the head of the mental hospital that such person be transferred to a designated State school for the mentally retarded shall be furnished the committing court. No transfer shall be made until the judge of the committing court has entered an order approving the transfer.

Added by Acts 1969, 61st Leg., p. 1032, ch. 335, § 1, eff. Sept. 1, 1969.

II. MENTAL HEALTH AND RETARDATION ACT [NEW]

ARTICLE 1. GENERAL PROVISIONS

Art. 5547—201. Mental health and mental retardation; general provisions

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Definitions

Sec. 1.02. In this Act,

(1) "department" means the Texas Department of Mental Health and Mental Retardation;

(2) "board" means the Texas Board of Mental Health and Mental Retardation;

(3) "commissioner" means the Commissioner of Mental Health and Mental Retardation;

(4) "local agency" means a city, county, hospital district, rehabilitation district, school district, state-supported institution of higher education, state-supported medical school, or any organizational combination of two (2) or more cities, two (2) or more counties, two (2) or more hospital districts, two (2) or more school districts, or two (2) or more cities, counties, hospital districts and school districts;

(5) "mental health services" includes all services concerned with research, prevention and detection of mental disorders and disabilities and all services necessary to treat, care for, control, supervise and rehabilitate mentally disordered and disabled persons, including persons mentally disordered and disabled from alcoholism and drug addiction;

(6) "mentally retarded person" means any person other than a mentally disordered person, whose mental deficit requires him to have special

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training, education, supervision, treatment, care or control in his home or community, or in a state school for the mentally retarded;

(7) "mental retardation services" includes all services concerned with research, prevention, and the detection of mental retardation and all services related to the education, training, rehabilitation, care, treatment, supervision, and control of mentally retarded persons;

(8) "region" means the total geographical area covered by the local agencies participating in the operation of community centers established under this Act;

(9) "effective administration" includes continuous in-system planning and evaluation resulting in more efficient fulfillment of the purposes and policies of this Act.

Sec. 1.02 amended by Acts 1969, 61st Leg., p. 2010, ch. 688, § 1, eff. Sept. 1, 1969.

**ARTICLE 2. TEXAS DEPARTMENT OF MENTAL HEALTH
AND MENTAL RETARDATION**

Art. 5547—202. Texas Department of Mental Health and Mental Retardation

Composition of department

Sec. 2.01. The Texas Department of Mental Health and Mental Retardation shall consist of a Texas Board of Mental Health and Mental Retardation, a Commission of Mental Health and Mental Retardation, a Deputy Commissioner for Mental Health Services, a Deputy Commissioner for Mental Retardation Services, a staff under the direction of the Commissioner and the Deputy Commissioners, and the following facilities and institutions together with such additional facilities and institutions as may hereafter by law be made a part of the Department:

- (1) the Central Office of the Department;
- (2) the Austin State Hospital;
- (3) the San Antonio State Hospital;
- (4) the Terrell State Hospital;
- (5) the Wichita Falls State Hospital;
- (6) the Rusk State Hospital;
- (7) the Big Spring State Hospital;
- (8) the Confederate Women's Home;
- (9) the Kerrville State Hospital and its Legion Annex;
- (10) the Vernon Center and Annex;
- (11) the Austin State School and its Austin State School Annex;
- (12) the Travis State School;
- (13) the Mexia State School;
- (14) the Abilene State School;
- (15) the Lufkin State School;
- (16) the Richmond State School;
- (17) the Denton State School;
- (18) the Corpus Christi State School;
- (19) the Lubbock State School;
- (20) the Texas Research Institute of Mental Sciences;
- (21) the Dallas Neuropsychiatric Institute for Treatment, Research and Teaching;
- (22) the Beaumont State Center for Human Development;
- (23) the Amarillo State Center for Human Development;
- (24) the Fort Worth State Mental Health Out-patient Clinic;
- (25) the Dallas State Mental Health Out-patient Clinic;
- (26) the Rio Grande State Center for Mental Health and Mental Retardation;

- (27) the San Angelo Center;
- (28) the Leander Rehabilitation Center.

Sec. 2.01 amended by Acts 1969, 61st Leg., p. 2010, ch. 688, § 2, eff. Sept. 1, 1969.

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Chairman

Sec. 2.04. The Chairman of the Board shall be the member so designated by the Governor.

Sec. 2.04 amended by Acts 1969, 61st Leg., p. 2010, ch. 688, § 2, eff. Sept. 1, 1969.

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Powers and duties of deputy commissioners

Sec. 2.09. Repealed by Acts 1969, 61st Leg., p. 2010, ch. 688, § 6, eff. Sept. 1, 1969.

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Contracts

Sec. 2.13. The Department may cooperate, negotiate and contract with local agencies, hospitals, private organizations and foundations, community centers, physicians and persons to plan, develop and provide community-based mental health and mental retardation services.

Sec. 2.13 amended by Acts 1967, 60th Leg., p. 155, ch. 82, § 1, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 2010, ch. 688, § 2, eff. Sept. 1, 1969.

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Service programs

Sec. 2.17. From funds available to it the Department is authorized to provide mental health and mental retardation services through the operation of halfway houses, community centers, sheltered workshops and other mental health and mental retardation services programs.

Sec. 2.17 amended by Acts 1967, 60th Leg., p. 543, ch. 239, § 1, emerg. eff. May 20, 1967; Acts 1969, 61st Leg., p. 2010, ch. 688, § 2, eff. Sept. 1, 1969.

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Acts 1969, 61st Leg., p. 848, ch. 282, §§ 1-5, provided for the transfer of the McKnight State Tuberculosis Hospital from the State Department of Health to the Department of Mental Health and Mental Retardation, for the change of name of the facility to the San Angelo Center, for the transfer of patients over a one year period, and for the transfer of certain employees.

Transfer of facilities:

Sections 1 and 5 of Acts 1969, 61st Leg., p. 848, ch. 282, provided:

"Sec. 1. Effective September 1, 1969, the custody, management, and control of the land, buildings, and facilities comprising the hospital complex known as McKnight State Tuberculosis Hospital is transferred from the State Department of Health to the Texas Department of Mental Health

and Mental Retardation for the support, maintenance, and treatment of patients for whom the Texas Department of Mental Health and Mental Retardation is responsible.

"Sec. 5. Effective September 1, 1969, the name of McKnight State Tuberculosis Hospital is changed to the San Angelo Center."

**ARTICLE 3. COMMUNITY CENTERS FOR MENTAL HEALTH
AND MENTAL RETARDATION SERVICES****Art. 5547—203. Community centers for mental health and mental retardation services****Agencies authorized to establish and operate community center; contracts**

Sec. 3.01. (a) Local agencies which may establish and operate community centers are a county, a city, a hospital district, a school district, or any organizational combination of two (2) or more of these. When community centers are established by an organizational combination, the governing bodies of such organizational combination shall enter into a contract between or among them which shall stipulate:

- (1) the kinds and number of community centers, as that term is defined in subsection (b) below, which are to be established, and
- (2) whether the board of trustees shall consist of not less than five (5) nor more than nine (9) members selected from the governing bodies of the organizational combination, or of not less than five (5) nor more than nine (9) members to be appointed from the qualified voters of the region to be served.

This contract may be renegotiated or amended from time to time as necessary to provide for the establishment of additional community centers or to change the method of establishing a board of trustees.

(b) As used in this Act, a "community center" may be:

- (1) a community mental health center, which provides mental health services; or
- (2) a community mental retardation center, which provides mental retardation services; or
- (3) a community mental health and mental retardation center, which provides mental health and mental retardation services.

Sec. 3.01 amended by Acts 1969, 61st Leg., p. 2010, ch. 688, § 3, eff. Sept. 1, 1969.

Boards of trustees

Sec. 3.02. (a) The board of trustees of community centers established by a single city, county, hospital district or school district may be the governing body of the single city, county, hospital district or school district, or that governing body may appoint from among the qualified voters of the region to be served a board of trustees consisting of not less than five (5) nor more than nine (9) persons. If the board of trustees is appointed from the qualified voters of the region to be served, the terms of the members thereof shall be staggered by appointing not less than one-third ($\frac{1}{3}$) nor more than one-half ($\frac{1}{2}$) of the members for one (1) year, or until their successors are appointed, and by appointing the remaining members for two (2) years, or until their successors are appointed. Thereafter, all appointments shall be for a two (2) year period, or until their successors are appointed. Appointments made to fill unexpired terms shall be for the period of the unexpired term, or until a successor is appointed.

(b) Boards of trustees of community centers established by an organizational combination shall consist of not less than five (5) nor more than nine (9) members selected from the membership of the governing bodies of the organizational combination, or such governing bodies may jointly appoint a board of trustees from among the qualified voters of the region to be served in the manner authorized in Section 3.02(a) above.

Sec. 3.02 amended by Acts 1969, 61st Leg., p. 2012, ch. 688, § 3, eff. Sept. 1, 1969.

Saving clause

Sec. 3.03. This Act shall not affect the validity of community centers and boards of trustees of such centers established and appointed before it becomes effective; provided, however, this provision shall not be construed to preclude reconstitution of community centers and the board of trustees of such centers as authorized by this Act. This Act shall not affect the validity of board selection committees appointed by an organizational combination of more than six (6) local agencies under authority of Section 3.02(a), Acts 59th Legislature, Regular Session, 1965, as amended.¹ All other board selection committees are abolished and appointments to fill vacancies on boards of trustees of these centers shall be made by the governing bodies which participated in the establishment of the centers.

Sec. 3.03 amended by Acts 1967, 60th Leg., p. 490, ch. 218, § 2, emerg. eff. May 19, 1967; Acts 1969, 61st Leg., p. 2010, ch. 688, § 3, eff. Sept. 1, 1969.

¹ Section 3.02(a) of this article.

Meetings

Sec. 3.04. The boards of trustees shall make rules to govern the holding of regular and special meetings. All meetings are open to the public, except meetings to deliberate the appointment of a director. A majority of the membership of the board of trustees shall constitute a quorum for the transaction of business. The board shall keep a record of its proceedings, and the record is open to inspection by the public.

Sec. 3.04 amended by Acts 1969, 61st Leg., p. 2010, ch. 688, § 3, eff. Sept. 1, 1969.

Administration

Sec. 3.05. The board of trustees is responsible for the administration of community centers.

Sec. 3.05 amended by Acts 1969, 61st Leg., p. 2010, ch. 688, § 3, eff. Sept. 1, 1969.

Advisory committees

Sec. 3.06. Boards of trustees may appoint advisory committees, medical committees and other committees to advise the board on matters relating to the administration of mental health and mental retardation services. No such committee shall consist of less than five (5) members; and the appointment of such committees shall not relieve the board of trustees of final responsibility and accountability as provided in this Act.

Sec. 3.06 amended by Acts 1969, 61st Leg., p. 2010, ch. 688, § 3, eff. Sept. 1, 1969.

Director

Sec. 3.07. The board of trustees shall appoint a director for each community center. The board may delegate powers to the director subject to the policy direction of the board.

Sec. 3.07 amended by Acts 1969, 61st Leg., p. 2010, ch. 688, § 3, eff. Sept. 1, 1969.

Personnel

Sec. 3.08. The board or director may employ and train personnel for the administration of the various programs and services of a community center. The board shall provide appropriate rights, privileges and benefits to the employees of a community center consistent with those rights, privileges and benefits available to employees of the governing bodies which establishes the center. The number of employees and their

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salaries shall be as prescribed by the board of trustees, as approved by the governing body or bodies of the local agency establishing the center.

Sec. 3.08 amended by Acts 1969, 61st Leg., p. 2010, ch. 688, § 3, eff. Sept. 1, 1969.

Contribution of local agencies

Sec. 3.09. Each participating local agency may contribute lands, buildings, facilities, personnel and funds for the administration of the various programs and services of a community center.

Sec. 3.09 amended by Acts 1969, 61st Leg., p. 2010, ch. 688, § 3, eff. Sept. 1, 1969.

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Services

Sec. 3.12. The board of trustees may make rules, consistent with the purposes, policies, principles, and standards provided by this Act to regulate the administration of mental health or mental retardation services by a community center, and may make contracts with local agencies and with qualified persons and organizations to provide portions of these services. A community center may provide services to persons voluntarily seeking assistance and to persons legally committed to that community center. A board of trustees may, with the approval of the State mental health authority, contract with the governing bodies of other counties and cities to provide mental health and mental retardation services to residents of such cities and counties.

Sec. 3.12 amended by Acts 1969, 61st Leg., p. 2010, ch. 688, § 3, eff. Sept. 1, 1969.

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Fees for services

Sec. 3.14. A community center shall provide services free of charge to indigent persons. It shall charge reasonable fees, to cover costs, for services provided to non-indigent persons. In collecting fees for the treatment of non-indigent persons, a community center has the same rights, privileges, and powers granted by law to the Texas Department of Mental Health and Mental Retardation. The county or district attorney of counties where community centers are located shall, when requested by the director of a community center, represent the community center in the collection of fees for services provided non-indigent persons.

Sec. 3.14 amended by Acts 1967, 60th Leg., p. 223, ch. 122, § 1, emerg. eff. May 5, 1967; Acts 1969, 61st Leg., p. 2010, ch. 688, § 3, eff. Sept. 1, 1969.

Cooperation of department

Sec. 3.15. The Department shall provide to local agencies, boards of trustees and directors assistance, advice and consultation in the planning, development and operation of community centers.

Sec. 3.15 amended by Acts 1969, 61st Leg., p. 2010, ch. 688, § 3, eff. Sept. 1, 1969.

ARTICLE 4. STATE GRANTS-IN-AID

Art. 5547—204. State grants-in-aid

Rules and regulations of the Department

Sec. 4.01. (a) The Department shall prescribe such rules, regulations and standards, not inconsistent with the Constitution and laws of this State, as it considers necessary and appropriate to insure adequate

provision of mental health and mental retardation services by community centers.

(b) Before any rule, regulation or standard is adopted the Department shall give notice and opportunity to interested persons to participate in the rule making.

(c) The rules, regulations and standards adopted by the Department under this Section shall be filed with the Secretary of State and shall be published and available on request from the Secretary of State.

(d) A copy of these rules shall be sent to each community center established in this State.

Plan

Sec. 4.02. As soon as possible after its establishment the board of trustees shall submit to the Department:

(1) a copy of the contract between the participating local agencies, if applicable;

(2) a plan within the projected financial, physical and personnel resources of the region to be served to develop and make available to the residents of the region an effective mental health or mental retardation services program, or both, through a community center or centers.

Eligibility for grants-in-aid

Sec. 4.03. A community center is eligible to receive State grants-in-aid if it qualifies according to the rules and regulations of the Department. It is specifically provided, however, that the Department may require that such grants of State funds be matched by local support in such proportions and amounts as may be determined by the Department. For the purpose of calculating the local share of the operating costs of a community center, patient fee income, services and facilities contributed by local community centers may be counted as local support. To facilitate the administration of such funds, the Department may make periodic allocations of such grants to community centers on the basis of operating budgets submitted to it by the community centers in such form as the Department may require, but shall, periodically during the fiscal period covered by such operating budgets, make such adjustments, upward or downward, as may be necessary equitably to apportion such operating costs between the State government and the community centers.

Auditing procedures

Sec. 4.04. The board of trustees of a community center, as a condition precedent to its receiving further grants under this Act, shall annually have the accounts of the center audited by a Texas certified or public accountant licensed by the Texas State Board of Public Accountancy. Such audit shall meet at least the minimum requirements as shall be, and in such form as may be, prescribed by the Department and approved by the State Auditor. A copy of each such annual audit, approved by the board of trustees of the community center, shall be filed by the community center with the Department on such date as the Department may specify. Where the board of trustees declines or refuses to approve the audit report, it shall nevertheless file with the said Department a copy of the audit report with its statement detailing its reasons for failure to approve the report. In addition to the copy furnished the Department, copies of each audit report shall be submitted to the Governor, the Legislative Budget Board and the Legislative Audit Committee. The Commissioner and the State Auditor, on behalf of the Department and the Legislative Audit Committee, respectively, shall have access to all vouchers,

For Annotations and Historical Notes, see V.A.T.S.

receipts, journals and other records as either may deem needed and appropriate for the review and analysis of audit reports.

Acts 1965, 59th Leg., p. 165, ch. 67, § 1, eff. Sept. 1, 1965. Amended by Acts 1969, 61st Leg., p. 2010, ch. 688, § 4, eff. Sept. 1, 1969.

Acts 1969, 61st Leg., p. 2014, ch. 688, § 4, which amended article 4 of the Mental Health and Mental Retardation Act omitted a former section 4.05 relating to allocation of funds.

III. MISCELLANEOUS PROVISIONS

<p>Art. 5561c—1. Narcotic addicts; commitment; treatment [New].</p> <p>5561f. Interstate compact on mental health [New].</p>	<p>Art. 5561g. Building and improvement program [New].</p>
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Art. 5561c—1. Narcotic addicts; commitment; treatment

Persons subject to commitment; duration

Section 1. Any person found to be addicted to narcotics in accordance with the provisions of this Act shall be committed to a mental hospital for such period of time as may be necessary to arrest the person's addiction to narcotics.

Petition

Sec. 2. (a) A sworn petition for the indefinite commitment of a person to a mental hospital may be filed with the county court having jurisdiction of commitments of the county in which he resides or is found. The petition may be filed by any adult person, or by the county attorney and shall be styled "THE STATE OF TEXAS, FOR THE BEST INTEREST AND PROTECTION OF _____, AS A PERSON ADDICTED TO NARCOTIC DRUGS." The petition shall contain the following statements upon information and belief:

- (1) name and address of the proposed patient;
- (2) name and address of the proposed patient's spouse, parents, children, brothers, sisters, and legal guardian;
- (3) name and address of petitioner and a statement of his interest in the proceeding, including his relationship, if any, to the proposed patient;
- (4) that the proposed patient is addicted to narcotic drugs and requires hospitalization in a mental hospital for his own welfare and protection or the protection of others.

(b) The petition shall be accompanied by the sworn statements of two physicians who have examined the proposed patient within the five days immediately preceding the filing of the petition, stating the opinion of the examining physician that the proposed patient is addicted to narcotic drugs. The sworn statements shall include the physician's medical opinion as to whether hospitalization of the proposed patient because of addiction or immediate restraint of the proposed patient to prevent injury to himself or others, or both, are necessary.

(c) When a petition and the required statement by a physician are filed, the county judge shall set a date for the hearing to be held within 14 days of the filing of the petition, and shall appoint an attorney ad litem to represent the proposed patient, unless the proposed patient retains an attorney of his own choosing.

Jury trial; waiver

Sec. 3. (a) The proposed patient shall not be denied the right to trial by jury. A jury shall determine the issues in the case if no waiver of jury trial is filed, or if jury trial is demanded by the proposed patient or his attorney at any time prior to the termination of the hearing, whether

or not a waiver has been filed. Proof shall be required as in criminal cases. The jury shall be summoned and impaneled in the same manner as in similar cases in the county court.

(b) Waiver of trial by jury, if any, shall be in writing under oath and may be signed and filed at any time subsequent to service of the petition and notice of hearing upon the proposed patient. The waiver of trial by jury shall be signed and sworn to by the proposed patient and by the attorney ad litem appointed to represent the proposed patient or his next of kin, or by the attorney retained by the proposed patient.

Liberty or custody pending hearing

Sec. 4. Pending the hearing on the petition the proposed patient may remain at liberty unless he is already a patient in a mental hospital or is placed under protective custody.

Sufficiency of evidence

Sec. 5. No person shall be committed to a mental hospital under the provisions of this Act except upon the basis of competent medical or psychiatric testimony.

Findings

Sec. 6. (a) The court or the jury, as the case may be, shall determine whether the proposed patient is addicted to narcotics.

(b) The court or jury, as the case may be, shall include in its findings determinations as to whether the proposed patient requires hospitalization or restraint, or both.

(c) The court shall enter on its docket the findings of the court or jury on this issue.

Order for discharge or commitment

Sec. 7. (a) If the court or the jury, as the case may be, finds that the proposed patient is not addicted to narcotics, the court shall enter an order denying the petition and discharging the proposed patient.

(b) If the court or the jury, as the case may be, finds that the proposed patient is addicted to narcotics and should be hospitalized and restrained, the court shall order that the addicted person be committed as a patient to a mental hospital for an indefinite period or until he is discharged by the head of the mental hospital.

New trial

Sec. 8. For good cause shown, the county judge, within two days after entering his order of commitment, may set aside his order and grant a new trial to the person ordered committed. A motion for new trial is not prerequisite to appeal from the order of the county court.

Appeal

Sec. 9. (a) The person ordered committed may appeal the order of commitment by filing written notice thereof with the county court within 30 days after the order of commitment is entered.

(b) When notice of appeal is filed, the clerk shall immediately send a certified transcript of the proceedings to the district court of the county.

(c) For good cause shown, the county judge may stay the order of commitment pending the appeal upon posting of a bond.

(d) The appeal from the county court shall be by trial de novo in the district court in the same manner as cases appealed from the justice court to the county court. The substantial evidence rule shall not apply. Upon demand by the proposed patient, the trial shall be before a jury, otherwise the trial shall be before the court without a jury. Such cases shall be advanced on the docket and shall be given a preference setting over all other cases.

Authorized places of commitment

Sec. 10. In the order of commitment, the court shall commit the patient to a designated

- (1) state mental hospital upon being advised by the head of the state mental hospital that space is available and that the patient will be admitted,
- (2) private mental hospital, or
- (3) agency of the United States operating a mental hospital.

Commitment to private hospital

Sec. 11. The court may order a patient committed to a private mental hospital at no expense to the state upon:

- (1) application signed by the patient or by his guardian requesting that the patient be placed in a designated private mental hospital at the expense of the patient or the applicant, and
- (2) a written statement by the head of the private mental hospital that the hospital is equipped to accept responsibility for the patient in accordance with the provisions of this Act.

Commitment to federal agency

Sec. 12. (a) Upon receiving written notice from an agency of the United States operating a mental hospital stating that facilities are available and that the patient is eligible for care or treatment therein, the court may order a patient committed to the agency and may place the patient in the custody of the agency for transportation to the mental hospital.

(b) Any patient admitted pursuant to order of a court to any hospital operated by an agency of the United States within or without the state shall be subject to the rules and regulations of the agency.

(c) The head of the hospital operated by such agency shall have the same authority and responsibility with respect to the patient as the head of a state mental hospital.

(d) The appropriate courts of this state retain jurisdiction at any time to inquire into the mental condition of the patient so committed and the necessity of his continued hospitalization.

Transportation of patient

Sec. 13. If the head of the designated hospital advises the court that hospital personnel are available for the purpose, the court may authorize the head of the hospital to transport the patient to the designated mental hospital. Otherwise, the court shall authorize the sheriff to transport the patient to the designated mental hospital.

Duties of clerk

Sec. 14. (a) The court shall direct the clerk of the court to issue a writ of commitment in duplicate directed to the person authorized to transport the patient, commanding him to take charge of the patient and to transport the patient to the designated mental hospital.

(b) The clerk of the county court shall prepare two certified transcripts of the proceedings in the commitment hearing, and shall send one to the Department of Mental Health and Mental Retardation and one to the head of the hospital to which the patient is committed. The clerk shall send with the transcript any available information concerning the medical, social, and economic status and history of the patient and his family.

Attendants; means of transportation

Sec. 15. (a) Every female patient shall be accompanied by a female attendant.

(b) The patient shall not be transported in a marked police or sheriff's car or accompanied by officers in uniform if other means are available.

Receipt for patient

Sec. 16. The head of the mental hospital, upon receiving a copy of the writ of commitment and admitting a patient, shall give the person transporting the patient a written statement acknowledging acceptance of the patient and of any personal property belonging to him and shall file a copy of the statement with the clerk of the committing court.

Protective custody pending hearing

Sec. 17. (a) If in the county court in which a petition for commitment is pending, a certificate is filed showing that the proposed patient has been examined within five days of the filing of the certificate and stating the opinion of the examining physician that the proposed patient is addicted to narcotics and because of his addiction is likely to cause injury to himself or others if not immediately restrained, the judge may order any health or peace officer to take the proposed patient into protective custody and immediately transport him to a designated mental hospital or other suitable place and detain him pending order of the court. Provided, however, the court shall not order the proposed patient into protective custody and transported to a mental hospital until he is advised by the head of the mental hospital that space is available and that the patient will be admitted.

(b) Persons detained in protective custody shall be detained in a mental hospital or other facility deemed suitable by the county health officer.

(c) No person shall be detained in protective custody in a nonmedical facility used for the detention of persons charged with or convicted of a crime except because of and during an extreme emergency and in no case for a period of more than seven days.

(d) The county health officer shall see that persons held in protective custody receive proper care and medical attention pending removal to a mental hospital.

Acts 1969, 61st Leg., p. 1682, ch. 543, eff. Sept. 1, 1969.

Title of Act:

An Act relating to the mandatory commitment and treatment of persons addicted

to the use of narcotics; and declaring an emergency. Acts 1969, 61st Leg., p. 1682, ch. 543.

Art. 5561f. Interstate compact on mental health

Section 1. The Interstate Compact on Mental Health is hereby enacted into law and entered into by this state with all other states legally joining therein in the form substantially as follows:

“The contracting states solemnly agree that:

ARTICLE I

The party states find that the proper and expeditious treatment of the mentally ill and mentally deficient can be facilitated by cooperative action, to the benefit of the patients, their families, and society as a whole. Further, the party states find that the necessity of and desirability for furnishing such care and treatment bears no primary relation to the residence or citizenship of the patient but that, on the contrary, the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and mentally deficient under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such welfare.

ARTICLE II

As used in this compact:

(a) "Sending state" shall mean a party state from which a patient is transported pursuant to the provisions of the compact or from which it is contemplated that a patient may be so sent.

(b) "Receiving state" shall mean a party state to which a patient is transported pursuant to the provisions of the compact or to which it is contemplated that a patient may be so sent.

(c) "Institution" shall mean any hospital or other facility maintained by a party state or political subdivision thereof for the care and treatment of mental illness or mental deficiency.

(d) "Patient" shall mean any person subject to or eligible as determined by the laws of the sending state, for institutionalization or other care, treatment, or supervision pursuant to the provisions of this compact.

(e) "After-care" shall mean care, treatment and services provided a patient, as defined herein, on convalescent status or conditional release.

(f) "Mental illness" shall mean mental disease to such extent that a person so afflicted requires care and treatment for his own welfare, or the welfare of others, or of the community.

(g) "Mental deficiency" shall mean mental deficiency as defined by appropriate clinical authorities to such extent that a person so afflicted is incapable of managing himself and his affairs, but shall not include mental illness as defined herein.

(h) "State" shall mean any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

ARTICLE III

(a) Whenever a person physically present in any party state shall be in need of institutionalization by reason of mental illness or mental deficiency, he shall be eligible for care and treatment in an institution in that state irrespective of his residence, settlement or citizenship qualifications.

(b) The provisions of paragraph (a) of this article to the contrary notwithstanding, any patient may be transferred to an institution in another state whenever there are factors based upon clinical determinations indicating that the care and treatment of said patient would be facilitated or improved thereby. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions thereof. The factors referred to in this paragraph shall include the patient's full record with due regard for the location of the patient's family, character of the illness and probable duration thereof, and such other factors as shall be considered appropriate.

(c) No state shall be obliged to receive any patient pursuant to the provisions of paragraph (b) of this article unless the sending state has given advance notice of its intention to send the patient; furnished all available medical and other pertinent records concerning the patient; given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient if said authorities so wish; and unless the receiving state shall agree to accept the patient.

(d) In the event that the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken in the same order and at the same time that he would be taken if he were a local patient.

(e) Pursuant to this compact, the determination as to the suitable place of institutionalization for a patient may be reviewed at any time and such further transfer of the patient may be made as seems likely to be in the best interest of the patient.

ARTICLE IV

(a) Whenever, pursuant to the laws of the state in which a patient is physically present, it shall be determined that the patient should receive after-care or supervision, such care or supervision may be provided in a receiving state. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state shall have reason to believe that after-care in another state would be in the best interest of the patient and would not jeopardize the public safety, they shall request the appropriate authorities in the receiving state to investigate the desirability of affording the patient such after-care in said receiving state, and such investigation shall be made with all reasonable speed. The request for investigation shall be accompanied by complete information concerning the patient's intended place of residence and the identity of the person in whose charge it is proposed to place the patient, the complete medical history of the patient, and such other documents as may be pertinent.

(b) If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state and the appropriate authorities in the receiving state find that the best interest of the patient would be served thereby, and if the public safety would not be jeopardized thereby, the patient may receive after-care or supervision in the receiving state.

(c) In supervising, treating, or caring for a patient on after-care pursuant to the terms of this article, a receiving state shall employ the same standards of visitation, examination, care, and treatment that it employs for similar local patients.

ARTICLE V

Whenever a dangerous or potentially dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate authorities within and without the jurisdiction of the escape in a manner reasonably calculated to facilitate the speedy apprehension of the escapee. Immediately upon the apprehension and identification of any such dangerous or potentially dangerous patient, he shall be detained in the state where found pending disposition in accordance with law.

ARTICLE VI

The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the patient, shall be permitted to transport any patient being moved pursuant to this compact through any and all states party to this compact, without interference.

ARTICLE VII

(a) No person shall be deemed a patient of more than one institution at any given time. Completion of transfer of any patient to an institution in a receiving state shall have the effect of making the person a patient of the institution in the receiving state.

(b) The sending state shall pay all costs of and incidental to the transportation of any patient pursuant to this compact, but any two or more party states may, by making a specific agreement for that purpose, arrange for a different allocation of costs as among themselves.

(c) No provision of this compact shall be construed to alter or affect any internal relationships among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(d) Nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person,

For Annotations and Historical Notes, see V.A.T.S.

agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to any provision of this compact.

(e) Nothing in this compact shall be construed to invalidate any reciprocal agreement between a party state and a non-party state relating to institutionalization, care or treatment of the mentally ill or mentally deficient, or any statutory authority pursuant to which such agreements may be made.

ARTICLE VIII

(a) Nothing in this compact shall be construed to abridge, diminish, or in any way impair the rights, duties, and responsibilities of any patient's guardian on his own behalf or in respect of any patient for whom he may serve, except that where the transfer of any patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, any court of competent jurisdiction in the receiving state may make such supplemental or substitute appointment and the court which appointed the previous guardian shall upon being duly advised of the new appointment, and upon the satisfactory completion of such accounting and other acts as such court may by law require, relieve the previous guardian of power and responsibility to whatever extent shall be appropriate in the circumstances; provided, however, that in the case of any patient having settlement in the sending state, the court of competent jurisdiction in the sending state shall have the sole discretion to relieve a guardian appointed by it or continue his power and responsibility, whichever it shall deem advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in the sending state in lieu of making a supplemental or substitute appointment.

(b) The term "guardian" as used in paragraph (a) of this article shall include any guardian, trustee, legal committee, conservator, or other person or agency however denominated who is charged by law with power to act for or responsibility for the person or property of a patient.

ARTICLE IX

(a) No provision of this compact except Article V shall apply to any person institutionalized while under sentence in a penal or correctional institution or while subject to trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, said person would be subject to the incarceration in a penal or correctional institution.

(b) To every extent possible, it shall be the policy of states party to this compact that no patient shall be placed or detained in any prison, jail or lockup, but such patient shall, with all expedition, be taken to a suitable institutional facility for mental illness or mental deficiency.

ARTICLE X

(a) Each party state shall appoint a "compact administrator" who, on behalf of his state, shall act as general coordinator of activities under the compact in his state and who shall receive copies of all reports, correspondence, and other documents relating to any patient processed under the compact by his state either in the capacity of sending or receiving state. The compact administrator or his duly designated representative shall be the official with whom other party states shall deal in any matter relating to the compact or any patient processed thereunder.

(b) The compact administrators of the respective party states shall have power to promulgate reasonable rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE XI

The duly constituted administrative authorities of any two or more party states may enter into supplementary agreements for the provision of any service or facility or for the maintenance of any institution on a joint or cooperative basis whenever the states concerned shall find that such agreements will improve services, facilities, or institutional care and treatment in the fields of mental illness or mental deficiency. No such supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

ARTICLE XII

This compact shall enter into full force and effect as to any state when enacted by it into law and such state shall thereafter be a party thereto with any and all states legally joining therein.

ARTICLE XIII

(a) A state party to this compact may withdraw therefrom by enacting a statute repealing the same. Such withdrawal shall take effect one year after notice thereof has been communicated officially and in writing to the governors and compact administrators of all other party states. However, the withdrawal of any state shall not change the status of any patient who has been sent to said state or sent out of said state pursuant to the provisions of the compact.

(b) Withdrawal from any agreement permitted by Article VII(b) as to costs or from any supplementary agreement made pursuant to Article XI shall be in accordance with the terms of such agreement.

ARTICLE XIV

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Sec. 2. Pursuant to said compact, the governor is hereby authorized and empowered to designate an officer who shall be the compact administrator and who, acting jointly with like officers of other party states, shall have power to promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator is hereby authorized, empowered and directed to cooperate with all departments, agencies and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or of any supplementary agreement or agreements entered into by this state thereunder.

Sec. 3. The compact administrator is hereby authorized and empowered to enter into supplementary agreements with appropriate officials of other states pursuant to Articles VII and XI of the compact. In the event that such supplementary agreements shall require or contemplate the use of any institution or facility of this state or require or contemplate the provision of any service by this state, no such agreement shall have force or effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 4. The compact administrator, subject to the approval of the Comptroller of Public Accounts, may make or arrange for any payments necessary to discharge any financial obligations imposed upon this state by the compact or by any supplementary agreement entered into thereunder.

Sec. 5. The compact administrator is hereby directed to consult with the immediate family of any proposed transferee and, in the case of a proposed transferee from an institution in this state to an institution in another party state, to take no final action without approval of the district court of the district in which the proposed transferee resides.

Sec. 6. Duly authorized copies of this Act shall, upon its approval be transmitted by the secretary of state to the governor of each state, the attorney general and the Administrator of General Services of the United States, and the Council of State Governments.

Acts 1969, 61st Leg., p. 987, ch. 316, eff. Sept. 1, 1969.

Title of Act:

An Act relating to the adoption of the Interstate Compact on Mental Health; providing for the appointment of a compact administrator; and declaring an emergency. Acts 1969, 61st Leg., p. 987, ch. 316.

Art. 5561g. Building and improvement program

Section 1. Upon the effective date of this Act the Texas Department of Mental Health and Mental Retardation and the Texas Youth Council shall have the power, authority, and duty to design, construct, equip, furnish, and maintain buildings and improvements heretofore or hereafter authorized by law at facilities under their respective jurisdictions. These state agencies may employ architects or engineers, or both, to prepare plans and specifications and to supervise such construction and improvements and shall promulgate rules and regulations in conformity with this Act and applicable provisions of other law relating to the award of contracts for the construction of buildings and improvements. Such rules and regulations shall provide for the award of contracts for the construction of buildings and improvements to the qualified bidder making the lowest and best bid. No construction contract shall be awarded for a sum in excess of the amount of funds available for such project and the successful bidder shall be required to give bond payable to the State of Texas equal to the amount of his bid conditioned upon the faithful performance of the contract. The department and council shall have the right to reject any and all bids submitted.

Sec. 2. The state agencies to which this Act applies may waive, suspend, or modify any provision of this Act which might be in conflict with any federal statute or any rule, regulation, or administrative procedure of any federal agency where such waiver, suspension, or modification shall be essential to the receipt of federal funds for any project. In the case of any project wholly financed from federal funds, any standards required by the enabling federal statute or required by the rules and regulations of the administering federal agency shall be controlling.

Sec. 3. From the effective date of this Act until September 1, 1969, the State Building Commission shall provide, under interagency contracts with the department and the council, professional, technical and clerical employee services to the department and the council necessary to enable the department and the council to carry out the functions required of each of them by this Act. Reimbursement to the State Building Commission for costs incurred in rendering these services may be paid by the department out of funds appropriated to it for construction purposes and by the council out of funds appropriated to it for construction purposes. On or before the first working day of the fiscal year beginning September 1, 1969, all files, records, documents, equipment, furnishings, and personal property which was transferred to the State Building Commission by the

Texas Department of Mental Health and Mental Retardation pursuant to Subsection (G), Section 5, Chapter 455, Acts of the 59th Legislature, Regular Session, 1965 (Article 678f, Vernon's Texas Civil Statutes), shall be returned to the department. All files, records, and documents dealing with facilities of the Texas Youth Council shall on or before that date be transferred to the Texas Youth Council. Effective September 1, 1969, the department and the council shall, subject to the provisions of the General Appropriations Act and such other general laws as may apply, employ professional, technical, and clerical personnel to carry out the design and construction functions required by this Act. In selecting such personnel the department and the council shall give first preference to persons employed at that time by the State Building Commission who are assigned and working on projects at facilities of the department and the council respectively.

Acts 1969, 61st Leg., p. 2696, ch. 881, emerg. eff. June 21, 1969.

Title of Act:

An Act relating to the design and construction of buildings and improvements at facilities of the Texas Department of Mental Health and Mental Retardation and

the Texas Youth Council; providing for severability; providing for repeal of conflicting statutes; and declaring an emergency. Acts 1969, 61st Leg., p. 2696, ch. 881.

TITLE 93—MARKETS AND WAREHOUSES

CHAPTER TWO—WAREHOUSES AND WAREHOUSEMEN

Art.
5577b. Grain warehouses and warehousemen [New].

Art. 5571. Cotton under lien

No person, firm, or corporation which subsequently buys, sells, or deals in any way with negotiable warehouse receipts issued by any public warehouseman to evidence cotton stored in a public warehouse or which subsequently buys, sells, or deals in any way with such cotton, shall be liable for conversion of said cotton because of the existence of any lien or encumbrance on said cotton in the absence of actual knowledge of such lien or encumbrance at the time of the claimed conversion.

Amended by Acts 1969, 61st Leg., p. 2334, ch. 789, § 1, eff. Sept. 1, 1969.

Art. 5577b. Grain warehouses and warehousemen

Title

Section 1. This Act shall be cited as the Texas Grain Warehouse Act.

Definitions

Sec. 2. For the purpose of this Act:

(a) "Commissioner" means the Commissioner of Agriculture of the State of Texas.

(b) "Persons" means any individual, corporation, two or more persons having a joint or common interest, or other legal or commercial entity.

(c) "Grain" means wheat, grain sorghum, corn, oats, barley, rye, soybeans, and any other grain, peas or beans upon which federal grain standards are established. The commissioner may, by appropriate regulation, include field seed within this definition.

(d) "Public grain warehouse," hereinafter referred to as warehouse, means any building, bin, or similar structure used for receiving, storage, shipment or handling of grain for hire, or for purchase and sale of grain, or of grain on which payment is deferred. Providing, however, that nothing herein shall bring within the definition of public grain warehouse, any person, firm, or corporation whose primary business is manufacturing of or sale at retail of manufactured grain. Further, providing that any person, firm, or corporation which receives grain, with the intent of ultimately using such grain for planting seeds, shall not be within the definition of a public grain warehouse in this Act, unless such person, firm, or corporation, in writing, requests of the Commissioner of Agriculture to be licensed as a public grain warehouse.

(e) "Warehouseman" means any person engaged in the business of operating a public grain warehouse as herein defined.

(f) "Depositor" means any person who deposits grain in a warehouse for storage, handling, or shipment, or who is the owner or legal holder of any outstanding receipt, or who is lawfully entitled to possession of the grain.

(g) "Receipt" means a negotiable warehouse receipt issued by a warehouseman licensed under this Act.

(h) "Scale weight ticket", hereinafter referred to as ticket, means a load slip other than a receipt, given depositor by a warehouseman

licensed under this Act, upon initial delivery of the grain to the warehouse. Such ticket shall be nonnegotiable.

(i) "License" includes any and all renewals and amendments thereof unless the context clearly indicates the contrary.

(j) "Storage grain" includes any grain received in any public warehouse, as in this Act defined, located in this state, and same is not purchased by the lessee, owner or manager of such warehouse, such grain shall be considered stored grain.

Powers and duties of the commissioner

Sec. 3. (a) The commissioner shall administer this Act and in its administration is authorized, in addition to any other powers conferred by this Act, to investigate the storing, shipping and handling of grain and complaints with respect thereto, including the inspection of any warehouse, the grain stored therein and all property and records pertaining thereto; to determine whether warehouses for which licenses are applied for or have been issued are suitable for proper storage, shipping and handling of grain which are, or are expected to be stored, handled or shipped; to require such reports as may be determined are necessary in the administration of this Act; to require a licensed warehouseman to terminate storage, shipping and handling agreements upon revocation of his license, to prescribe all forms, within the limitations set forth in this Act, including the form of receipts, bonds and application for licenses; and to promulgate all necessary rules and regulations for carrying out the provisions of the Act.

(b) The commissioner shall have power in the conduct of any hearing authorized to be held by him to examine, or cause to be examined, under oath, any person, and to examine or cause to be examined, books and records of any licensee; to hear testimony and take proof material for his information in the discharge of his duties under this Act; to administer or cause to be administered oaths; and for any such purpose to issue subpoenas, to require the attendance of witnesses and the production of books which shall be effective in any part of this state; and any district or county court, or any judge thereof, either in term time or in vacation, may by order duly entered require the attendance of witnesses and the production of relevant books and records subpoenaed by the commissioner, and the court or judge may compel obedience to its or his order by proceedings for contempt.

(c) The commissioner is authorized to appoint and fix duties and compensation of inspectors and such other personnel and provide such equipment as may be necessary to assist him in enforcing the provisions of the Act.

License required

Sec. 4. (a) No person shall operate a warehouse without first having obtained a license in his name covering such warehouse from the commissioner or continue to operate such warehouse after any such license has been revoked or suspended, except as provided in Section 14 hereof.

(b) All warehouses licensed under a single license shall be treated as a single warehouse for the purpose of this Act, including issuance of receipts, and receipt and shipment of grain. However, any part may be reserved and designated "not for public use", upon application to and approval of the commissioner.

(c) All warehouses owned or controlled by the warehouseman located in close proximity on the same general location may be considered as one unit for the purpose of determining the amount of bond and be included in the license.

Application for license and renewal: fees

Sec. 5. (a) A separate application for each license, renewal or amendment thereof shall be filed with the commissioner at such times, on such forms, and containing such information as shall be prescribed by the commissioner.

(b) Any application for a license, or renewal thereof, shall be accompanied by a license fee of \$10.00 for each license.

(c) No licensed warehouseman shall make use of any increased warehouse capacity without first obtaining approval of the commissioner.

Issuance of license

Sec. 6. The commissioner is authorized to issue and amend a license, or renewal thereof, upon approval of the bond and insurance filed by the applicant, upon determination that the warehouse covered by such application is suitable for the proper storage of grain and upon determination that the applicant has complied with the provision of this Act and regulations promulgated thereunder.

Bond requisites

Sec. 7. (a) Each applicant for a license to conduct a warehouse under this Act shall, as a condition to the granting thereof, file or have on file with the commissioner, a bond, running to the State of Texas, executed by the applicant as principal, and by a corporate surety licensed to do business in the State of Texas, as surety.

(b) Such bond shall: (1) be in such form and contain such terms and conditions as the commissioner shall prescribe; (2) be conditioned upon the faithful performance of all obligations of a licensed warehouseman under the terms of this Act and regulations hereunder from the effective date of the bond until the license is revoked or the bond is cancelled as provided in this Act, whichever occurs first; and (3) be further conditioned upon the faithful performance from the effective date of the bond and thereafter, whether or not said warehouse remains licensed under this Act, of such obligations as a warehouseman under contract with depositors of grain in the warehouse as exists on the effective date of the bond or are thereafter assumed prior to the time the license of the warehouseman is revoked or the bond is cancelled as provided herein, whichever occurs first; and (4) in an amount of bond to be that the net worth of the company shall be the equivalent of 15¢ per bushel of the storage capacity, and the bond shall be not less than 15¢ per bushel on the first million bushels; 10¢ per bushel on the second million bushels; 5¢ per bushel on all capacity above two million bushels, the bond not to be less than \$10,000.00 nor more than \$500,000.00. In the event the net worth of the company is less than 15¢ per bushel based on storage capacity, then a deficiency bond shall be established for the difference in addition to the above mentioned bond. Continuance certificates or renewal certificates shall be acceptable for reissuance of warehouse license.

(c) The applicant may give a single bond meeting the requirements of this Act and all licensed warehouses operating by him shall be deemed as one warehouse for the purpose of this bond.

(d) The total and aggregate liability of the surety on any bond required by this Act shall be limited to the amount specified in the bond.

Action by depositor upon bond

Sec. 8 (a) If no action upon the bond of a licensed warehouseman is commenced within thirty days after written demand to the commissioner any depositor shall have a right of action upon such bond for the

recovery of all damages suffered by such depositor by reason of the failure of the warehouseman to comply with any condition of his bond.

(b) Recovery under such bond shall be prorated when the claims exceed the liability under such bond: Provided, that it shall not be necessary for any depositor suing on such bond to join other depositors in such suit and the burden of establishing proration shall be on the surety as a matter of defense.

Casualty insurance; recovery for loss

Sec. 9. (a) Each applicant for a license to conduct a warehouse under this Act shall, as a condition to the granting thereof, file or have on file with the commissioner a certificate of insurance evidencing an effective policy of insurance issued by an insurance company authorized to do business in the State of Texas insuring in the name of the applicant all grain which is or may be in the warehouse for their full market value against loss by fire, internal explosion, lightning, windstorm, cyclone, or tornado.

(b) In case fire, internal explosion, lightning, windstorm, cyclone or tornado destroys or damages any grain in any licensed warehouse, the warehouseman shall, upon demand by the depositor, and upon being presented with the receipt or other evidence of ownership, make settlement, after deducting the warehouseman's charges and advances, at the market value of the grain based on the value at the average price paid for grain of the same grade and quality on the date of the loss at the location of the warehouse. In event such settlement is not made within 30 days from the date of such demand, the depositor shall have the right to seek recovery from the insurance company.

Additional bond and insurance

Sec. 10. (a) Whenever the commissioner shall determine that a previously approved bond or previously approved insurance is insufficient, he shall require an additional bond or insurance to be given by the warehouseman, conforming with the requirements of this Act.

(b) The commissioner may require a bond from any warehouseman upon suspension, revocation or expiration of his license to protect depositors of grain so long as any receipts remain outstanding or uncanceled.

Cancellation of bond and insurance; suspension of license

Sec. 11. (a) No licensed warehouseman may cancel an approved bond or approved insurance without prior written approval of the commissioner and his approval of a substitute bond or insurance. The surety on a bond may cancel a bond required by this Act only after the expiration of ninety days from the date the surety shall have mailed a notice of intent to cancel, by registered or certified mail, to the commissioner. The surety and the insurance company shall, at the time of giving notice to the commissioner, send a copy of such notice to any other governmental agency requesting it. The commissioner shall promptly, upon receipt of any notice provided for in this section, notify the warehouseman involved.

(b) Notwithstanding any other provisions of this Act, the license of a warehouseman shall automatically be suspended for failure to (1) file a new bond within the ninety day period as provided in this section, or (2) file new evidence of insurance within thirty day period as provided in this section, or (3) maintain at all times a bond and insurance as provided in this Act. Such suspension shall continue as long as any such failure exists.

Warehouse inspections and fees

Sec. 12. (a) Every licensed warehouseman shall, when requested by the commissioner, make a report to the commissioner on the condition, conduct, operation and business of each warehouse he operates and the grain stored therein.

(b) Warehousemen shall permit any representative or agent of the commissioner to enter and inspect each licensed warehouse and its contents and the records related to stored grain thereof, and shall render any assistance necessary in checking any condition or records in connection therewith.

(c) The commissioner shall inspect and collect for one annual examination of each warehouse, unless additional inspections are made at the request of the warehouseman. The inspection fee shall be at the rate of \$1.00 for each ten thousand bushels of licensed storage capacity or fraction thereof of the warehouse inspected. In no case shall such fee be less than \$15.00.

(d) The commissioner may make as many inspections as he deems necessary, provided, that no more than one inspection fee per year is charged the warehouseman.

Suspension, revocation, and denial of license

Sec. 13. The commissioner is authorized to suspend, revoke or deny a license in any case in which he determines, after opportunity for a hearing, that there has been violation of or failure to comply with the requirements of this Act or the regulations promulgated thereunder. The commissioner, whenever he deems necessary, may suspend a license temporarily without hearing, for a period not to exceed thirty (30) days.

Operation after revocation or suspension of license

Sec. 14. (a) When a license is revoked, the warehouseman shall terminate, in the manner prescribed by the commissioner, all arrangements covering storing, shipping or handling of grain in the warehouse, covered by such license, but shall be permitted, under the direction and supervision of the commissioner, to deliver grain previously received.

(b) During any suspension of a license, the warehouseman may, under the direction and supervision of the commissioner, operate the warehouse, but shall not receive grain for storing, shipping or handling during the term of such suspension.

Duty of warehouseman to receive: issuance of tickets and receipts

Sec. 15. (a) Every licensed warehouseman shall, upon receiving grain, issue to the person from whom the grain was received, a serially numbered ticket in a form approved by the commissioner. Such tickets shall be nonnegotiable.

(b) Upon application of the depositor, the warehouseman shall issue to the depositor a warehouse receipt in a form prescribed by the commissioner and in conformity with Chapter 7, Texas Business & Commerce Code. Warehouse receipts issued under this chapter shall be subject to all the provisions of Chapter 7, Texas Business & Commerce Code.

(c) No two receipts bearing the same number shall be issued by the same warehouse during any one calendar year.

Receipt for grain owned by warehouseman

Sec. 16. A licensed warehouseman may issue a receipt for grains owned by him, in whole or part, located in his licensed warehouse. The negotiation, transfer, sale, or pledge of any such receipt shall not be defeated by reason of such ownership.

Obligation of warehouseman to deliver

Sec. 17. The obligation of a warehouseman to deliver grain to a person holding a receipt for grain stored in the warehouse is controlled by Section 7.403, Texas Business & Commerce Code.

Termination of storage at warehouseman's option

Sec. 18. A warehouseman desiring to terminate the storage of any person's grain in his warehouse shall do so according to the provisions of Section 7.206, Texas Business & Commerce Code.

Duplicate receipts

Sec. 19. (a) While a receipt issued under this Act is outstanding and uncanceled by the licensed warehouseman issuing same, no other or further receipt shall be issued for the grain covered thereby or any part thereof, except that in case of lost, stolen or destroyed receipt, the owner shall be entitled to a new receipt shown to be duplicate or substitute for the missing receipt. Such duplicate or substitute receipt shall be endowed with all rights appertaining to the document for which it was issued, and shall state that it is in lieu of the former receipt giving the number and date thereof. The warehouseman shall require an indemnity bond of double the market value of the grain covered by such missing receipt, in such form and with such surety as may be prescribed by the commissioner, as will fully protect all rights under the missing receipt.

(b) No licensed warehouseman shall become a surety on a bond for a lost, stolen, or destroyed receipt.

Records

Sec. 20. (a) Every warehouseman conducting a warehouse under this Act shall keep in a place of safety complete and correct records and accounts pertaining to the licensed warehouse, including records and accounts of all grains received therein and withdrawn therefrom, of all unissued receipts in his possession, of all receipts and tickets issued by him, and of the receipts returned to and cancelled by him. Such records shall be retained by the warehouseman for such period as may be prescribed by the commissioner; provided, that copies of receipts or other evidencing ownership of any grains or liability as a warehouseman shall be retained so long as such documents are outstanding, and any such document which has been cancelled shall be retained for a period of not less than two years from the date of cancellation.

(b) All cancelled receipts shall be clearly marked "cancelled" setting forth date of such cancellation.

(c) All such records and accounts shall be kept separate and distinct from records and accounts of any other business, and shall be subject to inspection by the commissioner at all reasonable times.

Posting of license

Sec. 21. Each licensed warehouseman shall immediately upon receipt of a license post it in a conspicuous place in the office of the licensed warehouse.

Receipt forms; printing; cash bond; recovery

Sec. 22. (a) All receipt forms shall be supplied by the commissioner except where commissioner, in writing, approves the form and gives permission to a warehouseman to have receipts printed. Requests for receipts shall be on forms furnished by the commissioner and shall be accompanied by payment to cover estimated cost of printing, packaging, and shipping, as determined by the commissioner. Where privately printed,

the printer shall furnish the commissioner an affidavit showing the amount of the receipts printed, and the serial numbers, thereof, and the warehouseman shall, at the discretion of the commissioner, furnish a bond in such form and in such amount not to exceed Five Thousand Dollars (\$5,000.00) as determined by the commissioner, to cover any loss resulting from the unlawful use of any receipt.

(b) All receipts remaining unused shall be recovered by the commissioner if the license required by this Act is terminated or suspended.

Remedies of the commissioner on discovery of shortage or refusal to submit to inspection

Sec. 23. (a) Whenever it appears to the satisfaction of the commissioner that a licensed warehouseman has not in his possession sufficient commodities to cover the outstanding receipts and outstanding tickets issued or assumed by him, or when such warehouseman refuses to submit his records or property for lawful inspection, the commissioner may give notice to the warehouseman to comply with all or any of the following requirements:

- (1) Cover such shortage;
- (2) Give additional bond as requested by the commissioner;
- (3) Submit to such inspection as the commissioner may deem necessary.

(b) If such warehouseman fails to comply with the terms of such notice within twenty-four hours from the date of its issuance, or within such further time as the commissioner may allow, the commissioner may petition the district court for the county where the licensed warehouseman's principal place of business is located (as shown by the license application) for an order: Authorizing the commissioner to seize and take possession of all or a portion of any and all grains located in the licensed warehouse or warehouses of such warehouseman, and of all pertinent records and property.

(c) Upon taking possession the commissioner shall give written notice of its action to the surety on the bond of the warehouseman and may notify the holders of records, as shown by the warehouseman's records, of all receipts and tickets issued for grains, to present their receipts or tickets for inspection, or to account for the same. The commissioner may thereupon cause an audit and other investigation to be made of the affairs of such warehouse, especially with respect to the grains in which there is an apparent shortage, to determine the amount of such shortage and compute the shortage as to each depositor as shown by the warehouseman's records, if practicable. The commissioner shall notify the warehouseman and the surety on his bond for the approximate amount of such shortage and notify each depositor thereby affected by sending notice to the depositor's last known address as shown by the records of the warehouseman.

(d) The commissioner shall retain possession obtained under this section until such time as the warehouseman or the surety on the bond shall have satisfied the claims of all depositors, or until such time as the commissioner is ordered by the court to surrender possession.

(e) If during or after the audit or other investigation provided for in this section, or at any other time, the commissioner has evidence that the warehouseman is insolvent or is unable to satisfy the claims of all depositors, the commissioner may petition the district court for the appointment of a receiver to operate or liquidate the business of the warehouseman in accordance with law.

(f) At any time within ten days after the commissioner takes possession, the warehouseman may serve notice upon the commissioner to appear in the district court of the county in which such warehouse is located at a time to be fixed by such court, which shall not be less than

five, nor more than 15 days from the date of the service of such notice, and show cause why such possession should not be restored to the warehouseman.

**Injunction against operating without a license or interfering
with the commissioner**

Sec. 24. If after 15 days notice, the warehouseman refuses to comply with this Act, the commissioner shall apply for, and the courts of this state are vested with jurisdiction to issue, a temporary or permanent injunction against the operation of a warehouse, or the issuance of receipts or tickets, without a license, and against interference by any person with the carrying out by the commissioner, or by any receiver appointed under Section 23 or this Act, of its duties and powers under this Act.

Penalties

Sec. 25. (a) Unless otherwise provided in this Act, every person who shall violate any of the provisions of this Act shall be guilty of a misdemeanor and shall be punished by a fine of not less than One Hundred Dollars (\$100.00) or more than Five Hundred Dollars (\$500.00).

(b) Any person who shall transact any public warehouse business without first procuring a license as herein provided, or who shall continue to transact any such business after such license has been revoked or suspended except as provided in Section 15, shall upon conviction thereof be fined in any sum not less than \$100.00, or not more than \$500.00 for each day such business is carried on.

(c) Every person who issues or aids in issuing a receipt or ticket knowing that the grain for which such receipt or ticket is issued has not been actually received at the licensed warehouse, every person who issues or aids in issuing a duplicate, or additional negotiable receipt for grain knowing that a former negotiable receipt for the same grain or any part thereof is outstanding and uncanceled, except in case of a lost, stolen, or destroyed receipt, as provided in Section 20, and every person who shall fraudulently and without proper authority represent, forge, alter, counterfeit or simulate any license provided for in this Act, shall be guilty of a felony and upon conviction shall be subject to a fine not exceeding Five Thousand Dollars (\$5,000.00) or imprisonment not exceeding five (5) years, or to both.

(d) Except in case of sale or other disposition of the grain in lawful enforcement of the warehouseman's lien or on warehouseman's lawful termination of storage, shipping or handling agreements, or except as permitted by regulations of the commissioner when necessary to effectuate the purpose of this Act:

(1) Every person who delivers any grain out of the warehouse for which a license has been issued, knowing that a negotiable receipt, the negotiation of which would transfer the right of possession of such grain is outstanding and uncanceled, without obtaining the possession of such receipt at or before the time of such delivery shall be subject to a fine not exceeding Five Thousand Dollars (\$5,000.00) or to imprisonment not exceeding five (5) years, or both.

(2) Any person who delivers any commodity out of warehouse for which a license has been issued, knowing that a nonnegotiable receipt or ticket is outstanding and uncanceled, without the prior approval of the person lawfully entitled to delivery under such nonnegotiable receipt or ticket and without such delivery being shown on the appropriate records of the warehouseman, shall be subject to a fine not exceeding Five Thousand Dollars (\$5,000.00) or to imprisonment not exceeding five (5) years, or to both.

For Annotations and Historical Notes, see V.A.T.S.

(e) Every person who fraudulently issues or aids in fraudulently issuing a receipt or ticket knowing that it contains any false statement shall be subject to a fine not exceeding Five Thousand Dollars (\$5,000.00) or to imprisonment not exceeding five (5) years.

(f) Every person who deposits grain to which he has not title, or upon which there is a lien or mortgage, and who takes for such grain a negotiable receipt which he afterwards negotiates for value with intent to deceive and without disclosing his want of title or the existence of the lien or mortgage, and every person who changes any receipt or ticket subsequent to issuance except for notations by the warehouseman or partial delivery, shall be subject to a fine not exceeding Five Thousand Dollars (\$5,000.00) or to imprisonment not exceeding five (5) years, or to both.

Application limited

Sec. 26. The provisions of this Act shall not apply to any warehouse covered by a license issued under the United States Warehouse Act, and shall not apply to an individual producer-owner who does not receive from others grain for storage or handling for hire.

Invalidation of part of act

Sec. 27. If any clause, sentence, paragraph, or part of this Act shall, for any reason, be adjudged invalid, such judgment, shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in which said judgment shall be returned.

Deposit of fees

Sec. 28. All fees received by the commissioner under this Act shall be deposited to the State Department of Agriculture Grain and Field Seed Warehouse Inspection Fund.

Repeal of conflicting laws

Sec. 29. All laws and parts of laws in conflict herewith are hereby expressly repealed to the extent of conflict.
Acts 1969, 61st Leg., p. 2415, ch. 811, emerg. eff. June 14, 1969.

Title of Act:

An Act relating to the operation of grain warehouses and warehousemen; providing for supervision and licensing of grain ware-

houses and warehousemen by the Commissioner of Agriculture of Texas; and declaring an emergency. Acts 1969, 61st Leg., p. 2415, ch. 811.

TITLE 94—MILITIA—SOLDIERS, SAILORS AND MARINES

Chap.

Art.

5A. Security Personnel [New]

5891A—1

CHAPTER THREE A—MISCELLANEOUS PROVISIONS

Art.

5890e. State of emergency; police power;
use of militia [New].

Art. 5890e. State of emergency; police power; use of militia

Legislative intent

Section 1. It is hereby declared to be the legislative intent to recognize the Governor's broad power of action in the exercise of the police power of the state to provide adequate control over persons and conditions during such periods of impending or actual public crisis or disaster. It is also recognized that local governmental units may need to take emergency action during such time of impending and actual crisis and it is the legislative intent to provide the means whereby such local units of government may take steps to protect the public's lives and property, and maintain the operation of the government. The provisions of this Act shall be broadly construed to effectuate this purpose.

Definitions

Sec. 2. The following terms are defined for the purposes of this Act:

(a) "Orders," "rules," and "regulations" shall mean directives reasonably calculated to control effectively and terminate the crisis, disaster, rioting, catastrophe, or similar public emergency.

(b) "Promulgate" shall mean to announce publicly.

(c) "Any action" shall mean such measures as shall be reasonably calculated effectively to control and terminate the crisis, disaster, rioting, catastrophe, or similar public emergency.

(d) "Militia" shall mean the Active and Reserve Militia as defined by Article 5765, Revised Civil Statutes of Texas, 1925.

Proclamation; orders, rules and regulations; duration

Sec. 3. During time of riot or unlawful assembly by three or more persons acting together by use of force or violence or if a clear and present danger exists of the use of force or violence, or during time of natural disaster or man-made calamity, the Governor may proclaim a state of emergency and designate the area involved upon the application of the chief executive officer of a county, city, or local municipality; or upon the application of the governing body of a county, city, or local municipality. Following such proclamation, the Governor may promulgate such reasonable orders, rules, and regulations as he deems necessary to protect life and property, or to bring the emergency situation within the affected area under control, after reasonable notice of such orders, rules, and regulations is given in a paper of general circulation or through television or radio serving the affected area or by circulating notice or by posting signs at conspicuous places within the affected area. Such orders, rules, and regulations may provide for the control of traffic, including public and private transportation, within the affected area; designation of specific zones within the area in which, under necessitous circumstances, the occupancy and use of build-

For Annotations and Historical Notes, see V.A.T.S.

ings and vehicles may be controlled, control of the movement of persons or vehicles into, within, or from those designated areas; control of places of amusement, or assembly, and of persons on public streets and thoroughfares; establishment of curfews; control of the sale, transportation, and use of alcoholic beverages and liquors; control of the sale, carrying, and use of firearms or other dangerous weapons and ammunition; and the control of the storage, use, and transportation of explosives or inflammable materials or liquids deemed to be dangerous to public safety. Such orders, rules, and regulations shall be effective from the time and in the manner prescribed in such orders, rules, and regulations and shall be made public prior to such time as provided herein. Such orders, rules, and regulations may be amended, modified, or rescinded, in like manner, from time to time by the Governor throughout the duration of the emergency, but in any event shall cease to be in effect 72 hours from the time of the proclamation, unless proclaimed for a shorter period or terminated at an earlier time by proclamation of the Governor. Such state of emergency, and all powers incident thereto, may be extended by proclamation of the Governor for as many successive like periods of not in excess of 72 hours each as may be reasonably necessary to protect the health, life, and property of the affected area and its inhabitants.

Duties of law enforcement agencies

Sec. 4. When the Governor has issued a proclamation declaring that a state of emergency exists, it shall be the duty of all the law enforcement bodies of this state, whether state, county, city, or municipal, to cooperate in any manner requested by the Governor or his designated representative. It shall also be their duty to allow the use of such equipment and facilities as they may possess when the use is required by the Governor or his designated representative, provided that such use shall not substantially interfere with the normal duties of the law enforcement agency, if the agency is not located within an area designated by the Governor as an emergency area. It shall be the duty of any county, city, or municipal law enforcement agency to notify the Director of the Department of Public Safety in the event the local agency receives notice of any threatened or actual disturbance which indicates the possibility of serious domestic violence.

Militia aid to local law enforcement agencies

Sec. 5. The chief executive officer of any county, city or municipality, or any governing body thereof, may request the Governor to provide militia forces to help bring under control conditions existing within their jurisdiction with which, in their judgment, their law enforcement agencies cannot cope without additional personnel. Upon receipt of such a request, the Governor may issue his order to any commander of any unit of the State Military Forces of this state to appear at the time and place directed by the Governor to aid the civil authorities. When such troops have appeared at the appointed place, the commanding officer thereof shall obey and execute such general instructions, which shall be in writing, if practicable, otherwise verbal instructions may be given in the presence of two or more credible witnesses, as he may there and then receive from the civil authorities charged by law with the suppression of riot, the preservation of public peace and the protection of life and property; provided, however, the commanding officer of the State Military Forces shall exercise his discretion as to the proper method of practically accomplishing the instructions received.

Ordinances providing for declaration of state of emergency

Sec. 6. Any city or town, including home-rule cities and those operating under the general law or special charters shall have the

power to provide by ordinance, or by other orders of its governing body, for the declaration of a state of emergency during the time of riot or unlawful assembly by three or more persons acting together by use of force or violence, or if a clear and present danger exists of the use of force or violence, or during time of natural disaster or man-made calamity.

Local powers during state of emergency

Sec. 7. Such cities or towns shall have full power and authority to provide by ordinance for the exercise of all powers reasonably necessary to protect the health, security, safety, peace, life, and property of the city, and its inhabitants, during the time of such civil emergency. Specifically, but not in limitation of said powers which said cities may exercise said cities may provide, after reasonable notice of such ordinances is given in a paper of general circulation or through television or radio serving the affected area or by circulating notice or by posting signs at conspicuous places within the affected area, the following:

(a) Imposition of a general or limited curfew regulating or prohibiting any person or persons from being or remaining, or loitering or congregating on any street, alley, park, public property; or any other place where they have no right or authority to be during said curfew.

(b) Limitation or prohibition of the sale or dispensing of beer, wine, liquor, and any and all other alcoholic beverages.

(c) Limitation or prohibition of the sale or dispensing of gasoline or other liquid flammable or combustible products, dynamite or other explosives, and firearms or ammunition.

(d) Limitation upon or prohibition against the operation of any establishment selling, distributing, dispensing, or giving away any of the items enumerated in Subparagraphs (a), (b) and (c) hereinabove.

Duration of local state of emergency

Sec. 8. The declaration of a state of emergency by any city or town as provided for in this statute shall automatically terminate at the end of 72 hours from the time of declaration of said state of emergency, unless declared for a shorter period or terminated at an earlier time by the governing body of said city or town. Such state of emergency, and all powers incident thereto may be extended by the governing body of said city or town for as many successive like periods of not in excess of 72 hours each as may be reasonably necessary to protect the health, life, and property of the city and its inhabitants.

Subordination of local powers

Sec. 9. Action of any city or town under the provision of Sections 6, 7, or 8 shall be subject to action of the Governor under the provisions of Sections 3, 4, and 5.

Violations

Sec. 10. Any violation of the provisions of this Act or any orders, rules, or regulations or ordinances promulgated hereunder shall be punishable as a misdemeanor and shall subject the offender to a fine of not more than \$200 or not more than 60 days incarceration, or both, upon conviction thereof.

Repealer

Sec. 11. All laws in conflict herewith are hereby repealed to the extent of such conflict.

Severability

Sec. 12. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect

For Annotations and Historical Notes, see V.A.T.S.

other provisions or applications of this Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are declared to be severable. If any clause, sentence, paragraph, or section of this Act shall, for any reason, be adjudged by any court of competent jurisdiction to be unconstitutional and invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or section thereof so found unconstitutional and invalid.

Acts 1969, 61st Leg., p. 2658, ch. 877, emerg. eff. June 21, 1969.

Title of Act:

An Act granting to the Governor or any city or town the power, under stated conditions, to declare a state of emergency, to provide for the exercise of all powers reasonably necessary to protect the health, security, safety, peace, life, and property of the state or city, their inhabitants, including the imposition of a general or limited curfew, limitation or prohibition of sale, carrying, use, or dispensing of cer-

tain items, limitation upon or prohibition against operation of certain establishments; limiting the term of such state of emergency and providing for the extension thereof; providing for the use of the militia under certain circumstances; repealing all laws in conflict; providing for severance of any portion of this Act that is held invalid; and declaring an emergency. Acts 1969, 61st Leg., p. 2658, ch. 877.

CHAPTER FIVE A—SECURITY PERSONNEL [NEW]

Art.

5891A—1. Security officers.

Art. 5891A—1. Security officers

a. The governing boards of private institutions of higher education, including private junior colleges, are authorized to employ and commission campus security personnel for the purpose of enforcing the law of this state on the campuses of private institutions of higher education. Any officer commissioned under the provisions of this Act is vested with all the powers, privileges, and immunities of peace officers while on the property under the control and jurisdiction of the respective private institution of higher education or otherwise in the performance of his assigned duties. Any officer assigned to duty and commissioned shall take and file the oath required of peace officers, and shall execute and file a good and sufficient bond in the sum of \$1,000, payable to the Governor, with two or more good and sufficient sureties, conditioned that he will fairly, impartially, and faithfully perform the duties as may be required of him by law. The bond may be sued upon from time to time in the name of the person injured until the whole amount is recovered.

b. The governing boards of private institutions of higher education are authorized to hire and pay on a regular basis law-enforcement officers commissioned by an incorporated city. Such officers shall be under the supervision of the hiring institution, but shall be subject to dismissal and disciplinary action by the city. An incorporated city is authorized to contract with a private institution of higher education for the use and employment of its commissioned officers in any manner agreed to, provided that there is no expense incurred by the city.

Acts 1969, 61st Leg., p. 2523, ch. 844, § 3, emerg. eff. June 18, 1969.

TITLE 95—MINES AND MINING

Art. 5920. Bath facilities

The operator, owner, lessee or superintendent of every coal mine in this State employing ten or more men shall provide a suitable building convenient to the principal entrance of such mine, for the use of persons employed in and about said mine, for the purpose of washing themselves and changing their clothing when entering or leaving the mine. Such building shall be provided with proper light and heat, with a supply of hot and cold water and shower baths, and with properly constructed individual lockers for the use of such employees. The employees shall furnish their own towels, soap and locks for their lockers, and shall exercise control over and be responsible for all property by them left in such house. No operator, owner, lessee or superintendent or company, its officers or agents, maintaining such a bath house at his or its mine as required herein shall be liable for the loss or destruction of any property left at or in said house. The Commissioner of Labor Statistics of the State of Texas shall enforce the provisions of this article.

Amended by Acts 1969, 61st Leg., p. 1184, ch. 380, § 1, eff. Sept. 1, 1969.

TITLE 96—MINORS—REMOVAL OF DISABILITIES OF**Art. 5921b. Non-resident minors; classification; requisites of removal**

Non-resident minors, owners of real property interests in this State, along with applicants for appointment as peace officers in this State, where it shall appear to their material advantage, and who come within one or the other of the following cases, to-wit: (1) who have had their disabilities of minority removed by decree of a court of competent jurisdiction in the State of their residence; (2) who, by the laws of such State are of legal age though not yet twenty-one years of age; (3) who are applicants for appointment as peace officers in this State, in which case his residence shall be the county in which he applies for appointment, may have their disabilities of minority removed in this State and they shall be held for all legal purposes to be of full age. The word "State," as used in this Article and in Articles 5922a and 5923a, applies to all of the United States and includes any territory or territorial possessions of the United States which is a legal place of residence of such non-resident minor.

Amended by Acts 1969, 61st Leg., p. 2522, ch. 844, § 1, emerg. eff. June 18, 1969.

Art. 5922a. Non-resident minors; petition and hearing

Non-resident minors who may desire to have their disabilities of minority removed in this State shall appear in person in the court in which the petition seeking relief is filed. In all cases the petition for removal shall state the grounds relied on, whether the parents are living or dead, and the name and residence of the minor and of each living parent. It shall be sworn to by the father of said minor, or by the mother if the father be dead or incapacitated; or, if both parents are dead or incapacitated, by any other credible person cognizant of the facts. The petition shall be filed in the District Court of the county in this State in which any real property interest of the minor is situated or any county in this State where such minor has on file an application for appointment as a peace officer, and a hearing had as in the case of resident minors. If there be more than one county within such district, the Judge of said court may hold such hearing and remove the disabilities of such minor in any county within the district wherein he may be holding court, or may be found.

Petitions filed by minors falling in Class (1) shall have attached a complete transcript of the proceedings by which the disabilities of the applicant have been removed, verified by the dual certificates of the Judge and clerk of the court in which said disabilities were removed; petitions for applicants falling in Class (2) shall be supported by a birth certificate or other adequate proof of the applicant's age and by copy of the applicable law, certified to by the Secretary of State, or one holding a similar office, of the petitioner's state of residence; those falling within Class (3) shall be supported by the proof required for an applicant who is a resident of this State and coming within the terms of Article 5921.

Amended by Acts 1969, 61st Leg., p. 2522, ch. 844, § 2, emerg. eff. June 18, 1969.

TITLE 96B—GIFTS TO MINORS

Art. 5923—101. Texas Uniform Gifts to Minors Act

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Duties and powers of custodian

Sec. 4.

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(f) The custodian may sell, exchange, convert or otherwise dispose of custodial property in the manner, at the time or times, for the price or prices and upon the terms he deems advisable, provided that a custodian may not acquire as custodial property any property other than securities or money, life or endowment insurance policies or annuity contracts. He may vote in person or by general or limited proxy a security, policy or contract, which is custodial property. He may consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution or liquidation of an issuer of a security which is custodial property, and to the sale, lease, pledge or mortgage of any property by or to such an issuer, and to any other action by such an issuer. On dissolution or liquidation of an issuer of a security which is custodial property, the custodian may receive the minor's share of any property resulting from such dissolution or liquidation and retain and manage it as custodial property except that he cannot sell or exchange it for property not authorized to be acquired as custodial property. He may execute and deliver any and all instruments in writing which he deems advisable to carry out any of his powers as custodian.

Sec. 4(f) amended by Acts 1965, 59th Leg., p. 378, ch. 183, § 5, eff. Aug. 30, 1965; Acts 1969, 61st Leg., p. 2056, ch. 710, § 1, emerg. eff. June 12, 1969.

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TITLE 99—NOTARIES PUBLIC

Art. 5949. [6002] [3503] Notary public

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Eligibility

2. To be eligible for appointment as Notary Public for any county, a person shall be a resident citizen of this state and at least twenty-one (21) years of age, and either a resident of the county for which he is appointed, or shall maintain his principal place of business or of employment in such county; provided that any person may be appointed, as hereinabove set out, in only one county in this state at the same time; provided further that where such person resides within the limits of a county with a population of more than fifty thousand (50,000), according to the last preceding federal census, containing an incorporated city, town or village partially located in another county, said person may be appointed a Notary Public for either of such counties; provided further that nothing herein shall invalidate any commission as Notary Public which has been issued and is outstanding at the time this Act becomes effective.

Sec. 2 amended by Acts 1969, 61st Leg., p. 816, ch. 272, § 1, eff. Sept. 1, 1969.

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Expiration of term; reappointment; changes of address; dates of reappointment

6. Any qualified Notary Public whose term is expiring may be reappointed by the Secretary of State without the necessity of the county clerk resubmitting his name to the Secretary of State, provided such appointment is made in sufficient time for such Notary Public to be qualified on the expiration date of the term for which he is then serving; and provided that if any such Notary Public has removed his residence, or his principal place of business or employment, to a county or counties other than the one for which he has been appointed, his office in such county or counties shall be automatically vacated and if he desires to act as a Notary Public in such other county or counties, his commission in such county or counties shall be surrendered to the Secretary of State and his name shall be submitted by the clerk of such county or counties as hereinabove provided.

The Secretary of State shall reappoint Notaries Public on May 1 of each odd-numbered year, which reappointment shall be effective June 1 of said year for the next term of office. The County Clerk of each county shall notify such persons, who are reappointed from his or her county, to qualify within the first fifteen (15) days of May of each odd-numbered year which qualifying shall become effective as of June 1 and shall not be effective prior thereto.

Sec. 6 amended by Acts 1965, 59th Leg., p. 182, ch. 74, § 2, eff. April 8, 1965; Acts 1969, 61st Leg., p. 816, ch. 272, § 2, eff. Sept. 1, 1969.

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TITLE 102—OIL AND GAS

NATURAL GAS

Art. 6053—1. Transportation of gas pipeline facilities; safety standards [New].

NATURAL GAS

Art. 6053—1. Transportation of gas and gas pipeline facilities; safety standards

(A) For the purpose of providing state control over safety standards and practices applicable to the transportation of gas and all gas pipeline facilities within the borders of this state to the maximum degree permissible under the federal Natural Gas Pipeline Safety Act of 1968,¹ the Railroad Commission of Texas is hereby expressly granted the power to describe or adopt by regulation safety standards for all such transportation of gas and gas pipeline facilities which are not subject to exclusive federal control, to require record maintenance and reports and to inspect records and facilities to determine compliance with such safety standards, and, from time to time, to make certifications and reports and to take any other requisite action in accordance with Section 5(a) of the Natural Gas Pipeline Safety Act of 1968.

(B) All terms employed in this Article which are defined in the Natural Gas Pipeline Safety Act of 1968 shall have the definition prescribed therein.

(C) The Attorney General is authorized, on behalf of the Railroad Commission, to enforce said safety standards by injunction restraining violations thereof (including the restraint of transportation of gas or the operation of a pipeline facility). Any violation of such safety standards shall further be subject to a civil penalty, payable to the State of Texas, in an amount not to exceed \$1,000 for each such violation for each day that such violation persists, except that the maximum civil penalty shall not exceed \$200,000 for any related series of violations. Any such civil penalty may be compromised by the Attorney General in consideration of the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance after notification of violation.

(D) Nothing in this Article shall be construed to reduce, limit or impair any power heretofore vested by law in any incorporated city, town or village.

Added by Acts 1969, 61st Leg., p. 199, ch. 80, § 1, emerg. eff. April 17, 1969.

¹ 49 U.S.C.A. § 1671 et seq.

Art. 6066d. Liquefied Petroleum Gas Code

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Categories and fees of dealers

Sec. 6. A prospective dealer in LPG may make application to the LPG Division as provided in Section 9 of this Act, for a license to engage in any or all of the following categories of dealers, and the following license fees are hereby fixed and assessed for each such category:

(1) Manufacturers or Fabricators. The manufacture, fabrication, assembly and/or sale of LPG containers, tanks, and/or equipment. The

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license fee for this category shall be One Hundred Dollars (\$100) per annum.

(2) Limited Installers or Repairmen. The installation, service and/or repair of cooking and space heating appliances, excluding water heaters, floor furnaces and central heating units, and excluding the installation of LPG systems of equipment other than an appliance connector approved by the LPG division. The license fee for this category shall be Five Dollars (\$5) per annum.

(3) Wholesalers or Jobbers. Any person who is not a producer or refiner who sells LPG to transporters, industrial consumers, processors, distributors and/or retail dealers. The license fee for this category shall be One Hundred Dollars (\$100) per annum.

(4) Carriers. The transportation only of LPG by carriers for hire or contract. The license fee for this category shall be One Hundred Dollars (\$100) per annum.

(5) General installers and repairmen. The sale, service, installation, and/or repair of containers, tanks, systems, piping, and equipment which utilize LPG, and the service, installation, and/or repair of appliances which utilize LPG. The license fee for this category shall be Twenty-five Dollars (\$25) per annum.

(6) Retail and Wholesale Dealers. The transportation, storage, sale, distribution, and/or delivery of LPG at retail or wholesale, including the sale, service, installation and/or repair of LPG containers, tanks, piping, and/or equipment, and further including the service, installation and/or repair of LPG appliances. The license fee for this category shall be One Hundred Dollars (\$100) per annum.

(7) Carburetors. The installation, service and/or repair of LPG motor fuel carburetion systems and equipment. The license fee for this category shall be Twenty-five Dollars (\$25) per annum.

(8) Bottle Exchanges. The operation of an ICC bottle, filling and/or container exchange including the buying and selling, but not the delivery pickup or other transportation, of ICC bottles or containers. The license fee for this category shall be Twenty-five Dollars (\$25) per annum.

(9) Service Station. The operation of a LPG motor fuel service station only. The license fee for this category shall be Twenty-five Dollars (\$25) per annum.

(10) Municipal Corporations. The operation of a LPG system through mains, meters or pipes by any incorporated city, village or town. The license fee for this category shall be Twenty-five Dollars (\$25) per annum.

(11) Bottle Dealers. The transportation, delivery, and pickup of ICC bottles and/or containers. The license fee for this category shall be One Hundred Dollars (\$100) per annum.

(12) Bottle Installers. The installation and/or connection of ICC bottles and/or containers. The license fee for this category shall be Twenty-five Dollars (\$25) per annum.

Sec. 6 amended by Acts 1969, 61st Leg., p. 1334, ch. 408, § 1, emerg. eff. June 2, 1969.

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TITLE 103—PARKS

1. STATE PARKS BOARD

Art. 6070e. Repealed by Acts 1969, 61st Leg., p. 615, ch. 210, § 1, eff. Sept. 1, 1969

Art. 6070h. Texas Park Development Fund

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Bond issues; resolution; proceeds; interest; form of bonds; registration and approval; replacement bonds

Sec. 4. The department by appropriate action, is hereby authorized from time to time to provide, by resolution of the commission, for the issuance of negotiable bonds in a total aggregate amount not exceeding \$75,000,000. All of such bonds shall be issued on a parity and shall be called "State of Texas Park Development Bonds." The proceeds from the sale of any bond, or bonds, shall be used for the purpose of creating the Texas Park Development Fund provided for in the Constitution. At the option of the department, said bonds may be issued in one or several installments. The bonds of each issue shall bear such date as the department shall select, and shall bear a rate or rates of interest as may be fixed by the department, which interest may, at the option of the department, be payable annually or semi-annually; shall mature serially or otherwise not later than 40 years from their date; and may be made redeemable before maturity, at the option of the department, at such price or prices, and under such terms and conditions as may be fixed by the department in the resolution of the commission providing for the issuance of the bonds. The department shall determine the form of the bonds, including the form of any interest coupons to be attached thereto, and shall fix the denomination or denominations of said bonds and the place or places of the payment of the principal and interest thereon. Said bonds shall be executed on behalf of the department as general obligations of the State of Texas in the following manner: They shall be signed by the chairman and the director, and the seal of the department shall be impressed thereon, and they shall be signed by the Governor and attested by the Secretary of State of the State of Texas with the seal of the State of Texas impressed thereon. The resolution of the commission authorizing the issuance of any installment or series of bonds may prescribe the extent to which facsimile signatures and facsimile seals in lieu of manual signatures and manually impressed seals may be used in executing such bonds and appurtenant coupons. Interest coupons may be signed by the facsimile signatures of the Chairman and the Director. In the event any officer whose signature or facsimile signature appears on any bond, or whose facsimile signature shall appear on any coupon shall cease to be such officer before the delivery of the bond, the signature shall, nevertheless, be valid and sufficient for all purposes the same as if he had remained in office until such delivery had been made. The resolution of the commission may provide for registration of the bonds as to ownership and for successive conversion and reconversion from registered to bearer bonds and vice versa. Before any such bonds so issued are delivered to the purchasers, the record pertaining thereto shall have been examined by the Attorney General of Texas and said records and bonds shall be approved by him. After which approval, the bonds shall be registered in the office of the Comptroller of Public Accounts of Texas. All such bonds, after approval by the Attorney General of Texas, registration by the Comptroller of Public Accounts of Texas, and delivery to the purchasers, shall be incontestable and shall constitute general obligations of the State of Texas. Such bonds having been approved by the Attorney General and registered in the Comptroller's office shall be held, in every action, suit or proceeding

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in which their validity is or may be brought into question, valid and binding obligations of the State of Texas. In every action brought to enforce collection of such bonds or any rights incident thereto, the certificate of approval by the Attorney General and a certificate of registration by the Comptroller, or duly certified copies thereof, shall be admitted and received in evidence as proof of their validity. All bonds issued in accordance with and under the provisions of this Act shall be, and are hereby declared to be negotiable instruments under the laws of this state. The department is fully authorized to provide for the replacement of any bond which might have become mutilated, lost, or destroyed.

Sec. 4 amended by Acts 1969, 61st Leg., p. 2294, ch. 773, § 1, emerg. eff. June 14, 1969.

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Notice of sale of bonds; bids

Sec. 7. When the department shall have determined to sell a series of bonds, it shall be the duty of the department to publish at least one time not less than 10 days before the date of said sale an appropriate notice thereof. Said notice shall be published for such number of times as the department may determine in one or more recognized financial publications of general circulation published within the state and one or more such publications published outside the state. The department shall demand of bidders, other than the administrators of the state funds, that their bids be accompanied by exchange or bank cashier's check for such sum as it may consider adequate to be a forfeit guaranteeing the acceptance and payment for all bonds covered by such bids and accepted by the department. No installment or series of said bonds shall be sold for an amount less than the face value of all of the bonds comprising such installment or series with accrued interest from their date, and all of such bonds shall be sold after competitive bidding to the highest and best bidder. The department shall have the right to reject any and all bids.

Sec. 7 amended by Acts 1969, 61st Leg., p. 2294, ch. 773, § 2, emerg. eff. June 14, 1969.

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Special funds

Sec. 9. For the purposes of administering the moneys provided for in this Act, there are hereby created the following special funds:

(a) The "Texas Park Development Fund," hereinafter called "Development Fund," into which shall be deposited the proceeds derived from the sale of the State of Texas Park Development Bonds, and which fund shall be used for the purpose of acquiring lands for state park sites and for developing said sites as state parks. The expense of issuing bonds shall be considered as part of such costs.

(b) The "Texas Park Development Bonds Interest and Sinking Fund," hereinafter called "Interest and Sinking Fund," to be used exclusively for the purpose of paying principal of and interest on the bonds herein provided as the same mature and exchange and collection charges in connection therewith. Accrued interest received in the sale of any bonds shall be deposited in the Interest and Sinking Fund and the commission may, in the resolution authorizing any series of bonds, provide for the appropriation from the proceeds thereof an amount which, together with any payment for accrued interest received in the sale of such bonds, shall be sufficient to pay interest coupons to mature on such series of bonds within the then current State of Texas fiscal year and to establish such reserves as shall be deemed appropriate by the commis-

sion. All net income derived from entrance or gate fees to state park sites shall also be deposited to the Interest and Sinking Fund.

Sec. 9 amended by Acts 1969, 61st Leg., p. 2294, ch. 773, § 3, emerg. eff. June 14, 1969.

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Investment of moneys in special funds

Sec. 9-C. Moneys in the Development Fund may be invested in obligations specified in Chapter 401, Acts of the 60th Legislature, and said Chapter 401 shall be applicable to such Fund and investments. Moneys in the Interest and Sinking Fund may be invested only in direct obligations of or obligations the principal and interest of which are guaranteed by the United States of America. Income from all such investments shall be deposited into the Interest and Sinking Fund.

Sec. 9-C amended by Acts 1969, 61st Leg., p. 2294, ch. 773, § 4, emerg. eff. June 14, 1969.

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Acts 1969, 61st Leg., p. 2294, ch. 773, which amended sections 4, 7, 9 and 9-C of this article, provided in section 5 that: "If any provision of this Act or the application thereof to any person or circum-

stance shall be held to be invalid or unconstitutional, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby."

6. CITY PARKS

Art. 6081g—1. Home rule cities with population in excess of 60,000 bordering on Gulf of Mexico; islands for park purposes

Application of act; ordinance; suitability of islands

Section 1. The provisions of this Act are applicable to all Home-Rule cities having a population in excess of 60,000 according to the last preceding Federal census and which border on the Gulf of Mexico and within whose boundaries is located any island, part of an island, or islands, suitable for park purposes. The suitability of such island, part of an island, or islands for park purposes shall be conclusively established when the governing body of such city shall have made a finding in an ordinance passed by it that such island, part of an island, or islands is or are suitable for park purposes. This Act shall not apply to any island or peninsula that is not accessible by a public road or common carrier ferry facility, so long as such condition shall exist.

Sec. 1 amended by Acts 1969, 61st Leg., 2nd C.S. p. —, ch. 36, § 1, emerg. eff. Sept. 19, 1969.

Park Board of Trustees; creation by ordinance

Sec. 2. Any such city, for the purpose of acquiring, improving, equipping, maintaining, financing or operating any such public park or park facilities for such city, may by ordinance adopted by the governing body thereof create a board to be designated "Park Board of Trustees", hereinafter sometimes called the "Board." Any such Board shall have the powers authorized in and shall perform the duties specified in this Act.

Sec. 2 amended by Acts 1969, 61st Leg., 2nd C.S. p. —, ch. 36, § 1, emerg. eff. Sept. 19, 1969.

Membership

Sec. 3. The Park Board of Trustees shall be composed of nine members appointed by the governing body of such city, one of whom shall be a member of such governing body. Such trustees shall serve for a term of two years from the date of their appointment and any vacancies shall be filled by appointment of the governing body of such city; provided that five trustees first appointed shall serve for initial terms of two years and four trustees first appointed shall serve for initial terms of

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one year, such initial terms to be designated by the governing body of such city. Each trustee shall serve without compensation but shall be reimbursed for all necessary expenses, including traveling, incurred in the performance of his official duties.

Sec. 3 amended by Acts 1969, 61st Leg., 2nd C.S. p. —, ch. 36, § 1, emerg. eff. Sept. 19, 1969.

Powers and authority

Sec. 7. * * *

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(k) To issue revenue bonds in the name of the Board which shall be payable solely from the revenues of all or any designated part or parts of the properties or facilities under the jurisdiction and control of the Board, for the purpose of acquiring, improving or enlarging such public parks and park facilities. Such bonds may be issued in one or more installments or series by resolutions adopted by the Board without the necessity of an election, shall bear interest at a rate not to exceed the maximum now or hereafter permitted by law, shall mature serially or otherwise within forty (40) years from their date or dates, shall be sold by the Board on the best terms obtainable but for not less than par and accrued interest, shall be executed by the chairman and secretary of the Board in the manner provided for the execution of bonds issued by incorporated cities, shall not be delivered until a transcript of the proceedings authorizing their issuance has been submitted to the Attorney General of Texas and by him approved as to legality and the bonds registered by the Comptroller of Public Accounts of the State of Texas, which approval by the Attorney General of Texas shall render such bonds incontestable except for fraud, and shall be issued upon such terms and conditions in regard to the security, manner, place and time of payment, pledge of designated revenue, redemption before maturity, and the issuance of additional parity or junior lien bonds as the Board shall specify in the resolution or resolutions authorizing the issuance of such bonds; provided that, except as herein otherwise provided, the provisions of Articles 1111 through 1118, Vernon's Texas Civil Statutes, together with all additions and amendments thereof as found in Chapter 10, Title 28, Vernon's Texas Civil Statutes, shall apply to the issuance of revenue bonds hereunder. All bonds issued under the provisions of this Act shall be, and are hereby declared to be, and to have all the qualifications of, negotiable instruments under the Negotiable Instruments Law of the State of Texas, and all such bonds shall be, and are hereby declared to be, legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value when accompanied by all unmatured interest coupons appurtenant thereto.

Sec. 7(k) amended by Acts 1969, 61st Leg., 2nd C.S. p. —, ch. 36, § 1, emerg. eff. Sept. 19, 1969.

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Cumulative effect

Sec. 8. This Act shall be cumulative of all other laws and of all Home-Rule Charter provisions, but this Act shall take precedence in the event of conflict.

Sec. 8 amended by Acts 1969, 61st Leg., 2nd C.S. p. —, ch. 36, § 1, emerg. eff. Sept. 19, 1969.

TITLE 106—PATRIOTISM AND THE FLAG

Art.	Art.
6144—h. Texas Distinguished Service Medal [New].	6145—8. American Revolution Bicentennial Commission [New].
6145—6. State Archeologist; transfer; jurisdiction [New].	6145—9. Antiquities Code [New].
6145—7. Texas Conservation Foundation [New].	

Art. 6144f. Texas Tourist Development Agency

Texas tourist development board

Section 1. (a) The control and management of the Texas Tourist Development Agency is vested in a board of nine members to be known as the Texas Tourist Development Board, hereafter referred to as the board. The members of the board shall be appointed by the governor with the advice and consent of the Senate. In making appointments to the board, the governor shall, as far as possible, attempt to maintain a balanced geographical representation of all parts of the state.

(b) To be qualified for appointment to the board, a person shall be a citizen of the State of Texas and shall be knowledgeable in the field of advertising and promotion.

(c) The members of the Advisory Board of the Texas Tourist Development Agency on the effective date of this Act shall continue in office as members of the Texas Tourist Development Board for the remainder of their terms. The governor shall appoint three additional members to serve on the board and shall designate one appointee to serve until 1971, one appointee to serve until 1973, and one appointee to serve until 1975. Except for the previously specified terms of office, members of the board shall serve for six-year terms. Any vacancy shall be filled by appointment for the unexpired portion of the term.

(d) After the expiration of the term of the current chairman of the board, the board shall elect a new chairman every two years. The board shall enact bylaws, rules, and regulations necessary for the successful management and operation of the Texas Tourist Development Agency. Any action taken by the Texas Tourist Development Agency before the effective date of this Act is still valid and any contracts made by the board before the effective date of this Act shall continue in force until altered by the board. Any funds which were previously appropriated to the Texas Tourist Development Agency before the effective date of this Act shall be transferred to the Texas Tourist Development Board and shall be spent by the board as provided by the Legislature.

(e) A member of the board is not entitled to a salary for duties performed as a member of the board; however, each member is entitled to \$25 for each day he is in attendance at meetings or on authorized business of the board. Each member of the board is also entitled to reimbursement for his actual expenses incurred in performing official duties.

Sec. 1 amended by Acts 1969, 61st Leg., p. 1393, ch. 423, § 1, eff. Sept. 1, 1969.

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Executive director; employment; duties

Sec. 3. (a) The board shall employ an executive director to serve at the pleasure of the board as chief administrative officer of the Texas Tourist Development Agency.

(b) Subject to the approval of the board, the executive director may employ any personnel and consultants on a fee or other basis that are necessary and may secure any equipment that is necessary to accomplish the purposes of this Act.

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(c) In addition to his other duties, the executive director shall keep full and accurate minutes of all transactions and proceedings of the board, and he is the custodian of all of the files and records of the board.

(d) The executive director with the consent of the board may, in the name of the Texas Tourist Development Agency, accept donations and gifts of property and money which may be made to further the purposes of the agency.

Sec. 3 amended by Acts 1969, 61st Leg., p. 1393, ch. 423, § 2, eff. Sept. 1, 1969.

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Art. 6144—h. Texas Distinguished Service Medal

Creation

Section 1. There is hereby created a medal to be known as the Texas Distinguished Service Medal.

Purpose

Sec. 2. The award of the Texas Distinguished Service Medal shall be made in recognition of persons who reside in Texas and who have achieved such conspicuous success while rendering outstanding service to the State of Texas and its citizens as to reflect great credit not only upon themselves, but upon their profession and the State of Texas as a whole.

Awards committee

Sec. 3. (a) A committee to be known as the Texas Distinguished Service Awards Committee shall be appointed by the Governor with the advice and consent of the Senate to consider and approve or reject, by majority vote, recommendations for the award of the Texas Distinguished Service Medal.

(b) The committee shall consist of six members appointed for terms of six years. The initial appointments to the committee shall be made so that two members serve until January 31, 1971, two members serve until January 31, 1973, and two members serve until January 31, 1975. Thereafter members shall serve terms of six years.

(c) The committee shall select one of its members to act as chairman of the committee for a term of one year, or until his successor is selected and has qualified.

(d) Vacancies on the committee shall be filled by appointment of the Governor with the advice and consent of the Senate, for the remainder of the term.

(e) Members of the committee shall serve without pay but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their duties.

(f) No more than five persons shall be eligible to receive the decoration in any one calendar year, except that in exceptional circumstances, additional decorations may be awarded by the Governor if authorized by concurrent resolution of the Legislature of the State of Texas.

Award for prior service

Sec. 4. Not more than 10 awards of the Texas Distinguished Service Medal may be made for achievement attained or service rendered prior to the effective date of this Act.

Recommendations

Sec. 5. It shall be the privilege of any individual having personal knowledge of an achievement or rendition of service believed to merit

the award of the decoration to submit a recommendation in letter form to the committee giving an account of such achievement or service, accompanied by such statements, affidavits, records, photographs, or other material as may be deemed requisite to support and amplify the stated facts.

Presentation

Sec. 6. The presentation of the Texas Distinguished Service Medal to the recipient shall be made by the Governor in an appropriate ceremony.

Design and manufacture

Sec. 7. (a) The decoration shall display the Great Seal of the State of Texas with the words "Distinguished Service Medal" engraved in a circle thereon, and shall be suspended from a bar of red, white, and blue.

(b) The Governor shall approve the design and shall authorize the casting of the medal in any manner he may deem proper. The cost of acquiring the medals shall be charged against funds appropriated by the Legislature to the Governor's office.

Acts 1969, 61st Leg., p. 282, ch. 111, emerg. eff. May 1, 1969.

Title of Act:

An Act providing for the creation and award of the Texas Distinguished Service Medal; and declaring an emergency. Acts 1969, 61st Leg., p. 282, ch. 111.

Art. 6145—5. Preservation of Gethsemane Church and Carrington-Covert House

Section 1. Authority and responsibility for the preservation, for the purposes of this Act, of the structures known as the Gethsemane Church and the Carrington-Covert House and their adjoining grounds, located at Congress and 16th Street on Lots 5, 6, 7, and 8, Outlot 46, Division "E" of the original City of Austin, County of Travis, Texas, and now owned by the State of Texas, shall be vested in the State Historical Survey Committee. All authority and responsibility previously given to the State Building Commission for the preservation of Gethsemane Church shall be terminated.

Sec. 2. The Historical Survey Committee shall maintain the Gethsemane Church, the Carrington-Covert House and their adjoining grounds in a state of repair suitable for the purposes provided in this Act.

Sec. 3. (a) The Historical Survey Committee shall maintain and develop the Gethsemane Church, Carrington-Covert House and their adjoining grounds for the purpose of beautification and cultural enhancement of these properties as a significant Texas historical site, consistent with development of the capitol complex.

(b) The committee shall exercise its discretion in maintaining and developing these properties in accordance with the purposes of this Act.

Sec. 4. (a) The committee shall spend such money as the Legislature may appropriate for the purposes expressed in this Act.

(b) The committee may accept gifts and donations to the Gethsemane Church, the Carrington-Covert House and their adjoining grounds and use the gifts and donations in accordance with all conditions and instructions of the donor which are consistent with this Act.

Acts 1965, 59th Leg., p. 303, ch. 136, eff. Aug. 30, 1965; amended by Acts 1969, 61st Leg., p. 2705, ch. 887, § 1, emerg. eff. June 21, 1969.

For Annotations and Historical Notes, see V.A.T.S.

Art. 6145—6. State Archeologist; transfer; jurisdiction

Section 1. Effective September 1, 1969, the office of the State Archeologist is hereby transferred from the jurisdiction of the State Building Commission to the jurisdiction of the Texas State Historical Survey Committee. All data, reports, supplies, employees, equipment, artifacts and other property used by or pertaining to the office of State Archeologist are hereby transferred from the jurisdiction of the State Building Commission to the jurisdiction of the Texas State Historical Survey Committee.

Sec. 2. The State Archeologist shall have general jurisdiction and supervision over all archeological work, reports, surveys, excavations or archeological programs of the Texas State Historical Survey Committee and of cooperating state agencies. His duties shall include (a) the maintaining of an inventory of significant sites of archeological and historic interest, whether prehistoric or historic; (b) public information and education in the field of archeology and history; (c) conducting surveys and excavations with respect to significant archeological and historic sites in Texas; (d) preparing reports and publications concerning the work of his office; (e) cooperative and contract work in prehistoric and historic archeology with other state agencies, the federal government, state or private institutions, or individuals; (f) maintaining and determining the repository of catalogued collections of artifacts and other materials of archeological and historic interest; and (g) preservation of the archeological and historical heritage of Texas.

Sec. 3. The Texas State Historical Survey Committee is hereby empowered to enter into contracts and cooperative agreements with the federal government, other state agencies, state and private museums and educational institutions, and qualified individuals for prehistoric and historic archeological investigations, surveys, excavations and restorations within the State of Texas.

Acts 1969, 61st Leg., p. 837, ch. 275, eff. Sept. 1, 1969.

Antiquities code, see art. 6145—9.

Title of Act:

An Act transferring the office, equipment, staff, reports, and collections of the State Archeologist from the jurisdiction of the State Building Commission to the jurisdiction of the Texas State Historical

Survey Committee; setting forth the duties and responsibilities of the State Archeologist; providing contractual powers for use by the Texas State Historical Survey Committee; and declaring an emergency. Acts 1969, 61st Leg., p. 837, ch. 275.

Art. 6145—7. Texas Conservation Foundation

Section 1. In order to encourage private gifts of real and personal property or any income therefrom or other interest therein, and to make timely acquisition by purchase or option, of any property for the benefit of, or in connection with, the Texas state system of parks, refuges, and scientific and recreational areas, and thereby to further the conservation of natural, scenic, historical, scientific, educational, inspirational, or recreational resources for future generations of Americans, there is hereby established a charitable and nonprofit corporation to be known as the Texas Conservation Foundation to accept and administer such gifts and to otherwise acquire and hold such property or interests therein, provided, however, that nothing herein contained shall confer the right of eminent domain to the Foundation.

Sec. 2. The Texas Conservation Foundation shall consist of a board having as members the executive director of the Parks and Wildlife Department, the chairman of the Parks and Wildlife Commission, the executive director of the Texas State Historical Survey Committee, and nine interested private citizens of the State of Texas appointed by the Governor of Texas, with the advice and consent of two-thirds of the Senate, two of which private citizens must have a generally recognized and special com-

petence in one or more of the following fields: ecology, biology, botany, or private, volunteer, land, water, and wildlife conservation work, including at least one member from statewide conservation groups, and seven other private citizens, each of whom shall have a generally recognized and special competence in one or more of the following fields: investments, real estate transactions and holdings, oil and gas, industry, banking, and general business. The board shall select its chairman from among its membership. The initial terms of the appointed members shall be staggered so that the terms of one-third of these members will expire every two years. Thereafter, the term of each appointed member shall be six years. The terms of one-third of the appointed members expire on January 31 of each odd-numbered year. The executive director of the Parks and Wildlife Department shall be secretary of the board. Membership on the board shall not be deemed to be an office within the meaning of the statutes and constitution of Texas. A majority of the members of the board serving at any one time shall constitute a quorum for the transaction of business, and the foundation shall have an official seal which shall be judicially recognized. The board shall meet at the call of the chairman and there shall be at least one meeting each year.

Sec. 3. No compensation shall be paid to the members of the board for their services as members, but they shall be reimbursed for actual and necessary traveling and subsistence expenses incurred by them in the performance of their duties as such members out of such Texas Conservation Foundation funds as may be available to the board for such purposes.

Sec. 4. The foundation is authorized to accept, receive, solicit, hold, administer, and use any gifts, devises, trusts or bequests, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein for the benefit of or in connection with the Texas system of parks, refuges, scientific, historical, prehistoric, educational, inspirational, or recreational areas and sites. An interest in real property includes, among other things, easements or other rights for preservation, conservation, protection, or enhancement by and for the public of natural, scenic, historical, archeological, scientific, educational, inspirational, or recreational resources anywhere within the State of Texas. A gift, devise or bequest may be accepted by the foundation even though it is encumbered, restricted, or subject to beneficial interest of private persons or corporations, so long as any current or future use or interest therein is for the benefit of the Texas parks, refuge, and scenic or scientific areas system, and if such beneficial interest is retained, it shall be taxable to the grantor by the State of Texas, or any taxing authority created by the laws thereof, to the extent of the fair market value of the beneficial interest.

Sec. 5. To the extent that funds are available to it for such purpose, the foundation is authorized to enter into and exercise purchase options, and to buy by outright purchase, or to contract for, trade for, or otherwise acquire in the title and name of the foundation any lands or interest therein which the foundation deems significant and necessary for the purposes of the foundation. The foundation, unless specially restricted by the instrument of transfer, may hold such lands or interest therein in undeveloped and protective holdings as the foundation deems necessary for the accomplishment of its statutory purposes.

Sec. 6. Except as otherwise limited or required by the instrument of transfer, the foundation may sell, lease, trade, invest, reinvest, retain, or otherwise dispose of or deal with any property or income thereof in such manner as the board may from time to time determine. The foundation shall not engage in any business, nor shall the foundation make any investment that may not lawfully be made under the Texas Trust Act, as amended, except that the foundation may make any investment that is authorized by the instrument of transfer and may retain any property

For Annotations and Historical Notes, see V.A.T.S.

accepted by the foundation. The foundation may utilize the services and facilities of the Parks and Wildlife Department, the Texas State Historical Survey Committee, and the office of the attorney general, and such services and facilities may be made available on request to the extent practicable without reimbursement therefor.

Sec. 7. The foundation shall have perpetual succession, with all the usual powers and obligations of a corporation acting as a trustee, including the power to sue and be sued in its own name, but the members of the board shall not be personally liable, except for malfeasance.

Sec. 8. The foundation shall have the power to enter into contracts in its own name, to act through agents and employees, to execute and acknowledge instruments, and generally to do any and all lawful acts necessary or appropriate to its statutory purposes.

Sec. 9. In carrying out the provisions of this Act, the board may adopt bylaws, rules, and regulations necessary for the administration of its functions and contract for any necessary services.

Sec. 10. The foundation and any income or property received or owned by it, and all transactions relating to such income or property, shall be exempt from all forms of taxation with respect thereto. The foundation may, however, in the discretion of its board, contribute toward the costs of local government in amounts not in excess of those which it would be obligated to pay such government if it were not exempt from taxation by virtue of the foregoing or by virtue of its being charitable and nonprofit corporation, and may agree so to contribute with respect to property transferred to it and the income derived therefrom if such agreement is a condition of the transfer. Contributions, gifts, and other transfers made to or for the use of the foundation shall be regarded as contributions, gifts, or transfers to or for the use of the State of Texas for scientific, educational, and benevolent purposes, and all such transfers shall be without tax to the transferor.

Sec. 11. No property, income, or interest therein which passes to the foundation shall ever thereafter enure to the private benefit or profit of any individual, firm, or corporation.

Sec. 12. The State of Texas shall not be liable for any debts, defaults, acts, or omissions of the foundation.

Sec. 13. The foundation shall, as soon as practicable after the end of each fiscal year, transmit to the legislature and the governor an annual report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, and investments.

Acts 1969, 61st Leg., p. 2400, ch. 807, eff. Sept. 1, 1969.

Title of Act:

An Act creating a Texas Conservation Foundation; providing powers, duties, organization, and term of office of the Texas Conservation Foundation; providing contractual powers for the Texas Conservation Foundation; providing a method for filling vacancies; authorizing the acquisition of lands by gift, bequest, donation, or purchase; authorizing the acceptance of

money or other property of value in trust or otherwise for parks, educational, and scientific purposes; providing for tax exemption of lands and property owned or held by the Texas Conservation Foundation; providing for tax-exempt gifts or transfers to the Texas Conservation Foundation; providing a severability clause; and declaring an emergency. Acts 1969, 61st Leg., p. 2400, ch. 807.

Art. 6145—8. American Revolution Bicentennial Commission

American Revolution Bicentennial Commission—creation—members

Section 1.

A. There is created the "American Revolution Bicentennial Commission (of Texas)," composed of:

(1) The Secretary of State, the Attorney General, (who shall also act as attorney for the commission), each of whom shall serve ex officio; and

(2) seven citizens of the state appointed by the governor, one of whom shall be designated by the governor as chairman of the commission.

Two of the original appointments by the governor shall be for a term of six years, two for four years, and three for two years; and the governor shall designate the terms of each. Their successors shall each be appointed for a term of six years or till the expiration of this Act.

B. Members of the commission shall be reimbursed for mileage and per diem only, and shall receive no other compensation, perquisite or allowance. The mileage shall be the same as allowed to members of the Legislature, to wit, ten cents per mile, to and from the place of meeting and their respective places of residence. The per diem shall be Twenty-five Dollars per day or fraction thereof.

C. The Secretary of State shall serve as secretary of the commission.

Powers and duties

Sec. 2.

A. The commission shall prepare an overall program for commemorating the Bicentennial of the American Revolution in Texas and plan, encourage, develop and coordinate observances and activities commemorating the historic events that preceded and are associated with the American Revolution.

B. In preparing its plans and program, the commission shall consider any related plans and programs developed by the national American Revolution Bicentennial Commission and local and private groups, and it may designate special committees with representatives from such bodies to plan, develop and coordinate specific activities.

C. In all planning, the commission shall give special emphasis to the ideas associated with the American Revolution which have been so important in the development of the United States, in world affairs and in mankind's quest for freedom.

D. The commission shall submit to the governor a comprehensive report incorporating its specific recommendations for the commemoration of the American Revolution bicentennial and related events. This report may recommend activities such as, but not limited to:

(1) the production, publication and distribution of books, pamphlets, films and other educational materials on the history, culture and political thought of the period of the American Revolution;

(2) bibliographical and documentary projects and publications;

(3) conferences, convocations, lectures, seminars and other programs;

(4) the development of libraries, museums, historic sites and exhibits pertaining to the American Revolution; including mobile exhibits;

(5) ceremonies and celebrations commemorating specific events; and

(6) programs and activities on the national and international significance of the American Revolution and its implications for present and future generations.

E. The report of the commission shall include recommendations for the allocation of financial and administrative responsibility among the public and private authorities and organizations recommended for participation by the commission. The report shall also include proposals for legislation and administrative action the commission considers necessary to carry out its recommendations. The governor shall transmit the commission's report to the Legislature, together with any comments and recommendations for legislation, and a report of administrative actions taken by him.

Cooperation**Sec. 3.**

A. In fulfilling its responsibilities, the commission shall consult, cooperate with and seek advice from appropriate state departments and agencies, local public bodies, learned societies and historical, patriotic, philanthropic, civic, professional and related organizations. State departments and agencies may cooperate with the commission in planning, encouraging, developing and coordinating appropriate commemorative activities.

B. The historical sites committee shall determine if there are any sites within the state which are appropriate for preservation or development in commemoration of the American Revolution in a manner to insure that fitting observances and exhibits may be held at the sites during the bicentennial celebration. The historical sites committee shall submit the results of its study to the commission in time to afford the commission an opportunity to review the study and to incorporate appropriate findings and recommendations in its report to the governor.

C. The president of each state university, school or college, shall cooperate with the commission, especially in the encouragement, coordination and publicity of scholarly works and presentations on the history, culture, political thought and commemoration of the American Revolution.

D. The state librarian, and other state departments and institutions shall cooperate with the commission, especially in the development of bibliographies, catalogs and other materials relevant to the period of the American Revolution.

Acceptance of donations—disposition of property—appropriation**Sec. 4.**

A. There is created hereby the "Bicentennial Fund" and there is appropriated hereby into such fund from the General Fund the sum of Twenty-five Thousand Dollars to such commission to carry out the provisions of this Act.

B. The commission may accept donations of money, personal property or personal services.

C. All property acquired by the commission shall be deposited for preservation in federal, state or local libraries or museums or otherwise disposed of in consultation with the state librarian, and/or other state departments or institutions.

D. All money donated to the commission shall be deposited with the state treasurer into the "Bicentennial Fund" and is appropriated to the commission. All payments made from the "Bicentennial Fund" shall be based on sworn accounts approved by the Chairman of the commission, and be by state warrants drawn on such fund in the usual manner and form.

Staff

Sec. 5. The commission may employ and fix the compensation and duties of necessary personnel.

Annual reports

Sec. 6. The commission shall submit to the governor, an annual report of all activities, including an accounting of all property and money received and disbursed.

Termination

Sec. 7. The commission is abolished as of June 1, 1978.
Acts 1969, 61st Leg., p. 2620, ch. 868, eff. Sept. 1, 1969.

Title of Act:

An Act creating the American Revolution Bicentennial Commission (of Texas); prescribing its powers and duties; making

an appropriation; and declaring an emergency. Acts 1969, 61st Leg., p. 2620, ch. 868.

Art. 6145—9. Antiquities Code**Short title**

Section 1. This Act shall be known, and may be cited, as the "Antiquities Code of Texas."

Policy

Sec. 2. It is hereby declared to be the public policy and in the public interest of the State of Texas to locate, protect, and preserve all sites, objects, buildings, pre-twentieth century shipwrecks, and locations of historical, archeological, educational, or scientific interest, including but not limited to prehistoric and historical American Indian or aboriginal campsites, dwellings, and habitation sites, archeological sites of every character, treasure inbedded in the earth, sunken or abandoned ships and wrecks of the sea or any part or the contents thereof, maps, records, documents, books, artifacts, and implements of culture in any way related to the inhabitants, prehistory, history, natural history, government, or culture in, on or under any of the lands in the State of Texas, including the tidelands, submerged lands, and the bed of the sea within the jurisdiction of the State of Texas.

Antiquities committee

Sec. 3. There is hereby created a committee known as the Antiquities Committee, to be composed of seven (7) members, namely: The Director of the State Historical Survey Committee, the Director of the State Parks and Wildlife Department, the Commissioner of the General Land Office, the State Archeologist, and the following citizen members, to-wit: one professional archeologist from a recognized museum or institution of higher learning in Texas, one professional historian with expertise in Texas history and culture, and the Director of the Texas Memorial Museum of The University of Texas; each citizen member to be a resident of the State of Texas and to be appointed by the Governor with the advice and consent of the Senate, who shall serve for a term coexistent with the Governor appointing him and until his successor shall have been appointed and qualified. Each citizen member of the Antiquities Committee is entitled to receive a per diem allowance for each day spent in performance of his duties and reimbursement for actual and necessary travel expenses incurred in the performance of his duties, as provided by the General Appropriations Act. The Antiquities Committee shall select one of its members as the Chairman. The Antiquities Committee may employ such personnel as are necessary to perform the duties imposed upon such Committee, to the extent such employment is provided for by the General Appropriations Act.

Employees of the Antiquities Committee shall be deemed to be employees of the Texas State Historical Survey Committee. The Antiquities Committee shall keep a record of its proceedings which shall be subject to inspection by any citizen of Texas desiring to make an examination in the presence of a member of the Antiquities Committee or an authorized employee of such Antiquities Committee. Four members of the Antiquities Committee shall constitute a quorum for the conducting of business.

Duties of committee

Sec. 4. The duties of the Antiquities Committee shall be to determine the site of, and to designate, State Archeological Landmarks and to remove from such designation certain of such sites as hereinafter provided, to contract or otherwise provide for the discovery and salvage operation herein covered and to consider the requests for, and issue the permits hereinafter provided for, and to protect and preserve the archeological resources of Texas. The Antiquities Committee shall be the legal custodian of all items hereinafter described which have been recovered and retained by the State of Texas and shall maintain an inventory of such items showing the description and depository thereof.

Sunken ships; state archeological landmarks

Sec. 5. All sunken or abandoned pre-twentieth century ships and wrecks of the sea and any part or the contents thereof and all treasure imbedded in the earth, located in, on or under the surface of lands belonging to the State of Texas, including its tidelands, submerged lands and the beds of its rivers and the sea within the jurisdiction of the State of Texas are hereby declared to be State Archeological Landmarks and are the sole property of the State of Texas and may not be taken, altered, damaged, destroyed, salvaged or excavated without a contract or permit of the Antiquities Committee.

Other sites, artifacts, etc.; state archeological landmarks

Sec. 6. All other sites, objects, buildings, artifacts, implements, and locations of historical, archeological, scientific, or educational interest, including but expressly not limited to, those pertaining to prehistoric and historical American Indian or aboriginal campsites, dwellings, and habitation sites, their artifacts and implements of culture, as well as archeological sites of every character that are located in, on or under the surface of any lands belonging to the State of Texas or by any county, city, or political subdivision of the state are hereby declared to be State Archeological Landmarks and are the sole property of the State of Texas and all such sites or items located on private lands within the State of Texas in areas that have been designated as a "State Archeological Landmark" as hereinafter provided, may not be taken, altered, damaged, destroyed, salvaged, or excavated without a permit from, or in violation of the terms of such permit of, the Antiquities Committee.

Sites on private lands; designation as state archeological landmarks

Sec. 7. Any site located upon private lands which is determined by majority vote of the Antiquities Committee to be of sufficient archeological, scientific or historical significance to scientific study, interest or public representation of the aboriginal or historical past of Texas may be designated by the Antiquities Committee as a "State Archeological Landmark." It is specifically provided, however, that no such site shall be so designated upon private land without the written consent of the landowner or landowners in recordable form sufficiently describing the site so that it may be located upon the ground. Upon such designation the consent of the landowner shall be recorded in the deed records of the county in which the land is located. Any such site upon private land shall be marked by at least one marker bearing the words "State Archeological Landmark" for each five (5) acres of area.

Removal of designation as landmark

Sec. 8. Upon majority vote of the Antiquities Committee any State Archeological Landmark, on public or private land, may be determined to be of no further historical, archeological, educational, or scientific value or not of sufficient value to warrant its further classification as such; and upon such determination it may be removed from such designation and in the case of sites located on private land that have theretofore been designated by instrument of record, the Antiquities Committee is authorized to cause to be executed and recorded in the deed records of the county where such site is located an instrument setting out such determination and releasing the site from the provisions hereof.

Contracts for salvage, etc.; approval; title of state; recording

Sec. 9. The Antiquities Committee shall be authorized to enter into contracts with other state agencies or institutions and with qualified private institutions, corporations, or individuals for the discovery and salvage of treasure imbedded in the earth, sunken or abandoned ships or wrecks of the sea, parts thereof and their contents. Such contracts to be on forms approved by the Attorney General. The contracts may provide for fair compensation to the salvager in terms of a percentage of the reasonable cash value of the objects recovered, or at the discretion of the Antiquities Committee, of a fair share of the objects recovered; the amount constituting a fair share to be determined by the Antiquities Committee taking into consideration the circumstances of each such operation, and the reasonable cash value may be determined by contract provision providing for appraisal by qualified experts or by representatives of the contracting parties and their representative or representatives. Such contract shall provide for the termination of any right in the salvager or permittee thereunder upon the violation of any of the terms thereof. Superior title to all objects recovered to be retained by the State of Texas unless and until they are released to the salvager or permittee by the Antiquities Committee. No person, firm, or corporation may conduct such salvage or recovery operation herein described without first obtaining such contract. All such contracts and permits shall specifically provide for the location, nature of the activity, and the time period covered thereby, and when executed are to be recorded by the person, firm, or corporation obtaining such contract in the office of the County Clerk in the county or counties where such operations are to be conducted prior to the commencement of such operation.

Permits

Sec. 10. The Antiquities Committee shall be authorized to issue permits to other state agencies or institutions and to qualified private institutions, companies, or individuals for the taking, salvaging, excavating, restoring, or the conducting of scientific or educational studies at, in, or on State Archeological Landmarks as in the opinion of the Antiquities Committee would be in the best interest of the State of Texas. Such permits may provide for the retaining by the permittee of a portion of any recovery as set out for contracting parties under Section 9 hereof. Such permit shall provide for the termination of any rights in the permittee thereunder upon the violation of any of the terms thereof and to be drafted in compliance with forms approved by the Attorney General. All such permits shall specifically provide for the location, nature of the activity, and time period covered thereby. No person, firm, or corporation shall conduct any such operations on any State Archeological Landmark herein described without first obtaining and having in his or its pos-

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session such permit at the site of such operation, or conduct such operations in violation of the provisions of such permit.

Supervision of committee; custodian of antiquities; rules and regulations

Sec. 11. All salvage or recovery operations described under Section 9 hereof and all operations conducted under permits or contracts set out in Section 10 hereof must be carried out under the general supervision of the Antiquities Committee and in accordance with reasonable rules and regulations adopted by the Antiquities Committee and in such manner that the maximum amount of historic, scientific, archeological, and educational information may be recovered and preserved in addition to the physical recovery of items. The Antiquities Committee shall be the legal custodian of all antiquities recovered, and is specifically authorized and empowered to promulgate such rules and regulations and to require such contract or permit conditions as to reasonably affect the purposes of this Act.

Purchase of antiquities; gifts, grants, devises and bequests; contracts for temporary possession; recovery; public viewing; removal from state

Sec. 12. The Antiquities Committee is hereby authorized to expend such sums, from any appropriations hereafter made for such purposes, as it may deem advisable to purchase from the salvager or permittee of such salvager's or permittee's share, or portion thereof, of items recovered which in the opinion of the Antiquities Committee should remain the property of the State of Texas. The Antiquities Committee is authorized and empowered to accept gifts, grants, devises, and bequests of money, securities, or property to be used in the purchase of such items from the salvager or permittee. Further, in this respect, the Antiquities Committee may enter into contracts or agreements with such persons, firms, corporations, or institutions, as it might choose, whereby such persons, firms, corporations, or institutions, for the privilege of retaining temporary possession of such items, may advance to the Antiquities Committee the money necessary to procure from the salvager or permittee such items as the Antiquities Committee might determine should remain the property of the State of Texas upon the condition that at anytime the Antiquities Committee may choose to repay to such person, firm, corporation, or institution such sum so advanced, without interest or additional charge of any kind, it may do so and may recover possession of such items; and provided, further, that during the time the said items are in the possession of the person, firm, corporation, or institution advancing the money for the purchase thereof they shall be available for viewing by the general public without charge or at no more than a nominal admission fee, and that such items may not be removed from the State of Texas except upon the express authorization of the Antiquities Committee for appraisal, exhibition, or restorative purposes.

Restoration of antiquities for private parties

Sec. 13. The restoration of antiquities for private parties is authorized and shall be under the rules and regulations promulgated by the Antiquities Committee, and all costs incurred in such restoration, both real and administrative, shall be paid by the private party.

Fraudulent reproductions

Sec. 14. No person shall intentionally reproduce, replicate, retouch, rework, or forge any archeological or other object which derives value from its antiquity, with intent to represent the same to be original

or genuine and with intent to deceive or offer any such object for sale or exchange.

American Indian or aboriginal hieroglyphics, etc.; defacing

Sec. 15. No person shall intentionally and knowingly deface any American Indian or aboriginal paintings, hieroglyphics, or other marks or carvings on rock or elsewhere which pertain to early American Indian or aboriginal habitation of the country.

Entering upon private lands for excavation, etc.

Sec. 16. No person, not being the owner thereof, and without the consent of the owner, proprietor, lessee, or person in charge thereof, shall enter or attempt to enter upon the enclosed lands of another and intentionally injure, disfigure, remove, excavate, damage, take, dig into, or destroy any historical structure, monument, marker, medallion, or artifact, or any prehistoric or historic archeological site, American Indian or aboriginal campsite, artifact, burial, ruin, or other archeological remains located in, on or under any private lands within the State of Texas.

Violations of Act; penalties

Sec. 17. Any person violating any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Fifty Dollars (\$50.00) and not more than One Thousand Dollars (\$1,000.00) or by confinement in jail for not more than thirty (30) days, or by both such fine and confinement. Each day of continued violation of any provision of this Act shall constitute a distinct and separate offense for which the offender may be punished.

Injunctive relief; actions by Attorney General and by citizens; venue

Sec. 18. In addition to, and without limiting the other powers of the Attorney General of the State of Texas, and without altering or waiving any criminal penalty provision of this Act, the Attorney General of the State of Texas shall have the power to bring an action in the name of the State of Texas in any court of competent jurisdiction for restraining orders and injunctive relief to restrain and enjoin violations or threatened violations of this Act, and for the return of items taken in violation of the provisions hereof, and the venue of such actions shall lie either in Travis County or in the county in which the activity sought to be restrained is alleged to be taking place or from which the items were taken. Any citizen in the State of Texas shall have the power to bring an action in any court of competent jurisdiction for restraining orders and injunctive relief to restrain and enjoin violations or threatened violations of the Act, and for the return of items taken in violation of the provisions hereof, and the venue of such actions shall lie in the county in which the activity sought to be restrained is alleged to be taking place or from which the items were taken.

Cooperation of state agencies and law enforcement officers

Sec. 19. The chief administrative officers of all state agencies are authorized and directed to cooperate and assist the Antiquities Committee and the Attorney General in carrying out the intent of this Act. All law enforcement agencies and officers, state and local, are authorized and directed to assist in enforcing this Act and in carrying out the intent hereof.

Unlawful acts

Sec. 20. It shall be unlawful for any person, not being the owner thereof, and without lawful authority, to wilfully injure, disfigure, remove or destroy any historical structure, monument, marker, medallion, or artifact.

Severability

Sec. 21. The Sections of this Act and each provision and part thereof are hereby declared to be severable and independent of each other, and the holding of a Section, or part thereof, or the application thereof to any person or circumstance, to be invalid, ineffective or unconstitutional shall not affect any other Section, provision or part thereof, or the application of any Section, provision, or part thereof, to any other person and circumstance.

Repealers

Sec. 22. All laws in conflict herewith and laws codified as Chapter 32, Acts of the 42nd Legislature, 1st Called Session, 1931 (Article 147a, Vernon's Texas Penal Code); Chapter 1, General Laws, page 60, Acts of the 46th Legislature, Regular Session, 1939 (Article 147b, Vernon's Texas Penal Code); Chapter 153, Acts of the 58th Legislature, 1963 (Article 147b—1, Vernon's Texas Penal Code); Chapter 193, Acts of the 58th Legislature, 1963 (Article 147b—2, Vernon's Texas Penal Code), are hereby repealed.

Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 2, emerg. eff. Sept. 10, 1969.

Title of Act:

An Act establishing and adopting an Antiquities Code for the State of Texas; setting forth the public policy of the state with respect to archeological and historical sites and items; creating an Antiquities Committee of seven members; providing for the organization, compensation, duties, powers, and procedures of the Antiquities Committee; empowering the Antiquities Committee to enter into contracts for research and salvage activities on State Archeological Landmarks; creating and defining State Archeological Landmarks; providing for the designation of certain sites on private lands as State Archeological Landmarks with the consent of the owner thereof; providing that the Antiquities Committee may declare a State Archeological Landmark of no further historical, archeological, educational or scientific value; providing for a system of permits and contracts for the salvage of treasures imbedded in the earth and the excavation or study of archeological and historical sites and objects; providing the Antiquities Committee with the power to promulgate reasonable rules and regulations concerning salvage and other study of State Archeological Landmarks; empowering the Antiquities Committee to determine the disposition and repository of

objects and artifacts recovered by such salvage and study operations; providing for a means of fair compensation to the salvager operating under permit from the Antiquities Committee; empowering the Antiquities Committee to accept gifts, devises, and bequests, and to otherwise purchase and acquire from the permittee objects deemed by the Antiquities Committee to be important enough to remain the property of the State of Texas; making it unlawful to forge or duplicate an archeological artifact or object with intent to deceive or to offer said object for sale; making it unlawful to intentionally deface aboriginal or Indian rock art; making it unlawful to enter the enclosed lands of another without permission and intentionally take, damage, or destroy any archeological or historical site, structure, or monument on private lands; providing a penalty for violations of this Act; providing injunctive relief for violation of this Act and providing for venue thereof; defining personnel to enforce this Act; making it unlawful for any person not the owner and without authority to injure or destroy any historical structure, monument, marker, medallion, or artifact; providing a savings clause; repealing laws in conflict and designated prior laws; and declaring an emergency. Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 2.

TITLE 108—PENITENTIARIES

1. DEPARTMENT OF CORRECTIONS

Art.

6166x—3. Work furloughs [New].

2. REGULATIONS AND DISCIPLINE

Art.

6203b—2. Schools at various units of department of corrections; eligibility; funds [New].

1. DEPARTMENT OF CORRECTIONS

Art. 6166x—3. Work furloughs

Employment of prisoners outside the state prison system

Section 1. The Texas Department of Corrections is hereby authorized to grant work furlough privileges, under the "Work Furlough Plan," as hereinafter provided, to any inmate of the State Prison System serving a term of imprisonment, under such rules, regulations, and conditions as the department of corrections may prescribe.

Establishment of work furlough plan

Sec. 2. The department of corrections is authorized and directed to establish a "Work Furlough Plan" under which an eligible prisoner may be released from actual confinement, while remaining in technical custody, during the time required to proceed to the place of business of such prisoner's employer, perform the duties required and return to quarters designated by the department of corrections. Prisoners shall be granted work furlough privileges by the director of the department of corrections, pursuant to the rules and regulations promulgated by the department of corrections. If the prisoner furloughed hereunder shall violate any of the conditions prescribed by the director, pursuant to the rules and regulations adopted by the department of corrections for the administration of the work furlough plan, or who shall willfully abscond while so employed, then such prisoner shall be transferred to the general prison population and be governed by the rules and regulations pertaining thereto. The rules and regulations promulgated for the administration of the work furlough plan shall be established and promulgated in the same manner as are other rules and regulations for the government and operation of the department of corrections.

Quartering of prisoners

Sec. 3. The department of corrections shall, as the need becomes evident, designate and adapt facilities in the State Prison System, or in the area of such prisoner's employment, for quartering prisoners with work furlough privileges. No prisoner shall be granted work furlough privileges until suitable facilities for quartering such prisoner have been provided in the area where the prisoner has obtained employment or has an offer of employment.

Securing employment

Sec. 4. The director of the department of corrections shall endeavor to secure employment for unemployed eligible prisoners under this Act, subject to the following:

(1) such employment must be at a wage at least as high as the prevailing wage for similar work in the area or community where the work is performed and in accordance with the prevailing working conditions in such area;

(2) such employment shall not result in the displacement of employed workers or be in occupations, skills, crafts, or trades in which there is a

For Annotations and Historical Notes, see V.A.T.S.

surplus of available and qualified workers in the locality, the existence of such surplus to be determined by the Texas Employment Commission;

(3) prisoners eligible for work furlough privileges shall not be employed as strikebreakers or in impairing any existing contracts;

(4) exploitation of eligible prisoners, in any form, is prohibited either as it might affect the community or the inmate or the department of corrections.

Wages and salaries of prisoners

Sec. 5. The wages and salaries of these prisoners employed in the free community may be paid to the department of corrections by the employer, or the department of corrections may require that the prisoner surrender such of the earnings, less standard deductions required by law, to be disbursed as hereinafter provided. The director shall cause the same to be deposited in a trust checking account and shall keep a record showing the status of the account of such prisoner. Such accounts and records shall be audited at least once annually by the state auditor, who shall prepare a written report or reports of such audit or audits to the legislative budget board. Such wages or salary shall be disbursed only as provided in this Act and for tax purposes shall be considered to be income of the prisoner.

Disbursement of wages or salaries

Sec. 6. Every prisoner gainfully employed under work furlough privileges is liable for the cost of his keep in the prison or quarters as may be fixed by the department of corrections. Such payments shall be deposited periodically, but at least annually, in the general revenue fund of the state. After deduction of such amounts the director of the department of corrections shall disburse the wages or salaries of employed prisoners for the following purposes and in the order stated:

- (1) necessary travel expense to and from work and other incidental expenses of the prisoner;
- (2) support of the prisoner's dependents, if any;
- (3) the balance, if any, to the prisoner upon his discharge.

Time credits

Sec. 7. Prisoners employed under this Act shall be eligible for time credits in the same manner as other prisoners in the State Prison System.

Prisoner not an agent of state

Sec. 8. No prisoner granted work furlough privileges under the provisions of this Act shall be deemed to be an agent, employee, or involuntary servant of the department of corrections while working in the free community or while going to and from such employment.

Rights of prisoners

Sec. 9. Nothing in this Act is intended to restore, in whole or in part, the civil rights of any prisoner. No prisoner compensated under this Act shall come within any of the provisions of the Workmen's Compensation Act, as amended, or be entitled to any benefits thereunder whether on behalf of himself or any other person.

Reports

Sec. 10. The department of corrections shall prepare an annual report to be filed not later than 60 days following the close of each fiscal year with the governor, the lieutenant governor, members of the legislature and the legislative budget board showing the operation and administration of the Act, together with such recommendations and suggestions as deemed advisable.

Bonding of administrator of program

Sec. 11. The department of corrections shall require the administrator and such assistants as it may deem necessary, of the work furlough program hereinabove authorized to execute a bond in the sum of \$10,000 payable to the State of Texas, conditioned upon the faithful discharge of his duties, with a solvent surety company licensed to do business in Texas as surety.

Acts 1969, 61st Leg., p. 1599, ch. 493, eff. Sept. 1, 1969.

Title of Act:

An Act relating to the rehabilitation of persons convicted of offenses against the State of Texas by providing greater flexibility in the acquisition and retention of skills through the adoption of a work furlough plan and to allow diversified employment of prisoners to reduce cost of keep; providing for the quartering of prisoners extended or granted work furlough privileges; providing for securing employment for eligible prisoners; providing for the administration of the work furlough plan; providing for the disposition and disbursement of wages and salaries received by

eligible prisoners with work furlough privileges; providing for "time credits" for eligible prisoners; providing that prisoners with work furlough privileges shall not be deemed agents, employees, or involuntary servants of the department of corrections; relating to the civil rights of prisoners; providing for the preparation and filing of reports; providing for the bonding of certain personnel; and declaring an emergency. Acts 1969, 61st Leg., p. 1599, ch. 493.

2. REGULATIONS AND DISCIPLINE

Art. 6203b-2. Schools at various units of department of corrections; eligibility; funds

Section 1. The Board of Corrections may establish and operate schools at the various units of the Department of Corrections.

Sec. 2. All persons incarcerated in the Department of Corrections who are not high school graduates are eligible to attend such schools.

Sec. 3. The Board of Corrections may accept grants from both public and private organizations and expend such funds for the purposes of operating the schools.

Sec. 4. The total cost of operating the schools authorized by this Act shall be borne entirely by the state and shall be paid from the Foundation School Program Fund. Such costs shall be considered annually by the Foundation School Fund Budget Committee and included in estimating the funds needed for purposes of the Foundation School Program. An estimate of costs for the 1968-1969 school year shall be certified to the comptroller by the committee within 30 days after the effective date of this Act. No part of the operating costs herein provided for shall be charged to any of the school districts of this state.

Sec. 5. A formula for the allocation of professional units and other operating expenses shall be developed by the Central Education Agency and approved by the State Board of Education.

Sec. 6. This Act is effective for the school year of 1968-1969 and thereafter.

Acts 1969, 61st Leg., p. 47, ch. 17, emerg. eff. March 18, 1969.

Title of Act:

An Act relating to the establishment and operation of schools at the various

units of the Department of Corrections; and declaring an emergency. Acts 1969, 61st Leg., p. 47, ch. 17.

TITLE 109—PENSIONS

1. STATE AND COUNTY PENSIONS

Art. 6221. [6279] Appropriation, how allotted

On the first day of each calendar month the Comptroller shall pay to each Confederate Veteran a pension of Three Hundred Dollars (\$300) per month for each year. To each widow who is now drawing a pension, or whose application may hereafter be approved, shall be paid the sum of One Hundred and Fifty Dollars (\$150) per month for each year. All pensions shall begin on the first day of the calendar month following the approval of the application.

Amended by Acts 1969, 61st Leg., p. 1499, ch. 450, § 1, emerg. eff. June 10, 1969.

Art. 6228a. Retirement system for State employees

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Membership

Sec. 3. * * *

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B. The membership of said Retirement System as an elective State official of the State of Texas shall be composed as follows:

1. The membership of said Retirement System shall be composed of any elective state official or appointee in an elective office of the state, including all elected or appointed members of the State Legislature, officers of either house of the State Legislature who are either appointed or elected by the members of either or both houses of the State Legislature, and also including District Attorneys receiving salaries paid by the state from the State General Revenue Fund, but shall not include any elective official in the Judicial, Education, District, or County, of the State of Texas other than those expressed eligible as provided herein.

Sec. 3, B, par. 1 amended by Acts 1967, 60th Leg., p. 668, ch. 279, § 1, emerg. eff. May 25, 1967; Acts 1969, 61st Leg., p. 2433, ch. 814, § 1, eff. Sept. 1, 1969.

* * * * *

E. Any person who was an Elective State Official and who has served not less than eight (8) years in the Legislature of Texas (as such creditable service is defined in Chapter 524, Acts of the Regular Session, 58th Legislature as amended) may become a member of the Employees Retirement System by paying into such system Two Hundred Eighty-Eight Dollars (\$288) for each year of service in the Legislature of Texas. Provided further, any such person must make application to become a member and pay in such sums prior to January 1, 1970. Such application shall be made on forms provided by the Board, and, thereupon, such person shall be entitled to all the privileges and benefits of such system.

Sec. 3, E, added by Acts 1969, 61st Leg., p. 287, ch. 114, § 4, eff. Sept. 1, 1969.

Creditable Service

Sec. 4. * * *

* * * * *

G-1. A person who is or was a member of the military service during the time the United States was or is involved in organized conflict, whether in a state of war or a police action involving conflict with foreign forces, or for reason of crisis within this country, and within a period of twelve (12) months after the end of the conflict, and who has been or is relieved from active military service under conditions other than dishonorable, and who at any time thereafter becomes a member of the Employees Retirement System, either as an elective or appointive officer or an employee, shall be entitled to apply for and receive credit for retirement service under this Act, upon the following conditions having been met: (a) If such elective official, including a member of the Legislature, or appointive official, or employee has been employed by the State for ten (10) years and has ten (10) years' retirement credit as a State Employee, he shall be allowed credit for the period of his active military service, but not to exceed three (3) years. Any member of the Legislature who has served as a legislator for at least six (6) years, and has at least six (6) years' retirement credit as a State Employee, shall be allowed two (2) years' retirement credit for having served at least eighteen (18) months on active military service. (b) If such elective official, including members of the Legislature, or appointive official, or employee has been employed by the State for fifteen (15) years, and has fifteen (15) years' retirement credit as a State Employee, he shall be allowed credit for the period of his active military service, but not to exceed five (5) years. (c) Notwithstanding any other provision herein, no person, otherwise eligible for credit for military service herein, shall be eligible to such credit if such person shall be receiving or hereafter receives any military retirement provided by any federal law or regulation or federal retirement act, for at least 20 years active duty. Any person applying for credit authorized by this Subsection, shall pay to the Employees Retirement System a sum equal to the number of months in actual service for which credit or additional credit is sought, times the rate of his contribution to the System when he was first employed by the State. A member of the Legislature who applies for two (2) years' military service credit under the provisions of this Subsection shall pay to the Employees Retirement System an amount equal to twenty-four (24) times the rate of his contribution when he was first elected to the Legislature: Such contributions made for military retirement credit shall be deposited in the member's individual account in the Employees Saving Fund, and an equal sum for State matching from the fund out of which such employee received his first compensation, and such matching money will be deposited in the State Accumulation Fund. The State Board of Trustees shall determine and by order define the period or periods which shall be recognized as organized conflict or crisis within the contemplation of this Act; and thereupon shall allow credit for every full month of such period or periods.

Sec. 4, G-1 added by Acts 1969, 61st Leg., p. 2433, ch. 814, § 2, eff. Sept. 1, 1969.

G-2. The total amount of military retirement credit allowable under both Subsection G and Subsection G-1 of this Act shall not exceed five (5) years.

Sec. 4, G-2 added by Acts 1969, 61st Leg., p. 2433, ch. 814, § 2, eff. Sept. 1, 1969.

Benefits

Sec. 5. * * *

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B. Allowance for Service Retirement.

1. The allowance for service retirement shall be computed on the basis of the average monthly compensation of the member for the sixty

For Annotations and Historical Notes, see V.A.T.S.

(60) highest consecutive months of compensation during the last one hundred and twenty (120) months of creditable service. The rate of benefits shall be based upon the following schedule:

First ten (10) years of service	1.25% per year
Next twenty (20) years of service	1.50% per year
All subsequent years	1.75% per year

It is provided, however, that if the service retirement annuity calculated on the basis of the Rate of Benefits set forth herein is less than Fifty Dollars (\$50.00) per month, then the benefits shall be increased to equal the sum of Fifty Dollars (\$50.00) per month.

It is expressly provided that any annuity or allowance payable under the provisions of this Act shall begin with the last day of the month following the effective date of retirement and shall be paid in monthly installments and shall cease with the last day of the month preceding the month in which the beneficiary or person dies who is receiving such an annuity or allowance as provided in this Act.

It is further provided that the rate of benefits scheduled as provided for by this Act shall be applied to all service retirement annuities payable on the effective date of this Act and previously awarded under the laws governing the Employees Retirement System as effective September 1, 1968.

2. It is expressly provided that no annuity being paid to a beneficiary of the Retirement System who retired prior to September 1, 1958, shall be decreased by the provisions of this Act.

3. Optional Allowances for Service Retirement.

With the provision that no selection shall be effective in case a beneficiary dies during the month after retirement, and that such a beneficiary shall be considered as an active member at the time of death, until the first payment on account of any service benefit becomes normally due, any member may elect to receive his annuity in an annuity payable throughout life, or he may elect to receive the actuarial equivalent at that time, or his annuity in a reduced annuity payable throughout life with the provisions that:

Option (1) Upon his death, his reduced annuity shall be continued throughout the life of, and paid to, such person as he shall nominate by written designation duly acknowledged and filed with the State Board of Trustees at the time of his retirement; or

Option (2) Upon his death, one half ($\frac{1}{2}$) of his reduced annuity shall be continued through the life of, and paid to, such person as he shall nominate by written designation duly acknowledged and filed with the State Board of Trustees at the time of his retirement; or

Option (3) In the event of his death before sixty (60) monthly payments of such annuity have been made, such payments shall be continued to such person as he may nominate in writing, or to the administrator of his estate, until the remainder of the sixty (60) payments have been made; or

Option (4) In the event of his death before one hundred and twenty (120) monthly payments of such annuity have been made, such payments shall be continued to such person as he may nominate in writing, or to the administrator of his estate, until the remainder of the one hundred and twenty (120) payments have been made; or

Option (5) Such other benefit arrangement as may be approved by the Board of Trustees and the whole of which benefit is certified by the Actuary to constitute the reduced actuarial equivalent of the retirement benefit to which the member is entitled.

4. Re-employment of Retired Appointive Officers or Employees.

Any retired appointive officer or employee may return to state employment as an appointive officer or employee, on a temporary basis, provided, however, that such reemployment shall not be for a longer period than six (6) months within any one (1) year. Any retired appointive officer or employee reemployed by the state on a part-time or consulting basis may work without loss of benefits under the Employees Retirement System. It is provided that in the event a retired state appointive officer or employee resumes temporary employment with a state department, commission, institution or agency, he shall notify the Retirement System in writing prior to resuming actual employment, and the head of any state department, commission, institution or agency of the state shall notify the Retirement System in writing before employment of a retired state appointive officer or employee and furnish the Retirement System the name of said retired appointive officer or employee and the dates of employment. After a reemployed, retired appointive officer or employee has worked six (6) months in any one (1) year, retirement benefit payments that would otherwise have been paid to said member shall be suspended and shall be resumed when said member leaves said employment, provided that the annuity payments as suspended shall be paid into the State Accumulation Fund. For the purposes of the six (6) months per year limitation on reemployment, employment for any part of a month shall constitute a full month. It is provided further, that if the retired member had elected to receive an annuity in a guaranteed payment for a certain number of years or months after retirement, that the time so spent in state employment over six (6) months within any one (1) year by such retired member after the initial or original retirement shall count as time within said certain number of years or months, the same as if said retired member had not returned to state employment, provided that said retired member temporarily employed shall not contribute to the Retirement System during such reemployment, and the Retirement Plan in effect at the time of his original retirement shall remain unchanged.

Amended by Acts 1965, 59th Leg., p. 1532, ch. 670, § 1, eff. Aug. 30, 1965; Acts 1969, 61st Leg. p. 3, ch. 2, § 1, emerg. eff. Feb. 18, 1969.

C. Disability Retirement Benefits for Appointive Officers or Employees.

1. Upon the application of a member or his employer or his legal representative acting in his behalf, any member, under age sixty (60), who has had ten (10) or more years of creditable service may be retired by the State Board of Trustees, not less than thirty (30) and not more than ninety (90) days next following the date of filing such application, on a nonoccupational disability retirement allowance, provided that the Medical Board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent, and that such member should be retired.

Upon the application of a member or his employer or his legal representative acting in his behalf, any member regardless of age and regardless of creditable service may be retired by the State Board of Trustees, not less than thirty (30) and not more than ninety (90) days next following the date of filing such application on an Occupational Disability Retirement Allowance, provided that the Medical Board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, as such incapacity is likely to be permanent, and such person should be retired.

2. Allowance on Disability Retirement—Nonoccupational, for Appointive Officers or Employees.

For Annotations and Historical Notes, see V.A.T.S.

Upon retirement for disability (nonoccupational) a member shall receive a service retirement allowance if he has attained the age of sixty (60) years, otherwise, he shall receive a disability retirement allowance computed at one and one-half (1-½%) per cent per year of service, multiplied by the average monthly compensation for the sixty (60) highest consecutive months during his last preceding one hundred and twenty (120) months of creditable service, provided, however, that in no event will his disability retirement allowance be less than thirty (30%) per cent of his average compensation so computed, nor his maximum benefit exceed sixty (60%) per cent of his average compensation so computed.

It is provided, however, that if the disability retirement annuity calculated on the basis of the Rate of Benefits set forth herein is less than Seventy-Five Dollars (\$75.00) per month then the benefits shall be increased to equal the sum of Seventy-Five Dollars (\$75.00) per month.

It is further provided, however, that any member who retired on disability prior to September 1, 1958, will receive an increase of fifteen (15%) per cent or if less than Seventy-Five Dollars (\$75.00) per month then the benefits shall be increased to equal the sum of Seventy-Five Dollars (\$75.00) per month.

It is expressly provided that all nonoccupational disability retirements previously awarded and in effect at the time this Act becomes effective, shall be reviewed, and the benefits of this Act shall be applied to each retirement; provided, however, that no person shall receive an annuity less than that being paid at the effective date of this Act.

3. Allowance on Occupational Disability Retirement for Appointive Officers or Employees.

Upon retirement for occupational disability a member shall receive a disability retirement allowance computed at one and one-half (1-½%) per cent per year of creditable service multiplied by the monthly rate of compensation being paid to the member at the time of the disabling injury or disease; provided, however, that in no event shall the disability retirement allowance be less than thirty (30%) per cent nor more than sixty (60%) per cent of the monthly rate of compensation.

It is provided, however, that if the occupational disability retirement annuity calculated on the basis of the Rate of Benefits set forth herein is less than Seventy-Five Dollars (\$75.00) per month then the benefits shall be increased to equal the sum of Seventy-Five Dollars (\$75.00) per month.

It is expressly provided that all occupational disability retirements previously awarded and in effect at the time this Act becomes effective, shall be reviewed, and the benefits of this Act shall be applied to each retirement; provided, however, that no person shall receive an annuity less than that being paid at the effective date of this Act.

4. Once each year during the first five (5) years following retirement of a member on a disability retirement allowance, and once in every three-year period thereafter, the State Board of Trustees may, and upon his application shall, require any disability beneficiary who has not yet attained the age of sixty (60) to undergo a medical examination, such examination to be made at the place of residence of said beneficiary or any other place mutually agreed upon, by a physician or physicians designated by the State Board of Trustees. Should any disability beneficiary who has not yet attained the age of sixty (60) years refuse to submit to at least one (1) medical examination in any such periods by a physician or physicians designated by the State Board of Trustees, his allowance shall be discontinued until his withdrawal of such refusal, and should his refusal continue for one (1) year, all his rights in and to his allowance shall be revoked by the State Board of Trustees.

5. Should the Medical Board report and certify to the State Board of Trustees that such disability beneficiary is no longer physically or mentally incapacitated for the performance of duty, or that such disa-

bility beneficiary is engaged in or is able to engage in gainful occupation, and should the State Board of Trustees by a majority vote concur in such report, then the amount of his allowance shall be discontinued or reduced to an amount by which the amount of the last year's salary of the beneficiary, as a member, exceeds his present earning capacity. Should his earning capacity be later changed, the amount of his allowance may be further modified; provided that the revised allowance shall not exceed the amount of the allowance originally granted, nor shall it exceed an amount which, when added to the amount earnable by the beneficiary, equals the amount of his compensation for the last year prior to retirement.

6. Should a disability beneficiary under the age of sixty (60) years be restored to active service, his retirement allowance shall cease, he shall again become a member of the Retirement System, and the balance of his retirement reserve shall be transferred to the Employees Saving Fund and to the State Accumulation Fund, respectively, in proportion to the original sum transferred to the Retirement Annuity Reserve Fund at retirement. Upon restoration to membership, any prior service certificate on the basis of which his service was computed at the time of his retirement shall be restored to full force and effect, and in addition, upon his subsequent retirement he shall be credited with all his membership service. Should a disability beneficiary die or be removed from the disability list for any cause other than restoration to active service, an amount equal to the amount by which such beneficiary's accumulated contributions at the time of disability retirement exceed the annuity payments received by such beneficiary under his disability allowance, if any such excess exists, shall be paid from the Retirement Annuity Reserve Fund to such beneficiary if living; otherwise, such amount shall be paid as provided by the laws of descent and distribution of Texas unless the beneficiary has directed such amount to be paid otherwise. If the member is granted a nonoccupational disability allowance while employed by the state or on compensation insurance or temporary sick leave and dies while receiving this nonoccupational disability allowance and is survived by a spouse at the date of his death, and if there is no surviving spouse, then only to the guardian of the dependent minor children will be granted a death benefit as set forth under Section 5, Subsection E, Paragraph 2, a, b, c, or d, whichever is applicable. Such benefit granted would be paid from the State Accumulation Fund.

It is provided, however, that if the disability beneficiary has been retired for occupational disability and should such beneficiary die while receiving such occupational disability benefits, an amount equal to the amount by which such beneficiary's accumulated contributions at the time of occupational disability retirement exceeds the annuity payments received by such beneficiary under his occupational disability allowance, if any such exists, shall be paid as provided by the laws of descent and distribution of Texas, unless the beneficiary has directed such amount to be paid otherwise, and provided further, that this refund as set forth herein shall be made only if the cause of the death of the beneficiary is from or connected with the occupational injury or disability resulting in the occupational disability retirement; otherwise, the provisions above set forth in this paragraph shall apply.

It is further provided, that if the beneficiary dies while receiving an occupational disability allowance and he is survived by a spouse and if there is no surviving spouse then only to the guardian of the dependent minor children, then an additional death benefit will be paid an amount equal to the full annual salary before the deceased appointive officer or employee at the rate of pay he was receiving at the date he was granted occupational disability. This additional benefit payment would be paid from the State Accumulation Fund. The Board of Trustees shall determine if the death is an occupational death and its decision shall be final.

For Annotations and Historical Notes, see V.A.T.S.

7. It is expressly provided herein that an appointive officer or employee who applies for Occupational Disability Retirement benefits shall be required to furnish the Board of Trustees all information and data requested by the Board of Trustees and provided further that the head and all employees of the department in which the member applying for Occupational Disability Retirement is employed shall be required to furnish all information and data concerning the application for Occupational Disability Retirement of the member and further, the Board of Trustees shall have the right to inquire and require any additional data concerning the application for occupational disability in order that the Board may have all information necessary to act upon said application for occupational disability. In the event that such information is withheld or denied, then the Board of Trustees may refuse to accept the application for Occupational Disability Retirement and shall consider the application only for Nonoccupational Disability Retirement benefits. It is expressly provided herein that the Board of Trustees shall act upon the facts and its decision regarding Occupational Disability Retirement herein applied for, shall be final.

Amended by Acts 1963, 58th Leg., p. 1194, ch. 477, § 1; Acts 1963, 58th Leg., p. 1372, ch. 524, § 1, eff. Aug. 23, 1963; Acts 1969, 61st Leg., p. 3, ch. 2, § 2, emerg. eff. Feb. 18, 1969.

D. Service Retirement Benefits for Elective State Officials.

1. Any member may retire upon written application to the State Board of Trustees, setting forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the execution of and filing thereof, he desires to be retired, provided that retirement will be effective only as of the last day of the calendar month, and provided that the said member at the time so specified for his retirement shall have attained the age of sixty (60) years and shall have completed eight (8) or more years of creditable service.

The Regular Maximum Service Retirement allowance with not less than eight (8) years of service and with an attained age of sixty (60) years or over shall be One Hundred and Fifty Dollars (\$150) per month. Each additional year of service in excess of eight (8) years shall increase the Regular Maximum Service Retirement allowance by an amount per month equal to five per cent (5%) of the total monthly salary paid to duly elected members of the Legislature of the State of Texas on date of retirement and as may be adjusted from time to time thereafter.

It is expressly provided that any annuity or allowance payable under the provisions of this Act shall begin with the last day of the month following the effective date of retirement and shall be paid in monthly installments and shall cease with the last day of the month preceding the month in which the beneficiary or person dies who is receiving such an annuity or allowance as provided in this Act.

It is further provided that the Rate of Benefits scheduled as provided for by this Act shall be applied to all service retirement annuities payable on the effective date of this Act and previously awarded under the laws governing the Employees Retirement System as effective September 1, 1963.

2. Any member who has accumulated a minimum of eight (8) years of service as provided herein and who does not withdraw his account from the Retirement System prior to the attainment of age sixty (60) shall remain an active member and shall be entitled to a service retirement allowance upon attaining age sixty (60).

3. It is provided herein that for service retirement Elective State Officials shall be eligible to select any of the optional allowance plans as provided for appointive officers and employee members, as set forth in Section 5, Subsection B, Paragraph 3, of this Act.

4. Disability Retirement Benefits for Elective State Officials.

Upon the application of a member or his employer or his legal representative acting in his behalf, any member under age sixty (60), who has eight (8) or more years of creditable service may be retired by the State Board of Trustees, not less than thirty (30) and not more than ninety (90) days next following the date of filing such application, provided the Medical Board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent, and that such member should be retired. The benefit to be paid by the Retirement System shall be the same as that set forth for service retirement without reduction for reason of age, provided, however, that no optional plan may be selected, and further provided that should the disabled retired member die before the full amount of contributions standing to his credit shall have been paid, then the remainder of his account shall be paid to the beneficiary of such disabled retired member. It is provided herein that additional provisions after disability retirement applicable for appointive officers and employee members as set forth in Section 5, Subsection C, Paragraphs 4, 5, and 6, will be applicable also to disability retirement for Elective State Officials. Upon the death of any member, with not less than eight (8) years of service under the provisions of this Act, one-half ($\frac{1}{2}$) of the total service retirement allowance provided herein to which such member is entitled or would have been entitled at age sixty (60), or at the time of his death, whichever is later, shall be paid to the surviving spouse at the time of the death of such member. Provided, however, that this section shall not be applicable in the event a greater payment is provided by a Death Benefit Plan as authorized by Chapter 352, Acts of the 50th Legislature, Regular Session, 1947, as amended (Article 6228a, Vernon's Civil Statutes of Texas) Paragraphs 5 and 6, Subsection E, Section 5.

Amended by Acts 1963, 58th Leg., p. 1194, ch. 477, § 3; Acts 1963, 58th Leg., p. 1372, ch. 524, § 1; Acts 1969, 61st Leg., p. 287, ch. 114, § 1, eff. Sept. 1, 1969.

E. Return of Accumulated Contributions.

1. Should a member with less than fifteen (15) years of creditable service cease to be employed, except by death or retirement, under the provisions of this Act he shall be paid in full the amount of accumulated contributions standing to the credit of his individual account in the Employees Saving Fund.

2. Should a member die before retirement the amount of his accumulated contributions standing to the credit of his individual account shall be paid as provided by the laws of descent and distribution of Texas unless he has directed the account to be paid otherwise.

If such a member dies before retirement, an additional death benefit will be paid only to the surviving spouse and if there is no surviving spouse, then only to the guardian of the dependent minor children. It is expressly provided that such additional death benefit herein will be paid only if the member dies and is actively employed by the state or on compensation insurance or on temporary sick leave on the date of his death and, if the member is not employed by the state at the date of his death, then the additional death benefit will be void and only the refund of the contributions will be paid. Such payments of the additional death benefit will be made from the State Accumulation Fund as follows:

(a.) At the date of the death of the member, an amount equal to twenty-five (25%) per cent of his total accumulated contributions will be paid to the surviving spouse, and if there is no surviving spouse, then only to the guardian of the dependent minor children, if such member before his death had been credited with five (5) years of service and less than ten (10) years.

For Annotations and Historical Notes, see V.A.T.S.

(b.) At the date of the death of the member, an amount equal to fifty (50%) per cent of his total accumulated contributions will be paid to the surviving spouse and if there is no surviving spouse, then only to the guardian of the dependent minor children, if such member before his death had been credited with ten (10) years of service and less than fifteen (15) years.

(c.) At the date of the death of the member, an amount equal to seventy-five (75%) per cent of his total accumulated contributions will be paid to the surviving spouse and if there is no surviving spouse, then only to the guardian of the dependent minor children, if such member before his death had been credited with fifteen (15) years of service and less than twenty (20) years.

(d.) At the date of the death of the member who had not chosen an optional death benefit plan as provided in Subsection E, Paragraph 6, an amount equal to one hundred (100%) per cent of his total accumulated contributions will be paid to the surviving spouse if such member before his death had been credited with twenty (20) years of service or more. It is provided, however, in lieu of this benefit the surviving spouse may choose the option plan in the same manner as if the member had completed the selection and, further provided, that only the spouse may make such a selection and if there is no surviving spouse, then only by the guardian of the dependent surviving minor children and if no dependent minor children, then the provisions of the preceding Subsection E, Paragraph 2, pertaining to death benefits shall apply upon death of the member.

3. Provided, however, in the event that the death of the appointive officer or employee member is an occupational death, there shall be refunded, in addition to any other benefit or payment authorized by this Act, an amount equal to the full annual salary of the deceased appointive officer or employee member based upon his rate of pay at the time of death, but such additional refund shall be paid only to the surviving spouse, and if no surviving spouse, then payment shall be made to the guardian of the dependent minor children, if any, and provided that such additional death benefit shall be paid from the State Accumulation Fund. The Board of Trustees shall determine if the death is an occupational death, and its decision shall be final.

4. After such cessation of service if no previous demand has been made, any accumulated contributions of a contributor shall be returned to him or to his heirs. If the contributor or his heirs cannot be found after seven (7) years, his accumulated contributions shall be forfeited to the Retirement System and credited to the State Accumulation Fund.

5. It is provided that any member who has completed thirty (30) years of creditable state service in Texas, may by written designation in such form as the Board of Trustees may prescribe, select a nominee and an optional allowance for retirement as set forth under the preceding Section 5, Subsection B, Paragraph 3, providing for optional allowances for service retirement, and which selection shall become effective and payable to such nominee beginning with the month following the month in which the member died, provided, however, if such a member having completed thirty (30) years of state service in Texas failed to make a selection in the event of his death then a surviving spouse may choose the option plan in the same manner as if the member had completed the selection and, further provided, that only the spouse may make such a selection and if there is no surviving spouse, then only by the guardian of the dependent minor children and if no dependent minor children, then the provisions of the preceding Subsection E, Paragraph 2, pertaining to death benefits shall apply upon death of the member.

6. It is provided that any member who has completed twenty (20) years of creditable state service in Texas, but less than thirty (30) years of creditable state service in Texas, may by written designation in such

form as the Board of Trustees may prescribe, select a nominee and an optional allowance for retirement as set forth under the preceding Subsection B, Paragraph 3, providing for optional allowances for service retirement, and which shall become effective and payable to such nominee beginning with the month following the month in which the member died, provided, however, that it is required that said member shall be actively employed or on temporary sick leave or on workmen's compensation at the time of his death. If such member having completed twenty (20) years of state service in Texas failed to make a selection in the event of his death, then a surviving spouse may choose the option plan in the same manner as if the member had completed the selection and, further provided, that only the spouse may make such a selection and if there is no surviving spouse, then only by the guardian of the surviving minor children and if no dependent minor children, then the provisions of the preceding Subsection E, Paragraph 2 pertaining to death benefits shall apply upon death of the member.

Amended by Acts 1969, 61st Leg., p. 3, ch. 2, § 3, emerg. eff. Feb. 18, 1969.

Administration

Sec. 6. A. State Board of Trustees.

1. The General Administration and responsibility for the operation of the Retirement System and for making effective the provisions of the Act are hereby vested in a State Board of Trustees which shall consist of six (6) members as follows:

(a) Three (3) members who shall be appointed with the advice and consent of the Senate as follows:

(1) A member who shall be appointed by the Governor to hold office for the term of six (6) years beginning September 1, 1958, and ending August 31, 1964.

(2) A member who shall be appointed by the Chief Justice of the Supreme Court of Texas to hold office for a four-year term beginning September 1, 1958, and ending August 31, 1962.

(3) A member appointed by the Speaker of the House of Representatives who shall hold office for a two-year term beginning September 1, 1958, and ending August 31, 1960.

It is provided that appointments of Trustees provided for after expiration of such original term as provided herein shall be made for a term of six (6) years.

(b) Three (3) Trustees shall be employee members of the Retirement System and shall be nominated and elected by the members of the Retirement System for a period of six (6) years each, according to such rules and regulations as the State Board of Trustees shall adopt to cover such nominations and elections and provided, however, that the elected employee members of the Board of Trustees on the date of September 1, 1958, shall continue to serve until the expiration of the term for which they were elected. Thereafter elections shall be held on or before July 31, 1961, and biennially thereafter for the purpose of nominating and electing an employee who is a member of the Retirement System to serve as an ex officio member of the Board of Trustees for a period of six (6) years, and said employee after being elected shall take the oath and begin his term as an ex officio member on the first day of September next following the election. It is further provided that all elections held for the nomination and election of an ex officio employee member trustee shall be on ballots made available to the members by the Board of Trustees. It is further provided that it shall be the additive and cumulative duty of every employee who is a member of the Employees Retirement System to serve as an ex officio member of the Board of Trustees after being nominated and elected as provided in the Act.

2. Vacancies of elected ex officio employee members of the Board of Trustees shall be filled by the Board from among members of the System.

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Provided, however, that no employee of a department shall be eligible to serve as an elected ex officio employee member of the Board of Trustees, during the term of an elected ex officio employee member of the Board of Trustees who is also employed by the same department.

3. The Trustees who are currently contributing members of the Employees Retirement System shall serve without compensation, but they shall be reimbursed from the Expense Fund for all necessary expenses that they may incur through service on the Board. Trustees who are not currently contributing members of the Employees Retirement System may receive compensation and all necessary expenses that they may incur through service on the Board as approved by the Board of Trustees.

4. Each Trustee shall, within ten (10) days after his appointment, in addition to the Constitutional oath, subscribe to the following oath of office: "I do solemnly swear that I will, to the best of my ability, discharge the duties of a Trustee of the Employees Retirement System and will diligently and honestly administer the affairs of the Board of Trustees of said Retirement System and that I will not knowingly violate or willingly permit to be violated any of the provisions of law applicable to said Retirement System." This oath shall be subscribed to by members making it before any officer qualified to administer oaths in Texas, and duly filed in the office of the Secretary of State.

5. Each Trustee shall be entitled to one (1) vote in the Board. A majority of the State Board of Trustees shall constitute a quorum and a majority vote of those present shall be necessary for a decision by the Trustees at any meeting of said Board.

6. Subject to the limitations of this Act, the State Board of Trustees shall, from time to time, establish rules and regulations for eligibility of membership and for the administration of the funds created by this Act and for the transaction of its business.

7. The State Board of Trustees shall elect from its membership a Chairman and shall by a majority vote of all its members appoint an Executive Secretary who shall not be one of its members. The Executive Secretary appointed shall have been a citizen of Texas three (3) years immediately preceding his appointment, shall have executive ability and experience to carry out the duties of the office and shall hold his position until removed by the Board. He shall recommend and nominate to the State Board of Trustees such actuarial and other service as shall be required to transact the business of the Retirement System. The compensation of all persons engaged by the State Board of Trustees, and all other expenses of the Board necessary for the operation of the Retirement System, shall be paid at such rates and in such amounts as the State Board of Trustees shall approve, provided that in no case shall they be greater than paid for like or similar service of the State of Texas.

8. The State Board of Trustees shall keep in convenient form such data as shall be necessary for actuarial valuation of the various funds of the Retirement System and for checking the expenses of the System.

9. The State Board of Trustees shall keep a record of all of its proceedings which shall be open to public inspection. It shall publish annually a report showing the fiscal transactions of the Retirement System for the preceding year, the amount of the accumulated cash and securities of the System, and the last balance sheet showing the financial condition of the System.

Amended by Acts 1963, 58th Leg., p. 1138, ch. 442, § 11; Acts 1963, 58th Leg., p. 1372, ch. 524, § 1; Acts 1969, 61st Leg., p. 3, ch. 2, § 4, emerg. eff. Feb. 18, 1969.

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Management of Funds

Sec. 7. A. The State Board of Trustees shall be the Trustees of the several funds as herein created by this Act and shall have full power to invest and reinvest such funds subject to the following limitations and restrictions:

All retirement funds as are received by the Treasury of the State of Texas as deposits from contributions of members or employer as herein provided, may be invested only in bonds and other evidences of indebtedness of the United States, and all other bonds or evidences of indebtedness which are guaranteed as to principal and interest by the United States; in bonds and other evidences of indebtedness, both general and special obligations, of the State of Texas and any of its agencies; in bonds or other evidences of indebtedness of municipal corporations or political subdivisions of the State of Texas both general and special obligations, which have been approved as to legality by the Attorney General of the State of Texas; and in securities in which the State Permanent School Fund or the Permanent University Fund of The University of Texas may be invested under present or hereafter enacted laws. The State Board of Trustees shall have full power by proper resolution to hold, purchase, sell, assign, transfer, and dispose of any of the securities and investments in which any of the funds credited herein shall have been invested, as well as the proceeds of said investments and any moneys belonging to said funds, provided that any money on hand shall be subject to the State Depository Laws of Texas.

B. The State Board of Trustees, annually, on August 31st, shall transfer from the Interest Fund to the Expense Fund an amount as shall be determined by the Board to be necessary for the payments of expenses of the Retirement System in excess of the amount available to be paid from the Expense Fund to cover the expenses as estimated for the succeeding year. The Board, annually, on August 31st, shall transfer to the Retirement Annuity Reserve Fund from the Interest Fund an amount equal to four (4%) per cent interest on the mean amount in the Retirement Annuity Reserve Fund for the year then ending. The Board, annually, on August 31st, shall transfer interest to the Employees Saving Fund at a rate not to exceed two and one-half (2-½%) per cent per annum on the amount in the Employees Saving Fund equal to the sum of the accumulated contributions standing to the credit at the beginning of each year of all members included in the membership of the System on August 31st of each year, and further, that such transfer of interest to said Fund shall be made before funds are transferred for Service Retirements effective August 31st of each year. The Board, annually, on August 31st, after making transfer from the Interest Fund, as above provided, shall transfer all remaining interest in the Interest Fund to the State Accumulation Fund.

C. The Treasurer of the State of Texas shall be the custodian of all bonds, securities, and funds. All payments from said funds shall be made by him on warrants drawn by the State Comptroller of Public Accounts supported only upon vouchers signed by the Secretary of the Retirement System and the Chairman of the State Board of Trustees. A duly attested copy of a resolution of the State Board of Trustees designating such persons shall be filed with said Comptroller as his authority for issuing such warrants.

D. For the purpose of meeting disbursements for annuities and other payments there may be kept available cash, not exceeding ten per cent (10%) of the total amount in the several funds of the Retirement System on deposit with the State Treasurer.

E. No trustee and no employee of the State Board of Trustees shall have any direct or indirect interest in the gains or profits of any investment made by the State Board of Trustees, nor as such receive any pay

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or emolument for his services other than his designated salary and authorized expenses, except such interest as such person or persons may have in the retirement funds as a member in the Retirement System.

F. The assets and moneys of the Retirement System, from whatever source derived, shall be invested as a single fund, and all securities hereafter acquired, as well as those heretofore purchased, shall be held collectively for the proportionate benefit of all funds and accounts of the Retirement System.

Amended by Acts 1963, 58th Leg., p. 1194, ch. 477, § 4; Acts 1963, 58th Leg., p. 1372, ch. 524, § 1; Acts 1969, 61st Leg., p. 3, ch. 2, § 5, emerg. eff. Feb. 18, 1969.

Method of Financing

Sec. 8. * * *

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C. It is expressly provided that the members who are Elective State Officials shall contribute a sum equal to six per cent (6%) of the total compensation (monthly rate of pay) of the said respective Elective State Official to the Employees Saving Fund and an equal amount shall be paid by the State of Texas each year in equal monthly installments to the State Accumulation Fund, notwithstanding the provisions of Subsection A of this Section.

Subsec. C added by Acts 1969, 61st Leg., p. 287, ch. 114, § 2, eff. Sept. 1, 1969.

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Amount of Benefits; Creditable Service

Sec. 12. A. It is further provided, that all service retirement annuities calculated under the laws governing the Employees Retirement System as of August 31, 1958, and payable at the effective date of this Act, as well as all such annuities awarded subsequent to the effective date of this Act, shall be increased on the month after the effective date of this Act, by an additional ten (10%) per cent; provided that nothing herein shall be construed as an increase in the minimum service retirement annuity where the original annuity calculated at less than the minimum allowance, unless such original annuity, after the application of the ten (10%) per cent increase, as provided herein, exceeds the minimum service retirement allowance provided by law; and further provided, that no member who is entitled to a service retirement shall receive as a service retirement benefit an amount which would be less than he would have been entitled to receive at the date of his retirement in an equivalent benefit calculated under the laws governing the Employees Retirement System of Texas as effective August 31, 1958 and subsequent increase effective September 1, 1963 and thereafter shall receive an amount as a service retirement benefit as provided herein.

B. Nothing in this Act shall be construed as reducing the annuities or benefit allowances heretofore approved for or awarded to any person prior to September 1, 1958, in accordance with the laws relating to the Employees Retirement System in effect August 31, 1958, provided that if the Service Retirement Benefit of any such retired beneficiary is less than the minimum prescribed under Section 5, Subsection B, Paragraph 1, as applicable then such benefits shall be increased to the minimum prescribed for equivalent service as if said minimum retirement benefit was applicable on the effective date of the retirement.

C. It is further expressly provided herein that creditable service of all members of the Employees Retirement System of Texas as accumulated by each member and granted by this System as of August 31,

1958, shall not be reduced but shall be granted and shall be effective September 1, 1958 and thereafter.

D. It is expressly provided herein that no increase in contribution rate or benefits applicable to Elective State Officials, appointive officers and employees, and/or retired members shall be effective on the date of passage of this Act, but shall become effective on the first day of the month following the effective date of this Act. Elective State Officials other than members of the Legislature of the State of Texas shall be entitled to elect to claim benefits under this Act or under other applicable retirement provisions of the Employees Retirement System of Texas, but in no event shall such Elective State Official claim under this Act as well as other applicable retirement provisions. Such election may be exercised by written notice to the Employees Retirement System at any time, but such Elective State Official once having elected to come under other applicable retirement provisions shall not thereafter be permitted to elect to come under this Act.

Amended by Acts 1963, 58th Leg., p. 1372, ch. 524, § 1, eff. Aug. 23, 1963; Acts 1969, 61st Leg., p. 3, ch. 2, § 6, emerg. eff. Feb. 18, 1969; Acts 1969, 61st Leg., p. 287, ch. 114, § 3, eff. Sept. 1, 1969.

Section 7 of the amendatory act of 1969 provided:

"If any Section or part of any Section of this Act is declared to be unconstitutional, the remainder of the Act shall not thereby

be invalidated. All provisions of the law inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency."

Art. 6228a—4. Repealed by Acts 1969, 61st Leg., p. 127, ch. 41, § 2, emerg. eff. March 31, 1969; Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

See, now, art. 2922—1.01 et seq.

Art. 6228a—5. Annuities for employees of local boards of education, governing boards of institutions of higher education, Coordinating Board and Central Education Agency

Local Boards of Education of the Public Schools of this state, the Governing Boards of the state-supported institutions of higher education, the Coordinating Board, Texas College and University System, and the Central Education Agency are hereby authorized to enter into agreements with their employees for the purchase of annuities for their employees as authorized in Section 403(b) of the Internal Revenue Code of 1954, as amended.¹

Amended by Acts 1969, 61st Leg., p. 2297, ch. 774, § 2, eff. Sept. 1, 1969.

¹ 26 U.S.C.A. (I.R.C.1954) § 403(b).

Art. 6228b. Retirement of justices, judges and commissioners of appellate and district courts

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Qualifications for retirement; retirement pay; reduced annuity plans

Sec. 2. (a). Any judge in this state may, at his option, retire from regular active service after attaining the age of sixty-five (65) years and after serving on one or more of the courts of this state at least ten (10) years continuously or otherwise, provided that his last service prior to retirement shall be continuous for a period of not less than one year. Any person who has served on one or more of the courts of this state at least twelve (12) years, continuously or otherwise, regardless of whether he

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is serving on a court at such time, shall after attaining the age of sixty-five (65) years, be qualified for retirement pay under this Act. Any person retiring in accordance with this Act after the effective date of this amendment shall, during the remainder of such person's lifetime receive from the State of Texas monthly a base retirement payment equal to fifty percent (50%) of the salary being received by a judge of a court of the same classification last served by such person as judge. An additional ten percent (10%) of the applicable salary shall be added to the base retirement payments to the following judges: (1) those eligible for retirement under any provisions of this Act as amended who retire at or before age seventy (70); (2) those who are not eligible by length of service to retirement benefits at age 70 but who retire immediately upon becoming eligible; and (3) those in office on September 1, 1967, who then are or during their current term of office will be seventy (70) or more years of age and who retire at or before the end of their current term of office; provided, however, the additional ten percent (10%) benefit shall not be paid to any judge who has been out of office for a period of longer than one (1) year at the time he applies for retirement benefits under this Act. Any judge drawing retirement at the effective date of this Act shall receive the same retirement pay as judges of the same classification who have retired on the current pay scale; that said judge shall be entitled to any raises based upon increases in current salary.

Sec. 2(a) amended by Acts 1969, 61st Leg., p. 1471, ch. 435, § 1, emerg. eff. June 4, 1969.

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Credit for legislative service

Sec. 2B. The time served in the Legislature of the State of Texas by any judge coming within the purview of this statute shall be credited to the length of judicial service.

Sec. 2B added by Acts 1969, 61st Leg., p. 882, ch. 296, § 1, emerg. eff. May 22, 1969.

Right to Retire for Disability

Sec. 3. If a judge has served on one (1) or more of the courts of this state at least seven (7) years, continuously or otherwise, and because of disability can no longer perform his regular judicial duties as such judge, he shall be retired from regular active service, irrespective of his age, and shall be entitled to retirement pay during the remainder of his lifetime or during the period of such disability, under the same conditions and limitations as provided in Section 2 of this Act.

Any judge coming within the purview of this Statute who shall apply for retirement by reason of physical incapacity shall file with the Supreme Court of Texas written reports by two (2) licensed physicians of the State of Texas fully reporting the claimed physical incapacity; and the Chief Justice of the Supreme Court of Texas is hereby vested with the authority to appoint a licensed physician of the State of Texas to make any additional medical investigation they deem necessary. Provided, however, that if such physical disability is caused or results from the intemperate use of alcohol or narcotic drugs, such facts shall be grounds for denial of such benefits.

Sec. 3 amended by Acts 1969, 61st Leg., p. 1316, ch. 402, § 1, emerg. eff. May 30, 1969.

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Partial invalidity

Sec. 10. If any section, subsection, or clause of this Act is, for any reason, held to be unconstitutional, such decision shall not affect the validity of any of the remaining portions of this Act, and it is hereby

declared that this Act would nevertheless have been passed without such section, subsection or clause so declared unconstitutional. Acts, 1949, 51st Legislature, page 181, Chapter 99."

Sec. 10 amended by Acts 1969, 61st Leg., p. 1316, ch. 402, § 1, emerg. eff. May 30, 1969.

Art. 6228f. Payments of assistance by State to survivors of law enforcement officers, etc., killed in performance of duties

Declaration of policy

Section 1. It is hereby declared to be the public policy of this State, under its police power, to provide financial assistance to the surviving spouse and minor children of paid law enforcement officers, members of organized police reserve or auxiliary units with the power to make arrests, custodial personnel of the Texas Department of Corrections, juvenile correctional employees of the Texas Youth Council, employees of the Rusk State Hospital for the Criminally Insane, paid firemen, and members of organized volunteer fire departments where such paid law enforcement officers, members of organized police reserve or auxiliary units with the authority to make arrests, custodial personnel, juvenile correctional employees of the Texas Youth Council, employees of the Rusk State Hospital for the Criminally Insane, paid firemen or members of organized volunteer fire departments suffer violent death in the course of the performance of their duties as paid law enforcement officers, members of organized police reserve or auxiliary units with the power to make arrests, custodial personnel of the Texas Department of Corrections, employees of the Texas Youth Council and the Rusk State Hospital for the Criminally Insane, paid firemen and members of organized volunteer fire departments. Sec. 1 amended by Acts 1969, 61st Leg., p. 1513, ch. 456, § 1, eff. Sept. 1, 1969.

Definitions

Sec. 2. (a) As used in this Act:

(1) "Violent death in the course of performance of duty" means loss of life resulting from exposure to a risk inherent in the particular duty performed and which risk is one to which the general public is not customarily exposed.

(2) "Paid law enforcement officer" means a peace officer as defined in Article 2.12, Texas Code of Criminal Procedure, 1965, and includes game wardens who are employees of the State of Texas paid on a full-time basis for the enforcement of game laws and regulations.

(3) "Members of organized police reserve or auxiliary units with power to make arrests" means a person who, on a regular basis, assists peace officers in the enforcement of criminal laws and who has the authority to make arrests.

(4) "Custodial personnel of the Texas Department of Corrections" means the class of employees of the Department of Corrections designated as custodial personnel by a resolution adopted by the Texas Board of Corrections.

(5) "Paid firemen" means a person who is employed by the State or its political or legal subdivisions to render fire-fighting services.

(6) "Organized volunteer fire departments" means a fire-fighting unit consisting of not less than 20 active members with a minimum of 2 drills each month, each 2 hours long, and with a majority of all active members present at each meeting, and which renders fire-fighting services without remuneration.

(7) "Minor child" means a child who, on the date of the violent death of any person covered by this Act, has not reached the age of 21 years.

(b) For the purpose of this Act, "organized volunteer fire departments," as defined above, shall be considered agents of the city, county,

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district or other political subdivision which it serves if it receives any financial aid from such city, county, district or other political subdivision for the maintenance, upkeep, or storing of its equipment, or is designated by the governing body of the city, county, district or other political subdivision as its agent. For the purposes of this Act, organized police reserve or auxiliary units shall be considered agents of the city, county, district or other political subdivision which it serves if it is designated as such by the governing body of such city, county, district or other political subdivision.

Sec. 2 amended by Acts 1969, 61st Leg., p. 1513, ch. 456, § 1, eff. Sept. 1, 1969.

Assistance payable

Sec. 3. In any case in which a paid law enforcement officer, a member of an organized police reserve or auxiliary unit with the power to make arrests, custodial personnel of the Texas Department of Corrections, juvenile correctional employee of the Texas Youth Council, employee of the Rusk State Hospital for the Criminally Insane, paid fireman, and/or member of an organized volunteer fire department suffers violent death in the course of his duty as such paid law enforcement officer, member of an organized police reserve or auxiliary unit with the power to make arrests, custodial personnel of the Texas Department of Corrections, juvenile correctional employee of the Texas Youth Council, employee of the Rusk State Hospital for the Criminally Insane, paid fireman, or member of an organized volunteer fire department, the State of Texas shall pay to the surviving spouse of such paid law enforcement officer, member of an organized police reserve or auxiliary unit with the power to make arrests, custodial personnel of the Texas Department of Corrections, juvenile correctional employee of the Texas Youth Council, employee of the Rusk State Hospital for the Criminally Insane, paid fireman, or member of an organized volunteer fire department the sum of \$10,000 and in addition thereto, if such paid law enforcement officer, member of an organized police reserve or auxiliary unit with the power to make arrests, custodial personnel of the Texas Department of Corrections, juvenile correctional employee of the Texas Youth Council, employee of the Rusk State Hospital for the Criminally Insane, paid fireman, or member of an organized volunteer fire department shall be survived by a minor child or minor children, the State of Texas shall pay to the duly appointed or qualified guardian or other legal representative of each minor child the following assistance:

If one minor child—\$100 per month

If two minor children—\$150 per month

Three or more minor children—\$200 per month.

Provided, that when any child entitled to benefits under this Act ceases to be a minor child as that term is defined herein, his entitlement to benefits shall terminate and any benefits payable under this Act on behalf of his minor brothers and sisters, if any, shall be adjusted to conform with the foregoing schedule if necessary.

Sec. 3 amended by Acts 1969, 61st Leg., p. 1513, ch. 456, § 1, eff. Sept. 1, 1969.

Administration

Sec. 4. This Act shall be administered by the State Board of Trustees of the Employees Retirement System of Texas, under rules and regulations adopted by said Board. Proof of death claimed to be violent death in the course of performance of duty of a paid law enforcement officer, member of an organized police reserve or auxiliary unit with the power to make arrests, custodial personnel of the Texas Department of Correc-

tions, juvenile correctional employee of the Texas Youth Council, employee of the Rusk State Hospital for the Criminally Insane, paid fireman, or member of an organized volunteer fire department shall be furnished to said Board of Trustees in such form as it may require, together with such additional evidence and information as it may require.

Sec. 4 amended by Acts 1969, 61st Leg., p. 1513, ch. 456, § 1, eff. Sept. 1, 1969.

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Art. 6228g. Texas County and District Retirement System

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Participation

Sec. 3.

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2. Participation of Employees.

The membership of the System shall be composed as follows:

(a) All persons who are employees of a participating subdivision on the effective date of its participation in the System shall become members of the System as of that date; provided, however, that this provision shall not apply to any of the following persons or groups of persons, to wit:

(1) Any person, except by his consent, who on the effective date of participation has a basis of employment with the subdivision which would be violated by the requirement that he become a member; but each such person, being notified that the governing body has determined that the subdivision shall participate in the System, shall be deemed to have consented and elected to become a member of the System, unless prior to the date fixed for participation he shall file with the governing body, written notice of his election not to become a member. Any person so electing not to become a member, may at any time thereafter during his employment by the subdivision and before he becomes fifty-eight years of age elect to become a member of the System as of the first day of the calendar month following filing by him with the Board and with the governing body, of notice of his wish to become a member; but in such event he shall enter the System without credit or claim of credit for prior service or other service, and shall for purposes of this Act be considered as a person entering the employment of the subdivision for the first time on the date he becomes a member of the System;

(2) Employees of any county hospital which hospital is governed by the terms and provisions of Chapter 5, Title 71, Vernon's Texas Civil Statutes, where the commissioners court of the county elects to preclude the employees of any such hospital from becoming members of the System. If employees of a county hospital are not included in the System, the commissioners court may thereafter elect to require such employees to become members of the System, and such employees shall become members of the System at the date fixed by the order for their participation; the rights and obligations of such employees and of the county as employer of such persons shall be determined as if such county hospital employees were employees of a separate subdivision."

Sec. 3, subsec. 2(a) amended by Acts 1969, 61st Leg., p. 1707, ch. 558, § 1, emerg. eff. June 10, 1969.

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2. CITY PENSIONS

Art. 6243a. Firemen's, policemen's and fire alarm operators' pension system; cities and towns of 432,000 or more having fully or partially paid departments

* * * * *

Amendment as to benefits or eligibility

Sec. 11A. A. "Participating member" as used herein shall mean a fully paid fireman, policeman or fire alarm operator in the employ of the city or town who has filed a statement required by Section 2 hereof.

B. This section applies to all cities and towns which are now within, or which may hereafter come within the provisions of this Act. The participating members of the Firemen, Policemen and Fire Alarm Operators' Pension System may amend, in any manner whatsoever, either the benefits or the eligibility requirements for such benefits, or both, provided that:

(1) The amendment is first approved by a qualified actuary selected by a majority vote of the Board of Trustees of the Firemen, Policemen and Fire Alarm Operators' Pension System as being actuarially sound. Such qualified actuary shall:

(a) if an individual, be a Fellow of the Society of Actuaries or a Fellow of the Conference of Actuaries in Public Practice or a Member of the American Academy of Actuaries; or

(b) if a firm, partnership or corporation, employs one or more persons who are Fellows of the Society of Actuaries or Fellows of the Conference of Actuaries in Public Practice or Members of the American Academy of Actuaries; and

(2) The amendment is approved by a majority of the Board of Trustees of the Fund; and

(3) A majority of the participating members in the Pension Fund, vote for the amendment by secret ballot; and

(4) The amendment does not deprive a member of any of the benefits that have become fully vested to him under the present Fund unless he shall (a) execute his written consent to participate in the amended plan; and (b) has qualified thereunder.

C. Any amendment made pursuant to this Section shall not in any manner affect any rights or responsibilities under the existing Act or create any new rights or responsibilities except as fully set forth in the adopted amendment.

D. Any amendment as set forth herein shall not be required to be ratified by the Legislature of the State of Texas, but shall become operative when properly recorded in the permanent records of the city.

E. The amendment applies only to active full-time firemen, policemen or fire alarm operators in the employ of the city or town at the time of the amendment and those who qualify under the provisions of this Act hereafter.

F. Prior to any election hereunder, the Board of Trustees shall by a majority vote, issue a notice of the calling of the election which notice shall state the proposition to be voted upon and shall include verbatim the amendment sought to be made, which notice shall be posted at the City Hall and at all Fire Stations and Police Stations and upon the bulletin boards at the places where the policemen and firemen are assembled for duty, at least two weeks prior to the date of the election. The balloting in the election shall be held upon two consecutive days with ballot boxes placed at the places that may be determined by the Board of Trustees, so as to be generally convenient to those voting.

The ballot boxes shall be kept locked at all times until canvassed by the Board of Trustees or under their supervision.

G. The minutes of the Board of Trustees, certified by the Secretary thereof, showing:

- (1) The proposed amendment to the Pension System; and
- (2) The calling of the election and the giving of notice thereof; and
- (3) The canvassing of the votes in said election, under the supervision of the Board of Trustees, and a certification of the results thereof by the Board;

when reduced to writing as other permanent records of the city and filed in the office of the City Secretary of the city in which the election is held, shall constitute evidence of the matters contained therein, admissible in all courts and proceedings. If a majority of the votes cast in said election are for the amendment, the filing in the City Secretary's office as herein set out, shall be the effective date thereof, and shall constitute an amendment to the Firemen, Policemen and Fire Alarm Operators' Pension System.

Sec. 11A added by Acts 1969, 61st Leg., p. 1450, ch. 430, § 1, emerg. eff. June 2, 1969.

Acts 1969, 61st Leg., p. 1450, ch. 430, which added section 11A, also provided:
"Sec. 2. If any part, section, subsection, paragraph, sentence, clause, phrase or word contained in this Act shall be held by the courts to be invalid, such holding shall not affect the remaining portions of this Act, and the Legislature hereby declares that it would have passed such remaining portion despite such invalidity.

"Sec. 3. All laws and parts of laws in conflict herewith are hereby repealed."
Financial assistance to surviving spouse and minor children of law enforcement officers and full-paid firemen who suffer violent death in performance of duties, see art. 6228f.

Art. 6243b. Firemen and policemen pension fund in cities of more than 275,000 and less than 300,000

* * * * *

Participation in fund; wage deductions

Sec. 2. Each fully paid fireman, policeman and fire alarm operator and other persons herein designated as members of either of said departments, in the employment of such city or town, must participate in said fund, and said city or town shall be authorized to deduct a sum of not less than one per cent (1%) nor in excess of six per cent (6%) of his wages from each month to form a part of the fund known as the Firemen, Policemen and Fire Alarm Operators Pension Fund, except in times of national emergency said persons as are employed during such time shall not be required to participate in said fund. The amount to be deducted from the wages of those named above who must participate in the fund is to be determined by the board of trustees as provided for in Section 1, Chapter 101 of the General and Special Laws of the 43rd Legislature, First Called Session, within the minimum and maximum deductions herein provided.

Sec. 2 amended by Acts 1963, 58th Leg., p. 367, ch. 136, § 1, eff. May 10, 1963; Acts 1969, 61st Leg., p. 2456, ch. 823, § 1, eff. Sept. 1, 1969.

Payments to fund

Sec. 3. There shall be deducted for such fund from the wages of each fireman, policeman and fire alarm operator, and other persons herein designated as members of either of said departments a sum of not less than one per cent (1%) nor in excess of six per cent (6%) of the wages earned by such employees, the amount of wages so deducted to be determined as provided in Section 2, Chapter 101 of the General and

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Special Laws of the 43rd Legislature, First Called Session, as amended by this Act. Any donations made to such fund and rewards received by any member of either of said departments, and all funds received from any source for such fund shall be deposited in like manner to the credit of such fund.

Sec. 3 amended by Acts 1963, 58th Leg., p. 367, ch. 136, § 1, eff. May 10, 1963; Acts 1969, 61st Leg., p. 2456, ch. 823, § 1, eff. Sept. 1, 1969.

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Membership in pension fund; eligibility

Sec. 6. (a) Any person who has been duly appointed and enrolled in the fire department, police department, or fire alarm operators department of any city having the number of inhabitants provided for in Section 1, as amended, to a position or office expressly established and classified as a position or office in either of said departments by ordinance of the City Council or other governing body of such city, and who, after such due appointment and enrollment has served the probationary period of such position or office, if any, shall automatically become a member of the pension fund of such city upon expiration of ninety (90) days from date such city comes within the provisions of this Act, provided such person at the time of such appointment was not less than eighteen (18) years of age and not more than twenty-nine (29) years of age. In all instances where a person is already a member of and contributor to such pension fund, he shall retain and be entitled to all rights and privileges due him by virtue of having been such a member and contributor.

(b) Any person not a member of the pension fund when this Act becomes effective, who thereafter is duly appointed and enrolled as a fireman, policeman, or fire alarm operator of such city in a position or office expressly established and classified as a position or office in either of said departments by ordinance of the City Council or other governing body of such city, and who, after due appointment and enrollment serves the probationary period in such position or office, if any, shall automatically become a member of the pension system as a condition of his employment provided such person at the time of such appointment was not less than eighteen (18) years of age and not more than twenty-nine (29) years of age."

Sec. 6 amended by Acts 1965, 58th Leg., p. 367, ch. 136, § 1, eff. May 10, 1963; Acts 1969, 61st Leg., p. 2456, ch. 823, § 1, eff. Sept. 1, 1969.

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Art. 6243e. Firemen's Relief Pension Fund

* * * * *

Cities of less than 185,000 population; composition and duties of board of trustees

Sec. 3B. (a) This Section applies to all cities having a population of less than one hundred eighty-five thousand (185,000), according to the last preceding Federal Census in which there is a "full paid" fire department participating in a Firemen's Relief and Retirement Fund.

(b) All of Section 3 of this Act applies to the Boards in these cities, except for those provisions which conflict, in which case this section controls.

(c) The Board of Firemen's Relief and Retirement Fund Trustees shall consist of the following:

- (1) the mayor or his duly appointed and authorized representative;
- (2) the chief financial officer, or if there is no chief financial officer, then the city treasurer, city secretary, city clerk, or such other person

or officer as by law, charter provision, or ordinance performs the duties of chief financial officer;

(3) three (3) members of the regularly organized active fire department of the city, to be elected by a majority vote of the members of the department; and

(4) two (2) legally qualified taxpaying electors of the city, who have resided in that city for the last three (3) years and are neither employees nor officers of that city, to be chosen by the unanimous vote of the members of the Board provided for in Subdivisions (1), (2), and (3) of this subsection.

(d) The members of the fire department presently serving on the Board of Trustees shall continue in that capacity. Annually, on the first Monday in the month of January after the effective date of this section, the participating members of the Fund shall elect by secret ballot and certify one member of the Board for a three-year term.

(e) The two (2) appointed members shall be chosen on the third Monday in the month of January following the effective date of this section. One of the members shall be appointed for a term of one year and the other shall be appointed for a term of two (2) years. Annually, thereafter, on the third Monday in January, a qualified member will be chosen to serve as an appointed member for a two-year term.

(f) The Board of Trustees shall elect annually from among their number a Chairman, Vice-Chairman and a Secretary.

(g) Each member of the Board of Trustees shall, within ten (10) days after taking office, take an oath of office that he will diligently and honestly administer the affairs of the Firemen's Relief and Retirement Fund and that he will not knowingly violate or willingly permit to be violated any provision of this Act.

(h) If an appointed member of the Board dies, resigns or is removed, the members provided for in Subdivisions (1), (2) and (3) of Subsection (c) shall choose another qualified person to fill the vacancy. The person chosen shall serve for the unexpired term of the person he is replacing.

(i) The Secretary of the Board of Trustees shall, within seven (7) days after each meeting of the Board, forward true copies of the minutes of such meeting to each fire station and to each division of the fire department.

Sec. 3B added by Acts 1967, 60th Leg., p. 348, ch. 167, § 1, eff. Aug. 28, 1967; Sec. 3B(a) amended by Acts 1969, 61st Leg., p. 508, ch. 174, § 1, emerg. eff. May 9, 1969.

* * * * *

Pension and additional pension allowances; service retirement; schedule of benefits; limits; additional contributions; certificate; cities of 900,000 or more

Sec. 6B. (a) Any person who has been duly appointed and enrolled and who has attained the age of fifty (50) years, and who has served actively for a period of twenty (20) years or more and has participated in a fund in one or more regularly organized fire departments in any city in this state having a population of nine hundred thousand (900,000) or more according to the last preceding Federal Census, which city is now within or may come within the provisions of this Act, shall be entitled to be retired from such service or department and shall be entitled to be paid from the Firemen's Relief and Retirement Fund of that city or town, a monthly pension equal to forty-two and one-half percent (42-½%) of his average salary for the highest thirty-six (36) months of his service; and provided further, any such fireman shall be entitled to be paid in addition to the benefits provided for in this paragraph an additional monthly pension allowance of one percent (1%) of his average monthly salary for the highest thirty-six (36) months during his participation for each year

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of service after the date upon which such fireman shall be entitled to be retired.

(b) Provided further, however, a fireman who has twenty (20) years of service and participation in a fund under this Section may, if he so elects, be retired from such department and receive a monthly pension allowance of thirty percent (30%) of his average monthly salary for the highest thirty-six (36) months during his participation.

If such fireman shall participate in the fund for a period in excess of twenty (20) years he shall, in addition to the monthly pension allowance of thirty percent (30%) be paid an additional monthly pension allowance equal to two and one-half percent (2- $\frac{1}{2}$ %) of his average monthly salary for each year of service in excess of twenty (20) years until such fireman completes twenty-five (25) years of service thereby providing a monthly pension allowance equal to forty-two and one-half percent (42- $\frac{1}{2}$ %) of such fireman's average monthly salary for the highest thirty-six (36) months during his participation.

If such fireman remains in the active service for a period in excess of twenty-five (25) years, he shall receive, in addition to the pension allowances provided for in Subsection (b), an additional monthly pension allowance equal to one percent (1%) of his average salary for each year of participation in excess of twenty-five (25) years.

(c) Provided further, that the following schedule of benefits shall become effective on January 1, 1970.

(1) Any person who has attained the age of fifty (50) years, and who has served actively for a period of twenty (20) years or more and has participated in a fund shall be entitled to be retired from such service or department and shall be entitled to be paid from the Firemen's Relief and Retirement Fund of that city or town.

A monthly pension equal to fifty percent (50%) of his average salary for the highest thirty-six (36) months of his service; and provided further, any such fireman shall be entitled to be paid in addition to the benefits provided for in this paragraph an additional monthly pension allowance of one percent (1%) of his average monthly salary for the highest thirty-six (36) months of service during his participation for each year of service after the date upon which such fireman shall be entitled to be retired.

(2) Provided further, however, a fireman who has twenty (20) years of service and participation in a fund under this Section may, if he so elects, be retired from such department and receive a monthly pension allowance of thirty-five percent (35%) of his average monthly salary for the highest thirty-six (36) months during his participation.

If such fireman shall participate in the fund for a period in excess of twenty (20) years he shall, in addition to the monthly pension allowance of thirty-five percent (35%), be paid an additional monthly pension allowance equal to three percent (3%) of his average monthly salary for each year of service in excess of twenty (20) years until such fireman completes twenty-five (25) years of service thereby providing a monthly pension allowance equal to fifty percent (50%) of such fireman's average monthly salary for the highest thirty-six (36) months during his participation.

If such fireman remains in the active service for a period in excess of twenty-five (25) years, he shall receive in addition to the pension allowances provided for in Subdivision 2 an additional monthly pension allowance equal to one percent (1%) of his average salary for each year of participation in excess of twenty-five (25) years.

(d) Provided further, that the maximum pension allowance to be received by any fireman under this Section or 7B or 7C, shall not exceed sixty percent (60%).

(e) Any active fireman whose benefits and contributions have been limited to that of an assistant chief while serving as fire chief, may elect

to pay the additional contributions he would have paid if he had paid on his total salary as fire chief and the city shall also pay a sum equal to one and one-half (1-1/2) times the total sum paid by such fireman. Such option shall be exercised within a period of thirty (30) days after the effective date of this amending section. He may have such salary considered at retirement when his pension benefits are calculated."

(f) No fireman who retires under the provisions of this Section shall receive a monthly pension allowance less than he would prior to the effective date of this amending Section.

(g) Notwithstanding any other provisions of this Act, it is hereby specially provided that any eligible and qualified fireman who shall have completed twenty (20) years of service or more and of participation in a fund in a city to which this Section is applicable, before reaching the age of fifty (50) years, may apply to the Board of Trustees for, and it shall be the Board's duty to issue, a certificate showing the completion of such service and showing and certifying that such fireman, when reaching the age of fifty (50) years, will be entitled to the retirement and other applicable benefits of this Act; provided further, that when any fireman shall have been issued such certificate he shall, when reaching retirement age, be entitled to all the applicable benefits of this Act, even though he shall not have been engaged in active service as a fireman after the issuance of such certificate. However, the fireman shall continue to pay his pension contribution monthly or in advance until the fireman reaches retirement age. Any fireman who does not make his pension contribution monthly or in advance, shall automatically forfeit any retirement or other benefits he or his beneficiaries may have been entitled to under this Act. Sec. 6B amended by Acts 1965, 59th Leg., p. 55, ch. 20, § 1, eff. March 16, 1965; Acts 1969, 61st Leg., p. 230, ch. 92, § 1, emerg. eff. April 25, 1969.

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Cities and towns of less than 165,000 population; pension; certificate of completion of service period; additional pension allowance; widow's benefits; applicability of section; increase

Sec. 6D. (a) Any full-paid fireman who has been duly appointed and enrolled and who has attained the age of fifty (50) years, and who has served actively for a period of twenty (20) years in any rank, in one (1) or more fully paid fire departments in any city or town in this State having a population of less than one hundred and sixty-five thousand (165,000), according to the last preceding Federal Census, which city or town is now within or may come within the provisions of this Act, shall be entitled to be retired from such service or department and shall be entitled to be paid from the Firemen's Relief and Retirement Fund of that city or town, a monthly pension equal to one-half (1/2) of his average monthly salary not to exceed a maximum of One Hundred Dollars (\$100) per month, except as hereinafter provided; such average monthly salary to be based on the monthly average of his salary for the five-year period preceding the date of such retirement.

(b) Notwithstanding any other provisions of this Act; it is hereby specially provided that any eligible and qualified fireman who shall have completed twenty (20) years of service before reaching the age of fifty (50) years may apply to the Board of Trustees for, and it shall be the Board's duty to issue, a certificate showing the completion of such service and showing and certifying that such fireman when reaching the age of fifty (50) years, will be entitled to the retirement and other applicable benefits of this Act; provided further, that when any fireman shall have been issued such certificate he shall when reaching retirement age, be entitled to all the applicable benefits of this Act, even though he shall not have been engaged in active service as a fireman after the issuance of such certificate.

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(c) In order to participate in the benefits authorized under this Act all persons shall continue to pay into the Firemen's Relief and Retirement Fund the amounts provided for all participants thereunder up to the time of their retirement as follows:

(1) If he stays in the department after receiving the 20-year certificate he shall continue to pay until he leaves the department or retires.

(2) However, after he has the 20-year certificate and leaves the department before reaching retirement age, he shall not be required to pay his contribution. But upon reaching retirement age he shall be entitled to all benefits under this Act, his widow shall likewise be entitled to all benefits, and children if they meet the age requirements under this Act.

(d) (1) Any fireman who is a member of a full-paid fire department and who shall be entitled to be retired under the provisions of this Section, and who shall retire under this Section or Section 7 or Section 7A with additional time of service and of participation in a Fund after the date upon which he became entitled to be retired or with more than twenty (20) years of service and participation in a Fund, shall be entitled to be paid from the Firemen's Relief and Retirement Fund of the city or town in which he last served, in addition to any other benefits provided by this Act, an additional monthly pension allowance which shall be computed as follows: the sum of Four Dollars (\$4) per month shall be allowed for each full year of service and of participation in a Fund after the date which such fireman shall have become entitled to be retired under this Section, or after the date upon which such fireman shall have completed twenty (20) years of service and of participation in a Fund, whichever date shall first occur; provided, however, that such additional pension allowance shall not exceed the sum of Fifty-six Dollars (\$56) per month.

(2) If any person shall die from any cause whatsoever, and if, at the time of death, such person shall have retired with or shall have been entitled to retire with an additional monthly pension allowance as hereinabove provided by this Section, and if such deceased shall leave surviving him a widow who married the deceased prior to his retirement then a sum equal to two-thirds ($\frac{2}{3}$) of the amount of the additional monthly pension allowance with which the deceased was retired or entitled to retire shall be paid monthly to the widow of such deceased so long as she remains his widow, and such allowance provided by this paragraph shall be paid in addition to any other benefits provided by this Act.

(e) None of the provisions of this Section 6D may apply or become effective in a fully paid fire department in a city or town in this State having a population of less than one hundred and sixty-five thousand (165,000), according to the last Federal Census, until the following requirements are fulfilled:

(1) An actuary must approve the application of the pension provisions of this Section to the fire department;

(2) The Board of Trustees must approve all increases; and

(3) The majority of the participating members must vote in favor of the increases.

(f) The provisions of this Section 6D are not mandatorily applicable to any local firemen's pension group, unless approved by vote as provided in Subsection (e) of this Section, and a local firemen's pension group is not required to take any action under this Section.

(g) In addition to the other provisions of this Section, any "full paid" fire department in any city or town in this State that comes within the provisions of this Section 6D may, upon a majority vote of the Board of Trustees, increase the maximum pension to One Hundred and Fifty Dollars (\$150) per month.

Sec. 6D added by Acts 1969, 61st Leg., p. 612, ch. 208, § 1, emerg. eff. May 14, 1969.

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Death or disability from cause not resulting from performance of duties

Sec. 7A. (a) Whenever a person serving as an active fireman duly enrolled in any regularly active fire department in any city or town in the state having a population of less than five hundred thousand (500,000) according to the last preceding Federal Census, which city or town is now within or may hereafter come within the provisions of this Act, shall die or become disabled from any cause other than a disability acquired in the performance of his duty as a fireman, a pension allowance shall be paid to the widow or fireman. The monthly pension allowance shall be computed as follows: five per cent (5%) of the total amount the individual fireman or widow would have been entitled to receive under Section 7 or Section 12 had such death or disability occurred as the result of such fireman's being incapacitated or killed while in and/or in consequence of the performance of his duty as a fireman shall be allowed for each year of participation in the relief and retirement fund, provided that such allowance shall not be computed on the basis of more than twenty (20) years. In no event, however, shall such fireman or widow receive an amount less than Fifty Dollars (\$50) per month. If such fireman be a volunteer fireman and thereby receiving no salary, the amount so ordered paid, if all of the other conditions have been met, shall be not less than Twelve Dollars and Fifty Cents (\$12.50) per month.

(b) If any such fireman who is a member of a "full paid" fire department shall die from any cause not growing out of and not in consequence of his duty as a fireman and shall leave surviving him a child or children under the age of eighteen (18) years or a dependent parent, said Board of Trustees shall order paid a monthly pension allowance as follows: (a) to the guardian of each child the sum of Twenty Dollars (\$20) per month until such child reaches the age of eighteen (18) years; (b) in the event the widow dies after being entitled to her allowance as herein provided or in the event there be no widow to receive an allowance, then the amount to be paid to the guardian of any dependent minor child or children under the age of eighteen (18) years shall be Forty Dollars (\$40) per month for each such dependent minor child; and (c) to the dependent parent only in case no widow or child is entitled to allowance, the amount the widow would have received to be paid to but one (1) parent and such parent to be determined by the Board of Trustees; provided, however, that the total allowance to be paid all beneficiaries or dependents as herein provided shall not exceed the monthly allowance to be paid the pensioner had he continued to live or be retired on allowance at the date of his death; and further provided, that if such amount be insufficient to pay the full schedule of benefits as herein provided, such benefits shall be prorated. Allowance or benefits payable to any minor child shall cease when such child becomes eighteen (18) years of age or marries.

(c) Provided, however, that the provisions of this Section shall not apply if the death or disability of the fireman was caused while such fireman was gainfully employed by someone other than the respective fire department for which he was employed or contributed his services.

(d) Any city with a population of less than one hundred and thirty thousand (130,000), according to the last preceding Federal Census, which has a full paid fire department may, upon a majority vote of the members of the fire department, pay the pension allowances provided by this Section even though the fireman was killed or disabled while he was gainfully employed by someone other than the respective fire department for which he was employed or contributed his services.

(e) The provisions of this Section as amended shall be automatically applicable to any relief and retirement fund in which such Section was

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included by majority vote of the members prior to the effective date of this amending Act, provided, however, that the paragraph providing benefits for surviving beneficiaries of a member of a "full paid" fire department shall only be applicable to beneficiaries of a member of a "full paid" fire department. Provided further, however, that the provisions of this Section shall not be applicable to any particular relief and retirement fund in which such Section was not included prior to the effective date of this amending Act until after an election has been held and the majority of the participating members of that respective fund have voted to include the provisions contained in this Section within the Relief and Retirement Fund. At such election the effective date of these provisions shall also be set.

Sec. 7A amended by Acts 1969, 61st Leg., p. 1986, ch. 676, § 1, eff. Sept. 1, 1969.

Retirement for disability; cities of 900,000 or more population

Sec. 7B. (a) Whenever a person serving as an active fireman duly enrolled in any regularly active fire department and participating in a fund in any city in the state having a population of nine hundred thousand (900,000) or more according to the last preceding Federal Census, which city is now within or may come within the provisions of this Act, shall become physically or mentally disabled while in and/or as a consequence of the performance of his duty or shall become physically or mentally disabled from any cause whatsoever after he has participated in a fund for a period of twenty (20) years or more, said Board of Trustees shall, upon his request, or without such request, if they determine that such fireman is not capable of performing the usual and customary duties of his classification or position, retire such fireman on a monthly disability allowance of an amount equal to forty-two and one-half percent (42-½%) of his average monthly salary for the highest thirty-six (36) months during his service, or so much thereof as he may have served.

(b) Provided further, however, that the monthly pension allowance as provided for in this Section shall be increased from forty-two and one-half percent (42-½%) to fifty percent (50%) January 1, 1970.

(c) If such fireman was eligible to be retired under the provisions of Section 6B, he may elect to have his monthly pension allowance calculated under that Section.

Sec. 7B amended by Acts 1965, 59th Leg., p. 55, ch. 20, § 2, eff. March 16, 1965; Acts 1969, 61st Leg., p. 230, ch. 92, § 2, emerg. eff. April 25, 1969.

**Death or disability from cause not resulting from performance of duties;
cities of 900,000 or more population**

Sec. 7C. (a) Whenever a person serving as an active fireman duly enrolled in any regularly active fire department and participating in a fund in any city in the state having a population of nine hundred thousand (900,000) or more according to the last preceding Federal Census, which city is now within or may hereafter come within the provisions of this Act, shall die or become disabled from any cause other than a disability acquired in the performance of his duty as a fireman, a monthly pension allowance shall be paid to such fireman or his beneficiaries.

(b) Such monthly pension allowance shall be computed as follows:

(1) If such fireman shall become disabled, he shall be paid a monthly pension allowance equal to twenty-two and one-half percent (22-½%) of the average monthly salary of such fireman, plus two percent (2%) of such average monthly salary for each full year of service and of participation in a fund, provided, however, that such monthly pension allowance shall not exceed forty-two and one-half percent (42-½%) of

(2) a majority of the participating members of the pension fund vote for the increased monthly pension allowance by a secret ballot;

(3) the increase applies only to active full time firemen in the department at the time of the increase and those who enter the department thereafter.

Sec. 7F added by Acts 1967, 60th Leg., p. 349, ch. 167, § 4, eff. Aug. 28, 1967; amended by Acts 1969, 61st Leg., p. 508, ch. 174, § 3, emerg. eff. May 9, 1969.

Amendment of section 7F by Acts 1969, 61st Leg., p. 2281, ch. 768, § 1, see section 7F, post.

Modification of benefits and eligibility

Sec. 7F. This section applies to all cities and towns which are now within or which may hereafter come within the provisions of this Act. The Board of Trustees, as prescribed by law, of any such city or town may modify or change in any manner whatsoever any of the benefits provided hereunder and may modify or change in any manner whatsoever any of the eligibility requirements for such benefits provided that:

(1) the change or modification is first approved by a qualified actuary selected by a four-fifths vote of the Board of Trustees of the Firemen's Relief and Retirement Fund; such qualified actuary shall (a) if an individual, be a Fellow of the Society of Actuaries or a Fellow of the Conference of Actuaries in Public Practice or a Member of the American Academy of Actuaries;

(2) a majority of the participating members of the pension fund vote for the change or modification by a secret ballot;

(3) the change or modification applies only to active full time firemen in the department at the time of the change or modification and those who enter the department thereafter; and

(4) the change or modification does not deprive a member, without his written consent, of a right to receive benefits hereunder which have already become fully vested and matured in such member.

Sec. 7F added by Acts 1967, 60th Leg., p. 349, ch. 167, § 4, eff. Aug. 28, 1967; amended by Acts 1969, 61st Leg., p. 2281, ch. 768, § 1, emerg. eff. June 14, 1969.

Amendment of section 7F by Acts 1969, 61st Leg., p. 508, ch. 174, § 3, see section 7F, ante.

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Cities of less than 185,000 population; monthly deductions from salaries; contributions and appropriations; membership; service credits

Sec. 10A—2. (a) In all cities having fully paid firemen where Firemen's Relief and Retirement Funds now exist or shall be created under the provisions of this Act and having a population of less than one hundred eight-five thousand (185,000), according to the last preceding Federal Census, the city or the governing body of the city shall deduct an amount equal to no less than three percent (3%) nor more than nine percent (9%) from the monthly salary or compensation of each participating member fireman; provided, however, that the total of the percentage contributed by such city to the Fund, plus the percentage, if any, contributed by such city under the Federal Social Security Act, shall not exceed:

(1) nine percent (9%) of the monthly salary, or

(2) the total percentage contributed to the retirement of other full time employees of such city under the Texas Municipal Retirement System, or any other retirement system, whichever is greater.

Sec. 10A—2(a) amended by Acts 1969, 61st Leg., p. 508, ch. 174, § 4, emerg. eff. May 9, 1969.

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For Annotations and Historical Notes, see V.A.T.S.

would have been entitled to receive, if disabled, under Subdivision (1) of this Subsection shall be paid to each parent of such deceased fireman upon proof to the Board of Trustees that such parent was dependent upon such fireman immediately prior to the death of such fireman, provided that the total monthly pension allowance provided hereby for parents shall not exceed one-half (1/2) of the maximum base salary provided for the position of pipeman at the time of the death of such fireman.

(c) Allowance or benefits payable under the provisions of this Section for any minor child shall cease when such child becomes eighteen (18) years of age or marries, provided, however, if a fireman who is covered by a provision of this Act dies and leaves a child who is totally disabled as a result of a physical or mental illness, injury, or retardation, that child is entitled to receive any pension allowance to which he is entitled under this Act and is further entitled to continue receiving the allowance so long as he remains totally disabled. If the child is not entitled to a pension allowance under this Act solely because he is over the maximum age at the time of the death of his parent and the child is totally disabled as a result of a physical or mental illness, injury, or retardation, the child is entitled to receive as an allowance that to which he would have been entitled had he been under the maximum age at the time of the death of his parent.

(d) Provided further, that the provisions of this Section shall not be applicable to a fireman or his beneficiaries if such fireman's death or disability results from suicide or attempted suicide before such fireman shall have completed two (2) years of service with the fire department for which he was employed.

(e) The wife of a deceased fireman who had served actively for a period of twenty (20) years or more in a regularly active fire department as defined in Section 7 C (a), above, shall, in so far as the provisions of this section are concerned, be considered the fireman's widow as long as she is not married, notwithstanding that she may have married and divorced or married after such fireman died and she became a widow. Provided further, however, a widow covered under this section shall be limited to the pension allowance of the deceased member of this fund, to whom she was last married.

Sec. 7C amended by Acts 1965, 59th Leg., p. 55, ch. 20, § 3, eff. March 16, 1965; Acts 1969, 61st Leg., p. 230, ch. 92, § 3, emerg. eff. April 25, 1969.

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Cities with fully paid fire departments; transfer of firemen

Sec. 7E. (a) This Section applies to all cities having an organized "fully paid" fire department covered by a Firemen's Relief and Retirement Fund.

Sec. 7E(a) amended by Acts 1969, 61st Leg., p. 508, ch. 174, § 2, emerg. eff. May 9, 1969.

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Increase of monthly allowance

Sec. 7F. In cities of less than one hundred eighty-five thousand (185,000), according to the last preceding Federal Census, the monthly pension allowance as provided for under Sections 6, 7, and 7A of this Act, and in cities of more than one hundred eighty-five thousand (185,000) the monthly pension allowance as provided for under Sections 6B, 7B, and 7C of this Act, may be increased provided that:

(1) the increase is first approved by an actuary qualified by training and experience in the field of retirement programming and who is selected by a four-fifths vote of the Board of Trustees of the Firemen's Relief and Retirement Fund;

such average monthly salary. The average monthly salary shall be based on the monthly average of such fireman's salary for the highest thirty-six (36) months during his service, or so much thereof as he may have served preceding the date of such retirement.

Provided further, that the benefits as provided for in Subdivision (1) of this Subsection shall be increased as follows on January 1, 1970:

"If such fireman shall become disabled, he shall be paid a monthly pension allowance equal to twenty-five percent (25%) of the average monthly salary of such fireman, plus two and one-half percent (2- $\frac{1}{2}$ %) of such average monthly salary for each full year of service and participation in a fund, provided, however, that such monthly pension allowance shall not exceed fifty percent (50%) of such average monthly salary. The average monthly salary shall be based on the monthly average of such fireman's salary for the highest thirty-six (36) months during his service, or so much thereof as he may have served preceding the date of such retirement.

(2) If such fireman was eligible to be retired under the provisions of Section 6B, he or his beneficiaries may elect to have their monthly pension allowance calculated under that Section.

(3) If such fireman shall die and shall leave surviving him both a widow who married such fireman prior to his retirement, and a child or children of such fireman under the age of eighteen (18) years, said Board of Trustees shall order paid to the widow of such fireman, a monthly pension allowance of equal to one-half ($\frac{1}{2}$) of the amount such fireman would have been entitled to receive, if disabled, under the provisions of Subdivision (1) of this Subsection; and in addition thereto the Board of Trustees shall order paid to such widow or other person having the care and custody of such child or children under the age of eighteen (18) years a monthly pension allowance, for the use and benefit of such child, or children, equal to the amount hereinabove provided for the widow. If such fireman shall leave no child under the age of eighteen (18) years surviving him or if at any time after the death of such fireman no child is entitled to allowance, then the monthly pension allowance to be paid such widow, shall equal to the full amount such fireman would have been entitled to receive, if disabled under Subdivision (1) of this Subsection; provided, however, that such allowance to a widow, as herein provided if no child is entitled to allowance, shall not exceed one-half ($\frac{1}{2}$) of the maximum base salary for the position of pipeman at the time of the death of such fireman.

(4) If such fireman shall die and if his widow dies after being entitled to her allowance as herein provided, or in the event that there be no widow to receive an allowance, then the amount of the monthly pension allowance to be paid, for use and benefit of the child or children under the age of eighteen (18) years, to the person having the care and custody of such child or children shall be computed as follows: an amount equal to one-half ($\frac{1}{2}$) of the amount such fireman would have been entitled to receive, if disabled, under the provisions of Subdivision (1) of this Subsection shall be paid for each of such fireman's children under the age of eighteen (18) years, provided that the total monthly pension allowance provided thereby for children shall not exceed the amount to which such fireman would have been entitled under Subdivision (1) of this Subsection, nor shall such allowance for such children exceed one-half ($\frac{1}{2}$) of the maximum base salary provided for the position of pipeman at the time of the death of such fireman.

(5) If such fireman shall die and only if no widow or child is entitled to an allowance under the provisions of this Section, a monthly pension allowance equal to one-half ($\frac{1}{2}$) of the amount such fireman

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Cities of 900,000 or more; monthly deductions from salaries; contributions and appropriations; membership; service credits; termination of employment

Sec. 10E. (a) All cities having fully paid firemen where Firemen's Relief and Retirement Funds have been or shall be created under the provisions of this Act and having a population of nine hundred thousand (900,000) or more according to the last preceding Federal Census, the governing body of such city shall monthly deduct a sum equal to seven and one-half per centum (7-1/2%) from the salary or compensation of each fireman participating in such fund.

Provided further, however, that the governing body shall deduct monthly a sum equal to nine per centum (9%) from the salary or compensation of each fireman participating in such fund beginning January 1, 1970.

(b) Any such city having a population of nine hundred thousand (900,000) or more according to the last preceding Federal Census shall contribute and appropriate monthly to such fund an amount equal to one and one-half (1-1/2) the total sum paid to such fund by salary deductions of the members, and each such city shall also contribute and appropriate monthly to such fund, for each person who holds a 20-year pension certificate and who is not engaged in active service as a fireman and who has not retired, an amount equal to one and one-half (1-1/2) the total sum paid into such fund by such member. Contributions and appropriations shall be made to such fund at the same time the city makes its contributions for the participating members of the fund.

(c) Money deducted from salaries or compensation as provided by this Section and the payments and contributions provided by this Section shall become and form a part of the Firemen's Relief and Retirement Fund of the city or town in which the contributing fireman serves.

(d) Each person who shall hereafter become a fireman in any such city which has a Firemen's Relief and Retirement Fund in which he is eligible for membership, shall become a member of such Fund as a condition of his appointment, and shall by acceptance of such position agree to make and shall make contributions required under this Act of members of such Fund, and shall participate in the benefits of membership in such Fund as provided in this Act; provided, however, that no person shall be eligible to membership in any such Fund who is more than thirty (30) years of age at the time he first enters service as a fireman; and provided further, that any such person who enters service as a fireman may be denied or excused from membership in the Fund if the Board of Trustees of the Fund determines that such person is not of sound health. The applicant shall pay the cost of any physical examination required in such instance by the Board of Trustees.

(e) Each person who is an active member of such Firemen's Relief and Retirement Fund previously organized and existing under the laws of this state at the effective date of this amendment shall continue as a member of such Fund and he shall retain and be allowed credit for all service to which he was entitled in the Fund of which he was a member immediately prior to the effective date of this amendment.

(f) If any member's employment by the city, as an employee of the fire department, is terminated for any reason other than those qualifying said employee for a pension, neither the employee nor his beneficiary or estate shall receive any amount paid by him into the pension fund or any interest his contributions may have accrued.

Sec. 10E added by Acts 1963, 58th Leg., p. 463, ch. 164, § 1. Amended by Acts 1969, 61st Leg., p. 230, ch. 92, § 4, emerg. eff. April 25, 1969.

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Allowances to beneficiaries of deceased members; cities of 900,000 or more population

Sec. 12A. (a) If a member of any fire department in any city having a population of nine hundred thousand (900,000) or more according to the last preceding Federal Census, which city is now within or may hereafter come within the provisions of this Act, who has been retired on allowances because of length of service or disability, shall thereafter die from any cause whatsoever or if while in service, any member shall die from any cause growing out of and/or in consequence of the performance of his duty and such member is participating in a fund, or shall die from any cause whatsoever after he has become entitled to an allowance or pension certificate, and if such fireman shall leave surviving a widow, a child or children under the age of eighteen (18) years or a dependent parent or parents, said Board of Trustees shall order paid a monthly allowance which shall be based, as hereinafter provided, upon the amount which such fireman would have been entitled to receive had he continued to live and be retired on allowance at the date of his death. The allowance or allowances provided hereby shall be paid as follows:

(1) If such member shall die and shall leave surviving him both a widow who married such member prior to his retirement and a child or children of such member under the age of eighteen (18) years, said Board of Trustees shall order paid to the widow of such member, a monthly pension allowance equal to one-half ($\frac{1}{2}$) of said amount such member would have been entitled to receive; and in addition thereto the Board of Trustees shall order paid to such widow or other person having the care and custody of such child or children under the age of eighteen (18) years a monthly pension allowance, for the use and benefit of such child or children, equal to the amount hereinabove provided for the widow. If such member shall leave no child under the age of eighteen (18) years surviving him or if at any time after the death of such member no child is entitled to allowance, then the monthly pension allowance to be paid such widow, shall equal the full amount such member would have been entitled to receive, provided, however, that such allowance to a widow, as herein provided if no child is entitled to allowance, shall not exceed one-half ($\frac{1}{2}$) of the maximum base salary provided for the position of pipeman at the time of the death of such member.

(2) If such member shall die and if his widow dies after being entitled to her allowance as herein provided, or in the event there be no widow to receive an allowance, then the amount of the monthly pension allowance to be paid, for the use and benefit of the child or children under the age of eighteen (18) years, to the person having the care and custody of such child or children shall be computed as follows: an amount equal to one-half ($\frac{1}{2}$) of said amount such member would have been entitled to receive shall be paid for each of such member's children under the age of eighteen (18) years, provided that the total monthly pension allowance provided hereby for children shall not exceed said amount which such member would have been entitled to receive, nor shall such allowance for such children exceed one-half ($\frac{1}{2}$) of the maximum base salary provided for the position of pipeman at the time of the death of such member.

(3) If such member shall die and only if no widow or child is entitled to an allowance under the provisions of this Section, a monthly pension allowance equal to one-half ($\frac{1}{2}$) of said amount such member would have been entitled to receive shall be paid to each parent of such deceased member upon proof to the Board of Trustees that such parent was dependent upon such member immediately prior to the death of such member, provided that the total monthly pension allowance provided hereby for parents shall not exceed one-half ($\frac{1}{2}$) of the maximum base

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salary provided for the position of pipeman at the time of the death of such member.

(b) Allowance or benefits payable under the provisions of this Section for any minor child shall cease when such child becomes eighteen (18) years of age or marries, provided, however, if a fireman who is covered by a provision of this Act dies and leaves a child who is totally disabled as a result of a physical or mental illness, injury or retardation, that child is entitled to receive any pension allowance to which he is entitled under this Act and is further entitled to continue receiving the allowance so long as he or she remains totally disabled. If the child is not entitled to a pension allowance under this Act solely because he or she is over the maximum age at the time of the death of his or her parent and the child is totally disabled as a result of a physical or mental illness, injury or retardation, the child is entitled to receive as an allowance that to which he or she would have been entitled had he or she been under the maximum age at the time of the death of his parent.

(c) The wife of a deceased fireman who has been retired on allowances because of length of service or has been retired for disability after having served actively for a period of twenty (20) years or more in a regularly active fire department in a city of nine hundred thousand (900,000) or more according to the last preceding Federal Census shall in so far as the provisions of this Section are concerned, be considered the fireman's widow as long as she is not married, notwithstanding that she may have married and divorced or married and became a widow after such fireman died. Provided further, however, a widow covered under this Section shall be limited to the pension allowance of the deceased member of this fund, to whom she was last married.

Sec. 12A amended by Acts 1965, 59th Leg., p. 55, ch. 20, § 5, eff. March 16, 1965; Acts 1969, 61st Leg., p. 230, ch. 92, § 5, emerg. eff. April 25, 1969.

Allowances to beneficiaries of deceased members; cities of 185,000 to 225,000

Sec. 12B. * * *

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(g) With the exception of retired members, the provisions of this Section shall not apply if the death was caused while the member was gainfully employed by someone other than the respective fire department for which he was employed.

Sec. 12B(g) amended by Acts 1969, 61st Leg., p. 501, ch. 167, § 1, emerg. May 9, 1969.

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Integration of fund with social security benefits

Sec. 13A. No Firemen's Relief and Retirement Fund for fully paid firemen shall ever be integrated with benefits payable under the Federal Social Security Act, and benefits which might be available to a fireman under the Federal Social Security Act may never be taken into account in a city where firemen are eligible to enroll for or receive retirement benefits under the Social Security Act when determining the amount of benefits which a fireman may receive from a Firemen's Relief and Retirement Fund for fully paid firemen.

Sec. 13A added by Acts 1967, 60th Leg., p. 349, ch. 167, § 2, eff. Aug. 28, 1967. Amended by Acts 1969, 61st Leg., p. 508, ch. 174, § 5, emerg. eff. May 9, 1969.

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Investment of surplus; cities of 900,000 or more population

Sec. 23A-1. (a) This Section is applicable to the Firemen's Relief and Retirement Fund in any city having a population of nine hundred thousand (900,000) or more according to the last preceding Federal Census.

(b) Whenever, in the opinion of the Board of Trustees, there is on hand in the Firemen's Relief and Retirement Fund a surplus over and above a reasonably safe amount to take care of current demands upon such fund, such surplus, or so much thereof as in the judgment of the Board is deemed proper, may be invested in bonds of other interest bearing obligations and securities of the United States, the State of Texas, or any county, city or other political subdivision of the State of Texas; in shares or share accounts of savings and loan associations, where such shares or share accounts are insured under and by virtue of the Federal Savings and Loan Insurance Corporation; in first lien real estate mortgage securities insured by the Federal Housing Administration under the National Housing Act of the United States, as amended from time to time and in such corporation bonds, preferred stocks and common stocks as the Board may deem to be proper investments for the fund.

(c) In making each and all of such investments the Board shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital.

(d) Not more than four percent (4%) of the fund shall be invested in corporate securities issued by any one corporation, nor shall more than five percent (5%) of the voting stock of any one corporation be owned.

(e) Stocks eligible for purchase shall be restricted to stocks of companies incorporated within the United States which have paid dividends for five (5) consecutive years or longer, immediately prior to the date of purchase and which, except for bank stocks and insurance stocks, are listed upon an exchange registered with the Securities and Exchange Commission or its successors.

Sec. 23A-1 amended by Acts 1965, 59th Leg., p. 55, ch. 20, § 6, emerg. eff. March 16, 1965; Acts 1969, 61st Leg., p. 230, ch. 92, § 6, emerg. eff. April 25, 1969.

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Art. 6243f. Firemen and Policemen's Pension Fund in cities of 550,000 to 650,000

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Death Benefits to Widows and Children

Sec. 11. In case of the death before or after retirement of any member of the Fire and Police Pension Fund of such city, who at the time of his death or retirement was a contributor to the said Fund, and a member in good standing of said Fund, leaving a widow, child or children under the age of seventeen (17) years, or an unmarried child or unmarried children seventeen (17) years of age or over but under nineteen (19) years of age currently attending a public or private educational institution, the widow and such child or children shall be entitled to receive from the said Fund an amount not to exceed one-half (1/2) of the current base pay of a

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private per month; one-half ($\frac{1}{2}$) of the widow's amount in the aggregate shall go to the eligible children and one-half ($\frac{1}{2}$) for the widow. No child resulting from any marriage subsequent to the date of the retirement of said member shall be entitled to a pension under this Act. In case there are no children, the widow shall receive an amount not to exceed one-half ($\frac{1}{2}$) of the current base pay of a private per month. In case there is no widow, the children shall receive one-fourth ($\frac{1}{4}$) of the current base pay of a private per month, except that if the Board determines upon investigation that the eligible child or children is or are destitute then the Board may increase the pension to an amount not exceeding two-fifths ($\frac{2}{5}$ ths) of the current base pay of a private per month. The amount awarded hereunder to any child or children shall be paid by the Board of Trustees to the legal guardian of said child or children. In no instance shall the amount received by the widow, child or children exceed a pension allowance of one-half ($\frac{1}{2}$) of the current base pay of a private per month, and in the event of the death of a member who retired upon twenty (20) years service and less than twenty-five (25) years service in no instance shall the amount received by the widow and child or children or the widow alone, exceed a total of two-fifths ($\frac{2}{5}$ ths) of the current base pay of a private per month. A child or children alone in such case shall receive only one-fifth ($\frac{1}{5}$ th) of the current base pay of a private. A child who is so mentally or physically retarded as to be incapable of its own support to any extent shall, if otherwise qualified, enjoy the rights of children under seventeen (17) years of age regardless of age. Provided, further, that any pension paid hereunder to any mentally or physically retarded child or children shall be reduced to the extent that any of same shall receive any state pension or aid. On the remarriage of the widow, either statutory or common law, or the marriage of any child granted such pension, the pension shall cease. No widow resulting from any marriage subsequent to the date of the retirement of said member shall be entitled to a pension under this Act.

Sec. 11 amended by Acts 1969, 61st Leg., p. 2465, ch. 829, § 1, eff. Sept. 1, 1969.

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Reserved Retirement Fund

Sec. 17. At the end of the fiscal year all money paid into the Fund that remains as a surplus over and above the orders for payment as issued by the Board, shall be paid into the Reserve Retirement Fund to accumulate interest for the benefit of the reserve funds needs. All such funds as may accumulate in this special retirement reserve shall be invested at regular intervals or at such times as the accumulations justify. The funds may be invested in the following manner:

1. A sum not to exceed ten per cent (10%) may be deposited with a Federal Credit Union restricted to employees of the city.

2. A sum not to exceed fifteen per cent (15%) may be invested in savings and loan associations which are insured by the Federal Savings & Loan Insurance Corporation, but the amount invested in any one association shall not exceed the amount insured by such corporation under the law.

3. A sum not to exceed sixty per cent (60%) of the principal value of the Fund may be invested in shares of open and investment companies, closed and investment companies, common or preferred stocks in any solvent dividend-paying corporation at the time of purchase incorporated under the laws of the State, or any other state in the United States, which has not defaulted in the payment of any of its obligations for a period of five (5) years immediately preceding the date of investment, provided

such funds may not be invested in the stock of any oil, manufacturing or mercantile corporation, organized under the laws of this State, or any other state of the United States, unless said corporation has at the time of investment a net worth of not less than Two Million, Five Hundred Thousand Dollars (\$2,500,000).

Of this percentage a sum not to exceed fifty per cent (50%) thereof may be invested in shares of capital stock of national banks having been established at least ten (10) years and having a capitalization of at least Five Million Dollars (\$5,000,000), and/or shares of capital stock of life insurance companies, and/or fire and casualty insurance companies having been established at least twenty-five (25) years and having a capitalization of at least Five Million Dollars (\$5,000,000).

4. A sum not to exceed seventy-five per cent (75%) may be invested in first mortgage bonds or debentures of any solvent dividend-paying corporation which at the time of purchase was incorporated under the laws of this State or any other state in the United States and which has not defaulted in the payment of any debt within five (5) years next preceding such investment.

5. The entire Fund or any portion thereof, may be invested in United States Treasury Notes, United States Treasury Bonds, Bonds of the State of Texas, or bonds of any county or municipality of the State of Texas; or bonds or debentures, payment of which is guaranteed by an agency of the United States Government, such as Federal Intermediate Credit Bank Debentures; Federal Land Bank Bonds; Federal Home Loan Bank Notes; Banks for Cooperative Debentures; Federal National Mortgage Association Notes and any additional bonds which may be in the future issued, secured by an agency of the United States Government. The Board shall have the power to make these investments for the sole benefit of this Reserve Retirement Fund. The investment shall remain in the custody of the Treasurer in the same manner as provided for the custody of the Funds. The Board shall have the power and authority, by a majority vote of its members, to disburse the monies accumulated as the retirement needs arise.

Sec. 17 amended by Acts 1963, 58th Leg., p. 869, ch. 334, § 3, eff. Aug. 23, 1963; Acts 1969, 61st Leg., p. 1675, ch. 538, § 1, emerg. eff. June 11, 1969.

Award exempt

Sec. 18. No amount awarded to any person under the provisions of this Act shall be liable for the debts of any such person; shall not be assignable; shall be exempt from garnishment or other legal process; and shall be exempt from any inheritance or other tax established by State law.

Sec. 18 amended by Acts 1969, 61st Leg., p. 2465, ch. 829, § 2, eff. Sept. 1, 1969.

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Group II fund, members, benefits, etc.

Sec. 25. Repealed by Acts 1969, 61st Leg., p. 1674, ch. 538, § 3, emerg. eff. June 11, 1969.

The 1969 repeal operates on section 25 as added by Acts 1963, 58th Leg., p. 869, ch. 334, § 4, amended by Acts 1967, 60th Leg., p. 371, ch. 180, § 1, and does not appear to affect section 25 as enacted by Acts 1941, 47th Leg., p. 134, ch. 105.

Repealed section 25, added by Acts 1963, 58th Leg., p. 869, ch. 334, § 4, amended by Acts 1967, 60th Leg., p. 371, ch. 180, § 1, provided for a "Group II" pension fund. For merger of the groups to form a single fund, see section 27 of this article.

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For Annotations and Historical Notes, see V.A.T.S.

Merger of group II fund into group I fund

Sec. 27. (a) The Fund heretofore designated as the "Firemen and Policemen's Pension Fund—Group II", as created by Section 4, Chapter 334, Acts of the 58th Legislature, 1963, and all of the monies, securities and accounts thereof, are transferred to and merged with the Fund known as the Group I Fund, and there shall hereafter be only one pension fund hereunder, to be without a numerical designation.

(b) All members of the Group II Fund, as defined in Section 25, and all firemen and policemen becoming members thereof prior to the effective date of this Act, shall automatically be transferred to and be merged with the membership of the Group I Fund, to be full-fledged members thereof, indistinguishable from any other member. Each member of Group II shall become a member of the Group I Fund as of the date such member originally became a member of the Group II Fund, for every purpose under this Act, and shall enjoy all the same rights and benefits as any other member thereof after the effective date hereof.

(c) Provided further, however, that a Group II Fund member who was previously a Group I member in good standing (having resigned from one of the Departments and later re-entering one of the Departments) shall be credited for retirement pension purposes with all post-probationary time he has served in either Department, and as a member of either Group of the Fund, upon the effective date hereof.

(d) All probationary firemen and policemen completing their probationary period, and becoming duly enrolled firemen and policemen, shall automatically become members of the new combined and unnumbered Fund.

(e) This Act shall not affect or change, in any way, the rights of Group II Fund members or their beneficiaries who may have gone on pension prior to the effective date. Provided, however, that as of the first full calendar month after the effective date hereof all pensions of such Group II members, or of their beneficiaries, shall be automatically increased to the same level as that for Group I members as of that date. Sec. 27 added by Acts 1969, 61st Leg., p. 1675, ch. 538, § 2, emerg. eff. June 11, 1969.

Art. 6243g. Pension system in cities over 900,000

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Contributions by city

Sec. 8. In addition to the payments provided for in the next preceding section, such city shall pay monthly into such Pension Fund, from its general fund or other available source, an amount equal to eleven and one-quarter percent (11- $\frac{1}{4}$ %) of the total of the monthly salaries paid to members for the same period of time, less an amount equal to the total amount of the employer's part of the payments made by the city for such period of time, with respect to such members, to the federal government under the provisions of the Social Security Act and Federal Insurance Contributions Act, it being the intention hereof that the combined total of the payments made by such city, as an employer, with respect to such members, for social security and pension fund purposes shall at all times be eleven and one-quarter percent (11- $\frac{1}{4}$ %) of the total of all salaries paid to all such members.

Sec. 8 amended by Acts 1969, 61st Leg., p. 2549, ch. 851, § 1, eff. Jan. 5, 1970.

Increase in contributions

Sec. 9. Repealed by Acts 1969, 61st Leg., p. 2549, ch. 851, § 3, eff. Jan. 5, 1970.

Prior to repeal, section 9 was amended and Acts 1967, 60th Leg., p. 321, ch. 154, by Acts 1965, 59th Leg., p. 246, ch. 107, § 1, § 1.

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Retirement on pension

Sec. 11. * * *

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(b) The amount of pension a month for each such member shall equal one and one-half percent (1-1/2%) of the member's average monthly salary multiplied by the total number of years of credited service of such member. For purposes of this subsection such average monthly salary shall be computed by adding together the thirty-six (36) highest monthly salaries paid to a member during his past employment by the city and dividing the sum by thirty-six (36). Provided, however, that no member's pension shall be less than Six Dollars (\$6) a month for each year of credited service.

Sec. 11(b) amended by Acts 1969, 61st Leg., p. 2549, ch. 851, § 2, eff. Jan. 5, 1970.

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Acts 1969, 61st Leg., p. 2549, ch. 851, § 4 provided that the act takes effect January 5, 1970.

Art. 6243g—1. Police Officers' Pension Systems in cities of 900,000 or more

Creation of fund

Section 1. For the purposes of this Act, there is hereby created in this State a special fund to be known and designated as the Police Officer's Pension Fund in each city in this State having a population of nine hundred thousand (900,000) inhabitants or more according to the last preceding or any future Federal Census, unless any such city now has in operation a police, firemen and fire alarm operators pension system organized under another law.

Definitions

Sec. 2. The following words and phrases when used in this Act are defined as follows, to-wit:

(a) "Pension System" means the retirement, allowance, disability and pension system for employees of any police department coming within the provisions of this Act.

(b) 'Member' means any and all employees in the police department provided for and becoming members thereof.

(c) "Pension Board" or "Board" means the Pension Board of the Pension System created under the Act for the purpose of administering the Pension System.

(d) 'Service' means the services and work performed by a person employed in the police department.

(e) "Pension" means payment for life to the police department member out of the Pension Fund provided herein and becoming eligible for such payments.

(f) "Separation from Service" means cessation of work for the City in the police department, whether caused by death, discharge or resignation, or transfer to any other department of the city.

(g) The use of the masculine gender includes the feminine gender.

For Annotations and Historical Notes, see V.A.T.S.

Membership

Sec. 3. (a) Any person who holds a classified position in the police department of such city shall automatically become a member of the Police Officers Pension System upon the effective date of this Act.

(b) Any person who hereafter becomes an employee, and is appointed to a classified position in the police department shall automatically become a member of the Police Pension System as a condition of his employment.

(c) Employees of such police department who may not become members of the Pension System shall include part-time, seasonal or other temporary employees.

Pension board

Sec. 4. (a) There is hereby created a Pension Board of the Pension System, in which Board there is hereby vested the general administration, management, and responsibility for the proper and effective operation of the Pension System. The Board shall be organized immediately after its members have qualified and taken the oath of office and shall serve without compensation.

(b) The Pension Board shall be composed of seven (7) members as follows:

(1) The administrative head of the City, or his authorized representative.

(2) Three (3) employees of the police department having membership in the Pension System and elected by the members of such police department and system.

(3) Two (2) legally qualified taxpaying voters of such city, residents thereof for the preceding three (3) years, to be chosen by the elected members of the Pension Board, being neither employees nor officers of such city.

(4) The City Treasurer of the city, or the person discharging the duties of the City Treasurer.

The terms of office of the elected members of the Pension Board shall be three (3) years, provided, however, that at the first election after the effective date of this Act, one such elected member shall be elected to a term of one year, one such elected member shall be elected to a term of two (2) years; and one such elected member shall be elected to a term of three (3) years. Thereafter, at an annual election called by the Chief of Police, and held during the month of December, one member shall be elected to a three-year term.

The term of office of appointed members of the Board shall be two (2) years, such appointments shall be made by the elected members of the Board and shall commence when the appointed members are qualified, in January after the effective day of this Act.

The term of office of the Board members statutorily provided for, shall be and continue so long as such member holds the position defined in this Act for automatic members of such Board.

(c) Each member of the Pension Board within thirty (30) days after his appointment or election shall take an oath of office that he will diligently and honestly administer the affairs of the Pension System and that he will not knowingly violate, or willingly permit to be violated, any of the provisions of this Act.

(d) The Board shall elect from its membership, annually, a chairman, vice-chairman and secretary. Pursuant to the powers granted under the charter of such city, the mayor or administrative head of the city shall appoint one or more employees whose positions and salaries shall be fixed by the governing body of the city and who, acting under the direction of the mayor or administrative head of the city and treasurer or director of the treasury shall keep all of the records of, and perform all of the

clerical services for the Pension System. The salaries of such employees shall be paid by the city.

(e) Each member of the Board shall be entitled to one vote in the Board, four (4) concurring votes shall be necessary for a decision by the members at any meeting of the Board and four (4) members shall constitute a quorum.

(f) A meeting of the Pension Board may be called at any time by the chairman, secretary, or any four (4) members of the Board.

(g) Notice shall be given to all members of the Pension Board, unless waived in writing, as to any proposed meeting, by the depositing of a written notice in the United States mail at least forty-eight (48) hours before such meeting, properly addressed to each member. If a meeting is had, however, at which all of the members of the Board attend, no notice shall be necessary.

(h) No moneys shall be paid out of the Pension Fund except by warrant, check, or draft signed by the treasurer and countersigned by the chairman or secretary, upon an order by the Pension Board duly entered in the minutes.

(i) The Pension Board shall determine the prior service to be credited to each present employee of the police department who becomes a member of the Pension System. The Board shall rely upon the personnel records of the city in determining such prior-service credits.

Treasurer

Sec. 5. The city treasurer or director of the treasury is hereby designated as the treasurer of the Pension Fund for the Police Officers Pension System, and his official bond to the city shall operate to cover his position as treasurer of such Pension Fund and his sureties shall be liable in connection with the treasurer's actions pertaining to such Fund as fully as they are liable under the term of the bond for the other actions and conduct of the treasurer. All moneys of every kind and character collected or to be collected for the Fund shall be paid over to the treasurer and shall be administered and paid out only in accordance with the provisions of this Act.

Contributions by members

Sec. 6. (a) Commencing with the first day of the month following the expiration of thirty (30) days after the passage of this Act or after the date of publication of the final census report which shows that the city has attained a population of nine hundred thousand (900,000) or more inhabitants, each member of the Pension Fund shall pay into such Fund each month, the sum of five percent (5%) of the base salary provided for the classified position in the police department held by the member. Such payments shall be deducted by the city from the salary of each member monthly and paid to the treasurer of the Pension Fund. Should an emergency arise and the Pension Board deem it necessary for the welfare of the Pension System, the Board may raise the monthly payments of each member of the Pension System to an amount not to exceed ten percent (10%) of the base salary provided for the classified position in the police department held by the member.

(b) The maximum employee contribution which may be made to the fund by a member, other than a member holding a position above the third highest classification on the effective date of this Act, shall be limited to a contribution based on the salary of the third highest classification within the salary schedule of the police department. It is the intent of this section to limit both the contribution and retirement benefits of any member, other than a member holding a position above the third highest classification on the effective date of this Act, to the salary level of the third highest rank of the police department personnel classification schedule.

Monthly payment by city

Sec. 7. In addition to the payments in the next preceding Section, the city shall pay monthly into the Pension Fund, from the general or other appropriate fund of the city, an amount equal to seven and one-half percent (7½%) of the payroll of the police department. However, should the Police Pension Board deem it necessary for the welfare of the Pension System to increase the contribution of each member of the Police Pension System within the statutory limits of Section 6 of this Act, then the contribution made to the Police Pension System by the city may, with the approval of the City Council, be increased by not less than one and one-half (1½) times the percentage increase in contribution of the members. As an example: If contributing members are assessed at a six percent (6%) contribution rate, then the city may, by appropriate Council action, raise its contribution to not more than nine percent (9%) of the payroll of the police department.

Reduction of benefits

Sec. 8. In the event that the Pension Fund becomes seriously depleted in the opinion of the Pension Board, the Pension Board may temporarily reduce the benefits of pensioners and beneficiaries, but such benefits may be restored to such pensioners and beneficiaries when the fund is, in the opinion of the Pension Board, sufficiently reestablished to do so. However, no pensioner or beneficiary shall be entitled to any benefits lost to him as a result of the temporary reduction in benefits.

Investment of surplus

Sec. 9. (a) Whenever in the opinion of the said Pension Board, there is on hand in said Pension Fund a surplus over and above a reasonably safe amount to take care of current demands upon such funds, such surplus, or so much thereof as in the judgment of the said Pension Board is deemed proper, may be invested in bonds or other interest-bearing obligations and securities of the United States, the State of Texas, or any county, city or other political subdivision of the State of Texas, or in first lien real estate mortgage securities insured by the Federal Housing Administration under the National Housing Act of the United States, as amended from time to time, and in such corporation bonds, preferred stocks and common stocks as the Pension Board may deem to be proper investments for said funds. The funds may also be invested in a sum not to exceed ten percent (10%) with a Federal Credit Union restricted to employees of the city. In making each and all investments, such Pension Board shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital; provided, however, that not more than fifty percent (50%) of said funds shall be invested at any given time in corporate stocks, nor shall more than five percent (5%) of said funds be invested in securities issued by any one (1) corporation, nor more than five percent (5%) of the voting stock of any one (1) corporation be owned; and provided further, that stocks eligible for purchase shall be restricted to stocks of companies incorporated within the United States which have paid dividends for ten (10) consecutive years or longer immediately prior to the date of purchase, and which, except for bank stocks and insurance stocks, are listed upon an exchange registered with the Security and Exchange Commission or its successors.

(b) The mayor may appoint an Investment Review Committee, consisting of three (3) qualified persons to be selected from the Trust Departments of the banks of the cities to which this law applies. Such persons shall be experienced in securities and investment matters. The Investment Review Committee shall be appointed for a two year term. Such Committee shall (a) review the investments of the Fund to determine their suitability and desirability for the Funds; (b) review the investment procedures and policies pursued by the Board in the administration of the Fund; and (c) submit an annual report of its findings and recommendations to the Pension Board of the Police Officer's Pension System and the Mayor of the city within ninety (90) days after the end of each calendar year.

Transfer of existing pension fund

Sec. 10. Immediately upon passage of this Act, the city pension officer or anyone discharging the duties of the pension officer shall transfer the pro rata share of any existing Police Officer's Pension Fund to the Police Officer's Pension Fund established by this Act.

Retirement: amount of pension

Sec. 11. (a) From and after passage of this Act, any member of such Pension System who has been in the service of the city police department for the period of twenty (20) years shall be entitled to a retirement pension of an amount equal to thirty percent (30%) of the base salary provided for the classified position in the police department held by the member, provided that if the member has not held the same classified position for five (5) years prior to the date of retirement, the retirement pension shall be based on the average monthly base salary of the member for five (5) years preceding retirement.

(b) From and after the passage of this Act, if a member of the Police Pension System is promoted or appointed to any classified position above the third highest in the personnel classification schedule, that member's contribution and retirement benefits will be computed on the base salary of the third highest classified positions in the police department.

(c) From and after the passage of this Act any member of such Pension System who has been in the service of the city police department for a period of years in excess of twenty (20) years, and who retires from the service of the police department, shall, in addition to the thirty percent (30%) of his base salary be paid an additional sum equal to two percent (2%) of his base salary per month for each year of service in the police department in excess of twenty (20) years. For example, a member with twenty-five (25) years' service would be entitled to forty percent (40%); a member with thirty (30) years, fifty percent (50%); etc.

(d) It shall be compulsory for any member to retire from the service of the police department upon attaining the age of sixty-five (65) years. Failure of any member of the Pension System to comply with this provision shall deprive the member and his dependents of any of the benefits provided for herein. If at the time of retirement because of maximum age requirements, the member has completed less than twenty (20) years of service, his monthly retirement pension shall be prorated on the basis of one and one-half percent (1½%) of the base salary of the position of the member per month for each year of service completed.

(e) Upon a member's completion of twenty (20) years of service in the police department and thereafter, when such member retires, whether such retirement be voluntary or involuntary, such monthly pay-

For Annotations and Historical Notes, see V.A.T.S.

ment shall begin forthwith and continue for the remainder of the member's life. However, when such member has completed twenty (20) years' service in the police department and if the physicians of Pension Board agree that the member is physically fit to continue his active duties in the police department, they may so certify, and the member may continue in the service of the city police department until the member attains the age of sixty-five (65) years, at which time his retirement pension shall be computed as hereinbefore stated.

(f) No member shall be required to make any payments into the Pension Fund after the member has retired from the service of the police department.

Disability benefits

Sec. 12. Any member of the police department who becomes incapacitated for the performance of his duty by reasons of any bodily injury received in, or illness caused by, the performance of his duty shall, upon presentation to the Pension Board of proof of permanent disability, be retired and shall receive a retirement allowance equal to the percentage of his disability. Such allowance shall be computed on the same basis as a service retirement with regard to length of service; for example, if the member is fifty percent (50%) disabled he shall receive one-half ($\frac{1}{2}$) the retirement allowance granted a member as a service retirement for the period of service he has completed, provided that in case of a disability retirement before the member has completed twenty (20) years of service, he shall receive an allowance based on the minimum allowed for twenty (20) years service. Such allowance as is granted by the Pension Board shall be paid the member for the remainder of his life or so long as he remains incapacitated. When any member has been retired for permanent, total or partial disability, he shall be subject at all times to re-examination by the Pension Board and shall submit himself to such further examination as the Pension Board may require. If any member refuses to submit himself to any such examination, the Pension Board may, within its discretion, order the payments stopped. If a member who has been retired under the provisions of this Section should thereafter recover, so that in the opinion of the Pension Board he is able to perform the usual and customary duties formerly handled by him for the city in the police department, and such member is reinstated or tendered reinstatement to the position he held at the time of his retirement, then the Pension Board shall order such payment stopped. No person shall be retired either for total or partial disability unless he files with the Pension Board an application for allowance, at which time the Pension Board shall have him examined by no fewer than three (3) physicians, to be chosen by the Pension Board and who are to make their report to the Pension Board.

Rights of survivors

Sec. 13. (a) If any member of the police department who has been retired on allowance because of length of service or disability thereafter dies from any cause whatsoever, or dies from any cause whatsoever after he has become entitled to an allowance or pension, or if while in service any member dies from any cause growing out of or in consequence of the performance of his duty, and leaves surviving a spouse to whom the member was married prior to his death or retirement, a child or children under the age of eighteen (18) years or a dependent parent, the Board shall order paid a monthly allowance as follows: (a) to the spouse, so long as he or she remains a widow or widower, a sum equal to the allowance which was granted to the member at the time of retirement or which would have been granted to the member upon service or disability pension based on his length of service in the police

department; (b) to the guardian of each child, the sum of twenty-five (\$25) Dollars a month until the child reaches the age of eighteen (18) years or marries; (c) to the dependent parent, only in case no spouse is entitled to an allowance, the sum the spouse would have received, to be paid to but one (1) parent and such parent to be determined by the Pension Board.

(b) If any member of the Pension System has not completed ten (10) years or more of service in the police department and is killed or dies from any cause growing out of or in consequence of any act which is clearly not in the actual performance of his official duty, his surviving spouse and/or dependent child or children shall be refunded any contributions which the member made to the Pension System, provided that only contributions made by the member himself shall be refunded.

(c) If any member who has completed ten (10) years or more of service in the police department is killed or dies from any cause growing out of or in consequence of any act which is clearly not in the actual performance of his official duty, his surviving spouse and/or dependent child or children shall receive the same benefits as under Section 13(a) of this Act.

Computation of length of service

Sec. 14. In computing the length of service required for retirement pension, continuous service shall be required; provided, however, that in case of interruption of less than two (2) years, credit shall be given for previous service. If out of service more than two (2) years, no service prior to the interruption shall be counted, other than provided in Section 22.

Termination of employment: reemployment

Sec. 15. When any member of the Pension System leaves the employment of the police department other than as provided for in Section 12 or Section 22, either voluntarily or involuntarily, before becoming eligible for a retirement or disability pension, he shall cease to be a member of the Pension System. No member leaving the employment of the police department and the membership in the Pension System shall be refunded any money paid by the member into the System as contribution or any of the moneys paid into the System by any source except as stated in Section 13(b) and in Section 22. If such person is thereafter reemployed by the city police department, he shall thereupon be reinstated as a member of such Pension System provided he is in good physical and mental condition as evidenced by a written certificate executed under oath by a duly licensed and practicing physician or physicians in the city, satisfactory to the Pension Board. Prior service of such member with the city police department shall not be counted toward his retirement pension unless such member returns to the service within two (2) years from his separation therefrom and makes within six (6) months after his reemployment by the city in the police department written application to the Pension Board for reinstatement in the Pension System.

Transfer from another department

Sec. 16. No prior credit shall be allowed for service to any person who transfers from some other department in the city to the police department. For example, if one is transferred from some other department of the city to the city police department, such person's service will be computed from the day he enters the city police department.

For Annotations and Historical Notes, see V.A.T.S.

Donations

Sec. 17. The Police Officer's Pension System may accept gifts and donations, and such gifts and donations shall be added to the Pension Fund for the use of such system.

Conviction of felony

Sec. 18. Whenever any person who has been granted an allowance hereunder is convicted of a felony, then the Board shall order the allowance so granted or allowed such person discontinued, and in lieu thereof shall order to be paid to his spouse or dependent child, children, or dependent parent the amount herein provided to be paid such dependent or dependents in case of death of the person so originally granted or entitled to allowance.

Legal advice

Sec. 19. The City Attorney of the city shall handle all legal matters for the Pension System which are referred to him by the Pension Board or city without additional compensation therefor. The Pension Board, may, however, if it deems necessary, employ outside advice to the exclusion of, or to assist, the City Attorney, and pay reasonable compensation therefor out of the Pension Fund.

Exemption of benefits from execution, etc., assignment

Sec. 20. No portion of the Pension Fund, either before or after its order of disbursement by the Pension Board, and no amounts due or to become due any beneficiary or pensioner under this Act, shall be held, seized, taken, subject to, detained, or levied, upon by virtue of any execution, attachment, garnishment, injunction, or other writ, and no order or decree, and no process or proceedings whatsoever, shall issue out of or by any court of this State for the payment or satisfaction, in whole or in part, out of the Pension Fund, of any debt, damage, claim, demand, or judgment against any members, pensioners, dependents, or any person whomsoever, nor shall such pension funds or any part thereof or any claim thereto, be directly or indirectly assigned or transferred. Any attempt to transfer or assign the same or any part thereof or any claim thereto shall be void. The Pension Fund shall be sacredly held, kept, and disbursed for the purposes provided in this Act, and for no other purpose whatsoever, except that the pensioner, survivor, or dependent, at his discretion, may have deducted from his pension the monthly premium cost of any group insurance program in which the pensioner may be entitled to participate.

Actuary

Sec. 21. Such Pension Board may employ an actuary and pay his compensation therefor out of the Pension Fund no more than once every ten (10) years.

Members in military service

Sec. 22. Members of the Pension System engaged in active military service shall not be required to make the monthly payments into the Pension Fund provided in this Act, nor shall they lose any previous years' service with the city, caused by such military service. Such military service shall count as continuous service in the police department provided that when the member is discharged from the military service, he shall return to the city police department under provisions of the city charter,

and his military service shall not exceed the national emergency for that period of military service. The city, however, shall be required to make its regular monthly payments into the Pension Fund on each member while he is engaged in the military service. In the event of death of a member of the Pension System, either directly or indirectly caused from such military service, his spouse or dependent parent or other dependents shall be entitled to receive a refund as stated in Section 13(b).

Actions for funds misapplied, etc.

Sec. 23. The Pension Board shall have the power and authority to recover by civil action from any offending party, or from his bondsman, if any, any moneys paid out or obtained from the Pension Fund through fraud, misrepresentation, theft, embezzlement, or misapplication, and may institute, conduct and maintain such action in the name of the Board for the use and benefit of such funds.

Former employees on retirement when act enacted

Sec. 24. (a) The former employees of any such police department now on retirement shall hereafter be paid a monthly pension from the Pension Fund provided for herein in the same amount and under the same conditions as are provided herein for present and future employees of the police department becoming members of the Pension System. Provided, however, that from and after the passage of this Act, any member of such pension system who retired prior to January 1, 1968, and who has served more than the minimum required twenty (20) years, shall receive in addition to the minimum thirty percent (30%) of his base salary per month, an additional sum monthly equal to one percent (1%) of his monthly salary for each year in excess of 20, and provided that those members who retired after January 1, 1968, and who have served more than the minimum required twenty (20) years, shall receive in addition to the minimum thirty percent (30%) of his base salary per month, an additional sum monthly equal to two percent (2%) of his monthly salary for each year served in excess of the minimum twenty (20) years.

(b) On the effective day of this Act, any person holding a position above the third highest classification in the Police Department salary schedule, shall be entitled to retire and receive benefits as scheduled in Section 11, (a) and (c). He shall also be covered under Section 24(a).

(c) After the effective date of this Act, any person who is appointed to, or promoted to any position or classification in the police department salary schedule higher than the third highest position, and who thereafter retires, under Section 11(b) or any other Section of this Act wherein benefits are enumerated, that person's benefits shall be based on the salary of the third highest classification of the police department salary schedule.

Re-enacted and amended by Acts 1963, 58th Leg., p. 1262, ch. 485, amended Acts 1965, 59th Leg., p. 640, ch. 315, § 1, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 528, ch. 232, § 1, emerg. eff. May 19, 1967; Acts 1969, 61st Leg., p. 638, ch. 220, § 1, emerg. eff. May 14, 1969.

Acts 1969, 61st Leg., p. 638, ch. 220, § 1, reenacting and amending this article, provided in sections 2 and 3:

"Sec. 2. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given

effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

"Sec. 3. All laws or parts of laws in conflict with any the provisions of this Act are hereby repealed to the extent of such conflict."

For Annotations and Historical Notes, see V.A.T.S.

Art. 6243h. Texas Municipal Retirement System

Definitions

Sec. II. The following words and phrases as used herein, unless different meanings are plainly indicated by their context, shall have the following meanings, respectively:

* * * * *

8. "Current Service Annuity" means the annuity, actuarially determined, derived from (a) reserve funds arising from a member's deposits, and (b) an additional amount of reserve funds arising from the normal contributions of the employing municipality, equal to the member's accumulated deposits, or in such greater sum as the employing municipality may have undertaken in the manner hereinafter authorized, to provide for the purpose.

Sec. II, subsec. 8 amended by Acts 1969, 61st Leg., p. 1146, ch. 371, § 1, emerg. eff. May 29, 1969.

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14. "Employee" means any person who receives compensation from and is certified by a municipality as being a regular full-time employee or as a regular part-time employee employed in a position normally requiring actual performance of duty during not less than one thousand (1,000) hours a year; provided, however, that the term "employee" does not include any person:

(a) As to any service for which he would be eligible to be included in and for which he is entitled to receive credit in the Teacher Retirement System of Texas, the Employees Retirement System of Texas, the Judicial Retirement System of Texas, the Texas County and District Retirement System, or any other pension fund or retirement system supported wholly or partly at public expense; but nothing herein contained shall be construed as precluding simultaneous coverage of persons under the Federal Old Age and Survivors Insurance System or any successor thereto, and this System, by reason of the same service.

(b) Who is elected to office by vote of the people, it being further specifically provided, however, that a voluntary fireman or elected official who meets the definition of employee in some capacity other than as a voluntary fireman or elected official shall be considered as an "employee" for the purposes of this Act to the extent of such other capacity.

Sec. II, subsec. 14 amended by Acts 1969, 61st Leg., p. 1146, ch. 371, § 1, emerg. eff. May 29, 1969.

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16. "Municipality" means any incorporated city or town now existing or hereafter created within the State; and, for the purpose of including its employees within the provisions of the fund, the Texas Municipal Retirement System; and for the purpose of continuing the coverage of its present members and annuitants, the Texas Municipal League; but persons employed for the first time by the Texas Municipal League after the effective date of this amendment shall not be eligible to membership of the System by reason of such employment.

Sec. II, subsec. 16 amended by Acts 1969, Leg., p. 1146, ch. 371, § 1, emerg. eff. May 29, 1969.

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21. As used in provisions of this Act authorizing allowance or assumption of "regular interest", the term means as to all periods or intervals of time elapsing prior to January 1, 1970, the rate of two and one-half per centum (2-1/2%) per annum compounded annually; and as to all periods or intervals of time elapsing from and after January 1, 1970,

the rate of three per centum (3%) per annum, compounded annually. Sec. II, subsec. 21 amended by Acts 1969, 61st Leg., p. 1146, ch. 371, § 1, emerg. eff. May 29, 1969.

* * * * *

23. "Prior Service Annuity" means the annuity, actuarially determined, which can be provided from the "Accumulated Prior Service Credit", the "Accumulated Special Prior Service Credit" and from the "Accumulated Antecedent Service Credit", if any, to which a member is entitled at time of his retirement.

Sec. II, subsec. 23 amended by Acts 1969, 61st Leg., p. 1146, ch. 371, § 1, emerg. eff. May 29, 1969.

24. "Current Interest" shall mean interest at a rate per centum per annum ascertained each year by dividing (1) the amount in the Interest Fund on December 31 of such year before the transfer of interest to other funds, less an amount equal to regular interest for said year upon the sum of the mean amount in the Current Service Annuity Reserve Fund during such year and the mean amount in the Municipality Prior Service Accumulation Fund during such year and the mean amount in the Prior Service Annuity Reserve Fund during such year by (2) an amount equal to the amount in the Municipality Current Service Accumulation Fund at the beginning of such year plus the amount in the Endowment Fund at the beginning of such year and plus the sum of the accumulated deposits in the Employees Saving Fund at the beginning of such year to the credit of all members included in the membership of the Retirement System on December 31 of such year before any transfers for retirements effective December 31 of such year are made, it being provided that the above division shall be carried to only three (3) decimal places and shall never be taken as greater than the rate of regular interest applicable for the same year.

Sec. II, subsec. 24 amended by Acts 1969, 61st Leg., p. 1146, ch. 371, § 1, emerg. eff. May 29, 1969.

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Revenue

Sec. IV.

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2. (a) Each participating municipality shall make normal contributions to the System of a percentage (determined as hereinafter provided) of each payment of earnings made to each member by such municipality and shall make Prior Service contributions to the System of a percentage (determined as hereinafter provided) of each payment of earnings made to each member by such municipality, subject to the limitation that the total of such percentages shall not exceed nine and one-half per centum (9-1/2%) of earnings in the event the rate of current service deposits required of employees of its participating departments is seven per centum (7%) of earnings; and that the total of such percentages shall not exceed seven and one-half per centum (7-1/2%), in the event the rate of current service deposits required of employees of its participating departments is five per centum (5%) of earnings; and that the total of such percentages shall not exceed five and one-half per centum (5-1/2%) in the event the current service deposit rate prescribed for members of participating departments is three per centum (3%) of earnings. The above percentages for each participating municipality shall be determined annually from the most recent data available at the time of such determination, and shall be certified by the Board to each participating municipality prior to the beginning of each calendar year. Where the municipality has different rates of contribution for employees of different departments, the maximum rate of contribution required of the participating municipality shall be determined

For Annotations and Historical Notes, see V.A.T.S.

by calculations made by the actuary of the average rate (taking into account the number of employees in each bracket) of contribution prescribed for current service deposits of employees of its participating departments. No reduction in contribution rate required of its employees shall reduce the maximum rate of contribution required of a participating municipality. Any participating municipality which has one or more of its departments with a different date of participation from others of its departments, by action of its council may elect to have all of its participating departments considered and treated, for the purpose of determining normal and prior service contribution rates, and for the purpose of determining any period within which the municipality must fund the obligations mentioned in paragraphs (a), (b) and (c) of this subsection, as having a single composite participation date, which composite date shall be determined by the actuary as an average weighted according to the number of members entering the System on the actual dates of participation of the several departments involved.

(b) Each participating municipality shall make payment of normal contributions to the Municipality Current Service Accumulation Fund of the System each month of an amount equal to the per cent of the earnings during such month of the members of the System employed by such participating municipality, which per cent shall be calculated annually by the actuary and approved by the Board as being the necessary and required per cent: (1) to maintain a reserve in such municipality's account in the Municipality Current Service Accumulation Fund equal to the present and prospective liabilities of such municipality's account in the Municipality Current Service Accumulation Fund, and (2) to amortize over a period of five (5) years the amount by which the present and prospective liabilities of such municipality's account in the Municipality Current Service Accumulation Fund was greater or less than the amount in such account on January 1st of the year preceding the then current year.

"Present and prospective liabilities" as used in this subsection shall mean, at any time, an amount equal to that amount in the Employees Saving Fund standing to the credit of a participating municipality's members at that time which according to calculations made by the actuary and approved by the Board on the basis of mortality and other tables adopted by the Board will eventually be transferred to the Current Service Annuity Reserve Fund, plus such additional sum as shall be determined to be a proportional adjustment for all such amounts in the Employees Saving Fund for which the participating municipality is obligated to provide (out of its Municipality Current Service Accumulation Fund Account) reserves at retirement in a ratio other than one to one.

(c) Each participating municipality shall make payment of Prior Service Contributions to the Municipality Prior Service Accumulation Fund of the System each month of an amount equal to a per cent of the earnings during such month of the members of the System employed by such participating municipality which per cent shall be calculated annually by the actuary and approved by the Board as being the necessary and required per cent, on the basis of regular interest:

(i) to accumulate in such municipality's account in the Prior Service Accumulation Fund by or before the end of the twenty-fifth year of participation of such participating municipality or by or before the end of the twentieth year from date of allowance by such municipality of any special prior service credits or antecedent service credits pursuant to Articles XV or XVI hereof, whichever date is the later, a sum equal to the reserve required (according to calculations made by the actuary and approved by the Board, on the basis of mortality and other tables adopted by the Board) to meet in full all payments which may become due after the end of such period under existing and anticipated prior

service annuities arising from prior service credits, special prior service credits, and antecedent service credits, granted by such participating municipality; and

(ii) to provide the amount required according to this Act to be paid during such period under prior service annuities arising from prior service credits, special prior service credits, and antecedent service credits granted by such participating municipality.

If the per cent of earnings calculated as above for Prior Service Contributions when added to the per cent of earnings calculated according to the preceding paragraph for normal contributions shall together exceed the maximum contributions prescribed in paragraph (a) of this subdivision, then in such event, the per cent of earnings for Prior Service Contributions shall be reduced a per cent which together with the percentage for normal contributions will equal the maximum contributions prescribed by paragraph (a) of this subsection.

Sec. IV, subsec. 2(a) amended by Acts 1965, 61st Leg., p. 1571, ch. 682, § 2, emerg. eff. June 18, 1965; Sec. IV, subsecs. 2(a)-(c) amended by Acts 1969, 61st Leg., p. 1146, ch. 371, § 2, emerg. eff. May 29, 1969.

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Method of financing

Sec. V.

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2. Municipality Current Service Accumulation Fund:

The Municipality Current Service Accumulation Fund shall be the Fund in which shall be accumulated all normal contributions made to the Texas Municipal Retirement System by the participating municipalities for the purpose of providing upon the retirement of each member an amount at least equal to such member's accumulated deposits as the municipality's contribution to the reserves for the member's current service annuity.

Contributions to and payments from this Fund shall be made as follows:

(a) All normal contributions payable by participating municipalities shall be paid into the Municipality Current Service Accumulation Fund and shall be credited to the accounts of the respective participating municipalities in such Fund.

(b) Upon the retirement of a member, an amount equal to his accumulated deposits in the Employees Saving Fund, or such greater amount as the participating municipality has undertaken (pursuant to Article XIV) to provide, shall be transferred from the Municipality Current Service Accumulation Fund into the Current Service Annuity Reserve Fund. If the accumulated deposits of such retiring members have accumulated from deposits made while an employee of a single participating municipality, such municipality's account in the Municipality Current Service Accumulation Fund shall be reduced by the amount so transferred. If such accumulated deposits arose from service in more than one participating municipality, the accounts of the involved participating municipalities in the Municipality Current Service Accumulation Fund shall be reduced by the respective amounts chargeable to such participating municipalities.

Sec. V, subsec. 2 amended by Acts 1969, 61st Leg. p. 1146, ch. 371, § 3, emerg. eff. May 29, 1969.

3. Municipality Prior Service Accumulation Fund:

The Municipality Prior Service Accumulation Fund shall be the Fund in which shall be accumulated all prior service contributions made to the Retirement System by the participating municipalities for the purpose of providing the amounts required for payment of prior service

For Annotations and Historical Notes, see V.A.T.S.

annuities; and from which prior service annuities shall be paid to the extent herein provided.

Contributions to and payments from this Fund shall be made as follows:

(a) All prior service contributions payable by participating municipalities shall be paid into the Municipality Prior Service Accumulation Fund and shall be credited to the accounts of the respective participating municipalities in such Fund.

(b) All payments under prior service annuities arising from prior service credits, special prior service credits, and antecedent service credits granted by a participating municipality shall be paid from this Fund and charged to such participating municipality's account in this Fund subject to the following: the Board shall have the power to reduce proportionately all payments under prior service annuities arising from prior service credits, special prior service credits, and antecedent service credits granted by any participating municipality, at any time and for such period of time as is necessary so that the payments under such prior service annuities in any year shall not exceed the amounts available in such participating municipality's account in the Municipality Prior Service Accumulation Fund for payment of prior service annuities in such year.

(c) Whenever, at the end of any year, the amount accumulated in any municipality's account in the Municipality Prior Service Accumulation Fund shall equal or exceed the reserve required, as of the end of such year, according to calculations made by the actuary and approved by the Board on the basis of mortality and other tables adopted by the Board, to meet all future payments in full under prior service annuities, arising from prior service credits, special prior service credits, and antecedent service credits granted by such participating municipality, then in effect or to become effective thereafter, then

(1) the amount of the reserve required at the end of such year under such prior service annuities as are then in effect shall be transferred from the Municipality Prior Service Accumulation Fund to the Prior Service Annuity Reserve Fund and such municipality's account in the Municipality Prior Service Accumulation Fund shall be reduced by such amount so transferred; and

(2) future payments under such prior service annuities so transferred shall thereafter be paid by the System from the Prior Service Annuity Reserve Fund; and

(3) the payment of prior service contributions to the System by such participating municipality shall be discontinued.

Thereafter, upon retirement of a member with prior service credits, special prior service credits or antecedent service credits granted by such participating municipality the amount of the reserve required as of the effective date of such retirement to meet all future payments in full under such member's prior service annuity shall be transferred from the Municipality Prior Service Accumulation Fund to the Prior Service Annuity Reserve Fund and such municipality's account in the Municipality Prior Service Accumulation Fund shall be reduced by such amount so transferred.

Thereafter, should it be determined, according to calculations made by the actuary and approved by the Board on the basis of mortality and other tables adopted by the Board, that the amount to the credit of such participating municipality's account in the Municipality Prior Service Accumulation Fund at the end of any year is less than the reserve required as of the end of such year to meet all future payments in full under prior service annuities, arising from prior service credits, special prior service credits, or antecedent service credits granted by such par-

ticipating municipality, to become effective after the end of such year, such municipality shall resume payment of Prior Service Contributions, subject to the limitations of Section IV of this Act, of such percentage as is required to amortize such deficiency over a period of one (1) year.

Whenever all prior service annuities, arising from prior service credits, special prior service credits, or antecedent service credits granted by a participating municipality have become effective and the reserves therefor transferred to the Prior Service Annuity Reserve Fund as provided above, any then remaining balance to the credit of such municipality's account in the Municipality Prior Service Accumulation Fund shall be paid to such municipality, and such municipality's account in the Municipality Prior Service Accumulation Fund shall be closed.

Sec. V, subsec. 3 amended by Acts 1969, 61st Leg., p. 1146, ch. 371, § 3, emerg. eff. May 29, 1969.

4. Current Service Annuity Reserve Fund:

The Current Service Annuity Reserve Fund shall be the Fund in which shall be held all reserves for current service annuities granted and in force and from which shall be paid all current service annuities and all benefits in lieu of current service annuities, payable as provided in this Act. This Fund shall be made up of transfers as follows:

(a) At the time of service or disability retirement, the accumulated deposits of a retiring member shall be transferred from the Employees Saving Fund to the Current Service Annuity Reserve Fund as reserves for the current service annuity purchased by said member's deposits.

(b) An amount equal to the accumulated deposits of each retiring member or such greater sum as the participating municipality has undertaken to provide shall be transferred, upon such member's retirement, from the Municipality Current Service Accumulation Fund as reserves for an additional current service annuity over and above the current service annuity purchased by such member's deposits.

Transfers and payments from the Current Service Annuity Reserve Fund shall be made as provided in Section VII of this Act, upon the death, restoration to active service or removal from the disability list, of an annuitant retired on account of disability.

Sec. V, subsec. 4 amended by Acts 1969, 61st Leg., p. 1146, ch. 371, § 3, emerg. eff. May 29, 1969.

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Creditable service

Sec. VI.

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8. Repealed by Acts 1969, 61st Leg., p. 1146, ch. 371, § 8, emerg. eff. May 29, 1969.

Benefits

Sec. VII. 1. Service Retirement Eligibility;

(a) Any member, after one (1) year from the effective date of his membership, shall be eligible for service retirement who (1) shall have attained the age of sixty (60) years and shall have completed at least fifteen (15) years of creditable service, or (2) shall have completed twenty-eight (28) years of creditable service.

(b) In any participating municipality which hereafter elects to participate in the System, and in those presently participating municipalities which by action of the governing body shall hereafter elect to provide the additional coverage allowed by this paragraph, any member of the System, after one year from the effective date of his membership, shall also be eligible for service retirement who shall have attained the age of fifty

For Annotations and Historical Notes, see V.A.T.S.

(50) years, and shall have completed at least twenty-five (25) years of creditable service in the municipality electing to provide the coverage allowed by this paragraph, and in any such participating municipality as shall have elected to provide the additional coverage allowed by this paragraph, any member who is an employee of such participating municipality at the time of his completion of at least twenty (20) years of creditable service who may withdraw from service shall continue to be a member despite the fact that his absence from service may exceed sixty (60) consecutive months, and shall become eligible for service retirement at attainment of a prescribed minimum service retirement age.

(c) Application for service retirement shall be made to the Board setting forth the date the member desires his retirement to become effective provided: (1) such application shall be executed and filed at least thirty (30) and not more than ninety (90) days prior to the date on which such retirement is to become effective; (2) the effective date specified in the application shall be the last day of a calendar month, and shall not be a date preceding the termination of the member's employment with an employing municipality.

(d) With the provision that no retirement shall be effective within one (1) year after the effective date of his membership, each member shall be retired from employment by all municipalities on the last day of the calendar year in which the age of sixty-five (65) is attained, or upon the last day of the calendar year in which he completes fifteen (15) years of creditable service, whichever shall last occur; provided, however, that in exceptional cases and for substantial cause such retirement may be deferred by mutual consent of the member and the employing municipality from year to year for a period of not to exceed one (1) year at any time, but in the case of any member who was under the age of fifty (50) years on the effective date of last becoming a member, such member's retirement shall not be so deferred beyond the last day of the calendar year in which he attains the age of seventy (70) or the last day of the calendar year in which he completes fifteen (15) years of creditable service, whichever shall last occur.

(e) Any member who has accepted service retirement shall be ineligible and disqualified to resume or continue service in any participating municipality.

Sec. VII, subsec. 1 amended by Acts 1969, 61st Leg., p. 1146, ch. 371, § 4, emerg. eff. May 29, 1969.

2. Standard Benefit on Service Retirement;

(a) A member who retires upon the basis of service eligibility shall be entitled to receive a "standard service retirement benefit" which shall be an allowance payable in equal monthly installments during the lifetime of the member, and in the event of his death before sixty (60) monthly payments of such benefit have been made, such payments shall continue to be paid to the member's beneficiary until the remainder of the sixty (60) monthly payments have been made. The "standard service retirement benefit" of a member shall consist of (1) a current service benefit which is the actuarial equivalent of his current service annuity reserve, and (2) a prior service benefit to which his Accumulated Prior Service Credit, Accumulated Special Prior Service Credit, and Accumulated Antecedent Service Credit, if any, entitles him under the provisions of this Act.

(b) The current service annuity reserve of the member shall be derived from:

(1) His accumulated deposits credited to his account in the Employees Saving Fund at the time of retirement; and

(2) An additional sum, from the Municipality Current Service Accumulation Fund, equal to the accumulated deposits provided by the

member, or such greater sum as the participating municipality has undertaken to provide.

(c) If he has a Prior Service Certificate, Special Prior Service Certificate, or Antecedent Service Certificate in full force and effect, the prior service benefit shall be the actuarial equivalent of his Accumulated Prior Service Credit, Accumulated Special Prior Service Credit, and Accumulated Antecedent Service Credit at the time of retirement; subject, however, to the power of the Board, upon recommendation of the actuary, to reduce payments for prior service annuities as provided in Section V of this Act.

Sec. VII, subsec. 2 amended by Acts 1969, 61st Leg., p. 1146, ch. 371, § 4, emerg. eff. May 29, 1969.

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6. Standard Disability Retirement Benefits;

Upon retirement for disability a member shall receive a disability retirement benefit consisting of a current service annuity, which shall be the actuarial equivalent of his current service annuity reserve, and a prior service annuity to which his Accumulated Prior Service Credit, Accumulated Special Prior Service Credit and Accumulated Antecedent Service Credit, if any, entitles him under the provisions of this Act.

(a) His current service annuity reserve shall be derived from:

(1) His accumulated deposits credited to his account in the Employees Saving Fund at the time of retirement; and

(2) An additional sum from the Municipality Current Service Accumulation Fund equal to the accumulated deposits provided by the member, or such greater sum as the participating municipality has undertaken to provide.

(b) If he has a Prior Service Certificate, Special Prior Service Certificate, or Antecedent Service Certificate in full force and effect, the prior service annuity shall be the actuarial equivalent of his Accumulated Prior Service Credit, Accumulated Special Prior Service Credit and Accumulated Antecedent Service Credit at time of retirement. Upon the recommendation of the actuary, the Board shall have the power to reduce payments for prior service annuities as provided in Section V of this Act. Sec. VII, subsec. 6 amended by Acts 1969, 61st Leg., p. 1146, ch. 371, § 4, emerg. eff. May 29, 1969.

7. Requirements and Conditions Applicable To Disability Benefits;

Once each year during the first five (5) years following retirement of a member on a disability retirement allowance, and once in every three-year period thereafter, the Board may, and upon his application shall, require any disability annuitant who has not yet attained the age of sixty (60) years to undergo a medical examination, such examination to be made at the place of residence of said annuitant or any other place mutually agreed upon, by a physician or physicians designated by the Board. Should any disability annuitant who has not yet attained the age of sixty (60) years refuse to submit to at least one (1) medical examination in any such periods by a physician or physicians designated by the Board, his allowance shall be discontinued until his withdrawal of such refusal, and should his refusal continue for one (1) year, all his rights in and to his allowance shall be revoked by the Board.

(a) Should the Medical Board report and certify to the Board that such disability annuitant is no longer physically or mentally incapacitated for the performance of duty, or that such disability annuitant is engaged in or is able to engage in a gainful occupation, and should the Board by a majority vote concur in such report, then his allowance shall be discontinued.

(b) Should a disability annuitant under the age of sixty (60) years be restored to active service in a participating department of a participating

For Annotations and Historical Notes, see V.A.T.S.

municipality, his retirement allowance shall cease, he shall again become a member of the System, and any reserves on his current service annuity at that time in the Current Service Annuity Reserve Fund shall be transferred to the Employees Saving Fund and to the Municipality Current Service Accumulation Fund, respectively, in proportion to the original sum transferred to the Current Service Annuity Reserve Fund at retirement and the reserves under his prior service annuity, if any, in the Prior Service Annuity Reserve Fund at that time shall be transferred to the Municipality Prior Service Accumulation Fund. Upon restoration to membership, any Prior Service Certificate, Special Prior Service Certificate or Antecedent Service Certificate, on the basis of which his service was computed at the time of his retirement shall be restored to full force and effect, and in addition, upon his subsequent retirement, he shall be credited with all his membership service. Should a disability annuitant die or be removed from the disability list for any cause other than restoration to active service, an amount equal to the amount by which such annuitant's accumulated deposits at the time of disability retirement exceed the current service annuity payments received by such annuitant under his disability allowance, if any such excess exists, shall be paid from the Current Service Annuity Reserve Fund to such annuitant if living; otherwise, such amount shall be paid to his estate unless he has directed such amount to be paid otherwise.

Sec. VII, subsec. 7 amended by Acts 1969, 61st Leg., p. 1146, ch. 371, § 4, emerg. eff. May 29, 1969.

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Administration

Sec. VIII.

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6. The assets of the System in excess of the amount of cash required for current operations as determined by the Board, shall be invested and reinvested in the following types of securities:

(a) Interest-bearing bonds or other evidences of indebtedness: of the State of Texas, or of any county, school district, city or other municipal corporation within the State of Texas; of the United States or of any authority or agency of the United States, or any such securities which are guaranteed as to the payment of principal and interest by the United States or by any authority or agency of the United States.

(b) Corporate bonds or debentures of any company incorporated in the United States which are rated A or better by at least two nationally-recognized rating services to be designated by the Board, or bonds or debentures of any company whose stocks are eligible hereunder as investments for the System.

(c) Preferred stocks and common stocks of companies incorporated within the United States, which have paid dividends for ten (10) consecutive years or longer immediately prior to the date of purchase of such securities and which, except for bank and insurance company stocks, are listed upon an exchange registered with the Federal Securities and Exchange Commission or its successors. Provided, however, that not more than fifty per cent (50%) of the total assets of the System at any one time shall be invested in corporate bonds, debentures, common and preferred stocks; nor shall more than two per cent (2%) of the assets of the System be invested in stocks, bonds and debentures of any one corporation, nor shall more than five per cent (5%) of the voting stock of any one corporation be owned by the System. In making each and all such investments the Board shall exercise the judgment and care under the circumstances which men of prudence, discretion and intelligence exercise in the management of their own affairs, taking into consideration not only

the probable income derivable from such securities but as well the probable safety of the capital investment.

The Board shall have full power to sell, assign, exchange, or trade and transfer any of the securities in which the funds of the System at any time may be invested, and to use or reinvest the proceeds as, in the Board's judgment, the needs of the System require.

Sec. VIII, subsec. 6 amended by Acts 1963, 58th Leg., p. 194, ch. 107, § 2, emerg. eff. May 7, 1963; Acts 1969, 61st Leg., p. 1146, ch. 371, § 5, emerg. eff. May 29, 1969.

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Optional Provision for Special Prior Service Credits

Sec. XV. Any participating municipality electing to do so may provide for "special prior service credits" to be allowed as to employees of such municipality retiring subsequent to the effective date of the undertaking of the municipality to provide such increased credits, upon the following terms and conditions:

(1) The Council by ordinance may provide that in addition to the "prior service credit" to be allowed each of its employees holding a prior service certificate which is in effect on the last day of the calendar year in which such proposed change is authorized by the Council, a "Special Prior Service Credit" shall be granted which shall be an amount equivalent to the accumulation at interest of a series of equal monthly payments of:

(a) Two and one-half per cent (2½%) of the member's "average prior service compensation" for the number of months of prior service certified to in such member's prior service certificate; or

(b) Five per cent (5%) of the member's "average prior service compensation" for the number of months of prior service certified to in such member's prior service certificate.

The accumulation above provided for shall be at regular interest and on the basis that interest is allowed at the end of each twelve (12) months period and is allowable on the accumulation at the beginning of each such twelve (12) months period and is not to be allowed for parts of a year.

(2) No municipality shall undertake to allow the special prior service credits authorized by the preceding paragraph until it shall have been a participating municipality of the System for at least three (3) calendar years; and no such undertaking shall be permitted, and shall not become effective, until it shall have been determined and certified by the actuary of the System that all obligations arising from the "prior service credits" and special prior service credits previously allowed by the municipality plus the "special prior service credits" proposed to be granted can be funded along with other obligations undertaken by the municipality under this Act, within the applicable maximum total contribution rate by or before the end of the twenty-fifth year from date of participation, or by or before the end of the twentieth year from and after the effective date of the special prior service credits proposed to be granted, whichever date is later.

(3) No "special prior service credits" shall be permitted to be granted under this Section if the result thereof would be to produce greater benefits for completed service than would be provided for current and future service rendered by an employee of the participating municipality for an equivalent period of time and upon the same earnings.

(4) No special prior service credits shall be permitted unless and until the proposal is approved by the Board as conforming to the requirements stated in this Act.

(5) Each employee member entitled to special prior service credit shall be given a "Special Prior Service Certificate" stating the amount of any special prior service credit allowed him pursuant to this Section. In

For Annotations and Historical Notes, see V.A.T.S.

event membership of such employee is terminated such special prior service certificate shall become void.

(6) "Accumulated Special Prior Service Credit," as used in this Act, shall mean the "special prior service credit" allowed a member as above provided, accumulated at regular interest from the effective date of becoming a member until the effective date of such member's retirement.

Sec. XV added by Acts 1969, 61st Leg., p. 1146, ch. 371, § 6, emerg. eff. May 29, 1969.

Optional Provision for Antecedent Service Credits

Sec. XVI. Subject to the terms and conditions hereinafter stated, any participating municipality electing to do so may undertake to grant antecedent service credit to those persons in its employment at the effective date of the municipality's election to provide such credit.

(1) The term "antecedent service" within the contemplation of this Section shall mean the period of current service theretofore rendered by a member to the participating municipality and for which concluded service the municipality has undertaken to provide reserves at retirement matching the members' accumulated deposits at the ratio of one to one, or at a greater ratio which is less than that at which the participating municipality is then undertaking to match current service deposits as to service then being rendered.

(2) The Council by ordinance may provide that the municipality will grant antecedent service credit to those persons who are employees of the municipality at the date such undertaking is designated to become effective, which shall be a charge against the prior service accumulation account of the municipality.

(3) "Antecedent Service Credit" shall mean an amount equivalent to the accumulation at interest of a series of monthly payments equal to fifty per cent (50%), or at the election of the participating municipality, one hundred per cent (100%) of the deposits actually made by the member during each month of his antecedent service to the municipality, such accumulation to be at regular interest and on the basis that interest is allowed at the end of each twelve (12) months period, and is allowed on the accumulation at the beginning of each twelve months period, and is not allowed for parts of a year.

(4) "Accumulated Antecedent Service Credit" shall mean the "Antecedent Service Credit" above defined, determined at the date such credit is directed to become effective in accordance with this Section, and accumulated at regular interest from such date until the effective date of such member's retirement.

(5) The Council by ordinance shall determine whether antecedent service credit shall be allowed, and shall designate the date at which such credit shall be allowed, provided that the date selected shall be the end of any calendar year after three (3) full years of participation by the municipality, and provided that at least ninety (90) days prior notice shall have been given to the Board of the Council's action.

(6) Each employee member entitled to antecedent service credit shall be given an "antecedent service certificate" stating the amount of his accumulated antecedent service credit at the effective date such credit is allowed pursuant to the ordinance adopted by the municipality, and such certificate shall state that in the event membership in the System ceases, such certificate shall become void, and that if the member thereafter returns to employment of any participating municipality, he shall not be entitled to such antecedent service credit.

(7) No antecedent service credit shall be permitted, and no provision therefor shall become effective, unless and until the proposal is approved by the Board as conforming to requirements of this Act. And the Board shall not approve the allowance of antecedent service credit by any

participating municipality until it shall have been determined and certified by the actuary of the System that all obligations arising from the antecedent service credits proposed, together with all prior service credits and special prior service credits, if any, granted by the municipality can be funded by the municipality within its maximum total contribution rate by or before the end of the twenty-fifth year from date of participation, or by or before the end of the twentieth year from and after the effective date for allowance of the proposed antecedent service credit, whichever date is later. No antecedent service credit shall be permitted to be granted under this Section if the result thereof would be to produce greater benefits for completed service than would be provided for current and future service rendered by an employee of the participating municipality for an equivalent period of time and upon the same earnings.

(8) Upon retirement of a member holding an antecedent service certificate which is in force and effect, he shall be entitled to a prior service annuity which his accumulated antecedent service credit will provide, which annuity will be paid him as part of his standard service retirement benefit, or as part of an optional benefit in lieu of a standard service retirement benefit, or if his retirement is for disability, as part of his disability retirement benefit. If the member holds a prior service certificate, the aggregate amount of his accumulated prior service credit, together with his accumulated special service credit, and his accumulated antecedent service credit shall constitute the sum from which his prior service annuity shall be calculated; and payment of such annuity may be reduced by the Board for the reasons and in the manner provided in Section V of this Act.

Sec. XVI added by Acts 1969, 61st Leg., p. 1146, ch. 371, § 7, emerg. eff. May 29, 1969.

TITLE 110A—PUBLIC OFFICERS

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| <p>Art.
 6252—4b. National Guard duty of employees; emergency leave [New].</p> <p>6252—8a. Accumulated vacation and sick leave; payment to estates of employees [New].</p> <p>6252—9a. Dual office holding [New].</p> <p>6252—11a. State employees training [New].</p> | <p>Art.
 6252—19. Tort claims [New].</p> <p>6252—19a. Automobile liability insurance; state departments; allowance to employees [New].</p> <p>6252—20. Complaints against law enforcement officers; writing; signature [New].</p> |
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Art. 6252—4b. National Guard duty of employees; emergency leave

Section 1. A state employee who is a member of the National Guard called to active duty by the governor because of an emergency, is entitled to receive and shall be granted emergency leave without loss of military or annual leave.

Acts 1969, 61st Leg., p. 620, ch. 214, § 1, eff. Sept. 1, 1969.

Title of Act:

An Act relating to the granting of emergency leave to state employees who are members of the National Guard, if called to active duty by the governor and declaring an emergency. Acts 1969, 61st Leg., p. 620, ch. 214.

Art. 6252—6. State property; responsibility and accounting

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Agencies and Property Subject to Control

Sec. 4.

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(c) All personal property owned by the state shall be accounted for by the agency that possesses the property. The Comptroller shall by regulation define what is meant by personal property for the purposes of this Act, but such definition shall not include non-consumable personal property having a value of Fifty Dollars (\$50.00) or less per unit. In promulgating such regulations, the Comptroller shall take into account the value of the property, its expected useful life, and the cost of record keeping should bear a reasonable relationship to the cost of the property upon which records are kept. The Comptroller shall consult with the State Auditor in making such regulations and the Auditor shall cooperate with the Comptroller in the exercise of this rule making power by giving technical assistance and advice.

Subsec. (c) amended by Acts 1969, 61st Leg., p. 207, ch. 84, § 1, emerg. eff. April 17, 1969.

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Art. 6252—8a. Accumulated vacation and sick leave; payment to estates of employees

Section 1. "Employee" as used in this Act means any appointed officer or employee in a department of the state who is employed on a basis or in a position normally requiring not less than 900 hours per year, but shall not include members of the legislature or any incumbent of an office normally filled by vote of the people; nor persons on piecework basis; nor operators of equipment or drivers of teams whose wages are included in rental rate paid the owners of said equipment or team; nor any person who is covered by the Judicial Retirement System of the State of Texas; nor any person who is covered by the Teacher Retirement System of Texas, except persons employed by the Teacher Retirement System, the Central Education Agency, and classified, administrative, and professional staff members employed by a state institution of higher education who

have accumulated vacation or sick leave, or both, during such employment.

Sec. 2. Upon the death of a state employee, the state shall pay his estate for all of the employee's accumulated vacation leave and for one-half of his accumulated sick leave. The payment shall be calculated at the rate of compensation being paid the employee at the time of his death.

Sec. 3. Funds appropriated for salaries to the department or agency for which the employee worked shall be used in making payments provided for by this Act.

Acts 1969, 61st Leg., p. 633, ch. 217, emerg. eff. May 14, 1969.

Title of Act:

An Act relating to the payment of accumulated vacation and sick leave to the

estates of certain state employees upon their death; and declaring an emergency. Acts 1969, 61st Leg., p. 633, Ch. 217.

Art. 6252—9a. Dual office holding

Section 1. A nonelective state officer or employee may hold other nonelective offices or positions of honor, trust, or profit under this state or the United States, if his holding the other offices or positions is of benefit to the State of Texas or is required by state or federal law, and if there is no conflict between his holding the office or position and his holding the original office or position for which the officer or employee receives salary or compensation.

Sec. 2. Before a nonelective state officer or employee may accept an offer to serve in other nonelective offices or positions of honor, trust, or profit, the officer or employee must obtain from the governing body, or if there is no governing body, the executive head of the agency, division, department, or institution with which he is associated or employed, a finding that the requirements of Section 1 of this Act have been fulfilled. The governing body or executive head shall make an official record of the finding and of the compensation to be received by the nonelective officer or employee from such additional nonelective office or position of honor, trust, or profit including specifically salary, bonus, per diem or other type of compensation.

Sec. 3. The governing body or executive head shall promulgate rules and regulations necessary to carry out the purposes of this Act.

Acts 1969, 61st Leg., p. 55, ch. 20, eff. Sept. 1, 1969.

Section 4 of the act of 1969 provided for effective date of Sept. 1, 1969.

positions of honor, trust, or profit; and declaring an emergency. Acts 1969, 61st Leg., p. 55, ch. 20.

Title of Act:

An Act relating to nonelective state officers holding other nonelective offices or

Art. 6252—11a. State employees training

Section 1. This Act may be cited as the State Employees Training Act of 1969.

Sec. 2. The Legislature finds that effective state administration is materially aided by programs for the training and education of state administrators and employees and that public moneys spent for these programs serve an important public purpose.

Sec. 3. A state department, institution, or agency may use available public funds to provide training and education for its administrators and employees. Where considered appropriate by the department, institution, or agency, it may expend public funds to pay the salary, tuition and other fees, travel and living expenses, training stipend, training materials costs and other necessary expenses of the instructor, student, and other participant in the training or education program. A department, institution, or agency may enter into an agreement with another state, local, or federal department, institution, or agency, in-

Notice of meetings; exception

Sec. 3A. (a) Written notice of the date, place, and subject of each meeting held by a governmental body shall be given before the meeting as prescribed by this section.

(b) A state governmental body shall furnish notice to the secretary of state, who shall then post the notice on a bulletin board to be located at a place convenient to the public in the State Capitol.

(c) A city governmental body shall have a notice posted on a bulletin board to be located at a place convenient to the public in the city hall.

(d) A county governmental body shall have a notice posted on a bulletin board located at a place convenient to the public in the county courthouse.

(e) The governing body of a school district, water district, other district, or other political subdivision shall have a notice posted at a place convenient to the public in its administrative office, and shall also furnish the notice to the county clerk or clerks of the county or counties in which the district or political subdivision is located. The county clerk shall then post the notice on a bulletin board located at a place convenient to the public in the county courthouse.

(f) Notice of a meeting must be posted for at least the three days preceding the day of the meeting. However, in case of emergency or urgent public necessity, which shall be expressed in the notice, it is sufficient that the notice is posted before the meeting is convened or called to order.

(g) The provisions of this section shall not apply to an agency wholly financed by Federal funds.

Sec. 3A added by Acts 1969, 61st Leg., p. 674, ch. 227, § 1, eff. Sept. 1, 1969.

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Art. 6252—19. Tort claims

Short title

Section 1. This Act shall be known and cited as the Texas Tort Claims Act.

Definitions

Sec. 2. The following words and phrases as used in this Act unless a different meaning is plainly required by the context shall have the following meanings:

(1) "Unit of government" or "units of government" shall mean the State of Texas and all of the several agencies of government which collectively constitute the government of the State of Texas, specifically including, but not to the exclusion of, other agencies bearing different designations, all departments, bureaus, boards, commissions, offices, agencies, councils and courts; all political subdivisions, all cities, counties, school districts, levee improvement districts, drainage districts, irrigation districts, water improvement districts, water control and improvement districts, water control and preservation districts, fresh water supply districts, navigation districts, conservation and reclamation districts, soil conservation districts, river authorities, and junior college districts; and all institutions, agencies and organs of government whose status and authority is derived either from the Constitution of the State of Texas or from laws passed by the Legislature pursuant to such Constitution. Provided, however, no new unit or units of government are hereby created.

(2) "Scope of employment" or "scope of office" shall mean that the officer, agent or employee was acting on behalf of a governmental unit

For Annotations and Historical Notes, see V.A.T.S.

in the performance of the duties of his office or employment or was in or about the performance of tasks lawfully assigned to him by competent authority.

(3) "Officer, agent or employee" shall mean every person who is in the paid service of any unit of government by competent authority, whether full or part-time, whether elective or appointive, and whether supervisory or nonsupervisory, it being the intent of the Legislature that this Act should apply to every person in such service of a unit of government, save and except as herein provided. Such definition, however, shall not include an independent contractor or an agent or employee of an independent contractor, or any person performing tasks the details of which the unit of government does not have the legal right to control.

Liability of governmental units

Sec. 3. Each unit of government in the state shall be liable for money damages for personal injuries or death when proximately caused by the negligence or wrongful act or omission of any officer or employee acting within the scope of his employment or office arising from the operation or use of a motor-driven vehicle and motor-driven equipment, other than motor-driven equipment used in connection with the operation of floodgates or water release equipment by river authorities created under the laws of this state, under circumstances where such officer or employee would be personally liable to the claimant in accordance with the law of this state, or death or personal injuries so caused from some condition or some use of tangible property, real or personal, under circumstances where such unit of government, if a private person, would be liable to the claimant in accordance with the law of this state. Such liability is subject to the exceptions contained herein, and it shall not extend to punitive or exemplary damages. Liability hereunder shall be limited to \$100,000 per person and \$300,000 for any single occurrence for bodily injury or death.

Waiver of sovereign immunity

Sec. 4. To the extent of such liability created by Section 3, immunity of the sovereign to suit, as heretofore recognized and practiced in the State of Texas with reference to units of government, is hereby expressly waived and abolished, and permission is hereby granted by the Legislature to all claimants to bring suit against the State of Texas, or any and all other units of government covered by this Act, for all claims arising hereunder.

Venue

Sec. 5. All cases arising under the provisions of this Act shall be instituted in the county in which the cause of action or a part thereof arises.

Cumulative remedy

Sec. 6. This Act shall be cumulative in its legal effect and not in lieu of any and all other legal remedies which the injured person may pursue.

Laws and rules applicable

Sec. 7. The laws and statutes of the State of Texas and the Rules of Civil Procedure, as promulgated and adopted by the Supreme Court of Texas, insofar as applicable and to the extent that such rules are not inconsistent with the provisions of this Act, shall apply to and govern all actions brought under the provisions of this Act.

Unit of government as defendant; service of citation

Sec. 8. Suits instituted pursuant to the provisions of this Act shall name as defendant the unit of government against which liability is sought to be established. In suits against the state citation shall be

served on the Secretary of State. In suits against other units of government citation shall be served in the manner prescribed by law for other civil cases. If no method is prescribed by law, then service may be had on the administrative head of the unit of government being sued, if available, and if not, the court in which the suit is pending may authorize service in such manner as may be calculated to afford the unit of government a fair opportunity to answer and defend the suit.

Counsel; insurance

Sec. 9. The Attorney General of Texas shall defend all actions brought under the provisions of this Act against any unit of government whose authority and jurisdiction is coextensive with the geographical limits of the State of Texas. All units of government whose area of jurisdiction is less than the entire State of Texas shall employ their own counsel in accordance with the organic act under which such unit of government is operating; provided, however, that all units of government are hereby expressly authorized to purchase policies of insurance providing protection for such units of government, their officers, agents and employees against claims brought under the provisions of this Act, and when they have acquired such insurance, they are further authorized to relinquish to the company providing such insurance coverage the right to investigate, defend, compromise and settle any such claim. In the case of suits defended by the Attorney General, he may be fully assisted by counsel provided by insurance carrier. Neither the existence or amount of insurance shall ever be admissible in evidence in the trial of any case hereunder, nor shall the same be subject to discovery.

Compromise and settlement

Sec. 10. Any and all causes of action brought under the provisions of this Act may be settled and compromised by the unit of government involved when, in the judgment of the Governor, in the case of the state, and in the judgment of the governing body of the unit of government in other cases, such compromise would be to the best interests of such government. It is specifically provided, however, that such approval shall not be required in those instances where insurance has been procured under the provisions of Section 9 hereof.

Collection of judgments

Sec. 11. Judgments recovered against units of government pursuant to the provisions of this Act shall be enforced in the same manner and to the same extent as judgments are now enforced against such units of government under the statutes and law of Texas; and no additional methods of collecting judgments are granted by this Act. Provided, however, if the judgment is obtained against a unit of government that has procured a contract or policy of liability or indemnity insurance protection, the holder of the judgment may use such methods of collecting said judgment as are provided by the policy or contract and statutes and laws of Texas to the extent of the limits of coverage provided therein. It is expressly provided, however, that judgments under this Act becoming final during any fiscal year need not be paid by such unit of government until the following fiscal year except to the extent that they may be payable by an insurance carrier. For the payment of any final judgment obtained under the provisions of this Act, a unit of government not fully covered by liability insurance is hereby authorized to levy an ad valorem tax, the rate of which, if found by the unit of government to be necessary, may exceed any legal limit otherwise applicable except as may be imposed by the Constitution of the State of Texas. In the event that judgments arising under the provisions of this Act become final against a unit of government in any one fiscal year in an aggregate amount, exclusive of insurance coverage, if any, in excess of one percent of the budgeted tax funds, exclusive of general obligation

For Annotations and Historical Notes, see V.A.T.S.

debt service requirements, of such unit of government for such fiscal year, then such unit of government may pay such judgments over a period of not more than five years in equal annual installments and shall pay interest on the unpaid balance at the rate provided by law.

Effect of judgment or settlement

Sec. 12. (a) The judgment or settlement in an action or claim under this Act shall constitute a complete bar to any action by the claimant, by reason of the same subject matter, against the employee of a unit of government whose act or omission gave rise to the claim.

(b) The State or a political subdivision may not require any employee to purchase liability insurance as a condition of his employment where the State or political subdivision is insured by a policy of liability insurance.

Liberal construction

Sec. 13. The provisions of this Act shall be liberally construed to achieve the purposes hereof.

Exemptions

Sec. 14. The provisions of this Act shall not apply to:

(1) Any claim based upon an act or omission which occurred prior to the effective date of this Act.

(2) Any claim based upon an act or omission of the Legislature, or any member thereof acting in his official capacity, or to the legislative functions of any unit of government subject to the provisions hereof.

(3) Any claim based upon an act or omission of any of the courts of the State of Texas, or any member thereof acting in his official capacity, or to the judicial functions of any unit of government subject to the provisions hereof.

(4) Any claim based upon an act or omission of an officer, agent or employee of any unit of government in the execution of the lawful orders of any court.

(5) Any claim arising in connection with the assessment or collection of taxes by any unit of government.

(6) Any claim arising out of the activities of the National Guard, the State Militia, or the Texas State Guard, when on active duty pursuant to lawful orders of competent authority.

(7) Any claim based upon the failure of a unit of government to perform any act which said unit of government is not required by law to perform. If the law leaves the performance or nonperformance of an act to the discretion of the unit of government, its decision not to do the act, or its failure to make a decision thereon, shall not form the basis for a claim under this Act.

(8) Any claim arising out of the action of an officer, agent or employee while responding to emergency calls or reacting to emergency situations when such action is in compliance with the laws and ordinances applicable to emergency action.

(9) Any claim based on an injury or death connected with any act or omission arising out of civil disobedience, riot, insurrection or rebellion or arising out of the failure to provide, or the method of providing, police or fire protection.

(10) Any claim arising out of assault, battery, false imprisonment, or any other intentional tort including, but not limited to, disciplinary action by school authorities.

(11) Any claim based upon the theory of attractive nuisance.

(12) Any claim arising from the absence, condition, or malfunction of any traffic or road sign, signal, or warning device unless such absence, condition, or malfunction shall not be corrected by the governmental unit responsible within a reasonable time after notice, or any claim arising

from the removal or destruction of such signs, signals or devices by third parties except on failure of the unit of government to correct the same within such reasonable time, after actual notice. Nothing herein shall give rise to liability arising from the failure of any unit of government to initially place any of the above signs, signals, or devices when such failure is the result of discretionary actions of said governmental unit. The signs, signals and warning devices enumerated above are those used in connection with hazards normally connected with the use of the roadway, and this section shall not apply to the duty to warn of special defects such as excavations or roadway obstructions.

Individual immunity

Sec. 15. Notwithstanding any provision hereof, the individual immunity of public officers, agents or employees of government from tort claims for damages is hereby preserved to the extent and degree that such persons presently are immunized.

Notice of death or injury

Sec. 16. Except where there is actual notice on the part of the governmental unit that death has occurred or that the claimant has received some injury, any person making a claim hereunder shall give notice of the same to the governmental unit against which such claim is made, reasonably describing the injury claimed and the time, manner and place of the incident from which it arose, within six months from the date of the incident. Provided, however, except where there is such actual notice, charter and ordinance provisions of cities requiring notice within a charter period permitted by law are hereby expressly ratified and approved.

Payment of claim against state supported college or university

Sec. 17. No claim or judgment against a state-supported senior college or university, under this Act, shall be payable except by a direct appropriation made by the Legislature for the purpose of satisfying claims and/or judgments, except in the event insurance has been acquired as provided in Section 9, in which case the claimant is entitled to payment to the extent of such coverage as in other cases.

Exclusions

Sec. 18. (a) This Act shall not apply to any proprietary function of a municipality. The term "motor-driven equipment" as used herein shall not be construed so as to include medical equipment, such as, but not limited to iron lungs, located in hospitals.

(b) As to premise defects, the unit of government shall owe to any claimant only the duty owed by private persons to a licensee on private property, unless payment has been made by the claimant for the use of the premises. Provided, however, that the limitation of duty contained in this subsection shall not apply to the duty to warn of special defects such as excavations or obstructions on highways, roads or streets, nor shall it apply to any such duty to warn of the absence, condition or malfunction of traffic signs, signals or warning devices as is required in Section 14(12) hereof.

Workmen's compensation

Sec. 19. Any governmental unit carrying Workmen's Compensation Insurance or accepting the provisions of the Workmen's Compensation Act of the State of Texas shall be entitled to all of the privileges and immunities granted by the Workmen's Compensation Act of the State of Texas to private persons and corporations.

Partial school district exemption

Sec. 19A. The provisions of this Act shall not apply to school districts except as to motor vehicles.

Repealer

Sec. 20. All laws or parts of law, and all enactments, rules and regulations or any and all units of government, and all organic laws of such units of government, in conflict herewith are hereby repealed, annulled and voided, to the extent of such conflict.

Severability

Sec. 21. In the event any section, subsection, paragraph, sentence or clause of this Act shall be declared unconstitutional or void, the validity of the remainder of this Act shall not be affected or impaired thereby; and it is hereby declared to be the policy and intent of the Legislature to enact the valid portions of this Act, notwithstanding the invalid portions, if any.

Effective date

Sec. 22. This Act shall be effective from and after January 1, 1970. Acts 1969, 61st Leg., p. 874, ch. 292, eff. Jan. 1, 1970.

Title of Act:

An Act to be known and cited as the Texas Tort Claims Act; defining certain terms; making liable for tort claims for personal injury all units of government in Texas and setting certain limits; abolishing certain immunities of the sovereign to suit, and granting permission for such suit; providing for venue in such suits; making this Act cumulative of other legal remedies; applying the laws and statutes of the State of Texas and the Rules of Civil Procedure to actions hereunder; providing for the service of citation; providing for the defense of such suits, permitting the purchase of insurance and declaring the existence thereof inadmissible and not subject to discovery; permitting settlement of claims hereunder and establishing procedure therefor; providing for the collection of judgments; providing that remedies and judgments hereunder constitute a bar under certain circumstances, and that units of government may not, under certain circumstances, require employees to procure liability insurance as a condition of employment; providing for liberal construc-

tion hereof; determining certain exceptions to this Act; providing for continued individual immunity; requiring claimants to give notice of their claim except where there is actual notice; providing for payment of claims against the state-supported senior colleges and universities by direct appropriation, except where insurance has been acquired; providing that the Act shall not apply to proprietary functions of municipalities; excluding medical equipment from the definition of "motor-driven equipment"; applying certain duties as to premise liability; making applicable the provisions of the Workmen's Compensation Act to those units of government acquiring workmen's compensation insurance; excluding school districts from the provisions of the Act, except as to motor vehicles; repealing all laws or parts of laws in conflict herewith; providing that if any part hereof is unconstitutional or void, the same shall not affect the remaining portions hereof; providing for an effective date hereof; and declaring an emergency. Acts 1969, 61st Leg., p. 874, ch. 292.

Art. 6252—19a. Automobile liability insurance; state departments; allowance to employees

Section 1. The state departments who now own and operate motor vehicles shall have the power and authority to insure the officers and employees from liability arising out of the use, operation and maintenance of automobiles, trucks, tractors and other power equipment used or which may be used in the operation of such department. Such insurance shall be provided by the purchase of a policy or policies for that purpose from some liability insurance company or companies authorized to transact business in the State of Texas. All liability insurance so purchased shall be provided on a policy form or forms approved by the State Board of Insurance as to form and by the Attorney General as to liability.

Sec. 2. In case said department elects not to so insure its employees against liability as above mentioned:

An employee of the State of Texas, in addition to any compensation provided in the General Appropriations Act, shall receive as compensation any sum of money expended by such employee for automobile liability insurance required of such employee by the department, agency, commission, or other branch of the state government for which such employee is employed.

Sec. 3. The state comptroller shall provide the necessary forms to make such claims which shall require a certification from the head of the department, agency, commission, or other branch of the state government that such employee is employed; that as a regular part of such employee's duties such employee is required to operate a state-owned motor vehicle; and that such department, agency, commission, or other branch of the state government requires such employee to maintain liability insurance as a prerequisite to the operation of the state-owned motor vehicle.

Sec. 4. Such payments are to be charged against the maintenance fund of the department for which such employee is employed.

Sec. 5. Nothing herein shall be construed as a waiver of the immunity of the state from liability for the torts of negligence of the officers or employees of the state.

Acts 1969, 61st Leg., p. 2357, ch. 797, emerg. eff. June 14, 1969.

Title of Act:

An Act relating to insurance of officers and employees from liability arising out of the use and operation of motor vehicles owned by the State of Texas or its departments; relating to compensation of em-

ployees for purchase of additional personal liability insurance to cover use of state-owned motor vehicles; and declaring an emergency. Acts 1969, 61st Leg., p. 2357, ch. 797.

Art. 6252—20. Complaints against law enforcement officers; writing; signature

In order that a complaint against a law enforcement officer of the State of Texas, including but not limited to officers of the Department of Public Safety and the Liquor Control Board, or against a fireman or policeman may be considered by the head of a state agency or by a chief or head of a fire department or police department, neither of which is under the protection of a civil service statute, the complaint must be placed in writing and signed by the person making the complaint. A copy of the signed complaint must be presented to the affected officer or employee within a reasonable amount of time after the complaint is filed and before any disciplinary action may be taken against the affected employee.

Acts 1969, 61st Leg., p. 1333, ch. 407, § 1, emerg. eff. June 2, 1969.

Title of Act:

An Act relating to a requirement that all complaints made against a law enforcement officer of the State of Texas or firemen and policemen be made in writing and

signed by the person making the complaint; and declaring an emergency. Acts 1969, 61st Leg., p. 1333, ch. 407.

TEXAS PROBATE CODE

CHAPTER I—GENERAL PROVISIONS

§ 3. Definitions and Use of Terms

When used in this Code, unless otherwise apparent from the context:

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(e) "County Court" and "Probate Court" are synonymous terms and denote county courts in the exercise of their probate jurisdiction and courts created by statute and authorized to exercise original probate jurisdiction.

(f) "County Judge," "Probate Judge," and "Judge" denote the presiding judge of any court having original jurisdiction over probate proceedings, whether it be a county court in the exercise of its probate jurisdiction or a court created by statute and authorized to exercise probate jurisdiction.

(g) "Court" denotes and includes both a county court in the exercise of its probate jurisdiction and a court created by statute and authorized to exercise original probate jurisdiction.

Sec. 3(e)–(g) amended by Acts 1969, 61st Leg., p. 1922, ch. 641, § 1, emerg. eff. June 12, 1969.

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(l) "Estate" denotes the real and personal property of a decedent or ward, both as such property originally existed and as from time to time changed in form by sale, reinvestment, or otherwise, and as augmented by any accretions and additions thereto (including any property to be distributed to the representative of the decedent by the trustee of a trust which terminates upon the decedent's death) and substitutions therefor, and as diminished by any decreases therein and distributions therefrom. Subd. (l) amended by Acts 1969, 61st Leg., p. 1703, ch. 556, § 1, emerg. eff. June 10, 1969.

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§ 7. Venue for Appointment of Guardians

A proceeding for the appointment of a guardian shall be begun:

(a) For the person and estate, or either, of a minor, in the county where his parents reside; provided such proceeding shall be begun:

(1) When the parents do not reside in the same county, then in the county where the parent having custody of the minor at the time resides.

(2) If only one parent is living, in the county where the surviving parent resides, if such parent has custody of the minor.

(3) If either or both parents are living, but no parent has custody of the minor, then in the county where such minor is found, or in the county where the principal estate of the minor is situated.

(4) If both parents are dead, but the minor was in the custody of a deceased parent, then in the county where the last surviving parent having custody resided.

(5) If both parents are dead, but, at the time of their death the minor was in the custody of a person other than a parent, then in the county where such minor is found, or in the county where his principal estate is situated.

(6) If both parents of a minor child or children die in a common disaster and there is no evidence that such parents died other than simultaneously, then in the county:

(A) Where both deceased parents resided at the time of their simultaneous deaths; or

(B) Where the bulk of such minor child or children's estate is situated; or

(C) Where such minor child or children are found.

(b) For the person and estate, or either, of an incompetent, in the county where such person resides, or where his principal estate is situated.

(c) Where a guardian has been appointed by will, in the county where the will has been admitted to probate, or in the county of the appointee's residence if he resides in Texas, or in the county in which the ward's principal estate is situated.

(d) For the estate of a person requiring the appointment of a guardian to receive funds from any governmental source or agency, in the county where such person resides.

Amended by Acts 1969, 61st Leg., p. 1989, ch. 678, § 1, emerg. eff. June 12, 1969.

CHAPTER II—DESCENT AND DISTRIBUTION

§ 37. Passage of Title upon Intestacy and Under a Will

When a person dies, leaving a lawful will, all of his estate devised or bequeathed by such will, and all powers of appointment granted in such will, shall vest immediately in the devisees or legatees of such estate and the donees of such powers; and all the estate of such person, not devised or bequeathed, shall vest immediately in his heirs at law; subject, however, to the payment of the debts of the testator or intestate, except such as is exempted by law; and whenever a person dies intestate, all of his estate shall vest immediately in his heirs at law, but with the exception aforesaid shall still be liable and subject in their hands to the payment of the debts of the intestate; but upon the issuance of letters testamentary or of administration upon any such estate, the executor or administrator shall have the right to possession of the estate as it existed at the death of the testator or intestate, with the exception aforesaid; and he shall recover possession of and hold such estate in trust to be disposed of in accordance with law.

Amended by Acts 1969, 61st Leg., p. 1703, ch. 556, § 2, emerg. eff. June 10, 1969.

§ 41. Matters Affecting and Not Affecting the Right to Inherit

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(c) **Alienage.** No person is disqualified to take as an heir because he or a person through whom he claims is or has been an alien.

Subsec. (c) amended by Acts 1969, 61st Leg., p. 1922, ch. 641, § 2, emerg. eff. June 12, 1969.

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§ 46. Joint Tenancies Abolished

Where two (2) or more persons hold an estate, real, personal, or mixed, jointly, and one (1) joint owner dies before severance, his interest in said joint estate shall not survive to the remaining joint owner or joint owners, but shall descend to, and be vested in, the heirs or legal representatives of such deceased joint owner in the same manner as if his interest had been severed and ascertained. Provided, however, that by an agreement in writing of joint owners of property the interest of any

For Annotations and Historical Notes, see V.A.T.S.

joint owner who dies may be made to survive to the surviving joint owner or joint owners, but no such agreement shall be inferred from the mere fact that the property is held in joint ownership.

Amended by Acts 1961, 57th Leg., p. 233, ch. 120, § 1, emerg. eff. May 15, 1961; Acts 1969, 61st Leg., p. 1922, ch. 641, § 3, emerg. eff. June 12, 1969.

CHAPTER III—DETERMINATION OF HEIRSHIP

§ 52. Recorded Instruments as Prima Facie Evidence

Any statement of facts concerning the family history, genealogy, marital status, or the identity of the heirs of a decedent shall be received in a proceeding to declare heirship, or in any suit involving title to real or personal property, as prima facie evidence of the facts therein stated, when such statement is contained in either an affidavit or any other instrument legally executed and acknowledged, or any judgment of a court of record, if such affidavit or instrument has been of record for five years or more in the deed records of any county in this state in which such real or personal property is located at the time the suit is instituted, or in the deed records of any county of this state in which the decedent had his domicile or fixed place of residence at the time of his death. If there is any error in the statement of facts in such recorded affidavit or instrument, the true facts may be proved by anyone interested in the proceeding in which said affidavit or instrument is offered in evidence. This statute shall be cumulative of all other statutes on the same subject, and shall not be construed as abrogating any right to present evidence conferred by any other statute or rule of law.

Amended by Acts 1969, 61st Leg., p. 1922, ch. 641, § 4, emerg. eff. June 12, 1969.

CHAPTER IV—EXECUTION AND REVOCATION OF WILLS

§ 59. Requisites of a Will

Every last will and testament, except where otherwise provided by law, shall be in writing and signed by the testator in person or by another person for him by his direction and in his presence, and shall, if not wholly in the handwriting of the testator, be attested by two (2) or more credible witnesses above the age of fourteen (14) years who shall subscribe their names thereto in their own handwriting in the presence of the testator. Such a will or testament may, at the time of its execution or at any subsequent date during the lifetime of the testator and the witnesses, be made self-proved, and the testimony of the witnesses in the probate thereof may be made unnecessary, by the affidavits of the testator and the attesting witnesses, made before an officer authorized to take acknowledgements to deeds of conveyance and to administer oaths under the laws of this state. Provided that nothing shall require an affidavit, acknowledgement or certificate of any testator or testatrix as a prerequisite to self-proof of a will or testament other than the certificate set out below. The affidavits shall be evidenced by a certi-

ificate, with official seal affixed, of such officer attached or annexed to such will or testament in form and contents substantially as follows:

“THE STATE OF TEXAS
COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared _____, _____, and _____, known to me to be the testator and the witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and, all of said persons being by me duly sworn, the said _____, testator, declared to me and to the said witnesses in my presence that said instrument is his last will and testament, and that he had willingly made and executed it as his free act and deed for the purposes therein expressed; and the said witnesses, each on his oath stated to me, in the presence and hearing of the said testator, that the said testator had declared to them that said instrument is his last will and testament, and that he executed same as such and wanted each of them to sign it as a witness; and upon their oaths each witness stated further that they did sign the same as witnesses in the presence of the said testator and at his request; that he was at that time eighteen years of age or over (or being under such age, was or had been lawfully married, or was then a member of the armed forces of the United States or of an auxiliary thereof or of the Maritime Service) and was of sound mind; and that each of said witnesses was then at least fourteen years of age.

Testator

Witness

Witness

Subscribed and acknowledged before me by the said _____, testator, and subscribed and sworn to before me by the said _____ and _____, witnesses, this _____ day of _____ A.D. _____.

(SEAL)

(Signed) _____

(Official Capacity of Officer)

Amended by Acts 1961, 57th Leg., p. 936, ch. 412, § 1, emerg. eff. June 17, 1961; Acts 1969, 61st Leg., p. 1922, ch. 641, § 5, emerg. eff. June 12, 1969.

§ 60. Exception Pertaining to Holographic Wills

Where the will is written wholly in the handwriting of the testator, the attestation of the subscribing witnesses may be dispensed with. Such a will may be made self-proved at any time during the testator's lifetime by the attachment or annexation thereto of an affidavit by the testator to the effect that the instrument is his last will; that he was at least eighteen years of age when he executed it (or, if under such age, was or had been lawfully married, or was then a member of the armed forces of the United States or of an auxiliary thereof or of the Maritime Service); that he was of sound mind; and that he has not revoked such instrument.

Amended by Acts 1969, 61st Leg., p. 1922, ch. 641, § 6, emerg. eff. June 12, 1969.

CHAPTER V—PROBATE, GRANT OF ADMINISTRATION,
AND GUARDIANSHIP

PART 1. ESTATES OF DECEDENTS

§ 78. Persons Disqualified to Serve as Executor or Administrator

No person is qualified to serve as an executor or administrator who is:

- (a) A minor; or
- (b) An incompetent; or
- (c) A convicted felon, under the laws either of the United States or of any state or territory of the United States, or of the District of Columbia, unless such person has been duly pardoned, or his civil rights restored, in accordance with law; or
- (d) A non-resident (natural person or corporation) of this State who has not appointed a resident agent to accept service of process in all actions or proceedings with respect to the estate, and caused such appointment to be filed with the court; or
- (e) A corporation not authorized to act as a fiduciary in this State; or
- (f) A person whom the court finds unsuitable.

Amended by Acts 1957, 55th Leg., p. 53, ch. 31, § 2a, eff. Aug. 22, 1957; Acts 1969, 61st Leg., p. 1922, ch. 641, § 7, emerg. eff. June 12, 1969.

Acts 1969, 61st Leg., p. 1922, ch. 641, § 7 amended this section by deleting a subsection prohibiting aliens disqualified by law to serve as executors or administrators and by renumbering the remaining subsection accordingly.

§ 88. Proof Required for Probate and Issuance of Letters Testamentary or of Administration

* * * * *

(b) Additional Proof for Probate of Will. To obtain probate of a will, the applicant must also prove to the satisfaction of the court:

(1) If the will is not self-proved as provided by this Code, that the testator, at the time of executing the will, was at least eighteen years of age, or was or had been lawfully married, or was a member of the armed forces of the United States or of the auxiliaries thereof, or of the Maritime Service of the United States, and was of sound mind; and

(2) If the will is not self-proved as provided by this Code, that the testator executed the will with the formalities and solemnities and under the circumstances required by law to make it a valid will; and

(3) That such will was not revoked by the testator.

Subsec. (b) amended by Acts 1969, 61st Leg., p. 1922, ch. 641, § 8, emerg. eff. June 12, 1969.

* * * * *

PART 2. PROCEDURE PERTAINING TO FOREIGN WILLS

§ 97. Proof Required for Recording in Deed Records

A copy of such foreign will or testamentary instrument, and of its probate attested as provided above, together with the certificate that said attestation is in due form, shall be prima facie evidence that said will or testamentary instrument has been duly admitted to probate, according to the laws of the state, territory, district, or country wherein it has allegedly been admitted to probate, and shall be sufficient to authorize the same to

be recorded in the deed records in the proper county or counties in this State.

Amended by Acts 1969, 61st Leg., p. 1922, ch. 641, § 9, emerg. eff. June 12, 1969.

§ 98. Effect of Recording Copy of Will in Deed Records

Every such foreign will, or testamentary instrument, and the record of its probate, which shall be attested and proved, as hereinabove provided, and delivered to the county clerk of the proper county in this State to be recorded in the deed records, shall take effect and be valid and effectual as a deed of conveyance of all property in this State covered by said foreign will or testamentary instrument; and the record thereof shall have the same force and effect as the record of deeds or other conveyances of land from the time when such instrument is delivered to the clerk to be recorded, and from that time only.

Amended by Acts 1969, 61st Leg., p. 1922, ch. 641, § 9, emerg. eff. June 12, 1969.

§ 99. Recording in Deed Records Serves as Notice of Title

The record of any such foreign will, or testamentary instrument, and of its probate, duly attested and proved and filed for recording in the deed records of the proper county, shall be notice to all persons of the existence of such will or testamentary instrument, and of the title or titles conferred thereby.

Amended by Acts 1969, 61st Leg., p. 1922, ch. 641, § 9, emerg. eff. June 12, 1969.

§ 101. Notice of Contest of Foreign Will

Within the time permitted for the contest of a foreign will in this State, verified notice may be filed and recorded in the minutes of the court in this State in which the will was probated, or the deed records of any county in this State in which such will was recorded, that proceedings have been instituted to contest the will in the foreign jurisdiction where it was probated or established. Upon such filing and recording, the force and effect of the probate or recording of the will shall cease until verified proof is filed and recorded that the foreign proceedings have been terminated in favor of the will, or that such proceedings were never actually instituted.

Amended by Acts 1969, 61st Leg., p. 1922, ch. 641, § 9, emerg. eff. June 12, 1969.

§ 104. Proof of Foreign Will in Original Probate Proceeding

If a testator dies domiciled outside this State, a copy of his will, authenticated in the manner required by this Code, shall be sufficient proof of the contents of the will to admit it to probate in an original proceeding in this State if no objection is made thereto. This Section does not authorize the probate of any will which would not otherwise be admissible to probate, or, in case objection is made to the will, relieve the proponent from offering proof of the contents and legal sufficiency of the will as otherwise required, except that the original will need not be produced unless the court so orders.

Amended by Acts 1969, 61st Leg., p. 1922, ch. 641, § 9, emerg. eff. June 12, 1969.

For Annotations and Historical Notes, see V.A.T.S.

§ 105. Executor of Will Probated in Another Jurisdiction

When a foreign will is admitted to ancillary probate in accordance with Section 95 of this Code, the executor named in such will shall be entitled to receive, upon application, letters testamentary upon proof that he has qualified as such in the jurisdiction in which the will was admitted to probate, and that he is not disqualified to serve as executor in this State. After such proof is made, the court shall enter an order directing that ancillary letters testamentary be issued to him. If letters of administration have previously been granted by such court in this State to any other person, such letters shall be revoked upon the application of the executor after personal service of citation upon the person to whom such letters were granted.

Amended by Acts 1969, 61st Leg., p. 1922, ch. 641, § 9, emerg. eff. June 12, 1969.

§ 107. Power of Sale of Foreign Executor or Trustee

When by any foreign will recorded in the deed records of any county in this state in the manner provided herein, power is given an executor or trustee to sell any real or personal property situated in this state, no order of a court of this state shall be necessary to authorize such executor or trustee to make such sale and execute proper conveyance, and whenever any particular directions are given by a testator in any such will respecting the sale of any such property situated in this state, belonging to his estate, the same shall be followed unless such directions have been annulled or suspended by order of a court of competent jurisdiction

Amended by Acts 1969, 61st Leg., p. 1922, ch. 641, § 9, emerg. eff. June 12, 1969.

CHAPTER VI—SPECIAL TYPES OF ADMINISTRATION AND GUARDIANSHIP

§ 137. Collection of Small Estates Upon Affidavit

The distributees of an estate shall be entitled thereto, to the extent that the assets, exclusive of homestead and exempt property, exceed the known liabilities of said estate, without awaiting the appointment of a personal representative when:

* * * * *

(c) The value of the entire assets of the estate, not including homestead and exempt property, does not exceed Two Thousand Five Hundred Dollars.

Subsec. (c) amended by Acts 1969, 61st Leg., p. 1978, ch. 670, § 1, eff. Sept. 1, 1969.

* * * * *

§ 144. Payment of Small Claims Without Guardianship

(a) **To Residents.** Whenever a resident minor, or whenever a resident person legally adjudged to be of unsound mind or to be an habitual or common drunkard sometimes referred to in this Section as 'creditor,' being without a legal guardian of his person or estate, shall be entitled to money in an amount not exceeding One Thousand Five Hundred Dollars, the right to which is liquidated and is uncontested in any pending lawsuit, the debtor may pay same to the County Clerk of the county in which such creditor resides in this state, for the account of such creditor, giving his name, the nature of his disability, and if a minor his age, and his post-office address,

and the receipt for such money signed by the clerk shall be forever binding on such creditor as of the date and to the extent of such payment. Upon receipt of such payment by the clerk, he shall forthwith call same to the attention of the court and shall invest such money as authorized by the Probate Code pursuant to the orders of the court in the name and for the account of such minor other person entitled to same, and by letter mailed to the address given by the debtor, shall apprise such creditor of the fact that such deposit has been made. Any increase, dividend or income from such investments shall be credited to the account of such minor or other person entitled to such investment. Any money heretofore deposited under the terms of this section which has not been paid out shall within thirty (30) days after the effective date of this Act be subject to the provisions of this Act as amended.

Within sixty (60) days from the first day of each calendar year the clerk of the court shall make a report to the court in writing of the status of such investments. Such report shall contain the following:

(1) The amount of the original investment or the amount of the investment at the last annual report, whichever is later.

(2) Any increase, dividend or income from such investment since the last annual report.

(3) The total amount of the investment and all increases, dividends or income at the date of the report.

(4) The name of the depository or the type of investment.

The father or mother or unestranged spouse of such creditor, priority being given to such spouse, residing in this state or if there be no such spouse and both father and mother be dead or nonresidents of this state, then the person residing in this state who has actual custody of such creditor, may as custodian, upon filing with such clerk written application and bond approved by the County Judge of such county, withdraw such money from the clerk for the use and benefit of such creditor, such bond to be in double the amount of said money and to be payable to the judge or his successors in office and to be conditioned that such custodian will use said money for the benefit of such creditor under directions of the court and that he will, when legally called upon to do so, faithfully account to such creditor, his heirs or legal representatives for such money and any increase thereof upon removal of the disability to which such creditor is subject, or upon his death or the appointment of a guardian. No fees or commissions shall be allowed to such custodian for taking care of, handling or expending such money so withdrawn by him.

When such custodian shall have expended such money in accordance with directions of the court or shall have otherwise complied with the terms of his bond by accounting for said money and any increase, he shall file with the County Clerk of said county his sworn report of his accounting, the filing of which report, when approved by the court shall operate as a discharge of said person as custodian and his sureties from all further liability under said bond. The court shall satisfy itself that the report is true and correct and may require proof as in other cases. Subsec. (a) amended by Acts 1969, 61st Leg., p. 1978, ch. 671, § 1, eff. Sept. 1, 1969.

(b) **To Non-Residents.** Whenever a non-resident minor or whenever a non-resident person duly adjudged by a court of competent jurisdiction to be of unsound mind or to be an habitual drunkard, having no legal guardian qualified in this state, is entitled to money in an amount, not exceeding One Thousand Five Hundred Dollars owing as a result of transactions within this state, the right to which is liquidated and is uncontested in any pending lawsuit in this state, the debtor in this state may pay such money to the guardian of such creditor duly qualified in his domiciliary

For Annotations and Historical Notes, see V.A.T.S.

jurisdiction or to the county clerk of any county in this state in which real property owned by such non-resident person is situated. If such person is not known to own any real property in any county in this state such debtor shall have the right to pay such money to the county clerk of the county of this state in which the debtor resides. In either case, such payment to the clerk shall be for the use and benefit and for the account of such non-resident creditor, and the receipt for such payment signed by the clerk, reciting the name of such creditor and his post-office address, if known, shall be forever binding against such creditor as of the date and to the extent of such payment. Such money so paid to such clerk shall be handled by him in the same manner as above provided for in cases of payments to the clerk for the accounts of residents of this state, and all applicable provisions of Subsection (a) above shall apply to the handling and disposition of money or any increase, dividend, or income herefrom so paid to the clerk for the use, benefit, and account of such non-resident creditor.

Subsec. (b) amended by Acts 1969, 61st Leg., p. 1978, ch. 671, § 1, eff. Sept. 1, 1969.

* * * * *

CHAPTER VII—EXECUTORS, ADMINISTRATORS, AND GUARDIANS

§ 181. Orders Granting Letters Testamentary or of Administration

When letters testamentary or of administration are granted, the court shall make an order to that effect, which shall specify:

- (a) The name of the testator or intestate; and
- (b) The name of the person to whom the grant of letters is made; and
- (c) If bond is required, the amount thereof; and
- (d) If any interested person shall apply to the court for the appointment of an appraiser or appraisers, or if the court deems an appraisal necessary, the name of not less than one nor more than three disinterested persons appointed to appraise the estate and return such appraisement to the court; and
- (e) That the clerk shall issue letters in accordance with said order when the person to whom said letters are granted shall have qualified according to law.

Amended by Acts 1967, 60th Leg., p. 1815, ch. 697, § 1, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 1922, ch. 641, § 10, emerg. eff. June 12, 1969.

§ 184. Order Appointing Guardian

The order of the court appointing a guardian shall specify:

- (a) The name of the person appointed.
- (b) The name of the ward.
- (c) Whether the guardian is of the person, or the estate, or of both the person and estate, of such ward, or of a person for whom it is necessary to have a guardian appointed to receive money or funds from a governmental source.
- (d) The amount of bond required, if any; and
- (e) If it be the guardianship of the estate, and if the court deems an appraisal necessary, the order shall also appoint not less than one nor more than three disinterested persons to appraise such estate, and to return such appraisement to the Court.
- (f) That the clerk shall issue letters of guardianship to the person appointed when such person has qualified according to law.

Amended by Acts 1969, 61st Leg., p. 1922, ch. 641, § 11, emerg. eff. June 12, 1969.

§ 220. Appointment of Successor Representative

(a) **Because of Death, Resignation or Removal.** When a person duly appointed a personal representative fails to qualify, or, after qualifying, dies, resigns, or is removed, the court may, upon application appoint a successor if there be necessity therefor, and such appointment may be made prior to the filing of, or action upon, a final accounting. In case of death, the legal representatives of the deceased person shall account for, pay, and deliver to the person or persons legally entitled to receive the same, all the property of every kind belonging to the estate entrusted to his care, at such time and in such manner as the court shall order. Upon the finding that a necessity for the immediate appointment of a successor representative exists, the court may appoint such successor without citation or notice.

(b) **Because of Existence of Prior Right.** Where letters have been granted to one, and another whose right thereto is prior and who has not waived such right and is qualified, applies for letters, the letters previously granted shall be revoked and other letters shall be granted to the applicant.

(c) **When Named Executor or Guardian Becomes an Adult.** If one named in a will as executor or guardian is not an adult when the will is probated and letters in any capacity have been granted to another, such nominated executor or guardian, upon proof that he has become an adult and is not otherwise disqualified, shall be entitled to have such former letters revoked and appropriate letters granted to him. And if the will names two or more persons as executor, any one or more of whom are minors when such will is probated, and letters have been issued to such only as are adults, said minor or minors, upon becoming adults, if not otherwise disqualified, shall be permitted to qualify and receive letters.

(d) **Upon Return of Sick or Absent Executor or Guardian.** If one named in a will as executor or guardian was sick or absent from the State when the testator died, or when the will was proved, and therefore could not present the will for probate within thirty days after the testator's death, or accept and qualify as executor or guardian within twenty days after the probate of the will, he may accept and qualify as executor or guardian within sixty days after his return or recovery from sickness, upon proof to the court that he was absent or ill; and, if the letters have been issued to others, they shall be revoked.

(e) **When Will Is Discovered After Administration Granted.** If it is discovered after letters of administration have been issued that the deceased left a lawful will, the letters shall be revoked and proper letters issued to the person or persons entitled thereto.

(f) **When Application and Service Necessary.** Except when otherwise expressly provided in this Code, letters shall not be revoked and other letters granted except upon application, and after personal service of citation on the person, if living, whose letters are sought to be revoked, that he appear and show cause why such application should not be granted.

(g) **Payment or Tender of Money Due During Vacancy.** Money or other thing of value falling due to an estate or ward while the office of the personal representative is vacant may be paid, delivered, or tendered to the clerk of the court for credit of the estate or ward, and the debtor, obligor, or payor shall thereby be discharged of the obligation for all purposes to the extent and purpose of such payment or tender. If the clerk accepts such payment or tender, he shall issue a proper receipt therefor. Amended by Acts 1969, 61st Leg., p. 1922, ch. 641, § 11, emerg. eff. June 12, 1969.

For Annotations and Historical Notes, see V.A.T.S.

§ 222. Removal

(a) **Without Notice.** The court, on its own motion or on motion of any interested person, and without notice, may remove any personal representative, appointed under provisions of this Code, who:

- (1) Neglects to qualify in the manner and time required by law; or
- (2) Fails to return within ninety days after qualification, unless such time is extended by order of the court, an inventory of the property of the estate and list of claims that have come to his knowledge; or
- (3) Having been required to give a new bond, fails to do so within the time prescribed; or
- (4) Absents himself from the State for a period of three months at one time without permission of the court, or removes from the State; or
- (5) Cannot be served with notices or other processes by reason of the fact that his whereabouts are unknown, or by reason of the fact that he is eluding service.

(b) **With Notice.** The court may remove a personal representative on its own motion, or on the complaint of any interested person, after the personal representative has been cited by personal service to answer at a time and place fixed in the notice, when:

- (1) Sufficient grounds appear to support belief that he has misapplied, embezzled, or removed from the state, or that he is about to misapply, embezzle, or remove from the state, all or any part of the property committed to his care; or
- (2) He fails to return any account which is required by law to be made; or
- (3) He fails to obey any proper order of the court having jurisdiction with respect to the performance of his duties; or
- (4) He is proved to have been guilty of gross misconduct, or mismanagement in the performance of his duties; or
- (5) He becomes an incompetent, or is sentenced to the penitentiary, or from any other cause becomes incapable of properly performing the duties of his trust; or
- (6) As executor or administrator, he fails to make a final settlement within three years after the grant of letters, unless the time be extended by the court upon a showing of sufficient cause supported by oath; or
- (7) As guardian of the person, he cruelly treats the ward, or neglects to educate or maintain the ward as liberally as the means of such ward and the condition of his estate permit.

(c) **Order of Removal.** The order of removal shall state the cause thereof. It shall require that any letters issued to the one removed shall, if he has been personally served with citation, be surrendered, and that all such letters be cancelled of record, whether delivered or not. It shall further require, as to all the estate remaining in the hands of a removed person, delivery thereof to the person or persons entitled thereto, or to one who has been appointed and has qualified as successor representative, and as to the person of a ward, that control be relinquished as required in the order.

Amended by Acts 1969, 61st Leg., p. 1922, ch. 641, § 11, emerg. eff. June 12, 1969.

§ 223. Further Administration With or Without Will Annexed

Whenever any estate is unrepresented by reason of the death, removal, or resignation of the personal representative of such estate, the court shall grant further administration of the estate when necessary, and with the will annexed where there is a will, upon application therefor by a qualified person interested in the estate. Such appointments shall be made on notice and after hearing, as in case of original appointments, except that when the court finds that there is a necessity for the immediate appoint-

ment of a successor representative, such successor may be appointed upon application but without citation or notice.

Amended by Acts 1969, 61st Leg., p. 1922, ch. 641, § 11, emerg. eff. June 12, 1969.

§ 227. Successors Return of Inventory, Appraisement, and List of Claims

An appointee who has been qualified to succeed to a prior personal representative shall make and return to the court an inventory, appraisement, and list of claims of the estate, within ninety days after being qualified, in like manner as is required of original appointees; and he shall also in like manner return additional inventories, appraisements, and lists of claims. In all orders appointing successor representatives of estates, the court shall appoint appraisers as in original appointments upon the application of any person interested in the estate.

Amended by Acts 1969, 61st Leg., p. 1922, ch. 641, § 11, emerg. eff. June 12, 1969.

CHAPTER VIII—PROCEEDINGS DURING ADMINISTRATION AND GUARDIANSHIP

PART 10. INVESTMENTS, LOANS, AND CONTRIBUTIONS OF ESTATES OF WARDS

Sec.

389A. Other investments [New].

PART 10A. STOCKS, BONDS AND OTHER PERSONAL PROPERTY [NEW]

Sec.

398A. Holding of Stocks, Bonds and other personal property by personal representatives in name of nominee [New].

PART 5. SALES

§ 341. Application for Sale of Real Estate

(a) Application may be made to the court for an order to sell property of the estate when it appears necessary or advisable in order to:

(1) Pay expenses of administration, funeral expenses and expenses of last sickness of decedents, and allowances and claims against the estates of decedents and wards.

(2) Make up the deficiency when the income of a ward's estate, and the personal property thereof, and the proceeds of previous sales, are insufficient for the education and maintenance of the ward, or to pay debts against the estate.

(3) Dispose of property of the estate of a ward which consists in whole or in part of an undivided interest in real estate, when it is deemed to the best interest of the estate to sell such interest.

(4) Dispose of real estate of a ward, any part of which is nonproductive or does not produce sufficient revenue to make a fair return upon the value of such real estate, when the improvement of same with a view to making it productive is not deemed advantageous or advisable, and it appears that the sale of such real estate and the investment of the money derived therefrom would be to the best interest of the estate.

(5) Conserve the estate of a ward by selling mineral interests and/or royalties on minerals in place owned by a ward.

(b) Any natural or adoptive parent of a minor who is not a ward may apply to the court for an order to sell property of a minor without being appointed guardian, when the value of the property does not exceed \$1,500. A sale of property pursuant to an order of the court under the subsection is not subject to disaffirmance by the minor.

For Annotations and Historical Notes, see V.A.T.S.

(c) Such parent shall make application to the court for the sale of such property. The application shall contain the following information:

- (1) A Legal description of the property.
- (2) The name of the minor, or minors and his interest in the property.
- (3) The name of the purchaser.
- (4) That such sale of the minor's interest is for cash.
- (5) That all funds received by the parent shall be used for the use and benefit of such minor.

(d) The court shall upon receipt of such application set the same for hearing at a date not less than five days from date of filing of such application, and if it deems necessary may cause citation to be issued.

(e) At the time of the hearing of said application, the court shall order the sale of such property, if it is satisfied from the evidence that the sale is in the best interest of said minor.

(f) When the order of sale has been entered by the court, the purchaser of such property shall pay the proceeds of such sale belonging to said minor or minors into the registry of the court.

(g) Nothing in this section shall prevent the proceeds so deposited from being withdrawn from the registry of the court under Section 144 of the Texas Probate Code.

Amended by Acts 1969, 61st Leg., p. 2030, ch. 695, § 1, emerg. eff. June 12, 1969.

PART 10. INVESTMENTS, LOANS, AND CONTRIBUTIONS OF ESTATES OF WARDS

§ 389A. Other Investments

(a) **Application to Invest.** When a corporate guardian of an estate shall deem it to be in the best interest of its ward to invest in any property or security in which a trustee is authorized to invest by either Article 7425b—46 V.A.T.S. (the Texas Trust Act) or Article 7425b—48 V.A.T.S. (the Uniform Common Trust Fund Act), and such investment is not expressly permitted by other Sections of this Code, the guardian may file a written application in the court where the guardianship is pending, asking for an order authorizing it to make such desired investment, and stating the reason why the guardian is of the opinion that such investment would be beneficial to the ward. No citation or notice is necessary unless ordered by the court.

(b) **Action of the Court.** Upon the hearing of the application, if the court is satisfied that such investment will be beneficial to the ward, an order authorizing the same shall be made. Such order shall specify the investment to be made, and shall contain such other directions as the court finds advisable.

(c) **Applicability.** The procedure specified in this Section need not be followed in making investments specifically authorized by other statutes, and is inapplicable when a different procedure is prescribed for an investment by a guardian.

Added by Acts 1969, 61st Leg., p. 2052, ch. 707, § 1, emerg. eff. June 12, 1969.

Title of Act:

An Act adding a new Section 389A to the Texas Probate Code which would authorize certain investments by corporate guardians;

providing for judicial approval thereof; and declaring an emergency. Acts 1969, 61st Leg., p. 2052, ch. 707.

PART 10A. STOCKS, BONDS AND OTHER
PERSONAL PROPERTY [NEW]

Part 10A consisting of section 398A added by Acts 1969, 61st Leg., p. 2106, ch. 719, § 1.

§ 398A. Holding of Stocks, Bonds and Other Personal Property by
Personal Representatives in Name of Nominee

Unless otherwise provided by will, a personal representative may cause stocks, bonds, and other personal property of an estate to be registered and held in the name of a nominee without mention of the fiduciary relationship in any instrument or record constituting or evidencing title thereto. The personal representative is liable for the acts of the nominee with respect to any property so registered. The records of the personal representative shall at all times show the ownership of the property. Any property so registered shall be in the possession and control of the personal representative at all times and be kept separate from his individual property.

Added by Acts 1969, 61st Leg., p. 2106, ch. 719, § 1, eff. Sept. 1, 1969.

Title of Act:

An Act amending the Texas Probate Code by adding a new Part 10A containing a new Section 398A which authorizes per-

sonal representatives to hold stocks, bonds, and other personal property in the name of a nominee; and declaring an emergency. Acts 1969, 61st Leg., p. 2106, ch. 719.

TITLE 112—RAILROADS

CHAPTER EIGHT—RESTRICTIONS, DUTIES AND LIABILITIES

Art. 6417. Repealed by Acts 1969, 61st Leg., p. 363, ch. 132, § 1, eff. Sept. 1, 1969.

CHAPTER ELEVEN—RAILROAD COMMISSION OF TEXAS

Art. 6498. [6693] Suitable depots

Each railroad company in this State shall provide and maintain adequate, comfortable and clean depots and depot buildings at their several stations for the accommodation of passengers, and keep said depot buildings well lighted and warmed for the comfort and accommodation of the traveling public. They shall keep and maintain apartments in such depot buildings for the use of passengers, and keep and maintain adequate and suitable freight depots and buildings for receiving, handling, storing and delivering of all freight handled by such roads, and the Commission shall require railroad companies to comply fully with the provisions of this law under such regulations as said Commission may deem reasonable. Amended by Acts 1969, 61st Leg., p. 363, ch. 133, § 1, eff. Sept. 1, 1969.

TITLE 115—REGISTRATION

CHAPTER THREE—EFFECT OF RECORDING

Art. 6632. Repealed by Acts 1969, 61st Leg., p. 2707, ch. 888, § 6, eff. Jan. 1, 1970

Acts 1969, 61st Leg., p. 2706, ch. 888, repealing this article, enacts Title 1 of a new Family Code.

Title 1 of the Family Code is published in a separate Special Pamphlet for convenient

reference pending publication of a fully annotated edition in bound volume form as a unit of Vernon's Texas Code Annotated.

CHAPTER FOUR—SEPARATE PROPERTY OF MARRIED WOMEN

Art. 6647. Repealed by Acts 1969, 61st Leg., p. 2707, ch. 888, § 6, eff. Jan. 1, 1970

Acts 1969, 61st Leg., p. 2706, ch. 888, repealing this article enacts Title 1 of a new Family Code.

Title 1 of the Family Code is published in a separate Special Pamphlet for convenient reference pending publication of a fully annotated edition in bound volume form as a unit of Vernon's Texas Codes Annotated.

TITLE 116—ROADS, BRIDGES, AND FERRIES

CHAPTER ONE—STATE HIGHWAYS

1A. CONSTRUCTION AND MAINTENANCE

2. REGULATION OF VEHICLES

Art. 6674n—4. Relocation Assistance program [New].
6674s—1. Liability insurance for highway department employees [New].

Art. 6696a. Modified or weighted vehicles [New].

1A. CONSTRUCTION AND MAINTENANCE

Art. 6674n—4. Relocation assistance program

Section 1. When in the acquisition of right of the way for any highway designated by the State Highway Commission as a part of the State Highway System it becomes necessary that any individual, family, property of a business concern, farm or ranch operation or non-profit organization be displaced they may be paid their moving expenses, relocation payments, be provided financial assistance to acquire replacement housing, or allowed rental supplements and compensated for expenses incidental to the transfer of property to the state all of which payments or expenditures are hereby declared to be an expense and cost of right of way acquisition. The State Highway Commission shall formulate the rules and regulations necessary to carry out the provisions of this section and shall not authorize payments or expenditures in excess of those authorized by the Federal Highway Relocation Assistance program.

Sec. 2. The State Highway Commission shall provide a relocation advisory service for all individuals, families, business concerns, farm and ranch operations and non-profit organizations which shall be compatible with the Federal Highway Relocation Advisory program.

Sec. 3. The Comptroller of Public Accounts is hereby authorized to issue a State Warrant on the appropriate account for all relocation costs and the costs of administering the relocation assistance program. Acts 1969, 61st Leg., p. 133, ch. 45, emerg. eff. April 2, 1969.

Title of Act:

An Act providing for the payment of relocation expenses and assistance in acquiring right of way on all highways designated by the State Highway Commission as a part of the State Highway System; pro-

viding for the State Highway Commission to formulate rules and regulations; providing for payment by the Comptroller; and declaring an emergency. Acts 1969, 61st Leg., p. 133, ch. 45.

Art. 6674s. Workmen's Compensation Insurance for Highway Department Employees

* * * * *

Adoption of General Workmen's Compensation Laws

Sec. 7.

(a) The following laws as amended or as they may hereafter be amended are adopted except to the extent that they are inconsistent with this Act:

(1) Sections 1, 3, 3a, 3b, 4, 5, 6, 7, 7a, 7b, 7c, 7d, 7e, 8, 8a, 8b, 9, 10, 11, 11a, 12, 12a, 12b, 12c, 12c-1, 12c-2, 12d, 12e, 12f, 12g, 12h, 12i, 13, 14, 15,

For Annotations and Historical Notes, see V.A.T.S.

15a, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 27, of Article 8306, Revised Civil Statutes of Texas, 1925, as amended;

(2) Section 1 of Chapter 248, Acts of the 42nd Legislature, Regular Session, 1931, as last amended by Acts, 1955, 54th Legislature, page 36, Chapter 26, Section 2, codified in Vernon's as Article 8306a, Vernon's Civil Statutes;

(3) Sections 4a, 6a, 11, 12, 13 and 14 of Article 8307, Revised Civil Statutes of Texas, 1925, as amended;

(4) Section 2 of Chapter 261, Acts of the 45th Legislature, 1937, codified in Vernon's as Article 8307b, Vernon's Civil Statutes;

(5) Sections 4 and 5 of Article 8309, Revised Civil Statutes of Texas, 1925, as amended; and

(6) Article 8309a, Revised Civil Statutes of Texas, 1925, as amended.

(b) Provided that whenever in the above adopted sections of Articles 8306, 8306a, 8307, 8307b, 8309 and 8309a of the Revised Civil Statutes of Texas, as amended the words 'association,' 'subscriber,' or 'employer' or their equivalents appear in such Articles, they shall be construed to and shall mean 'the department.'"

Sec. 7 amended by Acts 1969, 61st Leg., p. 2301, ch. 777, § 1, eff. Sept. 1, 1969.

Sec. 8. Repealed by Acts 1969, 61st Leg., p. 2301, ch. 777, § 2, eff. Sept. 1, 1969.

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Art. 6674s—1. Liability insurance for highway department employees

Section 1. The State Highway Commission shall have the power and authority to insure the officers and employees of the Texas Highway Department from liability arising out of the use, operation, and maintenance of equipment, including but not limited to, automobiles, motor trucks, trailers, aircraft, motor graders, rollers, tractors, tractor power mowers, and other power equipment used or which may be used in connection with the laying out, construction, or maintenance of the roads, highways, rest areas, and other public grounds in the State of Texas. Such insurance shall be provided by the purchase of a policy or policies for that purpose from some reliable insurance company or companies authorized to transact such business in this state. All liability insurance so purchased shall be provided on a policy form or forms approved by the State Board of Insurance as to form and by the attorney general as to liability.

Sec. 2. Nothing herein shall be construed as a waiver of the immunity of the state from liability for the torts or negligence of the officers or employees of the state.

Acts 1969, 61st Leg., p. 617, ch. 212, eff. Sept. 1, 1969.

Title of Act: operation, and maintenance of equipment; and declaring an emergency. Acts 1969, 61st Leg., p. 617, ch. 212.
An Act authorizing the State Highway Commission to insure officers and employees from liability arising out of use,

Art. 6674v. Turnpike projects

* * * * *

Expenditures for feasibility studies

Sec. 12a. Notwithstanding the prohibitions contained in Section 12 or any other provision of this Act, Texas Turnpike Authority shall be authorized subject to the prior approval of the Texas Highway Commission to use any available revenues derived from any Turnpike Project, and to borrow money, and issue interest-bearing evidences of indebtedness or enter into a loan agreement or loan agreements, payable out of, and to pledge or hypothecate any available revenues anticipated to be derived

from, the operation of any Turnpike Project, for the purpose of paying the expenses of studying the cost and feasibility and any other expenses relating to the preparation and issuance of Turnpike Revenue Bonds for the construction of any other Turnpike Project. The funds expended on behalf of any such new project shall be regarded as a part of the cost of such new project, and shall be reimbursed to the project from which such funds were disbursed out of the proceeds of Turnpike Revenue Bonds issued for the construction of any such new project.

Sec. 12a added by Acts 1969, 61st Leg., p. 1053, ch. 346, § 1, eff. Sept. 1, 1969.

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Acts 1969, 61st Leg., p. 1053, ch. 346, which added section 12a, also provided:

"Sec. 2. The provisions of this Act are severable. If any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the

Act and the application of such provision to other persons or circumstances shall not be affected thereby.

"Sec. 3. To the extent that any other law is in conflict with or inconsistent with the provisions hereof, the provisions of this Act shall take precedence and be effective."

2. REGULATION OF VEHICLES

Art. 6675a—11. Fees of tax collector

As compensation for his services under the provisions of this and other laws relating to the registration of vehicles, each County Tax Assessor-Collector shall receive a uniform fee of Sixty-five Cents (65¢) for each of the first five thousand (5,000) receipts issued by him each year pursuant to said laws; he shall receive a uniform fee of Fifty-five Cents (55¢) for each of the next ten thousand (10,000) receipts so issued, and a uniform fee of Fifty Cents (50¢) for each of the balance of said receipts so issued during the year. Said compensation shall be deducted weekly by each County Tax Assessor-Collector from the gross collection made pursuant to this Act and other laws relating to registration of vehicles. Out of the compensation so allowed the County Tax Assessors-Collectors, it is hereby expressly provided and required that they shall pay the entire expense of issuing all license receipts and license plates issued pursuant hereto. It is further provided that the County Tax Assessors-Collectors may collect an additional service charge of One Dollar (\$1.00) from each applicant desiring to register or re-register by mail. This service charge shall be used to cover the cost of handling and postage to mail the registration receipt and insignia to the applicant. The Highway Department may issue and promulgate procedures to cover the timely application for and issuance of registration receipts and insignia by mail.

Amended by Acts 1969, 61st Leg., p. 1657, ch. 522, § 1, eff. Sept. 1, 1969.

Sections 2-4 of the amendatory act of 1969 provided:

"Sec. 2. If any section, subsection, sentence, clause, or phrase of this Act is for any reason held unconstitutional, the unconstitutionality thereof shall not affect the validity of the remaining portion of this Act. The Legislature hereby declares that it would have passed the Act and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that one or more of the sections, subsections, sentences, clauses or phrases be declared unconstitutional.

"Sec. 3. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

"Sec. 4. The fact that the number of motor vehicle registrations made by the county tax assessors-collectors has steadily increased, and the fact that labor and material costs and other administrative expenses which are necessary in the issuance of such registrations have materially increased, and the fact that there has been no increase in the fees allowed tax assessors-collectors for performing this service, create an emergency and an imperative public necessity that the Constitutional Rule requiring that bills be read on three several days in each house be and the same is hereby suspended, and that this Act shall take effect and be in force at the beginning of the 1970 registration year, and it is so enacted."

For Annotations and Historical Notes, see V.A.T.S.

Art. 6686. Dealer's license; notice of sale or transfer; temporary license plates

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(b) Any person, firm or corporation engaged in this State in the business of transporting and delivering by means of the full mount method, the saddle mount method, the tow bar method, or any other combination thereof, and under their own power, new vehicles and other vehicles, including house trailers, trailers and semi-trailers, from the manufacturer or any other point of origin to any point of destination within the State of Texas, shall make application to the State Highway Commission for a drive-a-way in-transit license. This application for annual license shall be accompanied by a registration fee of Fifty Dollars (\$50) and shall contain such information as the State Highway Commission may require. Upon the filing of the application and the payment of the fee, the State Highway Commission shall issue to each drive-a-way operator a general distinguishing number, which number must be carried and displayed by each motor vehicle in like manner as is now provided by law for vehicles while being operated upon public highways and such number shall remain on the vehicle or vehicles from the manufacturer, or any point of origin, to any point of destination within the State of Texas. Additional number plates bearing the same distinguishing number desired by any drive-a-way operator may be secured from the State Highway Commission upon the payment of a fee of Five Dollars (\$5) for each set of additional license plates. Any person, firm or corporation engaging in the business as a drive-a-way operator of transporting and delivering by means of full mount method, the saddle mount method, the tow bar method, or any combination thereof, and under their own power, new motor vehicles, who fails or refuses to file or cause to be filed an application, as is required by law, and to pay the fees therefor as the law requires, shall be found guilty of violating the provisions of this Act and upon conviction be fined not less than Fifty Dollars (\$50) and not more than Two Hundred Dollars (\$200) and all the costs of Court. Each day so operating without securing the license and plates as required herein shall constitute a separate offense within the meaning of this Act. The funds collected herein shall be paid into the State Highway Fund of this State.

Sec. (b) amended by Acts 1969, 61st Leg., p. 170, ch. 69, § 1, emerg. eff. April 3, 1969.

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Art. 6687b. Driver's, chauffeur's, and commercial operator's licenses; accident reports

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What persons are exempt from license

Sec. 3. What persons are exempt from license
The following persons are exempt from license hereunder:

1. Every person in the service of the United States when operating an official motor vehicle in such service;
2. Any person while driving or operating any road machine, farm tractor, or implement of husbandry temporarily operated or moved on a highway, and while driving or operating any commercial motor vehicle temporarily on the highway in an emergency;
3. A nonresident who is at least sixteen (16) years of age and who has in his immediate possession a valid operator's license issued to him in his home state may operate a motor vehicle in this state only as an operator;

4. Any nonresident who is at least eighteen (18) years of age and who has in his immediate possession a valid operator's license, chauffeur's license, commercial operator's license or similar license issued to him by his home state (as well as nonresidents whose home state does not require the licensing of operators) shall not be required to secure such license under this Act, provided the state or country of his residence likewise recognizes such licenses issued by the State of Texas and exempts the holders thereof from securing such licenses from such foreign state or country. The purpose of this Section is to extend full reciprocity to citizens of other states and foreign countries which extend like privileges to citizens of the State of Texas.

It shall not be necessary for an employee of any incorporated city, town or village of this state or county of this state when holding an operator's permit to obtain a chauffeur's license in order to operate an official motor vehicle in the service of such incorporated city, town, village or county.

4a. A person operating a commercial motor vehicle, the gross weight of which does not exceed six thousand (6,000) pounds as that term is defined in Article 6675a—6 of the Revised Civil Statutes of Texas, operated in the manner and bearing current farm registration plates as provided in Article 6675a—6a of the Revised Civil Statutes, who holds an operator's license, shall not be required to obtain a commercial operator's license.

5. Any nonresident who is at least eighteen (18) years of age, whose home state does not require the licensing of operators, may operate a motor vehicle as an operator only, for a period of not more than ninety (90) days in any calendar year, if the motor vehicle so operated is duly registered in the home state of such nonresident.

6. Any person whose license expires while he is in military service in the armed forces of the United States in Southeast Asia may operate a motor vehicle without a license for ninety (90) days after he receives an honorable discharge, or for ninety (90) days after the date on which he was placed on leave, furlough, or other authorized absence from his post of duty."

Sec. 3 amended by Acts 1969, 61st Leg., p. 1946, ch. 649, § 1, emerg eff. June 12, 1969.

Who may not be licensed

Sec. 4. The Department shall not issue any license hereunder:

1. To any person, as an operator, who is under the age of eighteen (18) years. The Department may license an applicant as an operator, who is sixteen (16) years of age or older where: (a) the applicant has completed and passed a driver training course approved by the Department; or (b) before June 1, 1969, the local school superintendent certifies that such course is not taught at the school regularly attended by such applicant. A license shall not be issued to any applicant who has not passed the examination required in Section 10 of Article 6687b, Vernon's Texas Civil Statutes. The Department shall carry out the duties required of it by the provisions of this Act in any manner that will expedite the performance of such duties, and in a manner that will provide the greatest convenience for the public; provided that any person who has satisfactorily completed and passed the class-room phase of an approved driver education course may apply to the Department for an instruction permit if he is at least fifteen (15) years of age, and the Department may, in its discretion, after the applicant has successfully passed all parts of the driver examination required in Section 10 of this Act, other than the driving test, issue to the applicant an instruction permit which shall entitle the applicant while having such permit in his immediate possession to drive a motor vehicle upon the public highways when accompanied by a licensed operator, commercial operator, or chauffeur, who is at least

For Annotations and Historical Notes, see V.A.T.S.

twenty-one (21) years of age and has had at least one (1) year of driving experience and who is occupying a seat beside the driver; and provided further the Department may issue a license to any person who has attained the age of fifteen (15) years where, in the opinion of the Department, (1) it appears that the failure or refusal to issue such license to any such person will work an unusual economic hardship on the family of the applicant for the license, or (2) it appears that a license should be granted to the applicant because of the sickness or illness of members of the family of the applicant, or (3) a failure to issue such license would be detrimental to the general welfare of the applicant or of his or her family, or (4) it appears that the applicant meets the requirements of Subsection (b), Section 12 of Article 6687b, Vernon's Texas Civil Statutes, and provided further that the applicant has taken and passed the examination required in Section 10 of Article 6687b, Vernon's Civil Statutes. "General welfare of the applicant" as used in (3) above includes but is not limited to those persons between fifteen (15) and eighteen (18) years of age who are regularly enrolled in a vocational education program and who in the opinion of the Department require a driver's license to pursue that program. In no event shall an operator's license of any class be issued to any person of less than fifteen (15) years of age. Any person who has been refused a driver's license under the terms of this paragraph may appeal to the county court in the county in which he is a resident, where the matter may be tried upon request of petitioner or respondent. And provided further that a special combination operator and commercial operator restricted license may be issued to any person between the ages fifteen (15) and eighteen (18) years to operate only a motorcycle, motor scooter or motorized bicycle, the horsepower of any of which does not exceed five (5) brake horsepower. This special restricted license shall be issued by the Driver's License Division of the Department on application to the Department in accordance with Section 7 of Article 6687b, Vernon's Civil Statutes; shall be subject to the requirements of Section 10 of Article 6687b, Vernon's Civil Statutes, and to other provisions of this Act in the same manner as operator's licenses; and shall be in the form as may be prescribed by the Department.

2. To any person, as a commercial operator, who is under eighteen (18) years of age, unless he has completed the approved driver training course referred to in Subdivision 1 of this Section; and in no case shall a commercial operator's license be issued to one under seventeen (17) years of age;

3. To any person, as a chauffeur, who is under eighteen (18) years of age, unless he has completed the approved driver training course referred to in Subdivision 1 of this Section; and in no case shall a chauffeur's license be issued to one under seventeen (17) years of age;

4. To any person, as an operator, a commercial operator, or a chauffeur, whose license has been suspended, during such suspension;

5. To any person, as an operator, commercial operator, or chauffeur, who is shown to be an habitual drunkard or addicted to the use of narcotic drugs or other drugs that render a person incapable of driving;

6. To any person, as an operator, commercial operator, or chauffeur, who has previously, by a court of competent jurisdiction, been adjudged insane or an idiot, imbecile, or feebleminded, and who has not, at the time of such application, been restored to competency by judicial decree or released from a hospital for the insane or feebleminded upon a certificate of the superintendent that such person is competent;

7. To any person, as an operator, commercial operator, or chauffeur, who is required by this Act to take an examination, unless such person shall have successfully passed such examination;

8. To any person when in the opinion of the Department such person is afflicted with or suffering from such physical or mental disability or

disease as will serve to prevent such person from exercising reasonable and ordinary control over a motor vehicle while operating the same upon the highways, nor shall a license be issued to any person who is unable to understand highway warnings or direction signs in the English language; provided, however, no person shall be refused a license because of any physical defect unless it be shown by common experience that such defect incapacitates him from safely operating a motor vehicle;

9. To any person when the Department has good cause to believe that the operation of a motor vehicle on the highways by such person would be inimical to public safety or welfare;

10. To a person who applies for or receives public assistance as a needy blind person.

Sec. 4 amended by Acts 1969, 61st Leg., p. 2358, ch. 798, § 1, eff. Sept. 1, 1969.

Special restrictions on drivers of school buses and public or common carrier motor vehicles

Sec. 5.

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(b) No person who is under the age of twenty-one (21) years shall drive any motor vehicle except a taxicab while in use as a public or common carrier of persons, nor until he has been licensed as a chauffeur. No person who is under the age of nineteen (19) years shall drive a taxicab while in use as a public or common carrier of persons, nor until he has been licensed as a chauffeur.

Sec. 5(b) amended by Acts 1969, 61st Leg., p. 262, ch. 101, § 1, emerg. eff. April 28, 1969.

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Authority of Department to suspend or revoke a license

Sec. 22.

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(e) The judge or officer holding a hearing under Subsection (a), (b), or (d) of this section, or the court trying an appeal under Subsection (c) of this section, on determining that the License shall be suspended or revoked, may, when it appears to the satisfaction of the court that the ends of justice and the best interests of the public as well as the defendant will be subserved thereby, recommend that the revocation or suspension be probated on terms and conditions deemed by the officer or judge to be necessary or proper. The report to the department of the results of the hearing must include the terms and conditions of such probation. When probation is recommended by the judge or officer presiding at a hearing, the department shall probate the suspension or revocation.

(f) When the director believes that a licensee who has been placed on probation under Subsection (e) of this section has violated a term or condition of the probation, the director shall notify the licensee and summons him to appear at a hearing as provided in Subsection (a) or (d) of this section, after notice as provided in Subsection (a) of this section. The issue at the hearing shall be whether a term or condition of the probation has been violated. The officer or judge presiding at the hearing shall report his finding to the department and if the finding is that a term or condition of the probation is violated, the department shall revoke or suspend the license as determined in the original hearing.

Sec. 22(e), (f) added by Acts 1969, 61st Leg., p. 1824, ch. 614, § 1, emerg. eff. June 11, 1969.

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**Occupational license to meet essential need; hearing; restrictions;
 financial responsibility; violations**

Sec. 23A. (a) Any person whose license has been suspended for causes other than physical or mental disability or impairment may file with the judge of the district court having jurisdiction within the county of his residence, a verified petition setting forth in detail an essential need for operating a motor vehicle in the performance of his occupation or trade. The hearing on the petition may be ex parte in nature. The judge hearing the petition shall enter an order either finding that no essential need exists for the operation of a motor vehicle in the performance of the occupation or trade of the petitioner or enter an order finding an essential need for operating a motor vehicle in the performance of the occupation or trade of the petitioner. In the event the judge enters the order finding an essential need as set out herein, he shall also, as part of such finding, determine the actual need of the petitioner in operating a motor vehicle in his occupation or trade and shall restrict the use of the motor vehicle to the petitioner's actual occupation or trade and the right to drive to and from the place of employment of the petitioner, and shall require the petitioner to give proof of a valid policy of automobile liability insurance in accordance with the provisions of the Texas Safety Responsibility Law, Article 6701h, Vernon's Annotated Texas Statutes. Such restrictions shall be definite as to hours of the day, days of the week, type of occupation and areas or routes of travel to be permitted, except that in any event the petitioner shall not be allowed to operate a motor vehicle more than ten (10) hours in any twenty-four (24) consecutive hours. Unless further extended at the discretion of the District court, orders entered by such court shall extend for a period of twelve (12) months or less from the date of the original suspension. A certified copy of the petition and the court order setting out the judge's finding and the restrictions shall be forwarded to the Department.

(b) Upon receipt of the court order set out in (a) above and after compliance with the provisions of the Texas Safety Responsibility Law, Article 6701h, Vernon's Texas Civil Statutes, the Department shall issue an occupational license, showing on its face the restrictions set out in the order of the court.

(c) Any person who violates the restrictions on his occupational license shall be guilty of a misdemeanor and upon conviction thereof shall be punished in the same manner as one convicted of driving a motor vehicle while license is suspended, and such occupational license shall be automatically cancelled.

Sec. 23A added by Acts 1969, 61st Leg., p. 1821, ch. 612, § 1, eff. Sept. 1, 1969.

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When court to report convictions

Sec. 25.

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(c) For the purpose of this Act, the term "conviction" shall mean a final conviction. Also, for the purpose of this Act, a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction.

Sec. 25(c) amended by Acts 1969, 61st Leg., p. 1821, ch. 612, § 2, eff. Sept. 1, 1969.

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Transfer of Funds. Acts 1968, 60th Leg., 1st C.S., p. 12, ch. 4, requiring the Comptroller of Public Accounts to transfer \$3,000,000 from the Operator's and Chauffeur's Li-

cense Fund to the General Revenue Fund, in sections 1, 2, provided:

"Section 1. The Comptroller of Public Accounts from time to time shall transfer

any sums in the Operator's and Chauffeur's License Fund which are in excess of the amounts required to finance authorized appropriation for the normal operation and maintenance of the Department of Public Safety to the General Revenue Fund until the total of such transfers equals Three Million Dollars (\$3,000,000); thereafter the allocation of such revenue shall be as provided in Chapter 173, Acts of the 47th Legislature, Regular Session, 1941, as amended (codified as Article 6687b, Vernon's Texas

Civil Statutes), prior to the effective date of this Act.

"Sec. 2. All laws in conflict herewith are repealed to the extent of such conflict. The provisions of this Act shall take precedence over those provisions in Section 15, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941, as amended (codified as Article 6687b, Vernon's Texas Civil Statutes), only insofar as they relate to the Operator's and Chauffeur's License Fund."

Art. 6696a. Modified or weighted vehicles

It is unlawful to operate on any public roadway of this state any passenger vehicle or commercial vehicle which has been modified from the original design or weighted in any manner so that any portion of such vehicle other than the wheels has less clearance from the surface of the level roadway than the clearance between the roadway and the lowermost portion of any rim of any wheel in contact with such roadway. A person who violates any provision of this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$50.

Acts 1969, 61st Leg., p. 1056, ch. 349, § 1, eff. Sept. 1, 1969.

Title of Act: providing a penalty; and declaring an emergency. Acts 1969, 61st Leg., p. 1056, ch. 349.
An Act prohibiting the operation of certain modified or weighted motor vehicles;

CHAPTER ONE A—TRAFFIC REGULATIONS

Art. 6701d. Uniform Act Regulating Traffic on Highways

* * * * *

Exhaust emission system

Sec. 2A. Any motor vehicle engine modification to control or cause the reduction of substances emitted from motor vehicles or motor vehicle engines beginning with the model year 1968, which system is installed on or incorporated in any motor vehicle or motor vehicle engine in compliance with the requirements imposed by or under authority of the (United States) Motor Vehicle Air Pollution Control Act, Public Law 89-272, 42 U.S.C. 1857, et seq.,¹ or other applicable law.

Sec. 2A added by Acts 1969, 61st Leg., p. 811, ch. 271, § 1, eff. Sept. 1, 1969.

¹ 42 U.S.C.A. § 1857 et seq.

Acts 1969, 61st Leg., p. 811, ch. 271, § 5A, provided that Senate Bill No. 5 [Acts 1969, 61st Leg., p. 480, ch. 153], which amends Vernon's Ann.P.C. art. 698d pertaining to offense of air pollution, shall not apply to any act or omission covered by Chapter 271. See, also, historical note at end of this article.

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Secs. 39 to 42. Repealed by Acts 1969, 61st Leg., p. 1189, ch. 383, § 2, emerg. eff. May 29, 1969.

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Accident reports

Sec. 47. All accident reports made by persons involved in accidents, by garages, or peace officers shall be without prejudice to the individual so reporting and shall be privileged and for the confidential use of the

For Annotations and Historical Notes, see V.A.T.S.

Department or other State agencies having use for the records for accident prevention purposes, except that the Department may disclose the identity of a person involved in an accident when such identity is not otherwise known or when such person denies his presence at such accident, provided that accident reports submitted by peace officers after January 1, 1970, are public records open for inspection. After January 1, 1970, the Department shall provide a copy or copies of any peace officer's report submitted after that date to any person upon written request and payment of a Two Dollar (\$2) fee. Such copy may be certified by the Department for an additional fee of Two Dollars (\$2). In the event no report is on file the Department may certify such fact for a fee of Two Dollars (\$2). All fees collected under this Section shall be placed in the Operators and Chauffeurs License Fund and are hereby appropriated to be used by the Department in the administration of this Act.

Sec. 47 amended by Acts 1969, 61st Leg., p. 1189, ch. 383, § 1, emerg. eff. May 29, 1969.

* * * * *

Drive on right side of roadway—exceptions

Sec. 52.

(a) Upon all roadways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:

- 1. When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;
- 2. When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;
- 3. Upon a roadway divided into three (3) marked lanes for traffic under the rules applicable thereon; or
- 4. Upon a roadway restricted to one-way traffic.

(b) Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

(c) Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle shall be driven to the left of the center line of the roadway, except when authorized by official traffic-control devices designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as permitted under subsection (a)2 hereof. However, this subsection shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road or driveway.

Sec. 52 amended by Acts 1969, 61st Leg., p. 1019, ch. 329, § 1, emerg. eff. May 27, 1969.

* * * * *

Following too closely

Sec. 61.

(a) The driver of a motor vehicle shall, when following another vehicle, maintain an assured clear distance between the two vehicles, exercising due regard for the speed of such vehicles, traffic upon and conditions of the street or highway, so that such motor vehicle can be safely brought to a stop without colliding with the preceding vehicle, or

veering into other vehicles, objects or persons on or near the street or highway.

Sec. 61(a) amended by Acts 1969, 61st Leg., p. 1671, ch. 534, § 1, eff. Sept. 1, 1969.

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Vehicles approaching or entering intersection

Sec. 71. (a) The driver of a vehicle approaching the intersection of a different street or roadway shall stop, yield and grant the privilege of immediate use of such intersection in obedience to any stop sign, yield right-of-way sign or traffic control device erected by public authority, and after so stopping, may only proceed thereafter when such driver may safely enter the intersection without interference or collision with traffic using such different street or roadway.

(b) The driver of a vehicle on a single lane street or roadway, or a street or roadway consisting of only two traffic lanes, upon approaching the intersection, not otherwise controlled by traffic signs or signals, of a divided street or roadway, or of a street or roadway divided into three or more marked traffic lanes, shall stop, yield and grant the privilege of immediate use of such intersection to vehicles on such other street which are within the intersection or approaching such intersection in such proximity thereto as to constitute a hazard and after so stopping may only proceed thereafter when such driver may safely enter the intersection without interference or collision with traffic using such different street or roadway.

(c) The driver of a vehicle on an unpaved street or roadway approaching the intersection of a paved roadway shall stop, yield and grant the privilege of immediate use of such intersection to any vehicle on such paved roadway which is within the intersection or approaching such intersection in such proximity thereto as to constitute a hazard, and after so stopping may only proceed thereafter when such driver may safely enter the intersection without interference or collision with traffic using such paved street or roadway.

(d) The driver of a vehicle approaching the intersection of a different street or roadway, not otherwise regulated herein, or controlled by traffic control signs or signals, shall stop, yield and grant the privilege of immediate use of such intersection to any other vehicle which has entered the intersection from such driver's right or is approaching such intersection from such driver's right in such proximity thereto as to constitute a hazard and after so stopping may only proceed thereafter when such driver may safely enter such intersection without interference or collision with traffic using such different street or roadway.

(e) A driver obligated to stop and yield the right-of-way in accord with Sections (a), (b), (c) and (d) of Section 71, who is involved in a collision or interference with other traffic at such intersection is presumed not to have yielded the right-of-way as required by this Act. Sec. 71 amended by Acts 1969, 61st Leg., p. 2342, ch. 793, § 1, eff. Sept. 1, 1969.

Acts 1969, 61st Leg., p. 2342, ch. 793, which by section 1 amended this section, also provided: "Sec. 2. That Section 73, Chapter 421, Acts of the 50th Legislature, Regular Session, 1947 (Article 6701d, Vernon's Texas Civil Statutes), and Sections 2 and 3, Chapter 342, Acts of 55th Legislature, Regular Session, 1957 (Article 827e-1, Vernon's Texas Penal Code), are

hereby repealed and any and all laws or parts of laws heretofore enacted which are in conflict with or inconsistent with the terms and provisions of Section 1 of this Article are hereby repealed and held for naught."

Damaging or removing warning devices on public streets and highways, see art. 6674u-1.

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For Annotations and Historical Notes, see V.A.T.S.

Sec. 73. Repealed by Acts 1969, 61st Leg., p. 2342, ch. 793, § 2. eff. Sept. 1, 1969.

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Mufflers; air pollution control

Sec. 134.

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(c) Every new motor vehicle and new motor vehicle engine beginning with the model year 1968 shall at all times be so equipped that crankcase emissions are not discharged into the ambient atmosphere from the vehicle or engine.

(d) The owner or operator of any new motor vehicle or new motor vehicle engine beginning with the model year 1968 equipped with an exhaust emission system shall maintain the exhaust emission system in good operable condition and shall use it at all times that the motor vehicle or motor vehicle engine is operated. The owner or operator of the motor vehicle or motor vehicle engine shall not remove or intentionally make inoperable within the State of Texas the exhaust emission system, or any part thereof, except where the purpose of removal of the exhaust emission system, or part thereof, is to install another exhaust emission system, or part thereof, which is intended to be equally effective in reducing atmospheric emissions from the vehicle or engine."

Sec. 134(c), (d) added by Acts 1969, 61st Leg., p. 811, ch. 271, § 2, eff. Sept. 1, 1969.

Acts 1969, 61st Leg., p. 811, ch. 271, § 5A, provided that Senate Bill No. 5 [Acts 1969, 61st Leg., p. 480, ch. 153], which amends Vernon's Ann.P.C. art. 698d pertaining to offense of air pollution, shall not apply to any act or omission covered by Chapter 271. See, also, historical note at end of this article.

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Restrictions as to tire equipment

Sec. 135.

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(c) No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat, or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it shall be permissible to use tires having protuberances which will not injure the highway, and except also that it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because snow, ice, or other conditions tending to cause a vehicle to skid.

Sec. 135(c) amended by Acts 1969, 61st Leg., p. 79, ch. 37, § 1, emerg. eff. March 27, 1969.

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Distinctive emblem required on slow-moving vehicles

Sec. 139b.

Subdivision 1. As used in this Section, the term "slow-moving vehicle" means any motor vehicle designed to operate at a maximum speed of twenty-five miles per hour or less; and the term also means and includes all other vehicles, implements of husbandry and other machinery, including all road construction machinery, while being drawn by animals or by a motor vehicle designed to operate at a maximum speed of twenty-five miles per hour or less.

The term "slow-moving-vehicle emblem", as used in this Section, means a triangular emblem, conforming to the size, colors and other standards and specifications as are adopted by the Director of the Department of Public Safety in accordance with this Section.

Subd. 2. The Director of the Department of Public Safety shall adopt standards and specifications as to colors, size and position of mounting for a distinctive triangular emblem having a reflecting surface and designed to be clearly visible, in daylight or at night by reflection from the light of standard automobile headlamps, at a distance of not less than five hundred (500) feet; the standards and specifications for such emblems shall correlate with and, insofar as the Director determines to be practicable, shall conform to the then current standards and specifications adopted or approved by the American Society of Agricultural Engineers for a uniform emblem to identify slow-moving vehicles.

Subd. 3. From and after January 1, 1970, no "slow-moving vehicle," shall be operated or drawn upon any public street or highway in this state unless the same shall be equipped with and unless there shall be displayed at the rear thereof a "slow-moving-vehicle emblem" conforming to the standards and specifications adopted by the Director of the Department of Public Safety as above directed; provided that this requirement shall not apply to any such vehicle when being used in actual construction or maintenance work and while traveling within the limits of a construction area which is marked as such in accordance with requirements of the State Highway Commission. Such emblem shall be mounted base down on the rear of the vehicle, not less than three (3) feet nor more than five (5) feet above the road surface, and shall be maintained in a clean, reflective condition. The requirement of such emblem shall be in addition to any other lighting or reflective devices required by law.

When a motor vehicle displaying a slow-moving-vehicle emblem is drawing or towing an implement of husbandry or other machinery, and the visibility of the emblem on the pulling unit is not obstructed by the implement or machinery being towed, it shall not be necessary to display a similar emblem on the towed unit.

Subd. 4. The use of the "slow-moving-vehicle emblem" shall be restricted to the slow-moving vehicles specified in Subdivision 1, and its use on any other type of vehicle or stationary object on the highway is prohibited.

Sec. 139b added by Acts 1969, 61st Leg., p. 1046, ch. 340, § 1, emerg. eff. May 27, 1969.

Compulsory inspection

Sec. 140.

(a) It shall be the duty of the Texas Department of Public Safety to require every owner of a motor vehicle, trailer, semitrailer, pole trailer or mobile home, registered in this state and operated on the highways of this state, to have the brakes, lighting equipment, horns and warning devices, mirrors, windshield wipers, front seat belts in vehicles where seat belt anchorages were part of the manufacturer's original equipment on the vehicle, steering (including power steering), wheels and rims (not to involve removal of wheel from vehicle), exhaust system, and exhaust emission system inspected at state-appointed inspection stations or by State Inspectors as hereinafter provided. Provisions relating to the inspection of trailers, semitrailers, pole trailers, or mobile homes shall not apply when the gross weight of such vehicles and the load carried thereon is four thousand (4,000) pounds or less. Only the brakes, lighting equipment, horns and warning devices, mirrors, windshield wipers, front seat belts in vehicles where seat belt anchorages were part of the manufacturer's original equipment on the vehicle, steering (including power steering), wheels and rims (not to involve removal of wheel from vehicle), exhaust system, and exhaust emission system may be inspected, and the owner shall not be required to have any other equipment or part of his motor vehicle inspected as a prerequisite for the issuance of an inspection certificate.

For Annotations and Historical Notes, see V.A.T.S.

(b) If such inspection discloses the necessity for adjustments, corrections, or repairs, only the brakes, lighting equipment, horns and warning devices, mirrors, windshield wipers, front seat belts in vehicles where seat belt anchorages were part of the manufacturer's original equipment on the vehicle, steering (including power steering), wheels and rims (not to involve removal of wheel from vehicle), exhaust system, and exhaust emission system shall be adjusted, corrected, or repaired before a certificate is issued as hereinafter provided. The owner may have such adjustments, corrections, or repairs made by such qualified person or persons as he may choose, subject to reinspection as hereinafter provided. Sec. 140(a), (b) amended by Acts 1969, 61st Leg., p. 811, ch. 271, § 3, eff. Sept. 1, 1969.

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Acts 1969, 61st Leg., p. 811, ch. 271, § 5A, provided that Senate Bill No. 5 [Acts 1969, 61st Leg., p. 480, ch. 153], which amends Vernon's Ann.P.C. art. 698d pertaining to offense of air pollution, shall not apply to any act or omission covered by Chapter 271. See, also, historical note at end of this article.

State appointed inspection stations

Sec. 141.

(a) The Department may establish state-appointed inspection stations to carry out the provisions of this Section. Such stations may be located anywhere in the state, and should any be established or appointed, there shall be at least one (1) for each county. The Department is authorized to furnish instructions to, and to supervise official inspection stations and mechanics for inspection of motor vehicles, trailers, semitrailers, pole trailers and mobile homes for the proper and safe performance of brakes, lighting equipment, horns and warning devices, mirrors, windshield wipers, front seat belts in vehicles where seat belt anchorages were part of the manufacturer's original equipment on the vehicle, steering (including power steering), wheels and rims (not to involve removal of wheel from vehicle), exhaust systems, and exhaust emission systems. The authorization of persons to inspect vehicles shall be in accordance with the rules and regulations promulgated by the Department. Every person desiring to operate as an official inspection station shall file an application for a certificate of appointment with the Department.

The application shall be made upon a form prescribed and furnished by the Department, and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place of business within the state, and such other information as the Department may require. If the applicant has or intends to have more than one place of business within the state, a separate application shall be made for each place of business.

If the applicant is an association, the application shall set forth the names and the addresses of the persons constituting the association, and if a corporation, the names and addresses of the principal officers thereof, and any other information prescribed by the Department for purposes of identification. The application shall be signed and verified by oath or affirmation by the owner, if a natural person; in the case of a corporation, by an executive officer thereof or some person specifically authorized by the corporation to sign the application, to which shall be attached written evidence of his authority.

Only such locations which fulfill the Department's requirements and whose owners or proprietors comply with Department regulations shall qualify and be appointed and issued a certificate. Upon approval of an application, the Department shall issue to the owner a certificate of appointment as an official inspection station for the place of business within the state set forth in the application.

Certificates of appointment shall not be assignable, and shall be valid for the owners in whose names issued and for the transaction of business at the place designated therein, and shall at all times be conspicuously displayed at the place for which issued.

Upon being advised that an application will be approved, the applicant shall provide the bond hereinafter required and a fee of Ten Dollars (\$10) which shall constitute the certificate fee until August thirty-first of the odd-numbered year following the date of appointment. Thereafter, appointments shall be made for two-year periods and the certificate fee for each such period shall be Ten Dollars (\$10). All certificate fees shall be placed in a fund in the State Treasury to be known as the Motor Vehicle Inspection Fund and shall be used by the Department in the administration of this Act.

(b) Every owner of an official inspection station shall be required to furnish a bond payable to the State of Texas in the amount of One Thousand Dollars (\$1,000), to be approved by the Director of the Department, with two or more good and solvent sureties, or one corporate surety qualified by law to make such bond, to indemnify the state against the violation of any of the terms and conditions of this Act. Except where the surety is a corporate surety as herein provided, the bond shall first be submitted to the county judge of the county in which the inspection station is located, who shall make his recommendation to the Director whether the bond be approved or disapproved. Any inspector or any official or employee of any inspection station who shall issue an official certificate of inspection without having made an inspection of the vehicle for which it is issued or who shall knowingly or willfully issue an official inspection certificate for a motor vehicle or vehicles, the brakes, lighting equipment, horns and warning devices, mirrors, windshield wipers, front seat belts in vehicles where seat belt anchorages were part of the manufacturer's original equipment on the vehicle, steering (including power steering), wheels and rims (not to involve removal of wheel from vehicle), exhaust system, and exhaust emission system of which are not at the time of such issuance in a good condition and in conformity with the laws of this state shall forfeit said bond to the State of Texas.

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(d) The fee for compulsory inspection to be made under this Section shall be Two Dollars (\$2.00). Fifty cents (50¢) of each fee shall be paid to the Department and shall be placed in the Motor Vehicle Inspection Fund for the purpose of paying the expense of the administration of this law. The Department may require each official inspection station to make an advance payment of fifty cents (50¢) for each inspection certificate furnished to it, and the money so received shall be placed in the Motor Vehicle Inspection Fund, and no further payment to the Department shall be required upon issuance of the certificate. If such advance payment has been made, the Department shall refund to the inspection station the amount of fifty cents (50¢) for each unissued certificate which the inspection station returns to the Department in accordance with rules and regulations promulgated by the Department.

If an inspection disclosed the necessity for adjustments, corrections, or repairs to brakes, lighting equipment, horns and warning devices, mirrors, windshield wipers, front seat belts in vehicles where seat belt anchorages were part of the manufacturer's original equipment on the vehicle, steering (including power steering), wheels and rims (not to involve removal of wheel from vehicle), exhaust system, and exhaust emission system, such motor vehicle shall be reinspected free of charge after the adjustments, corrections, or repairs have been made. Any such motor vehicle under the terms of this Act, if involved in an accident subsequent to the required inspection, shall return to an inspection station after adequate repairs are made for a second and reinspection procedure.

(e) No certificate of inspection shall be issued by any inspector or inspection station until the brakes, lighting equipment, horns and warning devices, mirrors, windshield wipers, front seat belts in vehicles where seat belt anchorages were part of the manufacturer's original equipment on the vehicle, steering (including power steering), wheels and rims (not to involve removal of wheel from vehicle), exhaust system, and exhaust emission system have been inspected and found to be in proper and safe condition and to comply with the laws of this state. No person shall make, issue, or knowingly use an imitation or counterfeit of an official inspection certificate.

No person shall display or cause or permit to be displayed any inspection certificate knowing the same to be fictitious or issued for another vehicle or issued without the required inspection having been made.

No person shall perform an inspection or issue an inspection certificate without such person first having been authorized to do so by the Department.

No person shall drive or move on any highway any motor vehicle, trailer, semitrailer, pole trailer, mobile home, or combination thereof unless the equipment upon any and every said vehicle is in good working order and adjustment as required in this Act and said vehicle is in such safe mechanical condition as not to endanger the driver or other occupant or any person upon the highway."

Sec. 141(a), (b), (d), (e) amended by Acts 1969, 61st Leg., p. 811, ch. 271, § 4, eff. Sept. 1, 1969.

Acts 1969, 61st Leg., p. 811, ch. 271, § 5A, provided that Senate Bill No. 5 [Acts 1969, 61st Leg., p. 480, ch. 153], which amends Vernon's Ann.P.C. art. 698d pertaining to offense of air pollution, shall not apply to any act or omission covered by Chapter 271. See, also, historical note at end of this article.

Standards of safety; certificates of inspection

Sec. 142.

(a) The Department may establish uniform standards of safety as prescribed in Article XIV of this Act wherever applicable with respect to brakes, lighting equipment, horns and warning devices, mirrors, windshield wipers, front seat belts in vehicles where seat belt anchorages were part of the manufacturer's original equipment on the vehicle, steering (including power steering), wheels and rims (not to involve removal of wheel from vehicle), exhaust systems, and exhaust emission systems. Such standards of safety shall be posted in every official inspection station. Every motor vehicle inspected shall be required to conform in all respects to the standards of safety established pursuant to this Section.

(b) The Department shall furnish to inspection stations certificates of inspection, serially numbered, each of which shall, when issued, bear the serial number or the identification number of the vehicle for which issued and shall be countersigned by the inspector who made the inspection, and shall bear the true date of issuance, and such certificates of inspection shall be invalid after the end of the twelfth month following the month in which the vehicle was last inspected, approved and certificate of inspection issued. A certificate of inspection and approval for any motor vehicle shall be pasted in the lower left-hand corner of the windshield of such motor vehicle. A certificate of inspection and approval issued on a vehicle other than a motor vehicle shall be attached to or produced for such vehicle as the Department may require.

Sec. 142(a), (b) amended by Acts 1969, 61st Leg., p. 811, ch. 271, § 5, eff. Sept. 1, 1969.

Acts 1969, 61st Leg., p. 811, ch. 271, § 5A, provided that Senate Bill No. 5 [Acts 1969, 61st Leg., p. 480, ch. 153], which amends Vernon's Ann.P.C. art. 698d pertaining to offense of air pollution, shall not apply to any act or omission covered by Chapter 271. See, also, historical note at end of this article.

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Acts 1969, 61st Leg., p. 811, ch. 271, which added section 2A and amended sections 134, 140-142 of this article, provided in section 5A: "Senate Bill No. 5, Acts of the 61st Legislature, Regular Session, 1969 (Article 698d, Penal Code of Texas, 1925), pertaining to the offense of air pollution, shall not apply to any act or omission covered by this Act, and any act or omission which constitutes a criminal offense under this Act shall not constitute or be punishable as a criminal offense under said Senate Bill No. 5."

Art. 6701h. Safety Responsibility Law

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Application to non-residents, unlicensed drivers; unregistered motor vehicles and accidents in other states

Sec. 8.

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(c) Upon receipt of certification by the Department that the operating privilege of a Texas resident has been suspended or revoked in another state pursuant to a law providing for its suspension or revocation for failure to deposit security for the payment of judgments arising out of a motor vehicle accident or for failure to file proof of financial responsibility, the Department shall contact the official who issued the certification and request information pertaining to the specific nature of the Texas resident's noncompliance. If the alleged noncompliance is based on the failure of the Texas resident's insurance company or surety company to obtain authorization to write motor vehicle liability insurance in the other state and for failure of the insurance or surety company to execute a power of attorney directing the appropriate official in the other state to accept service on its behalf of notice or process in any action upon the policy arising out of the accident, then the Department shall not suspend the Texas resident's license and other registrations. If the evidence shows that the Texas resident's operating privilege was suspended in the other state for any other violation of another state's laws providing for suspension or revocation for failure to deposit security for the payment of judgments arising out of motor vehicle accidents or for failure to file proof of financial responsibility, under circumstances that would require the Department to suspend a nonresident's operating privilege had the accident occurred in this state, then the Department shall suspend the Texas resident's license and registrations. The suspension shall continue until the resident furnishes evidence of his compliance with the law of the other state relating to the deposit of security and proof of financial responsibility.

Sec. 8(c) amended by Acts 1969, 61st Leg., p. 1467, ch. 433, § 1, emerg. eff. June 4, 1969.

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Exceptions

Sec. 33. This Act shall not apply with respect to any motor vehicle owned by the United States, the State of Texas or any political subdivision of this state, or any municipality therein except as provided in Section 35, nor to the officers, agents or employees of the United States, the State of Texas, or any political subdivision of the state, while driving said vehicle in the course of their employment; provided, however, that the operator of every motor vehicle specified herein shall comply with the provisions

For Annotations and Historical Notes, see V.A.T.S.

of Section 4 of this Act; nor, except for Sections 4 and 26 of this Act, with respect to any motor vehicle which is subject to the requirements of Articles 911a (Sec. 11) and 911b (Sec. 13) of the Revised Civil Statutes of Texas; provided, however, that nothing in this Act shall be construed so as to exclude from this Act its applicability to taxicabs, jitneys, or other vehicles for hire, operating under franchise or permit of any incorporated city, town or village.

Sec. 33 amended by Acts 1969, 61st Leg., 2nd C.S., p. 59, ch. 8, § 1, emerg. eff. Sept. 19, 1969.

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Assigned risk plan

Sec. 35. Subject to the provisions of Article 5.10, Texas Insurance Code of 1951, as amended, insurance companies authorized to issue motor vehicle liability policies in this state may establish an administrative agency and make necessary reasonable rules in connection therewith, relative to the formation of a plan and procedure to provide a means by which insurance may be assigned to an authorized insurance company for a person required by this Act to show proof of financial responsibility for the future and who is in good faith entitled to motor vehicle liability insurance in this state but is unable to secure it through ordinary methods; or, in amounts not to exceed the limits prescribed in Section 21(b)2 of this law, for any unit of government within the State of Texas which, acting in good faith, is unable to secure motor vehicle liability insurance in this state through ordinary methods; and may establish a plan and procedure for the equitable apportionment among such authorized companies of applicants for such policies and for motor vehicle liability policies, including, but not limited to, voluntary agreements by insurance companies to accept such assignments. When any such plan has been approved by the State Board of Insurance, all insurance companies authorized to issue motor vehicle liability policies in the State of Texas shall subscribe thereto and participate therein.

The State Board of Insurance, in addition to the provisions prescribed by Subchapter A, Chapter 5, Texas Insurance Code of 1951, as amended, may determine, fix, prescribe, promulgate, change, and amend rates or minimum premiums normally applicable to a risk so as to apply to any and every assignment such rates and minimum premiums as are commensurate with the greater hazard of the risk, considering in connection therewith the experience, physical or other conditions of such risk of the person or municipality applying for insurance under any such plan.

Sec. 35 amended by Acts 1969, 61st Leg., 2nd C.S., p. 59, ch. 8, § 2, emerg. eff. Sept. 19, 1969.

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TITLE 117—SALARIES

Art.

6819a—42. Additional compensation for judges of the 49th and 111th Judicial Districts [New].**Art. 6819a—19c.** Judges of district courts in counties of 650,000 to 950,000

In any county in this State having a population of not less than 650,000 nor more than 950,000, according to the last preceding Federal Census, and having nine or more district courts, the judges of the several district courts of such counties shall receive, in addition to the salary paid by the State to them and to other district judges of this State, the sum of \$8,000 annually, to be paid in equal monthly installments out of the General Fund or Officers Salary Fund of such counties, for all services rendered to said counties and for performing administrative services. The Commissioners Court of said counties shall make proper budget provisions for the payment thereof. Any district judge of the State who may be assigned to sit for the judge of any district court in such counties under the provisions of Article 200a, Revised Civil Statutes, may, while so serving, receive in addition to his necessary expenses, additional compensation from county funds in an amount not to exceed the difference between the pay of such visiting judge from all sources and that pay received from all sources by district judges in the counties affected by the provisions of the Act, such amount to be paid by the county upon approval of the presiding judge in which said court is located.

Acts 1963, 58th Leg., p. 466, ch. 165, § 1, emerg. eff. May 14, 1963; amended by Acts 1969, 61st Leg., p. 993, ch. 318, § 1, eff. Sept. 1, 1969.

Art. 6819a—26. Additional compensation of judges of district and criminal district courts of Tarrant County

Section 1. In addition to the compensation provided by law and paid by the State of Texas, the Commissioners Court of Tarrant County, Texas, shall pay the sum of Eight Thousand Dollars (\$8,000) per annum, to be paid out of the general fund of said county, in equal monthly installments, to each of the judges of the District Courts and of the Criminal District Courts whose districts are comprised solely of Tarrant County, Texas, respectively, for all services rendered to Tarrant County, Texas, and for performing administrative duties.

Sec. 2. The compensation provided for in Section 1 hereof shall be in addition to all other compensation paid, or authorized to be paid, to the judges of the District Courts and of the Criminal District Courts of Tarrant County, respectively, by the State of Texas, and shall be in lieu of all other compensation for services heretofore allowed to be received by district judges from Tarrant County, Texas.

Sec. 2a. If the Chief Probation Officer of Tarrant County serves as Secretary to the Juvenile Board of Tarrant County, he may receive as compensation for this additional service the sum of One Thousand Dollars (\$1,000.) per year, such amount to be paid in addition to his regular salary.

Sec. 3. Any district judge of the State of Texas who may be assigned to sit for any one (1) of the judges of the District Courts or of the Criminal District Courts of Tarrant County, Texas, under the provisions of Chapter 156, Acts of the 40th Legislature, 1927, as amended, codified as Article 200a, Revised Civil Statutes of Texas, or Chapter 99, Acts of the 51st Legislature, 1949, as amended, codified as Article 6228b, Revised Civil Statutes, may, while so serving, receive in addition to his necessary expenses, additional compensation from county funds, in an amount to be set by the Commissioners Court of said county not to exceed the difference between the pay of such visiting judge from all sources and the pay re-

For Annotations and Historical Notes, see V.A.T.S.

ceived from all sources by the district judges in Tarrant County, such amount to be paid by the county upon approval of the presiding judge of the Administrative Judicial District in which said court is located.

Acts 1961, 57th Leg., p. 21, ch. 11, emerg. eff. Feb. 24, 1961; Secs. 1, 2, 3 amended by Acts 1969, 61st Leg., p. 2457, ch. 824, § 3, emerg. eff. June 16, 1969.

Art. 6819a—42. Additional compensation for judges of the 49th and 111th Judicial Districts

Section 1. In addition to the compensation now paid or authorized to be paid by law, the Judge of the 49th Judicial District of Texas and the Judge of the 111th Judicial District of Texas shall each be paid by the Commissioners Court of Webb County, Texas, the sum of \$2,000 per annum, payable in monthly installments out of the general fund, officers' salary fund, jury fund, or any fund available for that purpose, for additional judicial and administrative services, and especially additional services rendered to Webb County in the trial of all criminal and civil cases ordinarily tried by a county court at law, since Webb County has no county court at law.

Sec. 2. The compensation provided for in Section 1 shall be in addition to all other compensation now paid or authorized to be paid to the District Judge of the 49th Judicial District and the District Judge of the 111th Judicial District.

Acts 1969, 61st Leg., p. 2161, ch. 747, eff. Sept. 1, 1969.

Title of Act:

An Act providing for the addition of compensation for the District Judges of the 49th Judicial District and the 111th Judicial District of Texas; making other

provisions relating thereto; and declaring an emergency. Acts 1969, 61st Leg., p. 2161, ch. 747.

TITLE 120—SHERIFFS AND CONSTABLES

1. SHERIFFS

Art.

6877—3. Duty hours of peace officers in counties of not more than 95,000 population [New].

1. SHERIFFS

Art. 6877—3. Duty hours of peace officers in counties of not more than 95,000 population

(a) No sheriff, deputy, constable, or other peace officer of any county, or of any city, town, or village located within a county, such county having a population of not more than 95,000, according to the last preceding federal census, and having an assessed state valuation in excess of \$300 million shall be required to be on duty more than 48 hours a week.

(b) Subsection (a) shall not apply to a peace officer who is called on by a superior officer to serve during an emergency situation as determined by the superior officer.

(c) Any hours of duty over 48 hours a week compiled by a peace officer under Subsection (b) may be treated as "overtime" and may be deducted from required hours of duty in some future week. In no event, however, shall "overtime" be used more than one year after it is compiled, and permission of the superior officer must be obtained by the peace officer who is seeking to use the "overtime."

Acts 1969, 61st Leg., p. 598, ch. 203, § 1, emerg. eff. May 14, 1969.

Title of Act:

An Act limiting the number of hours of duty per week required of peace officers in

certain counties; and declaring an emergency. Acts 1969, 61st Leg., p. 598, ch. 203.

TITLE 120A—STATE AND NATIONAL DEFENSE

Art. 6889—4. Civil Protection Act

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Exemption from liability for death or injuries

Sec. 7. Neither the State nor any political subdivision thereof, nor other agencies, nor the agents, employees, or representatives of any of them, engaged in any civil defense activities, nor during an extreme emergency any person, firm, corporation, or other entity under contract to provide construction equipment or work as provided by Section 8A of this Act, while complying with or attempting to comply with this Act or any rule or regulation promulgated pursuant to the provisions of this Act, shall be liable for the death of or any injury to persons, or damage to property, as a result of such activity. The provisions of this Section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this Act, or under the Workmen's Compensation Law, or under any pension law, nor the right of any such person to receive any benefits or compensation under any Act of Congress.

Sec. 7 amended by Acts 1969, 61st Leg., p. 1381, ch. 420, § 1, eff. Sept. 1, 1969.

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Contracts for construction equipment or work

Sec. 8A. The Governor, or upon his direction, the State Defense and Disaster Relief Council, or any political subdivision is authorized to contract with any person, firm, corporation, or other entity to provide construction equipment or work on a cost basis to be used in disaster relief under the provisions of this Act. The funds received under Section 5 of this Act, specifically appropriated funds, and local funds as provided for in Section 6 of this Act may be used to pay for construction equipment and work contracted for under this Section.

Sec. 8A added by Acts 1969, 61st Leg., p. 1381, ch. 420, § 2, eff. Sept. 1, 1969.

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TITLE 122—TAXATION

CHAPTER TWO—TAXES BASED UPON GROSS RECEIPTS

Art. 7083b. Repealed by Acts 1969, 61st Leg., p. 2341, ch. 792, § 5, eff. Jan. 1, 1970

See, now, V.A.T.S. Tax-Gen. art. 1.07.

CHAPTER SIX—PROPERTY SUBJECT TO TAXATION AND RENDITION

Art.

7147a. Leased personal property [New].

Art. 7146. [7504] [5062] "Real property"

Real property for the purpose of taxation, shall be construed to include the land itself, whether laid out in town lots or otherwise and all buildings, structures and improvements, or other fixtures of whatsoever kind thereon, and all the rights and privileges belonging or in anywise appertaining thereto, and all mines, minerals, quarries and fossils in and under the same, and forms of housing adaptable to motivation by a power connected thereto commonly called "trailers" or "mobile homes," which are or can be used for residential, business, commercial, or office purposes, except those located within the boundaries of an assessing unit for less than 60 days or unoccupied and for sale. The value of any trailer or mobile home shall not be included in the assessment of the land on which it is located, unless both the land and the trailer or mobile home are owned by the same person. If the owner of the trailer or mobile home is not the owner of the land, the trailer or mobile home shall be rendered for taxation separately from the land and taxes assessed shall be a liability of the owner of the trailer or mobile home, and not a liability of the landowner. Land on which a trailer or mobile home is located shall not be subject to execution for the collection of taxes assessed against a trailer or mobile home unless both are owned by the same person. Amended by Acts 1969, 61st Leg., p. 1710, ch. 560, § 1, eff. Sept. 1, 1969

Art. 7147a. Leased personal property

Section 1. Tangible personal property located in this state held under a lease from a banking corporation, whether incorporated as a national bank or state bank, either in or out of the State of Texas, shall be considered for all the purposes of ad valorem taxation as the property of the person so holding the same, and the lessee shall at the time and in the manner required by the laws of this state render such leased property for ad valorem taxation to the tax assessors of the taxing jurisdictions where such leased property is located.

Sec. 2. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict only.

Sec. 3. This Act shall take effect on January 1, 1970. Acts 1969, 61st Leg., p. 1962, ch. 662, eff. Jan. 1, 1970.

Title of Act:

An Act providing for the rendition by the lessee for ad valorem taxation of tangible personal property located in this state

and owned by a banking corporation; repealing all laws in conflict; fixing an effective date; and declaring an emergency. Acts 1969, 61st Leg., p. 1962, ch. 662.

Art. 7150. [7507] [5065] Exemption from taxation

The following property shall be exempt from taxation, to-wit:

* * * * *

7. Public Charities. All buildings and personal property belonging to institutions of purely public charity, together with the lands belonging to and occupied by such institutions, including hospital parking facilities, not leased or otherwise used with a view to profit, unless such

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rents and profits and all moneys and credits are appropriated by such institutions solely to sustain such institutions and for the benefit of the sick and disabled members and their families and the burial of the same, or for the maintenance of persons when unable to provide for themselves, whether such persons are members of such institutions or not. An institution of purely public charity under this article is one which dispenses its aid to its members and others in sickness or distress, or at death, without regard to poverty or riches of the recipient, also when funds, property and assets of such institutions are placed and bound by its law to relieve, aid and administer in any way to the relief of its members when in want, sickness and distress, and provide homes for its helpless and dependent members and to educate and maintain the orphans of its deceased members or other persons; and any corporation in this state of a non-profit and purely charitable nature and formed for the charitable and benevolent purpose of preventing cruelty to animals, to promote humane and kind treatment of animals, and to aid and assist by all legal and proper means the enforcement of the laws of this state for the prevention of cruelty to animals of every kind and nature.

Sec. 7 amended by Acts 1961, 57th Leg., p. 1087, ch. 487, § 1, eff. Aug. 28, 1961; Acts 1967, 60th Leg., p. 742, ch. 310, § 1, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 2545, ch. 848, § 1, eff. Sept. 1, 1969.

* * * * *

Sec. 22a. All real and personal property owned by non-profit corporations (as defined in the Texas Non-profit Corporation Act), which property is reasonably necessary for, and used for, the promotion of any of the following purposes:

- (1) Libraries and archival institutions
- (2) Zoos
- (3) Restoration and preservation of historic houses, structures and landmarks
- (4) Symphony orchestras, choirs, and chorals
- (5) Theaters of the dramatic arts, historical pageants.

(b) Section 22, Article 7150, Revised Civil Statutes of Texas, 1925, as added by Section 1, Chapter 363, Acts of the 60th Legislature, Regular Session, 1967, is repealed. The only purpose of this section is to renumber Section 22 of Article 7150 as added by Section 1, Chapter 363, Acts of the 60th Legislature, Regular Session, 1967; and nothing in this section affects Section 22 of Article 7150 as added by Section 1, Chapter 152, Acts of the 60th Legislature, Regular Session, 1967.

Sec. 22a added by Acts 1969, 61st Leg., 2nd C.S. p. 5, ch. 1, art. 4, § 3, eff. Oct. 1, 1969.

Sec. 23. Non-Profit water supply corporations.—All real and personal property, used for nursing care operations or housing for the low-income elderly, owned by a non-profit corporation (as defined in the Texas Non-Profit Corporation Act) or a charitable trust providing nursing care, as licensed by the Texas Department of Health, and providing housing for the low-income elderly, if tax exemption or abatement is a condition for a federally guaranteed loan and if the facility

(1) operates at least 100 licensed nursing home beds and at least 250 housing units for low-income elderly; and

(2) is designed for, necessitated by, or is involved in geriatric research programs in the areas of chronic care, paramedical personnel training, nutritional development, and programs of psychological and nutritional research for the elderly, and limited to such purpose.

Sec. 23 added by Acts 1969, 61st Leg., p. 1943, ch. 647, § 1, emerg. eff. June 12, 1969.

Section 23 of this article added by Acts 1969, 61st Leg., p. 1945, ch. 648, § 1, see section 23, post.

Sec. 23. Non-profit water supply corporations.—All real and personal property owned by a nonprofit water supply corporation which is reasonably necessary for, and is used in, the operation of the corporation in the

acquisition, storage, transportation, sale and distribution of water is exempt from taxation.

Sec. 23 added by Acts 1969, 61st Leg., p. 1945, ch. 648, § 1, eff. Sept. 1, 1969.

Section 23 of this article added by Acts 1969, 61st Leg., p. 1943, ch. 647, § 1, see section 23, ante.

Sec. 24. Organizations for promotion of gardening, etc.—All real and personal property used by any non-profit corporation organized for the purpose of providing homes for elderly people sixty-two (62) years of age and older which has no capital stock, where the management of its affairs is vested in a board of trustees who are selected by a church which is a strictly religious society, and where the Articles of Incorporation provide that in the event of a dissolution of the corporation all of its assets and property will go to and vest in said church.

Sec. 24 added by Acts 1969, 61st Leg., p. 1943, ch. 647, § 3, emerg. eff. June 12, 1969.

Section 24 of this article added by Acts 1969, 61st Leg., p. 1950, ch. 652, § 1, see section 24, post.

24. Organizations for promotion of gardening, etc.—All property of organizations, whether incorporated or not, which are devoted wholly to the promotion and encouragement of, or the dissemination of information concerning, the development, propagation, growing, or arrangement of flowers or decorative shrubs, plants, or trees, is exempt from taxation, provided the property is owned and used for such purposes only, is not in whole or in part leased out to others, and is not in any manner operated at a profit or houses any individual or entity which operates a business upon said premises at a profit.

Sec. 24 added by Acts 1969, 61st Leg., p. 1950, ch. 652, § 1, eff. Sept. 1, 1969.

Section 24 of this article added by Acts 1969, 61st Leg., p. 1943, ch. 647, § 3, see section 24, ante.

25. Nature Conservancy Texas, Inc.—The real property owned by the Nature Conservancy of Texas, Inc., a Texas non-profit corporation, shall be exempt from taxation.

Sec. 25 added by Acts 1969, 61st Leg., p. 1950, ch. 652, § 1, eff. Sept. 1, 1969.

[26]. Garden clubs.—All garden clubs owning real property in Texas shall be exempt from ad valorem taxation.

Sec. 26 added by Acts 1969, 61st Leg., p. 1950, ch. 652, § 2, eff. Sept. 1, 1969.

Art. 7150a. Repealed by Acts 1969, 61st Leg. p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Art. 7151. [7508] [5066] When to be rendered: condemning authorities considered owners when; proration of taxes

Section 1. All property shall be listed for taxation between January 1st and April 30th of each year, when required by the assessor, with reference to the quantity held or owned on the first day of January in the year for which the property is required to be listed or rendered. Any property purchased or acquired on the first day of January shall be listed by or for the person purchasing or acquiring it. If any property has, by reason of any special law, contract, or fact, been exempt or has been claimed to be exempted from taxation for any period or limit of time, and such period of exemption shall expire between January 1st and December 31st of any year, said property shall be assessed and listed for taxes as other property; but the taxes assessed against said property shall be for only the pro rata of taxes for the portion of such year remaining.

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Provided further, that if the United States Government or any of its agencies or any other body politic having the power of condemnation shall take over the possession of property under authority of any law authorizing it to condemn said property, or under an option to buy said property from the owner, or under an agreement by the owner to sell said property, or shall comply with the laws relating to condemnation to such an extent as to entitle it to the possession of said property, or to constitute a taking thereof from the owner or person in whose name title rests, then such condemning authority shall be considered the owner of said property for the purposes of all taxation from the date of taking possession thereof, or from the date of its complying with the condemnation laws to the extent that it is entitled to possession of said property, or from the date it has complied with the condemnation laws to the extent that there has been a taking of said property from the owner, whichever occurs first.

Sec. 2. During the tax year between January 1 and October 1, when title to or any interest in land being acquired by the United States or the State of Texas, or any of its agencies, including cities, towns, villages, water or conservation districts, flood control, levee, or waterway improvement districts, is voluntarily conveyed by the owner thereof or is acquired for public use by condemnation as provided by law, such agency's authorized tax official shall estimate the amount of taxes which would have been or will become due and payable for the year had the land not been acquired for public purposes.

When such estimate of yearly taxes is determined as aforesaid, such tax official of the taxing authorities or agencies of this state shall prorate such taxes on the basis of the number of months the land remained in private ownership or control, such date to be determined by the date of conveyance to the government or the date of order of possession of the court having jurisdiction thereof, and shall certify same, and shall accept or collect said prorated taxes and issue his receipt therefor which receipt shall constitute a full and complete release of all taxes and shall be in full satisfaction of all such liens, express or inchoate, in favor of the tax units aforesaid. Such proration shall be based upon the tax assessed for the preceding year, unless the tax for the current year shall have been by then determined and set, in which event the proration shall be based on the new assessment and rate. The legally designated tax official shall account for the funds collected as herein provided in the same manner as required under existing law relating to such taxes.

Amended by Acts 1969, 61st Leg., p. 1221, ch. 389, § 1, emerg. eff. May 29, 1969.

Art. 7166. [7522] [5080] Assessment of real estate by banks

Savings Clause

Acts 1969, 61st Leg., p. 2470, ch. 831, which amended V.A.T.S. Insurance Code, art. 4.01, provided in section 4: "Nothing in this Act shall be construed as amending or in any way changing the provisions, applicability or effect of Article 7166, Texas Civil Statutes."

CHAPTER EIGHT—COLLECTION AND COLLECTOR

Art.
7258b. Tax certificate; cancellation certificate; evidence [New].

Art. 7258a. Repealed by Acts 1969, 61st Leg., p. 1044, ch. 339, § 7, emerg. eff. May 27, 1969

See, now, art. 7258b.

Art. 7258b. Tax certificate; cancellation certificate; evidence

Section 1. The tax collector or his deputy of any county in this state, or of any city or political subdivision or tax assessing district within any such county shall, upon request, issue a certificate showing the amount of taxes, interest, penalty and costs due, if any, on the property described in said certificate. This certificate shall contain a certification by the tax collector that he has checked each delinquent tax report, supplemental delinquent tax record and recompiled delinquent tax report from the last tax cancellation date, or to the extent of his records, up to and including the records in present use. A charge of not to exceed \$2 may be made for each such certificate issued.

Sec. 2. (a) When any such certificate so issued shows all taxes, interest, penalty and costs on the property therein described to be paid in full to and including the year therein stated, the said certificate shall be conclusive evidence of the full payment of all taxes, interest, penalty, and costs due on the property described in said certificate for all years to and including the year stated therein. Said certificate showing all taxes paid shall be admissible in evidence on the trial of any case involving taxes for any year or years covered by such certificate, and the introduction of the same shall be conclusive proof of the payment in full of all taxes, interest, penalty, and costs covered by the same.

(b) The provisions of this Act shall be applicable only in suits where the State of Texas or any political subdivision thereof sues for unpaid taxes. Such certificate shall not be conclusive in suits in which the title for land is involved in any manner in suits between private citizens.

Sec. 3. In the event a tax certificate is issued showing no taxes, interest, penalty, and costs due, when in fact taxes, interest, or penalties were due, and the owner of the land is not that person under whom the taxes, interest, penalty, and costs became delinquent, the tax collector may issue, on request, a certificate relieving the property from liability and stipulating that the delinquent taxes, interest, penalty, and costs are thereafter the personal liability of the person under whom the taxes became delinquent. This cancellation certificate plus a copy of the tax certificate and an affidavit stating that an error was made and that no fraud or collusion existed shall be submitted to the commissioners court. Thereafter, this cancellation certificate shall be conclusive proof for all purposes that neither the land nor the present owner is liable for the delinquent taxes, interest, penalty, and costs.

Sec. 4. If either a tax certificate or a cancellation certificate is issued or secured through fraud or collusion, the same shall be void and of no force and effect, and any such tax collector or his deputy shall be liable on his official bond for any loss resulting to any such county or city or political subdivision or tax assessing district or the State of Texas, through the fraudulent or collusive or negligent issuance of any such certificate.

Sec. 5. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Sec. 6. This Act does not apply to litigation pending as of the effective date of this Act.

Sec. 7. All laws or parts of laws in conflict with the provisions of this Act are repealed to the extent of such conflict only. Chapter 77, Acts

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of the 41st Legislature, 2nd Called Session, 1929, as amended (Article 7258a, Vernon's Texas Civil Statutes), is specifically repealed. Acts 1969, 61st Leg., p. 1044, ch. 339, emerg. eff. May 27, 1969.

Title of Act:

An Act to provide that a tax collector may issue to certain people under certain circumstances a certificate showing that neither their land nor themselves are liable for delinquent taxes and that the liability for such taxes is thereafter a personal liability of the person under whom the taxes became delinquent and thereby making a court action to accomplish the same thing

unnecessary; requiring the tax collector to issue an affidavit certifying that there has been no fraud or collusion; providing a non litigation clause; repealing Chapter 77, Acts of the 41st Legislature, 2nd Called Session, 1929, as amended (Article 7258a, Vernon's Texas Civil Statutes); and declaring an emergency. Acts 1969, 61st Leg., p. 1044, ch. 339.

CHAPTER TEN—DELINQUENT TAXES

Art.

7326a. All taxes, penalties and interest to be included [New].

Art. 7326a. All taxes, penalties and interest to be included

In all suits to enforce the collection of delinquent taxes brought by any duly authorized and constituted taxing authority, in addition to all delinquent taxes which may then be due, all other taxes, plus interest and penalties thereon, as provided in Section (a), Article 7336 shall be computed and prorated by the tax collector and assessor of such taxing authority up to and including the date on which judgment is rendered in such suit, so as to cover all taxes, interest and penalties which would become payable on the lands on which such suit has been brought. Proration of taxes on the current year shall be based on the tax for the preceding year, unless the tax for the current year shall have been by then determined and set, in which event the proration shall be based on the new assessment and rate, and such proration made to the date on which judgment is given.

Added by Acts 1969, 61st Leg., p. 1222, ch. 389, § 2, emerg. eff. May 29, 1969.

TITLE 122A—TAXATION—GENERAL

CHAPTER 1—GENERAL PROVISIONS

Art.

1.033 Reports [New].

1.15 Admission of Reproduced Documents
in Evidence [New].

Art. 1.031 Examination of Records

(1) For the purpose of carrying out the terms of this Title the Comptroller or any authorized agent shall have the authority to examine at the principal or any other office in the United States of any person, firm, agent, or corporation permitted to do business in this State, all books, records and papers and also any officers or employees thereof, under oath; and failure or refusal of any person, firm, agent or corporation to permit such examination shall, upon certification of such refusal by the Comptroller to the Secretary of State, immediately forfeit the charter or permit to do business in this State until such examination as is required to be made is completed. The Comptroller shall not make public or use said information derived in the course of said examination of said books, records and papers and/or officers or employees except for the purpose of a judicial proceeding for the collection of delinquent taxes in which the State of Texas is a party. State and local public bodies and departments, officers and employees thereof, shall cooperate with and give reasonable assistance and information to the Comptroller and any authorized representative thereof, in connection with any investigations or proceedings within the jurisdiction of the Comptroller.

Subsec. (1) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 4, § 5, eff. Oct. 1, 1969.

* * * * *

The 1969 amendment added the last sentence of subsection (1).

Acts 1969, 61st Leg. 2d C.S., p. 61, ch. 1, art. 10, §§ 1, 2 and 3, provided:

"Section 1. (a) Article 7 of this Act takes effect for the franchise tax year beginning May 1, 1970.

"(b) All other Articles of this Act take effect October 1, 1969.

"Sec. 2. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given

effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

"Sec. 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and this Rule is hereby suspended; and that this Act take effect and be in force as provided by Section 1 of this Article, and it is so enacted."

Art. 1.033 Reports

Notwithstanding the provisions of any Article of this Title, the Comptroller may revise any report required by any Article of this Title so as to eliminate any specific information required by the provisions of any Article of this Title. The requirement for the information which is eliminated may be reinstated by the Comptroller at any time.

Acts 1959, 56th Leg., 3rd C.S., p. 187, ch. 1, art. 1.033, added by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 4, § 1, eff. Oct. 1, 1969.

For effective date, severability and emergency clauses of Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, see Historical Note under Art. 1.031.

For Annotations and Historical Notes, see V.A.T.S.

Art. 1.07 Lien and Recording; Failure to Withhold Taxes; Penalties; Fines, etc., Cumulative

(1) (a) In Articles 1.07 and 1.07A, "person" means any individual, firm, copartnership, agency, joint venture, associations, social club, fraternal organization, corporation, estate, trust, business trust, receiver, assignee for the benefit of creditors, trustee, trustee in bankruptcy, syndicate, cooperative, assignee, any entity, or any other group or combination acting as a unit, and their successors, assigns, administrators, executors, and representatives.

(b) All taxes, fines, penalties and interest due by any person to the State of Texas by virtue of this Title shall be secured by a lien upon all property of the person owing the taxes subject to execution, owned at the time the lien attaches. As to the person liable for such taxes the lien shall attach to all of his property as of the date the tax is due and payable.

(c) No lien provided for by Title 122A shall be effective as against any bona fide mortgagee, holder of a deed of trust, purchaser or judgment creditor or any other person who for a bona fide consideration has acquired a lien, title or other right or interest in any real estate or personal property of the taxpayer prior to the filing, recording and indexing of such lien in the county where real estate is situated, and for personal property, in the county of the residence of the taxpayer at the time that said tax became due and payable or in the county in which said taxpayer filed his report.

(d) The liens provided for in Articles 1.07, 1.07A and 1.07B are cumulative and in addition to all other liens for taxes, fines, penalties and interests now provided by law.

(e) (i) The Comptroller shall prepare, issue and cause to be filed the notices herein provided for. The notice shall state the name and address of the taxpayer, the taxable periods of time for which the tax or taxes are claimed to be delinquent and the amount of tax only, exclusive of penalty, interest and any other charge, due for each period, and the nature of the tax or taxes, and such other relevant statements as the Comptroller may deem proper.

One notice shall be sufficient to cover all taxes of the same nature which may accrue subsequently to the filing of the notice.

(ii) The Comptroller or his authorized representative may execute, authenticate, certify or sign or cause to be executed, authenticated, certified or signed any notice of lien, release, and all other instruments authorized by this Act to be executed by him or under his direction with his facsimile signature and seal in lieu of his manual signature and his seal and acknowledgment.

(f) (i) The lien shall not be valid or effective as against a bona fide purchaser for value of goods, wares or merchandise daily exposed for sale in the regular course of business and which have been purchased and taken into possession, actual or constructive, prior to the time the goods, wares or merchandise have been taken into legal custody by virtue of a valid legal writ or other lawful process.

(ii) No bank or savings and loan institution shall be required to recognize the claim of the State to any deposit or withhold payment of any deposit to the depositor or to his order unless and until it is served by the Comptroller with notice of the State's claim. Notice shall be served by certified mail to the bank or institution or by written notice served personally upon its president, any vice-president, cashier or any assistant cashier.

(g) (i) Any transfer of property or an interest in property within six (6) months immediately preceding the filing of the notice of liens provided for by this Article (a) by any person who is delinquent in the payment of any tax provided for by this Title; or (b) by any person who is insolvent at the time of such transfer and has received, collected

or withheld money as a tax under the provisions of this Title; shall be deemed a preferential transfer and voidable by the Comptroller if such transfer (1) is with intent to defraud the State and (2) is without adequate and sufficient consideration. The Comptroller shall have the right to recover by suit brought by the Attorney General in Travis County, Texas, the property so transferred or the value of such property. This section is cumulative and in addition to any rights accruing to the Comptroller as a creditor under the general laws of this State.

(ii) All property of such preferential transferee subject to execution shall be subject to a prior lien in favor of the State to secure recovery of the amount of the preferential transfer.

(h) (i) Any person may voluntarily pay to the Comptroller the tax, fines, penalties and interest due under any provision of this Title by any other person for any one or more periods of time for which they may be due, and any judgment for such taxes, and may receive from the Comptroller of Public Accounts an assignment of all of the rights, liens, judgments, and remedies of the State to secure and enforce payment thereof, and shall be fully subrogated to and succeed to all such rights, liens, judgments, and remedies of the State. At least 30 days before such assignment can be made, the delinquent taxpayer must be notified by certified mail addressed to the taxpayer at his last known address of the pending assignment as it appears in the Comptroller's records.

(ii) Venue for enforcement by any person other than the State of such an assigned claim and judgment shall be governed by the general law of venue rather than by the special venue provisions of this Title.

(iii) The rights, liens, remedies, and judgments originally assigned by the Comptroller may be reassigned by any subsequent holder thereof, and each subsequent assignment, unless expressly limited in writing, shall pass to the assignee all of the original rights, liens, remedies, and judgments of the State to secure and enforce payment of such claim, if notice required above in (i) has been given or complied with.

(iv) All transfers and assignments heretofore made by the Comptroller of rights, liens, judgments, and remedies of the State to any person who may have paid any tax due by another under this Title are hereby fully validated and confirmed, and such transferees and their assignees are fully subrogated to and succeed to all rights of the State to enforce collection of the taxes paid, subject to the provisions of this Subdivision.

(v) Any person to whom an assignment of state tax lien has been made may have his assignment recorded in the State Tax Lien Record Book as above provided in paragraph (e), Section 1 in the Office of the County Clerk and indexed to show the name of the assignor and assignee and the date of such assignment.

(i) All sums due by any employing unit to the Texas Employment Commission under the Texas Unemployment Compensation Act shall become a lien on all the property both real and personal belonging to such employing unit or to any individual so indebted. The lien shall attach at the time any contributions, penalties, interest, or other charges become delinquent. The provisions of Articles 1.07, 1.07A, and 1.07B of this Chapter govern the enforcement of this lien. The Texas Employment Commission has all the duties imposed, and the power and authority in administering and enforcing the lien created by this Subdivision (i) that is conferred on the Comptroller for the enforcement of other liens under Articles 1.07, 1.07A, and 1.07B of this Chapter. This lien is cumulative of the lien provided in the Texas Unemployment Compensation Act and that lien is effective according to its terms.

Subd. 1 amended by Acts 1969, 61st Leg., p. 2337, ch. 792, § 1, eff. Jan. 1, 1970.

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(2) Any person purchasing any natural resources upon which a tax is levied by this Title who fails to deduct and withhold the proper amount of taxes which are due and unpaid under any provision of this Title, and any person who has received or collected any tax or any money represented to be a tax from another shall be liable to the State for the full amount of such taxes plus any accrued penalties and interest thereon.

Subd. 2 amended by Acts 1969, 61st Leg., p. 2337, ch. 792, § 2, eff. Jan. 1, 1970.

* * * * *

Sections 3 and 4 of the act of 1969 amended articles 1.07A and 1.07B respectively. Section 5 repealed Vernon's Ann.Civ.St. art. 7083b. Sections 6-8 provided:

"Sec. 6. All taxes, fines, penalties and interest which may have become delinquent and due under the provisions of Article XXI, Chapter 184, Acts of the 47th Legislature, Regular Session, 1941 (Article 7083b, Vernon's Texas Civil Statutes), at the effective date of this Act shall be secured by and collected under its terms and all liens, rights, and remedies granted by Article

XXI are hereby preserved as to such delinquent claims only.

"Sec. 7. This Act takes effect on January 1, 1970.

"Sec. 8. All laws or parts of laws in conflict with the provisions of this Act are hereby repealed; and, in case of such conflict, the provisions of this Act shall control and be effective. This Act shall have no application to litigation pending in any court of competent jurisdiction in this state."

Art. 1.07A Recording State Tax Liens

(1) (a) Each county clerk shall, at the expense of the county, provide a suitable well-bound book, to be called "State Tax Liens" in which he shall record the notices of state tax liens filed with him by the Comptroller.

(b) Upon receipt of the notices he shall promptly note on each the date and hour of the filing thereof.

(c) He shall promptly index each notice in an alphabetical index provided for that purpose which shall show the name of each person liable for the tax and the book and page number of the notice.

(d) The notice filed by the Comptroller with the clerk shall be recorded in the "State Tax Liens" book, and constitutes the record thereof.

(e) The clerk shall furnish to the Comptroller on a form as prescribed by the Comptroller notice that such lien has been received noting that tax lien was filed and recorded, the time and the date thereof, the volume and page number of the record of each notice.

(2) (a) (i) Payment in whole or in part of any tax secured by a state tax lien may be evidenced by a receipt, acknowledgment, or release signed by an authorized representative of the state agency that filed the lien.

(ii) The release shall be filed in the Office of the County Clerk in the manner as other releases and the County Clerk shall receive the customary fee therefor, at no expense to the State of Texas. Whereupon the clerk shall release the lien filed with him in accordance with the rules and regulations of his office.

(iii) This payment to the clerk constitutes his full fee for the filing and indexing the release of the lien notice.

(iv) The Comptroller shall furnish to the State Highway Department release of any tax liens filed by him with that department.

(3) Release in whole or in part by any assignee of the State's claim for taxes and of its tax lien and of any judgment for such taxes secured by such lien may be filed and recorded with the county clerk for the same fee and in the same manner as releases by the Comptroller or other state agency which may file notice of its lien in the state tax liens records.

(4) The Comptroller upon approval of the Attorney General may release the state's tax lien upon any specific property upon payment to

him of the reasonable cash market value of the property, whether real or personal. The value shall be ascertained in the manner prescribed by the Comptroller.

Amended by Acts 1969, 61st Leg., p. 2341, ch. 792, § 3, eff. Jan. 1, 1970.

Sections 1 and 2 of the act of 1969 amended Art. 1.07. Section 4 amended Art. 1.07B. See, also, Historical Notes under Art. 1.07.

Art. 1.07B Status of Tax Liens

(1) The lien on both personal property and real estate shall continue until the taxes secured by it are paid.

(2) The lien shall be either perpetuated and foreclosed or nullified in the judgment in any action to determine its validity. If the lien is perpetuated and foreclosed no further action or notice relevant to the judgment is necessary and the notice or notices of state tax lien already on record continue. If the lien is nullified to any extent by the judgment, then a certified copy of the judgment may be filed with the recorder where the notice of lien is filed and be recorded in the same manner as a release by the Comptroller. Nothing herein shall be construed to require that the liens provided for by this Title must be foreclosed by a judgment of a court, but any authority for collection of any taxes due under this Title which may be provided by law is expressly recognized as a cumulative remedy.

(3) Execution, order of sale and other process for its enforcement may be issued on the judgment at any time.

(4) Judgments perpetuating and foreclosing tax liens may be transferred and assigned for the amount of the taxes covered. They may also be reassigned by any subsequent holder. The transfer shall be filed, recorded, and the judgment released in the same manner as liens before judgment. The assignee shall be fully subrogated to and succeed to all rights, liens, and remedies of the State, providing proper notice as above required in Section 1(1) (h) (i).

Amended by Acts 1969, 61st Leg., p. 2341, ch. 794, § 4, eff. Jan. 1, 1970.

Sections 1 and 2 of the act of 1969 amended Art. 1.07. Section 4 amended Art. 1.07B. See, also, Historical Notes under Art. 1.07.

Art. 1.11A Tax Refunds

(1) This Article applies to any occupation, excise, gross receipts, gross production (as levied by Article 6032, Title 102, Revised Civil Statutes of Texas, 1925, as amended), franchise, license or other privilege tax or fee collected or administered by the Comptroller of Public Accounts. It does not apply to the State ad valorem tax nor to refunds for nontaxable use of any motor fuel or special fuels.

Sec. (1) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 4, § 2, eff. Oct. 1, 1969.

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For effective date, severability and emergency clauses of Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, see Historical Note under Art. 1.031.

Art. 1.14 Injunction

* * * * *

(c) In all cases in which the Comptroller determines that any tax due under this Title is insecure he shall require of any taxpayer that is delinquent in one or more tax remittances a cash deposit, a good and sufficient surety bond or other security as a condition for said taxpayer to continue in business and/or obtain or retain any permit issued pursuant to any provisions of this Title. The security shall be in such amount and in such form as the Comptroller deems necessary, except that it shall not

For Annotations and Historical Notes, see V.A.T.S.

exceed double the amount of taxes which he estimates will be due by such taxpayer during the succeeding 12-month period. Failure to furnish such security within ten (10) days after demand therefor will authorize the Comptroller to bring suit in Travis County, Texas, to enjoin the taxpayer from continuing in business until such security is furnished to the Comptroller.

Sec. (c) amended by Acts 1969, 61st Leg., p. 2441, ch. 817, § 1, eff. June 14, 1969.

Art. 1.15 Admission of Reproduced Documents in Evidence

Where the Comptroller of Public Accounts or his deputy or employee in the performance of the function of his office has kept or recorded any memorandum, document, entry, or report, or has kept or recorded any information contained in such memorandum, document, entry or report, or otherwise recorded any action taken by him, and has caused the same to be copied or reproduced by any photographic, photostatic, microfilm, magnetic or other process which accurately reproduces or forms a durable medium for so reproducing the original or information contained therein, such reproduction shall be, so far as relevant, admitted without further proof in any judicial or administrative proceeding in respect to the enforcement or administration of any tax imposed by this Title as evidence of the matters stated in such reproduction.

The existence, nonexistence, availability or unavailability of the original shall not affect the admissibility of the reproduction; provided that the original or other competent evidence is admissible in evidence to show the incorrectness of the reproduction or any information reflected thereon.

Acts 1959, 56th Leg., 3rd C.S., p. 187, ch. 1, art. 1.15, added by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 4, § 4, eff. Oct. 1, 1969.

CHAPTER 3—TAX ON PRODUCERS OF NATURAL GAS

Art. 3.01 Calculation of Tax

(1) There is hereby levied an occupation tax on the business or occupation of producing gas within this State, computed as follows:

A tax shall be paid by each producer on the amount of gas produced and saved within this State equivalent to seven and one-half per cent (7½%) of the market value thereof as and when produced.

Provided, however, that the amount of the tax on sweet and sour gas shall never be less than 121/1500 of one cent (1¢) per one thousand (1,000) cubic feet.

(2) In calculating the tax herein levied, there shall be excluded:

(a) gas injected into the earth in this State, unless sold for such purpose;

(b) gas produced from oil wells with oil and lawfully vented or flared;

(c) gas used for lifting oil, unless sold for such purposes.

Amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 5, § 1, eff. Oct. 1, 1969.

For effective date, severability and emergency clauses of Acts 1969, 61st Leg., 2nd

C.S., p. 61, ch. 1, see Historical Note under Art. 1.031.

CHAPTER 7—CIGARETTE TAX LAW

Art. 7.01 Definitions

The following words, terms, and phrases, as used in this Chapter are hereby defined as follows:

(1) "Cigarette" shall mean and include any roll for smoking made of tobacco or substitute therefor irrespective of size or shape and irrespective of tobacco or substitute therefor being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or other material than tobacco. This definition shall not include cigars.

Sec. (1) amended by Acts 1969, 61st Leg., p. 61, ch. 1, art. 2, § 2, eff. Oct. 1, 1969.

* * * * *

(8) "First Sale" shall mean and include the first sale or distribution of cigarettes in intrastate commerce, or the first use or consumption of cigarettes within this State, or the loss of cigarettes in this State whether by negligence, theft, or any other unaccountable loss.

Sec. (8) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 2, § 3, eff. Oct. 1, 1969.

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For effective date, severability and emergency clauses of Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, see Historical Note under Art. 1.031.

Art. 7.06 Additional Tax

(1) In addition to the tax levied by Article 7.02 herein, there is hereby imposed a tax of Five Dollars and Seventy-five Cents (\$5.75) per thousand on cigarettes weighing not more than three (3) pounds per thousand and Five Dollars and Seventy-five Cents (\$5.75) per thousand on those weighing more than three (3) pounds per thousand on all cigarettes used or otherwise disposed of in this State for any purpose whatsoever. The tax shall be paid only once by the person making the "first sale" in this State and shall become due and payable as soon as such cigarettes are subject to a "first sale" in Texas, it being intended to impose the tax as soon as such cigarettes are received by any person in Texas for the purpose of making a "first sale" of same. No person, however, shall be required to pay a tax on cigarettes brought into this State on or about his person in quantities of forty (40) cigarettes or less when such cigarettes have had the individual packages or the seals thereof broken and when such cigarettes are actually used by said person and not sold or offered for sale.

Sec. (1) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 2, § 1, eff. Oct. 1, 1969.

* * * * *

For effective date, severability and emergency clauses of Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, see Historical Note under Art. 1.031.

Art. 7.08 Authority of Comptroller

* * * * *

(9) The State Treasurer shall require that payment in full for stamps or meter settings be made within fifteen (15) days from the date the

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stamps or the set meter are received by the distributor. In each fiscal year, payment for stamps and meters received in August of that year shall be paid in full on or before August 31 no matter when purchased or received by the distributor during that month. Upon receipt of an order for stamps or the setting of a meter, the State Treasurer shall ship such stamps or set such meter in compliance with the order and transmit with the stamps or the meter a certified statement showing the amount due for said stamps or meter setting, and the distributor shall forward a remittance as payment in full of the amount certified as due by the State Treasurer within fifteen (15) days after receipt of the stamps or the set meter and the certified statement, or for stamps and meters received in August of each fiscal year in full on or before August 31 no matter when purchased or received by the distributor during that month. However, in order to secure the payments of the tax as provided in this Section, a distributor must file with the State Treasurer a surety bond, approved by the State Treasurer and the Attorney General, with a corporate surety authorized to do business in this State, conditioned upon payment in full for the stamps or meter settings within the time specified in this Section. The State Treasurer shall fix the amount of the bond, in an amount equal to one and one-half times the credit in stamps and/or meter settings requested by the distributor and approved by the State Treasurer for the purchase of stamps and/or meter settings during the succeeding month. Any distributor who fails to forward the proper remittance by the due date shall be notified by the State Treasurer within five (5) days after the due date to appear within five (5) days before the Treasurer to show cause why he should not be denied the privilege of ordering stamps as herein provided, and if such distributor shall fail to show good cause, the Treasurer is hereby authorized to discontinue the shipment of stamps or the setting of meters as provided in this Section and to enforce payment of the bond.

Sec. (9) amended by Acts 1969, 61st Leg., p. 1405, ch. 426, § 1, eff. June 2, 1969.

CHAPTER 10—SPECIAL FUELS TAX LAW

SUBCHAPTER B—LIQUEFIED GAS TAX LAW [NEW]

Art.	Title.	Art.	Title.
10.51	Title.	10.63	Tax Payments—Reports.
10.52	Definitions.	10.64	Refunds.
10.53	Levy of Tax.	10.65	Exceptions to Tax Refunds.
10.54	Dual Carburetion—Presumption of Use.	10.66	Prima Facie Presumptions.
10.55	Unlawful Operations of Motor Vehicles.	10.67	Liens.
10.56	Unlawful Sales.	10.68	Civil and Statutory Penalties.
10.57	Tax Liability on Leased Motor Vehicles.	10.69	Impounding Vehicles.
10.58	Tax Computation on Mileage Basis.	10.70	Subpoenas.
10.59	Application for Permits.	10.71	Rules and Regulations.
10.60	Bonds.	10.72	Allocation of Funds.
10.61	Permits.	10.73	Penalty, Failure to Pay or Conversion of Taxes.
10.62	Records Required.	10.74	Felony Penalties.
		10.75	Misdemeanor Penalties.

SUBCHAPTER A—DIESEL FUEL TAX LAW

Art. 10.01 Short Title

This Subchapter and any amendments thereto, shall be known and may be cited as the "Diesel Fuel Tax Law."

Amended by Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

In 1969, reference was made to this "Subchapter," instead of "Chapter," and "Diesel Fuel Tax Law" was substituted for "Special Fuels Tax Law."

Sections 2-4 of the amendatory act of 1969 provided:

"Sec. 2. Savings Clause. All taxes, penalties and interest incurred, and all liens created and bonds executed to secure their payment under any laws repealed or amended by this Act prior to its effective date, are hereby declared to be legal and valid obligations to this State; and any offense committed or any fines or penalties incurred under any laws repealed or amended by this Act prior to the effective date of this Act, shall not be affected by the repeal or amendment of any such laws,

but the punishment of such offense and recovery of such fines and penalties shall take place as if the laws repealed or amended had remained in force.

"Sec. 3. Severability, if any provision of this Act, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

"Sec. 4. Repealer. All laws or parts of laws in conflict herewith are, insofar as such confliction exists, hereby repealed and this Act shall prevail over any conflicting provision of law."

Art. 10.02 Definitions

The following words and phrases as used in this Subchapter, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) "Diesel fuel" means diesel engine fuel, kerosene, and all other liquids suitable for the generation of power for the propulsion of motor vehicles except "liquefied gas" as defined below and "motor fuel" as defined in the Motor Fuel Tax Law by Chapter 9, Article 9.01 of this Title.

(2) "Liquefied gas" means all combustible gases which exist in the gaseous state at sixty (60) degrees Fahrenheit and at a pressure of fourteen and seven-tenths (14.7) pounds per square inch absolute.

(3) "Bulk." Except for deliveries into fuel supply tanks of motor vehicles, the term "bulk" means any quantity of diesel fuel in excess of five (5) gallons.

(4) "Motor vehicle" means every self-propelled vehicle designed for operation or required to be licensed for operation upon the public highway. Tractors, combines, and other vehicles not required to be so licensed shall be deemed to be motor vehicles to the extent they are operated upon the public highway with diesel fuel on which the tax is required to be paid.

(5) "Public highway" means every way or place open to the use of the public as a matter of right for vehicular travel, including toll roads, notwithstanding that the same may be temporarily closed or travel thereon restricted for any purpose.

(6) "Supplier" means any person (a) who sells or delivers diesel fuel in bulk quantities to dealers, users or other suppliers, or (b) who is engaged in the business of selling or delivering diesel fuel in bulk quantities to consumers for non-highway use.

(7) "Dealer" means any person who, as the operator of a service station or otherwise, delivers diesel fuel into the fuel supply tanks of motor vehicles owned or operated by others.

(8) "User" means any person who delivers, or causes to be delivered, diesel fuel into the fuel supply tanks of motor vehicles owned or operated by him. "User" also means any person who as an import-user brings

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diesel fuel into this State in the fuel supply tanks of motor vehicles owned or operated by him for use on the public highway.

(9) "Lessor" means any person (a) whose principal business is the bona fide leasing or renting of motor vehicles without drivers for compensation to the general public, and (b) who maintains established places of business and whose lease or rental contracts require such motor vehicles to be returned to the established places of business.

(10) "Person" means natural persons, partnerships, firms, associations, corporations (public, private or municipal), trustees, and receivers.

(11) "Service Station" means a place of business regularly engaging in the sale and delivery of diesel fuel into motor vehicles for their propulsion.

(12) "Comptroller" means the Comptroller of Public Accounts of the State of Texas.

(13) "Distribution" means and includes any transaction, other than a sale, in which ownership or title to diesel fuel passes from one person to another.

(14) "First sale" shall mean, except as otherwise provided herein, the first sale or distribution in this State of diesel fuel, produced, refined, compounded, imported into, or otherwise acquired in said State; provided that when diesel fuel has been purchased tax free under the terms of this Subchapter, the first resale or distribution of said diesel fuel for any purpose other than a tax free sale duly authorized as such by Article 10.03(3) of this Subchapter shall mean and constitute a "first sale."

(15) "Chapter" as used in this Subchapter means Subchapter A of Chapter 10, Title 122A, Taxation—General, Revised Civil Statutes of Texas.

Amended by Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.03 Levy of Tax

(1) There shall be and is hereby levied and imposed (except as hereinafter provided) upon the first sale, distribution, or use of diesel fuel in this State an excise tax of Six and Five-Tenths Cents (6.5¢) per gallon, or fractional part thereof so sold, distributed or used in this State. Upon each subsequent sale or distribution of diesel fuel for the propulsion of motor vehicles upon the public highways, on which the tax has been collected, the said tax shall be added to the selling price so that such tax is paid ultimately by the person using or consuming said diesel fuel for the propulsion of motor vehicles upon the public highways of this State.

(2) Provided, however, that in lieu of the tax rate specified and levied hereinabove an excise tax shall be and is hereby levied and imposed at six cents (6¢) per gallon of diesel fuel used for the propulsion of buses owned by a transit company (a) the greater portion of whose business is the transportation of persons within the limits of an incorporated city or town in conveyances designed to transport twelve (12) or more passengers; (b) which holds a franchise from such city or town; (c) whose rates are regulated by such city or town; and (d) which pays to such city or town a tax on its gross receipts, or which is a municipally owned and/or operated transit company.

(3) Every supplier shall collect and remit the tax, except as hereinafter provided to the contrary, upon each gallon of diesel fuel sold or distributed by him to dealers, users and unlicensed suppliers, and upon each gallon of diesel fuel delivered into the fuel supply tanks of motor vehicles not operated by him, and shall pay the tax upon each gallon of diesel fuel delivered into the fuel supply tanks of motor vehicles owned or operated by him. Upon each first sale or distribution of diesel fuel to a dealer for resale and delivery into motor vehicles, the tax shall be collected and remitted to this State on the gross or volumetric gallons of diesel fuel delivered to said dealer as shown by the Comptroller's measure-

ment certificate issued for the vehicle tank making such delivery, or as shown by any other measuring device approved by the Comptroller for measuring bulk deliveries of diesel fuel to the storage facilities of dealers or service stations. It is further provided that when diesel fuel is delivered into the storage facilities of dealers or service stations by consignment or otherwise, the tax on the first sale or distribution of said diesel fuel shall be computed and paid to this State by the supplier upon the gross gallons delivered to such storage facilities as shown by the Comptroller's measurement certificate or other measuring device described above.

It is expressly provided, however, that distributions of diesel fuel may be made without collecting the tax otherwise imposed, (a) when such distributions are made by a licensed supplier to other suppliers holding valid permits, or to bonded users who have secured from the Comptroller and then and there hold valid permits authorizing them to purchase tax free diesel fuel which is predominantly for use off the public highways of this State, or (b) when deliveries are made by a licensed supplier into a storage facility of a service station from which diesel fuel will be resold and delivered to purchasers for exclusive non-highway use and not otherwise, providing such storage facility is maintained separate and apart from facilities servicing fuel supply tanks of motor vehicles and is prominently labeled "NOT FOR HIGHWAY USE" in a manner to be prescribed by the Comptroller, and in plain view of the public to indicate that non-tax paid products are contained therein, or (c) when deliveries are made into fuel supply tanks of railway engines, aircraft, boats, or vehicle refrigeration units powered by separate motors from separate fuel tanks, on invoices showing the vehicle unit or highway license number and other information required by Article 10.12 of this Subchapter, or (d) when deliveries of kerosene having a flash point of not lower than 115 degrees Fahrenheit, are made by a licensed supplier into a storage facility maintained by a store or mercantile establishment, or a gasoline retail station which does not sell or handle other diesel fuel, for the storage of said kerosene for resale at retail to purchasers for illuminating, heating, cooking, and similar non-highway consumption and not otherwise, and providing such storage facility is prominently labeled as kerosene, or (e) when the purchaser furnishes the seller a signed statement that none of the diesel fuel purchased in this State will be delivered by him or permitted by him to be delivered into fuel supply tanks of motor vehicles.

Except as otherwise prescribed by rule and regulation of the Comptroller, such statement when furnished to a licensed supplier shall remain in effect as long as said licensed supplier continues to sell and distribute diesel fuel to said purchaser, unless the statement is revoked in writing by the purchaser or supplier, or unless notification of a change in the status of the purchaser has been furnished the supplier by the Comptroller.

A taxable use of any part of the diesel fuel purchased pursuant to the above statement shall, in addition to the penal provisions otherwise provided by law, forfeit the right of said person to purchase diesel fuel tax free for a period of one (1) year from the date of the offense. Such person, may, however, file claim for refund of the tax paid on any diesel fuel used for non-highway purposes under the refund provisions of Article 10.14 of this Subchapter.

(4) Every dealer shall collect the tax, at the rate imposed, on each gallon of diesel fuel delivered by him into the fuel supply tanks of motor vehicles and shall report and pay to this State any tax so collected, which has not been paid to a licensed supplier.

(5) Every user shall report and pay to this State the tax at the rate imposed, on each gallon of diesel fuel delivered by him into the fuel supply tanks of motor vehicles, unless said tax has been paid to a licensed supplier. Every user shall also report and pay the tax, at the rate imposed,

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on each gallon of diesel fuel imported into this State in the fuel supply tanks of motor vehicles owned or operated by him and consumed in the operation of such motor vehicles upon the public highways of this State. No permits shall be required and no tax shall be paid on diesel fuel imported in the fuel supply tanks of a motor vehicle when the fuel supply tanks, and any additional containers, have an aggregate capacity of not more than thirty (30) gallons, and if said motor vehicle is not operated by said user for hire, or compensation, or for commercial purposes.

(6) The tax on one and one-half percent ($1\frac{1}{2}\%$) of the taxable gallons of diesel fuel sold or distributed in this State shall be allocated to the persons selling, distributing or handling diesel fuel in this State which allocation or allowance shall be deducted by the supplier in the payment to the State of Texas of the taxes herein levied and shall be apportioned among all persons selling, distributing and handling diesel fuel in this State as follows:

I. One percent (1%) to the supplier making the first taxable sale or delivery of such diesel fuel to dealers and users and paying the tax levied hereunder to the State of Texas for the expense of collecting, accounting for, reporting and remitting the taxes collected and keeping records.

II. One-half of one percent ($\frac{1}{2}$ of 1%) of the taxable gallons to dealers, service station operators or consignors to cover evaporation and handling losses sustained by such dealers, service station operators or consignors from the time the diesel fuel is delivered to their storage facilities until it is sold and delivered into fuel supply tanks of motor vehicles.

Any user who holds a valid bonded user's permit to report and pay taxes directly to this State on diesel fuel used in the propulsion of motor vehicles upon the public highways of this State shall be entitled to deduct one-half of one percent ($\frac{1}{2}$ of 1%) of the taxable gallons upon payment of the taxes to this State by him.

Any person who performs more than one (1) of the functions or activities referred to above (supplier or dealer), shall be entitled to the apportionment or allowance for each such function or activity, subject to the limitations prescribed for each such function or activity, and provided that the aggregate allowance shall never exceed one and one-half percent ($1\frac{1}{2}\%$).

(7) No city, town, county, or other political subdivision of this State shall levy or collect any excise tax on the sale or use of diesel fuel.

Amended by Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.04 Dual Carburetion—Presumption of Use

Any person who operates a motor vehicle that is equipped to use diesel fuel and motor fuel or liquefied gas interchangeably in the propulsion of said motor vehicle shall be prima facie presumed to have used taxable diesel fuel exclusively in the operation of said motor vehicle, unless proof of the amount of motor fuel or liquefied gas used is maintained.

Amended by Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.05 Unlawful Operations of Motor Vehicles

(1) It is unlawful to transport diesel fuel in any cargo tank from which diesel fuel is sold or delivered which has a connection by pipe, tube, valve, or otherwise with the fuel injector or with the fuel supply tank feeding the fuel injector of the motor vehicle transporting said products.

(2) It is unlawful to operate with diesel fuel any motor vehicle licensed for operation upon the public highway on which a speedometer is not kept at all times in good operating condition to measure and regis-

ter correctly the miles traveled by such motor vehicle; it is provided, however, that any device other than a speedometer which measures and registers correctly the miles traveled may be used on motor vehicles of motor carriers operating under the provisions of the Motor Carrier Act¹ provided the mileage recorded on such device is inserted in lieu of the speedometer reading on each invoice covering diesel fuel delivered into the fuel supply tanks of such motor vehicles.

Amended by Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

¹ Vernon's Ann.Civ.St., arts. 911a, 911b.

Art. 10.06 Unlawful Sales

Except in the case of tax free sales or distributions of diesel fuel authorized by subdivisions (b), (c) and (d) of Article 10.03(3) of this Subchapter, it is unlawful to make bulk sales of diesel fuel tax free to any person who (1) is not licensed as a supplier, or (2) is not licensed as a user of diesel fuel, or (3) does not furnish to the seller the signed statement prescribed in subdivision (e) of said Article 10.03(3).

As a means of determining the validity of a supplier's or user's permit to purchase diesel fuel tax free, the selling supplier, or an employee or representative thereof, shall examine the permit or photocopy thereof, showing the name of the permit holder, the kind of permit, the permit number, and the period it covers.

Amended by Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.07 Tax Liability on Leased Motor Vehicles

(1) Except as otherwise provided in this Article, every user or import-user shall be liable for the tax on diesel fuel imported into this State in fuel supply tanks of motor vehicles leased to him and used on the Texas highways to the same extent and in the same manner as diesel fuel imported in his own motor vehicles and used on the public highways of Texas.

(2) Provided, however, a lessor who is engaged regularly in the business of leasing for compensation motor vehicles and equipment he owns without drivers to carriers or other lessees for interstate operation, may be deemed to be the user or import-user when he supplies or pays for the diesel fuel consumed in such vehicles, and such lessor may be issued a permit as an import-user when application and bond have been properly filed with and approved by the Comptroller for such permit.

Any lessee may exclude motor vehicles of which he is lessee from his reports and liabilities pursuant to this Subchapter, but only if the motor vehicles in question have been leased from a lessor holding a valid permit as a bonded import-user for the calendar year.

(3) Every such lessor shall file with his application for a bonded import-user's permit one copy of the form lease or service contract he enters into with the various lessees of his motor vehicles. When the import-user permit has been secured, such lessor shall make and assign to each motor vehicle he leases for interstate operation a photocopy of such permit to be carried in the cab compartment of said motor vehicle, and on which shall be typed or printed on the back the unit or motor number of the motor vehicle to which it is assigned, and the name of the lessee. Such lessor shall be responsible for the proper use of such photocopy of said permit issued and its return to him with the motor vehicle to which it is assigned.

Amended by Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.08 Tax Computation on Mileage Basis

(1) In the event the tax on diesel fuel imported into this State in the fuel supply tanks of motor vehicles for taxable use on the Texas public highways can be more accurately determined on a mileage basis the Comptroller is authorized to approve and adopt such basis. When an import-

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user imports diesel fuel into or exports diesel fuel from the State of Texas in the fuel supply tanks of motor vehicles, the amount of diesel fuel consumed in such vehicles on the Texas public highways shall be deemed to be such proportion of the total amount of such diesel fuel consumed in his entire operations within and without this State as the total number of miles traveled on the public highways within this State bears to the total number of miles traveled within and without the State. The Comptroller may also adopt such mileage basis for determining the taxable use of diesel fuel used in motor vehicles which travel regularly over prescribed courses on and off the public highways within the State of Texas.

(2) In the absence of records showing the number of miles actually operated per gallon of diesel fuel consumed, it shall be prima facie presumed that not less than one (1) gallon of diesel fuel was consumed for every four (4) miles traveled.

Amended by Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.09 Application for Permits

Every person defined herein as a supplier or import-user, or as a user whose purchases of special fuels are predominantly for non-highway consumption, shall secure from the Comptroller the kind and class of permit required herein to act in such capacities or to perform such functions. Application shall be filed with the Comptroller for any such permit on a form prescribed by the Comptroller, showing the kind and class of permit desired, and such information as the Comptroller may require.

(2) Any carrier operating motor vehicles into this State for commercial purposes may make application for a trip permit which shall be good for a period of not more than twenty (20) consecutive days beginning and ending on the dates specified on the face of the permit issued. A fee for such trip permits shall be required which shall be in an amount equivalent to the tax payable on the quantity of diesel fuel that could be imported in the fuel supply tanks of such motor vehicles, but never less than Five Dollars (\$5). Such fees shall be in lieu of the use tax otherwise assessable against the permit holder for importing and using diesel fuel in motor vehicles on the public highways of this State, and no reports of mileage shall be required with respect to such vehicles. All such fees collected by the Comptroller shall be allocated to the same funds to which the diesel fuel taxes collected hereunder are allocated.

The above trip-permits may be issued in lieu of annual import-user permits if the applicant therefor does not operate motor vehicles into or from the State of Texas more than three (3) times during any calendar year.

Amended by Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.10 Bonds

(1) Every person who is authorized by permit or required by law to make remittances or payments directly to this State of taxes collected upon the sale, distribution or use of diesel fuel shall file with his application for permit a bond in an amount to be set by the Comptroller at not less than two (2) times the amount of taxes that will accrue or may be expected to accrue during any month of the calendar year, but which bond shall never be less than One Thousand Dollars (\$1,000) if filed by a supplier nor less than Five Hundred Dollars (\$500) if filed by a user.

Every such bond shall be executed by a surety company authorized to do business in this State, payable to the State of Texas, and shall remain in force from the date it is made effective to the end of the calendar year, unless released by the Comptroller as herein provided. Such

bond shall be conditioned upon the full, complete, and faithful performance by the person for whom it is issued of all of the conditions and requirements imposed on said person by this Subchapter, or by rules and regulations promulgated by the Comptroller, and shall expressly guarantee the remittance or payment to the State of Texas within the time prescribed by law of all taxes, penalties, interest, and costs required herein to be remitted or paid to this State by said person. Any such bond which is continuous in form may be continued in effect for a succeeding calendar year by a renewal certificate, which certificate shall have all the force and effect of an original bond.

(2) If the amount of any existing bond becomes insufficient, or any surety on a bond becomes unsatisfactory or unacceptable, the Comptroller may require the filing of a new or an additional bond. The Comptroller shall also have authority to require the filing of reports and tax remittances at shorter intervals than one month if, in his opinion, an existing bond has become insufficient. If any supplier or user licensed hereunder shall fail or refuse to file a new or an additional bond within ten (10) days after demand or shall fail or refuse to file reports and remit or pay taxes at the intervals fixed by the Comptroller his permit shall be revoked or suspended in the manner herein provided. The filing of a new bond, or the cancellation or suspension of a permit, or recoveries on any bond, shall not invalidate an existing bond, but any surety on a bond shall be released and discharged from any and all liability accruing under such bond after the expiration of thirty (30) days from the date such surety has filed with the Comptroller at his Office in Austin, Travis County, Texas, written request to be released and discharged. Such request shall not operate to release or discharge such surety from liabilities incurred prior to the expiration of said thirty-day period. The Comptroller shall, upon receipt of any such request, promptly notify the person in whose behalf such bond was filed, and unless said person shall file with the Comptroller a new bond in the amount and form herein provided within fifteen (15) days from the date of such notice, the Comptroller shall proceed to cancel the permit of such person.

(3) Any person who has filed with the Comptroller a bond as a motor fuel distributor under the terms and conditions provided in the Motor Fuel Tax Law, Chapter 9, Article 9.07 of this Title, may extend the terms and conditions of said distributor's bond, by rider or bond form approved by the Comptroller, to include coverage of all liabilities and conditions imposed by this Subchapter upon the supplier or to the user to whom said extension is made applicable. The amount of any new bond that may be required of a supplier or user shall not exceed the maximum amount provided by said motor fuel tax law for a motor fuel distributor's permit.

(4) Any applicant for a permit may, in lieu of filing a surety bond, deposit cash in the amount of bond required in the Suspense Account of the State Treasury, or may deposit securities of a par value equal to the amount of bond required and of a class in which funds of the University of Texas may be legally invested.

Such cash or securities shall be released within sixty (60) days after cancellation or surrender of any permit held by the person in whose behalf they were deposited when said permit holder has been cleared of all tax liability by the Comptroller.

The Comptroller is hereby authorized and empowered to withdraw and use any such cash and to sell any such securities and use the proceeds therefrom to pay off and satisfy any judgment secured in any action by this State to recover diesel fuel taxes, costs, penalties, and interest found to be due this State by any person in whose behalf such cash or such securities were deposited. Any such person may acknowledge in writing the correctness of the State's claim against him for taxes,

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costs, penalties and interest and may authorize the use of said cash or the proceeds from the sale of such securities to pay on or pay off the claim without having suit filed.

Amended by Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.11 Permits

(1) Upon approval of an application and approval of the bond required, the Comptroller shall issue to the applicant a permit authorizing him to engage in the kind of business or other operations or to perform the functions set out in and authorized by the class of permit so issued. The permits shall be issued for each calendar year, or any unexpired part of a year, and shall be effective from the date of issue to the end of such calendar year, unless revoked or suspended for cause, as hereinafter provided. Such permits shall be of the kinds and classifications as set out hereinbelow:

A. BONDED SUPPLIER PERMITS.

Authorizing persons to engage in business as suppliers of diesel fuel to dealers, users, and to other authorized purchasers of diesel fuel.

B. BONDED USER PERMITS.

Authorizing users whose purchases of diesel fuel are predominantly for non-highway use by them to purchase diesel fuel tax free from their suppliers and to report and pay taxes to this State on the part of such diesel fuel which is delivered into the fuel supply tanks of motor vehicles by them.

C. BONDED IMPORT USER PERMITS.

Authorizing users to import or bring diesel fuel into this State in the fuel supply tanks of motor vehicles owned or operated by them, and to report and pay the tax due thereon to this State, and to claim credit or a refund of the tax paid on diesel fuel which is thereafter used in other States.

Nothing herein shall be construed as permitting any tax free sale or delivery of diesel fuel to an import-user, or of permitting any sale and delivery of diesel fuel directly into the fuel supply tanks of a motor vehicle without collecting the tax thereon from the purchaser of such diesel fuel.

The Comptroller shall determine from the information shown in the application or other investigation the kind and class of permit to be issued.

A supplier may operate under his supplier's permit as a user without securing a separate permit but he shall be subject to all other conditions, requirements, and liabilities imposed by Subchapter A upon a user. A dealer may use diesel fuel in motor vehicles owned or operated by him without securing a permit as a user, subject to all other conditions, requirements, and liabilities imposed herein upon a user.

All permits shall be posted in a conspicuous place or kept available for inspection at the principal place of business of the owner thereof. Permit holders shall reproduce the permit by photostat or other method and keep a copy on display for ready inspection at each additional place of business or other place of storage from which diesel fuel is sold, distributed or used and in each motor vehicle used by the permit holder to transport diesel fuel purchased by him for resale, distribution or use. Persons holding import-user permits shall reproduce the permit and carry a photocopy thereof with each motor vehicle being operated into or from the State of Texas.

(2) The Comptroller or any authorized representative of the Comptroller, is hereby authorized to cancel or to suspend any permit issued under the terms of this Subchapter or to refuse the issuance, extension, or reinstatement of any permit to any person who has violated, or has failed to comply with, any rule and regulation of the Comptroller or any provision of this Chapter. Before any such permit may be cancelled or

suspended, or the issuance, or extension, or reinstatement of any such permit may be refused, the Comptroller shall give the owner of such permit, or applicant therefor, not less than five (5) days notice of a hearing at the Office of the Comptroller in Austin, Travis County, Texas, or at any district office maintained by the Comptroller's Department, granting said owner or applicant an opportunity to show cause before the Comptroller, or his authorized representative, why such action should not be taken. Such notice shall be in writing and may be mailed by certified or registered mail to said owner or applicant at his last known address or may be delivered by a representative of the Comptroller to the owner or applicant, and no other notice shall be required. The Comptroller may prescribe his own rules of procedure and evidence for such hearings.

If, after said hearing or opportunity to be heard, the permit is cancelled, as above provided, all taxes which have been collected or required to be collected upon the sale, distribution or use of diesel fuel shall ipso facto become delinquent, and the permit holder shall forthwith file a report for any period not covered by preceding reports filed by him to the date of cancellation and shall remit and pay to the State of Texas all taxes which have been collected or required to be collected and which have accrued from the sale, distribution or use of diesel fuel up to and including the date of cancellation. A new permit shall not be issued to any person who is delinquent in the payment of taxes, penalties or interest.

After being given notice of any such order of cancellation, it shall be unlawful for any person to continue to operate his business under a cancelled permit.

An appeal from any order of the Comptroller, or his authorized representative, cancelling, suspending or refusing the issuance, extension or reinstatement of any permit may be taken to the District Court of Travis County, Texas, by the aggrieved permit holder or applicant. The trial shall be de novo under the same rules as ordinary civil suits with the following exceptions, which shall be considered literally, viz: (1) all appeals shall be perfected and filed within thirty (30) days after the effective date of the order, decision or ruling of the Comptroller, or his authorized representative; (2) such proceedings shall have precedence over all other causes of a different nature; (3) trial of all such cases shall commence within ten (10) days from the filing thereof; (4) the order, decision, or ruling of the Comptroller or his authorized representative, may be suspended or modified by the Court pending a trial on the merits.

Amended by Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.12 Records Required

(1) Every supplier, dealer, or user, whether or not required by the provisions of this Subchapter to secure a permit to sell, deliver, or use diesel fuel shall keep for a period of two (2) years open to inspection at all times by the Comptroller or Attorney General, or their authorized representatives, a complete record of all diesel fuel purchased or received and all of such products sold, distributed, or used by them showing the date of each receipt, the name and address of the person from whom purchased or received, the number of gallons received at each place of business or place of storage in Texas, and showing the date of each sale or distribution, the number of gallons sold, or distributed, for taxable purposes, and the number of gallons sold or distributed for any purpose not subject to the tax imposed herein, and if sold in bulk quantities the name and address of the purchaser, and showing inventories of diesel fuel on hand at each place of business at the end of each month.

(2) Each bulk sale and delivery of diesel fuel shall be covered by an invoice with the name and address of the supplier or dealer and a serial

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number printed thereon, showing the complete information set out hereinabove for each such sale, one counterpart of which shall be delivered to the purchaser and another counterpart kept by the supplier or dealer for the period of time and purposes above provided. Every delivery of diesel fuel into the fuel supply tank of a motor vehicle shall be recorded upon a serially numbered invoice issued in not less than duplicate on which shall be printed, or stamped with a rubber stamp, the name and address of the supplier, dealer, or user making such delivery and on which shall be shown the name and address or credit card identification of the purchaser, the date of delivery, the number of gallons of diesel fuel so delivered, the total mileage recorded on the speedometer of the motor vehicle into which delivered, and the State highway license or unit number of said motor vehicle. The invoice shall be signed by the driver.

The invoice required above must be demanded by every person purchasing and receiving a delivery of diesel fuel into the fuel supply tank of a motor vehicle in Texas at the time of such delivery and such person shall carry the invoice with the vehicle until the fuel covered by same is consumed. The invoice shall show the tax rate or amount of tax paid or accounted for.

Every supplier, dealer or user making such sales or distribution of diesel fuel and every person so receiving and purchasing diesel fuel must each retain one copy of each such invoice as part of his permanent records for the time and purposes above provided.

(3) Every user shall keep, in addition to his record of deliveries into motor vehicles a complete record of the total gallons of diesel fuel used for other purposes during each month and the purposes for which said diesel fuel was used.

Amended by Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.13 Tax Payments—Reports

(1) Every supplier who is required herein to collect taxes on the sale or distribution of diesel fuel and every user who is required to pay taxes on the delivery of diesel fuel into the fuel supply tanks of motor vehicles or on the use of imported diesel fuel shall, on or before the 25th day of each calendar month, pay to the State of Texas at the Office of the Comptroller in Austin, Travis County, Texas, the amount of such taxes required to be collected and the amount required to be paid during the month next preceding, unless said taxes have been paid by a user to a licensed supplier as provided in this Subchapter. At the time of making such tax payments every supplier or user who is required to pay any taxes directly to this State, shall file with the Comptroller a report of diesel fuel handled, in the form and manner as hereinafter provided.

(2) Every supplier shall, on or before the 25th day of each calendar month, file with the Comptroller upon a form prescribed by the Comptroller an itemized report made subject to the penalties of Article 1.12, Chapter 1 of this Title, accounting for the diesel fuel handled during the preceding month which report shall show the quantities of diesel fuel purchased or received from sources within this State and the quantities received from sources outside of this State, the quantities sold or delivered to dealers and users upon which taxes were required to be collected, the quantities sold and delivered to dealers and users without collecting said taxes, the quantities sold and delivered into the fuel supply tanks of motor vehicles, the quantities delivered into the fuel supply tanks of motor vehicles owned or operated by such supplier and the quantities used by him for other purposes, the total quantities sold or delivered to persons other than dealers, users, or operators of motor vehicles, the quantities lost by fire or other accident, the quantities lost by shrinkage or evaporation, and the total quantities on hand at the beginning and at the end of the month covered by such report. The report

shall include a schedule of the total quantities of diesel fuel sold or delivered to dealers and users without collecting taxes thereon, and the names and addresses of such dealers or users. The Comptroller may in his discretion require selective schedules from any supplier with respect to any purchases, sales or deliveries of diesel fuel. Every supplier shall attach legal tender to said report or make proper form of money order or exchange payable to the State Treasurer in the amount of taxes due for the period covered by the report.

(3) Every user who purchases or acquires diesel fuel tax-free for taxable use of any part of said products shall, on or before the 25th day of each calendar month, file with the Comptroller upon forms prescribed by the Comptroller an itemized report, made subject to the penalties of Article 1.12, Chapter 1 of this Title, accounting for the diesel fuel handled during the preceding month which report shall show the quantities of diesel fuel purchased or received and the suppliers from whom received, the quantities delivered into the fuel supply tanks of motor vehicles owned or operated by such user, the quantities used off the public highways of this State and the purposes for which used, the quantities lost by fire or other accident or disposed of in any other manner, and the total quantities on hand at the beginning and at the end of the month covered by such report. The Comptroller may in his discretion require schedules from any such user with respect to any purchases, deliveries or uses of diesel fuel. Every such user shall attach legal tender to said report or make proper form of money order or exchange payable to the State Treasurer in the amount of taxes due for the period covered by the report.

(4) Every user who imports diesel fuel in the fuel supply tanks of motor vehicles operated by him on the public highways of Texas for hire or compensation or for commercial purposes shall, on or before the 25th day of each calendar month, file with the Comptroller on forms prescribed by the Comptroller an itemized report, made subject to the penalties of Article 1.12, Chapter 1 of this Title, accounting for all diesel fuel imported and all diesel fuel used in such motor vehicles during the preceding calendar month, which report shall show for each motor vehicle operated by said user into or from the State of Texas for such purposes, the total miles traveled in Texas and elsewhere, the total quantities of diesel fuel consumed by each motor vehicle in such travel and the average miles traveled per gallon of fuel consumed, the total miles traveled in the State of Texas and the quantities of diesel fuel purchased in Texas and delivered into the fuel supply tanks of each such motor vehicle, and such other information pertinent to the use of diesel fuel in such motor vehicles and the taxes paid or accrued thereon, as the Comptroller may require. The Comptroller may in his discretion permit the filing of such reports on a fleet basis and may require schedules to be submitted as a part of such report with respect to any diesel fuel purchased or used in connection with such operations. Every such user shall attach legal tender or make proper form of money order or exchange payable to the State Treasurer in the amount of taxes due for the period covered in the report.

(5) When it shall appear to the Comptroller from evidence submitted by an import-user that records of diesel fuel used by him for taxable purposes on the public highways of this State in motor vehicles operated in interstate travel cannot be secured from all drivers of such vehicles in time to file accurate reports and tax remittances within the time prescribed by law, the Comptroller may agree to accept monthly reports and tax remittances computed on a fixed mileage basis by which the miles traveled in Texas by said vehicles will be divided by a fixed mileage factor to determine the taxable gallons of diesel fuel used in such vehicles upon the public highways of this State. It is expressly provided, however, that whenever an audit made by the Comptroller from

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the records of the import-user shows that more diesel fuel was consumed on the Texas highways on a basis of the average miles traveled per gallon of fuel consumed than was reported for tax purposes, the import-user shall be liable for the tax on the additional gallons shown as used, and any penalties and interest due thereon.

(6) When it shall appear that a supplier or user, to whom the provisions of this Chapter shall apply, has erroneously reported and remitted or paid more taxes than were due the State of Texas upon any diesel fuel during any taxpaying period, either on account of a mistake of fact or law, it shall be the duty of the Comptroller to credit the total amount of taxes due by such supplier or user for the current period, if any, with the total amount of taxes so erroneously paid, or said supplier or user may file claim for refund of the taxes erroneously paid. Such credit shall be allowed or the tax refund claim paid before any penalties and interest shall be applicable.

Amended by Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.14 Refunds

(1) Except as otherwise provided by Article 10.15 of this Subchapter, any dealer who shall have paid the tax at the rate imposed by this Subchapter upon any diesel fuel which has been used or sold for use by such dealer for any purpose other than propelling a motor vehicle upon the public highways of this State, or which have been sold to the United States Government for the exclusive use of said government, and any user who shall have paid said tax at the rate imposed upon any diesel fuel which has been used by such user for any purpose other than propelling a motor vehicle upon said public highways, may file claim for a refund of the tax or taxes so paid, less one and one-half percent (1-½%) allowed vendors for the expense of collecting and reporting such taxes to this State. Such claims shall be filed with the Comptroller on forms prescribed by the Comptroller and shall show the date of filing and the period covered in the claim, the number of gallons of diesel fuel sold or used for purposes subject to tax refund, and shall show such other facts and information as the Comptroller may by rule and regulation require. Every such claim shall be supported by an invoice or invoices issued to or by the claimant, as hereinafter provided, or such other information as the Comptroller may require, and shall be filed in the Office of the Comptroller within one (1) year from the first day of the calendar month in which the diesel fuel was invoiced or required to be invoiced for sale or use, and no claim shall be made by the claimant or approved by the Comptroller after the expiration of one (1) year from the first day of the calendar month in which said diesel fuels were invoiced or required to be invoiced for sale or use.

Every bonded import-user shall be entitled to a credit equivalent to the tax rate per gallon paid on all diesel fuel upon which the Texas diesel fuel tax has been paid and which has thereafter been consumed in motor vehicles outside of the State of Texas. When the amount of credit herein provided to which the import-user is entitled for any calendar month exceeds the amount of tax for which such import-user is liable for diesel fuel consumed in such vehicles during the same month, such excess shall under regulations of the Comptroller, be allowed as a credit against the tax for which such import-user would be otherwise liable for a period of one (1) year from the first day of the calendar month in which the diesel fuel was used; or upon claim filed with the Comptroller within one (1) year from the first day of any calendar month in which said diesel fuel was used, such excess may be refunded as hereinabove provided. Evidence of the mileage traveled and the gallonage consumed and the payment of the diesel fuel tax, on such form as may be required by or is satisfactory to the Comptroller, shall be furnished by such import-user claiming the credit or tax refund herein allowed.

(2) When diesel fuel is sold by a dealer or supplier, or is appropriated for use by a user for any purposes for which a refund of the tax paid on said products may be claimed as provided herein, such dealer, supplier or user shall, at the time of each sale or appropriation for use and not thereafter, make out a serially numbered invoice in not less than duplicate counterparts with the name and address of the dealer, supplier or user printed thereon which shall show the date of the sale or appropriation for use, the quantities of diesel fuel sold or appropriated for use, the purposes for which used, as declared by the purchaser or user, and such other information as the Comptroller may require. The invoice shall be signed by the recipient of any such diesel fuel purchased from a dealer or supplier. One counterpart of each invoice shall be kept by the dealer, supplier or user for a period of two (2) years open to the inspection of the Comptroller or his authorized representatives, and the other counterpart shall be filed as a part of the claim for tax refund as above provided. The Comptroller may authorize the filing of other information in lieu of the invoice counterpart.

(3) In the event the quantity of diesel fuel consumed by power pumping units or other power-take-off equipment of any motor vehicle can be accurately measured while the vehicle is stationary by any metering or other measuring device designed to measure such fuel separately from fuel used to propel the motor vehicle, the Comptroller is hereby authorized to approve and adopt the use of such device as a basis for determining the quantity of diesel fuel consumed in such operations for tax credit or tax refund.

(4) If upon examination or investigation the Comptroller finds that the claim is just and that the taxes claimed have been paid by the claimant, he shall issue warrant to the claimant in the amount due but no greater amount shall be refunded than has been paid into the State Treasury on any such diesel fuel.

(5) All the moneys paid into the Treasury under the provisions of this Subchapter, except the filing fees provided herein, shall be set aside in the special fund known as the Highway Motor Fuel Tax Fund and no part of said fund shall be credited to the Available School Fund until a report is made by the Comptroller to the Treasurer, showing the total maximum amount of refunds that may be required to be paid by the State out of said funds. The Comptroller shall on the 20th day of each month, or as soon thereafter as is possible, compute and ascertain the maximum amount of funds that may be due by the State on the sale of diesel fuel during the preceding month, upon which a refund may be due, and shall certify to the State Treasurer the maximum amount, and the Treasurer shall reserve said amount each month out of which to pay refunds and shall not distribute that part of said fund until the expiration of the time in which a refund can be made out of said fund, but as soon as said report has been made by the Comptroller and the maximum amount of refunds determined, he shall deduct said maximum amount from the total taxes paid for such month, and apply the remainder of such as provided by law. If the claimant loses, or for any reason fails to receive warrant after it has been issued by the Comptroller, and upon satisfactory proof of such, the Comptroller may issue claimant duplicate warrant as provided in Article 4365, Revised Civil Statutes of Texas.

So much of said fund is hereby appropriated and set aside as may be necessary to pay the refunds provided herein. In no event shall any refund be made to any person in excess of the actual amount paid by such person, and the one and one-half percent (1-1/2%) deducted originally by the supplier upon the sale or delivery of the diesel fuel shall be deducted in computing the refund. The Comptroller shall deduct fifty cents (50¢) from all such refunds as a filing fee, which fee shall be deducted from the warrant issued in payment of such refund which said filing fee shall be set aside for the use and benefit of the Comptroller

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in the administration and enforcement of the provisions of this Subchapter, and for the payment of expenses in furnishing the claim forms and other forms provided for herein, and the same is hereby appropriated for such purpose. All such filing fees shall be paid out on vouchers and warrants in such manner as may be prescribed by law.

Amended by Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.15 Exceptions to Tax Refunds

(1) No tax refunds shall be paid to any person on diesel fuel used in any construction, maintenance or repair work on the public highways of this State when and if such work is paid for from any State funds to which diesel fuel tax collections are allocated or is paid jointly from any such State funds and Federal funds.

(2) The delivery of diesel fuel into the fuel supply tanks of any tractor, truck tractor, vehicle, or machine of any kind or description for use in hauling materials, supplies or products over the public highways to or from any highway construction, maintenance or repair work, shall constitute and be deemed to mean the delivery of diesel fuel into the fuel supply tanks of motor vehicles for taxable use.

Amended by Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.16 Prima Facie Presumptions

(1) Any supplier, dealer or user who shall fail to keep the records, issue the invoices or file the reports required by this Subchapter, shall be prima facie presumed to have sold, distributed or used for taxable purposes all diesel fuel shown by a duly verified audit by the Comptroller, or any authorized representative thereof, to have been sold or distributed to such supplier, dealer or user, and the Comptroller is hereby authorized to fix or establish the amount of taxes, penalties and interest due the State of Texas from such records of deliveries or from any records or information available to him and if the tax claim as developed from such procedure is not paid, such claim and any audit made by the Comptroller, or an authorized representative thereof, or any report filed by such supplier or user, shall be admissible in evidence in any suit or judicial proceedings filed by the Attorney General, and shall be prima facie evidence of the correctness of said claim or audit; provided that prima facie presumption of the correctness of the claim may be overcome upon the trial by evidence adduced by said supplier, dealer or user.

(2) A certificate under the seal of the Comptroller executed by said Comptroller or his Chief Clerk, setting forth the terms of any order, rule, regulation, report, bond or other instrument referred to in this Subchapter, and that the same had been adopted, promulgated, or executed and filed with the Comptroller, and was in force and effect at any date or during any period specified in such certificate, shall be prima facie evidence of all such facts, and such certificate shall be admitted in evidence in any action, civil or criminal, involving such order, rule, regulation, report, bond, or other instrument without further proof of such adoption, promulgation, execution or filing, and without further proof of its contents.

Amended by Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.17 Liens

All taxes, penalties, interest and costs due by any supplier, dealer or user under the provisions of this Subchapter and all taxes collected by a supplier or dealer and required to be paid to this State, shall be secured by a preferred lien, first and prior to any and all other existing liens, contract or statutory, legal or equitable, and regardless of the time such liens originated, upon all of the property of any supplier, dealer

or user, devoted to or used in his business or other operations as a supplier, dealer or user, which property shall include all plants, storage tanks, warehouses, office buildings, pumps, and equipment, vehicle tanks, trucks, trailers, or other vehicles, stocks on hand of every kind and character whatsoever used or usable in such business or other operations including diesel fuel and the proceeds from the sale or delivery of diesel fuel and including cash on hand and in banks, accounts and notes receivable, and any and all other property of every kind and character whatsoever and wherever situated, which is devoted to such use, and each tract of land on which such plants, storage tanks and other property is located, or which is used in carrying on such business or other operations.

This lien shall not be valid against any "mortgagee" of a "motor vehicle" as those terms are defined in the Certificate of Title Act, provided such mortgagee does not have actual notice of the State's lien and has complied with the provisions of the Certificate of Title Act¹ prior to the filing by the Comptroller of Public Accounts with the State Highway Department a certificate showing the make, body type and motor number of the motor vehicle upon which a tax lien exists and the amount of taxes, penalties, interest, and costs due the State. The Comptroller of Public Accounts' certificate is to be filed with the State Highway Department and the State's lien need not be placed of record upon the motor vehicle's certificate of title.

The Comptroller of Public Accounts shall file with the State Highway Department a certificate containing the information above provided in this Section as to any motor vehicle upon which a tax lien exists to secure the payment of the taxes owing by any supplier, dealer or user, and the filing of such certificate by the Comptroller of Public Accounts shall constitute sufficient notice of the existence and the assertion by the State of the statutory lien to secure the payment of the taxes owing to the State by such supplier, dealer or user, and any mortgagee of any mortgage, made after the filing of such certificate with the State Highway Department, shall be deemed to have notice of such lien, and the State's lien upon such motor vehicle shall continue to be a valid and prior lien as to any mortgagee. But such lien shall not be valid as to any mortgagee of a motor vehicle if the lien of such mortgagee was created and recorded prior to the filing of such certificate by the Comptroller of Public Accounts with the State Highway Commission.

Amended by Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

¹ Vernon's Ann.P.C. art. 1436—1.

Art. 10.18 Civil and Statutory Penalties

(1) If any person affected by this Subchapter shall fail or refuse to comply with any provision of this Subchapter or shall violate the same, or shall fail or refuse to comply with any rule and regulation promulgated hereunder by the Comptroller or shall violate the same, he shall forfeit to the State of Texas as a penalty the sum of Twenty-five Dollars (\$25). Such penalty, if not paid, shall be recovered in a suit by the Attorney General in a court of competent jurisdiction in Travis County, Texas, or any other court of competent jurisdiction having venue under existing venue Statutes. Provided that in addition to such penalty, if any supplier, dealer or user does not make remittance for any taxes collected, or pay any taxes due the State of Texas by said supplier, dealer or user, within the time prescribed by law said supplier, dealer or user shall forfeit two percent (2%) of the amount due; and if said taxes are not remitted or paid within ten (10) days from the date the Comptroller gives such supplier, dealer or user notice in writing directed to his last known address that all taxes which appear to be due have not been paid,

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an additional eight percent (8%) shall be forfeited. All past due taxes and penalties shall draw interest at the rate of six percent (6%) per annum.

(2) The venue of any suit, injunction or other proceedings at law or in equity available for the establishment or collection of any claim for delinquent taxes, penalties, or interest accruing hereunder, and the enforcement of the terms and provisions of this Subchapter, shall be in a court of competent jurisdiction of Travis County, Texas, or in any other court of competent jurisdiction having venue under existing venue Statutes.

Amended by Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.19 Impounding Vehicles

In order to enforce the provisions of this Subchapter, the Comptroller or his authorized representatives, or any Highway Patrolman of the Department of Public Safety, any sheriff, constable and their deputies, or any other peace officer, is empowered to stop any motor vehicle which appears to be operating with diesel fuel for the purpose of examining the invoice required to be carried, and examining any permit or copy thereof that may be required to be carried, to take samples from the fuel supply tanks, and for such other investigations as could reasonably be made to determine whether the taxes have been paid or accounted for by a licensed user upon the diesel fuel being used to propel the motor vehicle upon the public highways of Texas. If after said examination or other investigation it is found the owner or operator of said motor vehicle has not paid said taxes, or does not possess a valid permit as a user to use such diesel fuel in motor vehicles operating on said public highways, such authorized officers shall impound the motor vehicle, and unless proof is produced within seventy-two (72) hours from the beginning of impoundment that the owner or operator has paid said taxes, and has paid all other taxes established by audit or investigation by the Comptroller, or his authorized representatives, to be due upon the use of diesel fuel for the propulsion of motor vehicles upon the public highways of Texas, or that said owner or operator holds a valid user's permit to use diesel fuel for such purposes, the motor vehicle shall be held until all taxes, penalties and interest found to be due this state and all costs of impoundment have been paid, or until said owner or operator has filed bond with the Comptroller payable to the State Treasurer in an amount equal to twice the amount of taxes, penalties, interest and costs found to be due, to guarantee the payment of such liabilities to the State of Texas.

If the taxes, penalties, interest and costs found to be due are not paid, the Comptroller shall certify the claim to the Attorney General who shall file proceedings to foreclose the State's tax lien upon such motor vehicle, or take such other action to recover the amount due the State as provided by law.

Amended by Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.20 Subpoenas

The Comptroller, or any duly authorized representative under the direction of the Comptroller, shall, for the purposes contemplated by this Subchapter, have power to issue subpoenas, compel the attendance of witnesses, administer oaths, certify to official acts, take depositions within or without the State of Texas, as now provided by law, and compel the production of pertinent books, accounts, records, and documents.

If any witness refuses to obey such subpoena or refuses to produce any pertinent books, accounts, records, or documents, named in such subpoena and in the possession or control of said witness, or if any witness in attendance before the Comptroller or one of his authorized

representatives refuses without reasonable cause to be examined or to answer any legal or pertinent question, or to produce any books, record, paper, or document when ordered to do so by the Comptroller or his authorized representative, the Comptroller or representative shall certify the facts and the names of the witnesses so failing and refusing to appear and testify, or refusing access to the books, records, papers, and documents, to the district court having jurisdiction of the witness; said court shall thereupon issue proper summons to said witness to appear before the said Comptroller, or his authorized representatives, at a place designated within the jurisdiction of said court, on a day to be fixed, to be continued as occasion may require, and give such evidence and open for inspection such books, records, papers, and documents as may be required for the purpose of enforcing the provisions of this Subchapter. Upon failure to obey such summons the Judge before whom the matter shall come for hearing shall examine under oath such witness or person, and such person shall be given an opportunity to be heard; and if the Judge shall determine that such person has refused, without reasonable cause or legal excuse, to be examined or answer a legal or pertinent question, or to produce a book, record, paper or document, which he was ordered to bring or produce, he shall forthwith punish the offender as for contempt of court.

Subpoenas shall be served and witness fees and mileage paid as in civil cases in the district court in the county to which such witness shall be called. Witnesses subpoenaed at the instance of the Comptroller, or his authorized representatives, shall be paid their fees and mileage by the Comptroller out of any funds appropriated to said Comptroller.

The Comptroller may, if necessary to enforce the provisions of this Article, require such number of his representatives as he deems necessary to enforce the provisions hereof to subscribe to the constitutional oath of office, a record of which shall be filed in the Office of the Comptroller.

Amended by Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.21 Rules and Regulations

(1) It is hereby made the duty of the Comptroller to collect, supervise, and enforce the collection of all taxes, penalties, interest and costs, due or that may become due under the provisions of this Subchapter, and to that end the Comptroller is hereby vested with all the power and authority conferred by this Subchapter. The Comptroller shall also have the power and authority to promulgate rules and regulations, not inconsistent with this Subchapter or the Constitution of this State or the United States, for the enforcement of the provisions of this Subchapter and the collection of all taxes, penalties, interest and costs levied hereunder.

(2) Upon final adoption of any rule and regulation, the Comptroller shall file a copy thereof with the Secretary of State, State of Texas, and the same shall have the force and effect of law as of the date of such filing unless a subsequent date is specified therein. Any person who violates or fails to comply with any valid rule and regulation which has been duly promulgated by the Comptroller and filed with said Secretary of State, or violates or fails to comply with any provision thereof, shall be subject to the penalties prescribed by Articles 10.18 and 10.25 of this Subchapter.

Amended by Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.22 Allocation of Funds

Before allocation of the funds collected hereunder is made, one percent (1%) of the gross amount of said fund shall be set aside in the State Treasury in a special fund for the use of the Comptroller in the

For Annotations and Historical Notes, see V.A.T.S.

administration and enforcement of the provisions of this Subchapter and so much of said amount as may be needed is hereby appropriated for said purpose. Any unexpended portion of such fund shall at the end of each fiscal year revert to the respective funds in the proper proportions to which the diesel fuel taxes are allocated.

Each month the Comptroller shall, after making deductions for refund purposes as provided in Article 10.14 of this Subchapter, and for the administration and enforcement of the provisions of this Subchapter allocate and deposit the remainder of the taxes collected under the provisions of this Subchapter, in the proportions as follows: One-fourth ($\frac{1}{4}$) of such taxes shall go to and be placed to the credit of the Available Free School Fund and three-fourths ($\frac{3}{4}$) of such taxes shall go to and be placed to the credit of the State Highway Fund.

Amended by Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.23 Penalty, Failure to Pay or Conversion of Taxes

(1) All taxes collected under the provisions of this Subchapter shall be for the use and benefit of the State of Texas and shall not be appropriated or diverted to any other use. Said taxes shall be paid over to the State of Texas at the time and in the manner provided in this Subchapter.

(2) If any supplier or dealer, or any director, officer, agent, employee, trustee, or receiver of such supplier or dealer, or any person, shall willfully fail or refuse to pay over to the State of Texas any such tax fund collected by him under the provisions of this Subchapter on or before the date such payment is required to be paid under the provisions of this Subchapter, such supplier or dealer, or such director, officer, agent, employee, trustee, or receiver of such supplier or dealer, or such person, shall be guilty of a felony and upon conviction shall be punished by confinement in the State penitentiary for not more than ten (10) years, or by confinement in the county jail for not less than one (1) month nor more than one (1) year, or by a fine of not less than Five Hundred Dollars (\$500) nor more than Ten Thousand Dollars (\$10,000), or by both such fine and jail imprisonment.

(3) If any director, officer, agent, employee, trustee, receiver of any supplier or dealer, or any person, shall fraudulently misapply or convert to his own use any tax fund collected for the State of Texas under the provisions of this Subchapter by such supplier or dealer, or any director, officer, agent, employee, trustee, receiver of such supplier or dealer, or by such person, which said money has come into the possession of or that is in the care of or under the control of such director, officer, agent, employee, trustee, receiver of such supplier or dealer, or of such person, and which said money is required to be paid to the State of Texas under the provisions of this Subchapter, such director, officer, agent, employee, trustee, receiver of such supplier or dealer, or such person shall be guilty of a felony and upon conviction, shall be punished by confinement in the State penitentiary for not more than ten (10) years, or by confinement in the county jail for not less than one (1) month nor more than one (1) year, or by a fine of not less than Five Hundred Dollars (\$500), nor more than Ten Thousand Dollars (\$10,000), or by both such fine and jail imprisonment.

(4) If the penalties prescribed elsewhere in this Subchapter overlap as to the offenses punishable under Article 10.23 of this Subchapter, then the penalties prescribed in Article 10.23 shall apply and control over all such penalties. Venue of a prosecution under Article 10.23 shall be in Travis County, Texas, or in the county where the offense occurred.

Amended by Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.24 Felony Penalties

If any supplier or user, or any director, officer, agent, employee, or receiver of such supplier or user (a) shall sell, distribute, deliver or use diesel fuel for any purpose for which a permit is required under the provisions of this Subchapter without a valid permit being then and there held by such supplier or user, or (b) shall fail or refuse to make and deliver to the Comptroller within the time prescribed by law any report required to be made and delivered to the Comptroller by such supplier or user, or (c) shall knowingly make and deliver to the Comptroller any report required by law to be made and delivered which is false or incomplete, or (d) if any supplier, dealer or user shall fail or refuse to keep in Texas for the period of time prescribed by law any records required to be kept in Texas by such supplier, dealer or user, or (e) shall knowingly falsify or make false entry in any records required by law to be kept by such supplier, dealer or user, or (f) shall refuse to permit the Comptroller or any authorized representative of the Comptroller to examine or audit any books or records of such supplier, dealer or user which the Comptroller is authorized by law to examine or audit, or (g) shall refuse to permit the Comptroller to inspect or examine any plant, equipment, motor vehicle, material or premises where diesel fuel is processed, stored, sold, delivered, transported, or used by such supplier, dealer or user, or (h) shall refuse to surrender any motor vehicle for impoundment when such surrender is ordered by a representative of the Comptroller, or any officer authorized by law to impound such motor vehicle, or (i) shall knowingly make any false statement in any claim for a tax refund delivered to or filed with the Comptroller, such supplier, dealer or user, or such director, officer, agent, employee, or receiver of such supplier, dealer or user, shall be guilty of a felony and upon conviction, shall be punished by confinement in the State penitentiary for not more than five (5) years or by confinement in the county jail for not less than one (1) month nor more than six (6) months, or by a fine of not less than One Hundred Dollars (\$100), nor more than Five Thousand Dollars (\$5,000), or by both such fine and imprisonment.

In addition to the foregoing penalties, a felony conviction for any of the above-named offenses shall automatically forfeit the right of said convicted person to obtain a permit as a supplier or user for a period of two (2) years from the date final judgment is entered.

If the penalties prescribed elsewhere in this Subchapter overlap as to offenses punishable under Article 10.24 of this Subchapter, then the penalties prescribed by said Article 10.24 shall control over all such penalties, except the penalties prescribed in Article 10.23 of this Subchapter. Venue of prosecution under Article 10.24 shall be in Travis County, Texas, or in the county in which the offense occurred.

Amended by Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.25 Misdemeanor Penalties

(1) If any person shall violate, or fail or refuse to comply with any provision of this Subchapter for which no penalty is provided in Article 10.23 or Article 10.24 of this Subchapter, he shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200).

(2) If any person shall violate, or fail or refuse to comply with any rule and regulation duly promulgated by the Comptroller under provisions of this Subchapter, he shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Twenty-Five Dollars (\$25) nor more than Two Hundred Dollars (\$200)."

Amended by Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

SUBCHAPTER B—LIQUEFIED GAS TAX LAW

Art. 10.51 Title

This Subchapter, and any amendments thereto, shall be known and may be cited as the "Liquefied Gas Tax Law."

Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.52 Definitions

The following words and phrases as used in this Subchapter, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) "Liquefied gas" means all combustible gases which exist in the gaseous state at sixty (60) degrees Fahrenheit and at a pressure of fourteen and seven-tenths (14.7) pounds per square inch absolute, but does not include "motor fuel"; as that term is defined in Article 9.01 of Chapter 9 of this Title, nor does it include diesel fuel, as defined in Article 10.02 (1) of Subchapter A of this Chapter.

(2) "Bulk" Except for deliveries into fuel supply tanks of motor vehicles, the term 'bulk' means any quantity of liquefied gas other than in cylinders with a capacity of one hundred (100) pounds or less. Cylinders, as used in this paragraph, do not include containers designed and fitted for use as fuel supply tanks of motor vehicles.

(3) "Motor vehicle" means any automobile, truck, pickup, jeep, station wagon, bus or other self-propelled vehicle designed for use on or required to be licensed for operation upon the public highway. Tractors, combines, and other vehicles not required to be so licensed shall be deemed to be motor vehicles to the extent they are operated upon the public highway with liquefied gas in propelling such vehicles to haul goods, wares, merchandise, or other commodities over the public highways for any purpose except in moving such products between farm or ranch lands owned or controlled by farmers or ranchers, or in traveling over the public highways for any other taxable purpose.

(4) "Public highway" means every way or place open to the use of the public as a matter of right for vehicular travel, including toll roads, notwithstanding that the same may be temporarily closed or travel thereon restricted for any purpose.

(5) "Supplier" means any person (a) who sells or delivers liquefied gas in bulk quantities to dealers, users or other suppliers, or (b) who is principally engaged in the business of selling or delivering liquefied gas to consumers, or (c) who delivers liquefied gas as a dealer into the fuel supply tanks of motor vehicles owned or operated by others.

(6) "Dealer" means any person who, as the operator of a service station or otherwise, delivers liquefied gas into the fuel supply tanks of motor vehicles owned or operated by others.

(7) "User" means any person who delivers liquefied gas into the fuel supply tanks of motor vehicles owned or operated by him.

(8) "Import-user" means any person who brings liquefied gas into this state in the fuel supply tanks of motor vehicles owned or operated by him for use on the public highways of the State of Texas.

(9) "Lessor" means any person (a) whose principal business is the bona fide leasing or renting of motor vehicles without drivers for compensation to the general public, and (b) who maintains established places of business and whose lease or rental contracts require such motor vehicles to be returned to the established places of business.

(10) "Consumer" means any person not a supplier, dealer or user who makes purchases of liquefied gas.

(11) "Person" means natural persons, partnerships, firms, associations, corporations (public, private or municipal), trustees, and receivers.

(12) "Service station" means a place of business regularly engaging in the sale and delivery of liquefied gas into motor vehicles for their propulsion.

(13) "Comptroller" means the Comptroller of Public Accounts of the State of Texas.

Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.53 Levy of Tax

(1) An excise tax is hereby levied and imposed upon the use of liquefied gas for the propulsion of motor vehicles upon the public highways of this State at the rate of five cents (5¢) per gallon, which said tax shall be collected, reported and paid to the State of Texas as hereinafter provided.

(2) Provided, however, that in lieu of the tax rate specified and levied hereinabove an excise tax shall be and is hereby levied and imposed at four cents (4¢) per gallon of liquefied gas used for the propulsion of buses owned by a transit company (a) the greater portion of whose business is the transportation of persons within the limits of an incorporated city or town in conveyances designed to transport twelve (12) or more passengers; (b) which holds a franchise from such city or town; (c) whose rates are regulated by such city or town; and (d) which pays to such city or town a tax on its gross receipts, or which is a municipally owned and/or operated transit company.

(3) Every supplier shall collect and remit the tax, except as hereinafter provided to the contrary, upon each gallon of liquefied gas sold or delivered by him and shall pay the tax upon each gallon of liquefied gas delivered by him into the fuel supply tanks of motor vehicles owned or operated by him. Upon each taxable sale or delivery of liquefied gas to a user or to a dealer or service station for resale and delivery into motor vehicles, the tax shall be collected and remitted to this State on the gross or volumetric gallonage of liquefied gas so sold or delivered without temperature adjustment of the volume so delivered.

It is expressly provided, however, that deliveries of liquefied gas may be made without collecting the tax otherwise imposed under the following circumstances: (a) when bulk deliveries are made by a bonded supplier to other suppliers holding valid permits, or to bonded dealers or bonded users who have secured from the Comptroller and then and there hold valid permits authorizing them to purchase liquefied gas tax free, or (b) when such deliveries are made by a bonded supplier into a stationary storage facility of a service station from which liquefied gas will be resold and delivered to purchasers for non-highway use and not otherwise, providing such storage facility is maintained separate and apart from facilities servicing fuel supply tanks of motor vehicles and is prominently labeled "NOT FOR HIGHWAY USE" in a manner prescribed by the Comptroller and in plain view of the public to indicate that non-tax paid products are contained therein, or (c) when such deliveries are made into separate fuel tanks not connected, or fitted for connection, to the propulsion system of the motor vehicle, on invoices showing the vehicle unit or highway license number and other information required by Article 10.62 of this Subchapter, or (d) when such deliveries are made into the fuel supply tanks of farm tractors, or other farm or ranch vehicles designed primarily for non-highway use, owned or operated by farmers and ranchers when said liquefied gas is used upon the public highway only to propel or move such tractors or vehicles to or from lands owned or operated by or under the control of such farmers or ranchers and located within a ten (10) mile radius of the point which is the customary base of operations of said farmers or ranchers, or (e) when such deliveries are made to a purchaser for exclusive non-highway use who furnishes the seller a signed statement that none of the liquefied gas so purchased or acquired in bulk quantities in Texas by him will be delivered by him or permitted by

For Annotations and Historical Notes, see V.A.T.S.

him to be delivered into the fuel supply tanks of motor vehicles; except as otherwise prescribed by Rule and Regulation of the Comptroller such statement, when furnished to a licensed supplier, shall be effective as long as said licensed supplier continues to sell and deliver liquefied gas to said purchaser, unless the statement is revoked in writing by the purchaser or supplier, or unless notice in writing of a change in the status of the purchaser is given the supplier by the Comptroller.

A taxable use of any part of the liquefied gas purchased pursuant to the above statement shall, in addition to the penal provisions otherwise provided by law, forfeit the right of the user thereof to purchase liquefied gas tax free for a period of one (1) year from the date of the offense. The Comptroller may, however, issue said person a special user's permit, to be effective for the period of the forfeiture authorizing such person to file claim for refund of the tax paid on any liquefied gas used for non-highway purposes under the refund provisions of Article 10.64 of this Subchapter.

(4) Every dealer shall collect the tax on each gallon of liquefied gas delivered by him into the fuel supply tanks of motor vehicles and shall report and pay to this State any tax so collected which has not been paid to a bonded supplier.

(5) Every user shall report and pay to this State the tax, at the rate imposed, on each gallon of liquefied gas delivered by him into the fuel supply tanks of motor vehicles, unless said tax has been paid to a bonded supplier. Every import-user shall also report and pay the tax, at the rate imposed, on each gallon of liquefied gas imported into this State in the fuel supply tanks of motor vehicles owned or operated by him and used in the operation of such motor vehicles upon the public highways of this State. No permit shall be required and no tax shall be paid on liquefied gas imported in the fuel supply tanks of any motor vehicle when said fuel supply tanks, and any additional containers, have an aggregate capacity of not more than thirty (30) gallons, and if said motor vehicle is not operated by said user for hire, or compensation, or for commercial purposes.

(6) The tax on one and one-half percent (1-½%) of the taxable gallons of liquefied gas sold or distributed in this State shall be allocated to the persons selling, distributing or handling liquefied gas in said State which allocation or allowance shall be deducted by the supplier in the payment to the State of Texas of the taxes herein levied and shall be apportioned among all persons selling, distributing and handling liquefied gas in this State as follows:

I. One percent (1%) to the supplier making the first taxable sale or delivery of such liquefied gas to dealers and users and paying the tax levied hereunder to the State of Texas for the expense of collecting, accounting for, reporting and remitting the taxes collected and keeping records.

II. One-half of one percent (½ of 1%) of the taxable gallons to dealers to cover evaporation and handling losses from the time the liquefied gas is delivered to their storage facilities until it is sold and delivered by them into fuel supply tanks of motor vehicles.

Any user who holds a valid bonded user's permit to report and pay taxes directly to this State on liquefied gas used in the propulsion of motor vehicles upon the public highways of this State shall be entitled to deduct one-half of one percent (½ of 1%) of the taxable gallons upon payment of the taxes to this State by him.

Any person who performs more than one (1) of the functions or activities referred to above (supplier or dealer), shall be entitled to the apportionment or allowance for each such function or activity, subject to the limitations prescribed for each such function or activity, and provided that the aggregate allowance shall never exceed one and one-half percent (1-½%).

It is also provided that every supplier who delivers the liquefied gas he sells in vehicle tanks which is unloaded by means of motor-powered pumping units operated by the same motor with liquefied gas fuel supplied from the same fuel tank which is used to propel the vehicle over the public highways shall, when he has issued or secured an invoice upon each delivery of liquefied gas into the fuel supply tanks of such motor vehicles, containing all the information required to be shown thereon, and has kept the other records required of a supplier, be allowed a deduction from the taxable gallons delivered into the fuel supply tanks of each motor vehicle during the month reported at the rate of one (1) gallon per 1,000 gallons of liquefied gas unloaded by such pumping operation.

In the event the quantity of liquefied gas consumed by power pumping units or other power-take-off equipment of any motor vehicle regardless of the cargo carried can be accurately measured while the vehicle is stationary by any metering or other measuring device designed to measure such fuel separately from fuel used to propel the motor vehicle, the Comptroller is hereby authorized to approve and adopt the use of such measuring device or devices as a basis of determining the quantity of liquefied gas consumed off the highway in such operations.

(7) No city, town, county, or other political subdivision of this State shall levy or collect any excise tax on the sale or use of liquefied gas.

(8) No part of this Act shall prevent sale and delivery by licensed supplier to farm or other users of liquefied gas for highway use when such fuel is delivered into tanks marked "FOR HIGHWAY USE" and such user shall pay the tax prescribed for such Highway Use to the supplier.

Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.54 Dual Carburetion—Presumption of Use

Any person who operates a motor vehicle that is equipped to use liquefied gas and motor fuel interchangeably in the propulsion of said motor vehicle shall be prima facie presumed to have used taxable liquefied gas exclusively in the operation of said motor vehicle, and such person shall be liable for the payment of the tax imposed by this Subchapter on the liquefied gas presumed to have been so used, unless proof of the amount of motor fuel used is maintained.

Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.55 Unlawful Operations of Motor Vehicles

(1) It is unlawful to transport liquefied gas in any cargo tank from which liquefied gas is sold or delivered which has a connection by pipe, tube, valve, or otherwise with the carburetor or with the fuel supply tank feeding the carburetor of the motor vehicle transporting said products.

(2) It is unlawful to operate with liquefied gas any motor vehicle licensed for operation upon the public highway on which a speedometer is not kept at all times in good operating condition to measure and register correctly the miles traveled by such motor vehicle; it is provided, however, any device other than a speedometer which measures and registers correctly the miles traveled may be used on motor vehicles of motor carriers operating under the provisions of the Motor Carrier Act, provided the mileage recorded on such device is inserted in lieu of the speedometer reading on each invoice covering liquefied gas delivered into the fuel supply tanks of such motor vehicles.

Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

For Annotations and Historical Notes, see V.A.T.S.

Art. 10.56 Unlawful Sales

Except in the case of tax free deliveries of liquefied gas authorized by Article 10.53(3) of this Subchapter, it is unlawful to make bulk sales of liquefied gas tax free to any person who (1) is not licensed as a supplier, or (2) is not licensed as a dealer or user of liquefied gas, or (3) does not furnish to the seller the signed statement prescribed in Subsection (e) of said Article 10.53(3).

As a means of determining the validity of a supplier, dealer, or user's permit to purchase liquefied gas tax free, the selling supplier or dealer, or employee or representative thereof, shall examine the permit or photocopy thereof, showing the name of the permit holder, the kind of permit, the permit number, and the period it covers.

In any case where the permit is not made available for such examination by a person desiring to purchase liquefied gas for resale or distribution for taxable purposes, or for predominant use off the public highway, the selling supplier or other vendor shall make inquiry of the Comptroller as to whether such person holds a proper permit before making such sale or delivery without collecting the tax imposed herein.

Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.57 Tax Liability on Leased Motor Vehicles

(1) Except as otherwise provided in this Article, every user or import-user shall be liable for the tax on liquefied gas imported into this State in fuel supply tanks of motor vehicles leased to him and used on the Texas highways to the same extent and in the same manner as liquefied gas imported in his own motor vehicles and used on the public highways of Texas.

(2) Provided, however, a lessor who is engaged regularly in the business of leasing for compensation motor vehicles and equipment he owns without drivers to carriers or other lessees for interstate operation, may be deemed to be the user or import-user when he supplies or pays for the liquefied gas consumed in such vehicles, and such lessor may be issued a permit as an import-user when application and bond have been properly filed with the Comptroller for such permit.

Any lessee may exclude motor vehicles of which he is lessee from his reports and liabilities pursuant to this Subchapter, but only if the motor vehicles in question have been leased from a lessor holding a valid permit as a bonded import-user for the calendar year.

(3) Every such lessor shall file with his application for a bonded import-user's permit one copy of the form lease or service contract he enters into with the various lessees of his motor vehicles. When the import-user permit has been secured such lessor shall make and assign to each motor vehicle he leases for interstate operation a photocopy of such permit to be carried in the cab compartment of said motor vehicle, and on which shall be typed or printed on the back the unit or motor number of the motor vehicle to which it is assigned, and the name of the lessee. Such lessor shall be responsible for the proper use of such photocopy of said permit issued and its return to him with the motor vehicle to which it is assigned.

Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.58 Tax Computation on Mileage Basis

(1) In the event the tax on liquefied gas imported into this State in the fuel supply tanks of motor vehicles for taxable use on the Texas public highways can be more accurately determined on a mileage basis the Comptroller is authorized to approve and adopt such basis. When an import-user imports liquefied gas into or exports liquefied gas from the State of Texas in the fuel supply tanks of motor vehicles, the amount of

liquefied gas consumed in such vehicles on the Texas public highways shall be deemed to be such proportion of the total amount of such liquefied gas consumed in his entire operations within and without this State as the total number of miles traveled on the public highways within this State bears to the total number of miles traveled within and without this State. The Comptroller may also adopt such mileage basis for determining the taxable highway use of liquefied gas used in motor vehicles which travel regularly over prescribed courses on and off the public highways within the State of Texas.

(2) In the absence of records showing the number of miles actually operated per gallon of liquefied gas consumed, it shall be prima facie presumed that not less than one (1) gallon of liquefied gas was consumed for every four (4) miles traveled.

Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.59 Application for Permits

(1) Every person defined herein as a supplier, dealer, import-user, or user shall secure from the Comptroller the kind and class of permit required herein to act in such capacities or to perform such functions. Application shall be filed with the Comptroller for any such permit on a form prescribed by the Comptroller, showing the kind and class of permit desired, and such information as the Comptroller may require.

(2) Any carrier operating motor vehicles into this State for commercial purposes may make application for a trip permit which shall be good for a period of not more than twenty (20) consecutive days beginning and ending on the dates specified on the face of the permit issued. A fee for such trip permits shall be required which shall be in an amount equivalent to the tax payable on the quantity of liquefied gas that could be imported in the fuel supply tanks of such motor vehicles, but never less than Five Dollars (\$5). Such fees shall be in lieu of the use tax otherwise assessable against the permit holder for importing and using liquefied gas in motor vehicles on the public highways of this State, and no reports of mileage shall be required with respect to such vehicles. All such fees collected by the Comptroller shall be allocated to the same funds to which the liquefied gas taxes collected hereunder are allocated.

Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.60 Bonds

(1) Every person who is authorized by permit or required by law to make remittances or payments directly to this State of taxes collected upon the sale or delivery of liquefied gas or of taxes incurred upon the use of said products shall file with his application for permit a bond in an amount to be set by the Comptroller at not less than two (2) times the amount of taxes that will accrue or may be expected to accrue during any month of the calendar year, but which bond shall never be less than One Thousand Dollars (\$1,000) if filed by a supplier nor less than Five Hundred Dollars (\$500) if filed by a dealer or user.

Every such bond shall be executed by a surety company authorized to do business in this State, payable to the State of Texas, and shall remain in force from the date it is made effective to the end of the calendar year, unless released by the Comptroller as herein provided. Such bond shall be conditioned upon the full, complete, and faithful performance by the person for whom it is issued of all of the conditions and requirements imposed on said person by this Subchapter, or by rules and regulations promulgated by the Comptroller, and shall expressly guarantee the remittance or payment to the State of Texas within the time prescribed by law of all taxes, penalties, interest, and costs required herein to be remitted or paid to this State by said person. Any such bond which is continuous in form may be continued in effect for a succeeding calendar year by a re-

For Annotations and Historical Notes, see V.A.T.S.

newal certificate, which certificate shall have all the force and effect of an original bond.

(2) If the amount of any existing bond becomes insufficient, or any surety on a bond becomes unsatisfactory or unacceptable, the Comptroller may require the filing of a new or an additional bond. The Comptroller shall also have authority to require the filing of reports and tax remittances at shorter intervals than one month if, in his opinion, an existing bond has become insufficient. If any supplier or any user licensed hereunder shall fail or refuse to file a new or an additional bond within ten (10) days after demand or shall fail or refuse to file reports and remit or pay taxes at the intervals fixed by the Comptroller, his permit shall be revoked or suspended in the manner herein provided. The filing of a new bond, or the cancellation or suspension of a permit, or recoveries on any bond, shall not invalidate an existing bond, but any surety on a bond shall be released and discharged from any and all liability accruing under such bond after the expiration of thirty (30) days from the date such surety has filed with the Comptroller at his Office in Austin, Travis County, Texas, written request to be released and discharged. Such request shall not operate to release or discharge such surety from liabilities incurred prior to the expiration of said thirty-day period. The Comptroller shall, upon receipt of any such request, promptly notify the person in whose behalf such bond was filed, and unless said person shall file with the Comptroller a new bond in the amount and form herein provided within fifteen (15) days from the date of such notice, the Comptroller shall proceed to cancel the permit of such person.

(3) Any person who has filed with the Comptroller a bond as a motor fuel distributor under the terms and conditions provided in the Motor Fuel Tax Law, Chapter 9, Article 9.07 of this Act, may extend the terms and conditions of said distributor's bond, by rider or bond form approved by the Comptroller, to include coverage of all liabilities and conditions imposed by this Subchapter upon the supplier, dealer or user to whom said extension is made applicable. The amount of bond that may be required of a supplier, dealer or user shall not exceed the maximum amount provided by said Motor Fuel Tax Law for a motor fuel distributor's permit.

(4) Any applicant for a permit may, in lieu of filing a surety bond, deposit cash in the amount of bond required in the Suspense Account of the State Treasury, or may deposit securities of a par value equal to the amount of bond required and a class in which funds of the University of Texas may be legally invested.

Such cash or securities shall be released within sixty (60) days after cancellation or surrender of any permit held by the person in whose behalf they were deposited when said permit holder has been cleared of all tax liability by the Comptroller.

The Comptroller is hereby authorized and empowered to withdraw and use any such cash and to sell any such securities and use the proceeds therefrom to pay off and satisfy any judgment secured in any action by this State to recover liquefied gas taxes, costs, penalties, and interest found to be due this State by any person in whose behalf such cash or such securities were deposited. Any such person may acknowledge in writing the correctness of the State's claim against him for taxes, costs, penalties and interest and may authorize the use of said cash or the proceeds from the sale of such securities to pay on or pay off the claim without having suit filed.

Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.61 Permits

(1) Upon approval of an application and approval of the bond required, the Comptroller shall issue to the applicant a permit authorizing him to engage in the kind of business or other operations or to perform the functions set out in and authorized by the class of permit so issued. The permits shall be issued for each calendar year, or any unexpired part of a year, and shall be effective from the date of issue to the end of such calendar year, unless revoked or suspended for cause, as hereinafter provided. Such permits shall be of the kinds and classifications as set out hereinbelow:

BONDED SUPPLIER PERMITS.

Authorizing persons to engage in business as suppliers of liquefied gas to licensed dealers, users, other suppliers, and to other authorized purchasers of liquefied gas.

NON-BONDED DEALER PERMITS.

Authorizing dealers whose purchases of liquefied gas are predominantly for sale and delivery into the fuel supply tanks of motor vehicles to operate as dealers who pay the tax imposed herein to the supplier of such fuel and claim refund of the tax paid on any liquefied gas thereafter sold for non-highway use.

BONDED DEALER PERMITS.

Authorizing dealers whose purchases of liquefied gas are predominantly for resale for non-highway use to purchase liquefied gas tax free from their supplier and to report and pay taxes to this State on the part of such liquefied gas which is delivered into the fuel supply tanks of motor vehicles.

NON-BONDED USER PERMITS.

Authorizing users whose purchases of liquefied gas are predominantly for delivery by them into the fuel supply tanks of motor vehicles owned or operated by them, or users whose right to purchase liquefied gas tax free has been forfeited, to pay the tax imposed herein to the supplier and claim refund of the tax paid on any liquefied gas thereafter used by them off the public highways.

BONDED USER PERMITS.

Authorizing users whose purchases of liquefied gas are predominantly for non-highway use by them to purchase liquefied gas tax free from their suppliers and to report and pay taxes to this State on the part of such liquefied gas which is delivered into the fuel supply tanks of motor vehicles owned or operated by them.

BONDED IMPORT-USER PERMITS.

Authorizing users to import or bring liquefied gas into this State in the fuel supply tanks of motor vehicles owned or operated by them, and to report and pay the tax due thereon to this State, and to claim credit or a refund of the tax paid on liquefied gas which is thereafter used in other States.

Nothing herein shall be construed as permitting any tax free sale or delivery of liquefied gas to an import-user, or of permitting any sale and delivery of liquefied gas directly into the fuel supply tanks of a motor vehicle without collecting the tax thereon from the purchaser of such liquefied gas.

The Comptroller shall determine from the information shown in the application or other investigation the kind and class of permit to be issued.

A supplier may operate under his supplier's permit as a dealer, an import-user, or as a user without securing a separate permit, but he shall be subject to all other conditions, requirements, and liabilities imposed by this Subchapter upon a dealer, an import-user, or a user. A licensed dealer may use liquefied gas in motor vehicles owned or operated by him without securing a separate permit as a user, subject to all conditions, requirements, and liabilities imposed herein upon a user.

For Annotations and Historical Notes, see V.A.T.S.

All permits shall be posted in a conspicuous place or kept available for inspection at the principal place of business of the owner thereof. Permit holders shall reproduce the permit by photostat or other method and keep a copy on display at each additional place of business or other place of storage from which liquefied gas is sold, delivered or used and in each motor vehicle used by the permit holder to transport liquefied gas purchased by him for resale, distribution or use. Persons holding import-user permits shall reproduce the permit and carry a photocopy thereof with each motor vehicle being operated into or from the State of Texas.

(2) The Comptroller or any authorized representative of the Comptroller, is hereby authorized to cancel or to suspend any permit issued under the terms of this Subchapter or to refuse the issuance, extension, or reinstatement of any permit to any person who has violated, or has failed to comply with, any rule and regulation of the Comptroller or any provision of this Subchapter. Before any such permit may be cancelled or suspended, or the issuance, or extension, or reinstatement of any such permit may be refused, the Comptroller shall give the owner of such permit, or applicant therefor, not less than five (5) days notice of a hearing at the Office of the Comptroller in Austin, Travis County, Texas, or at any district office maintained by the Comptroller's Department, granting said owner or applicant an opportunity to show cause before the Comptroller, or his authorized representative, why such action should not be taken. Such notice shall be in writing and may be mailed by certified or registered mail to said owner or applicant at his last known address or may be delivered by a representative of the Comptroller to the owner or applicant, and no other notice shall be required. The Comptroller may prescribe his own rules of procedure and evidence for such hearings.

If, after said hearing or opportunity to be heard, the permit is cancelled, as above provided, all taxes which have been collected or required to be collected upon the sale or delivery of liquefied gas and all taxes which have accrued upon the use of said product shall ipso facto become delinquent, and the permittee shall forthwith file a report for any period not covered by preceding reports filed by him to the date of cancellation and shall remit and pay to the State of Texas all taxes which have been collected or required to be collected and which have accrued from the sale or delivery or use of liquefied gas up to and including the date of cancellation. A new permit shall not be issued to any person who is delinquent in the payment of taxes, penalties or interest.

After being given notice of any such order of cancellation, it shall be unlawful for any person to continue to operate his business under a cancelled permit.

An appeal from any order of the Comptroller, or his authorized representative, cancelling or refusing the issuance, extension or reinstatement of any permit may be taken to the District Court of Travis County, Texas, by the aggrieved permittee or applicant. The trial shall be de novo under the same rules as ordinary civil suits with the following exceptions, which shall be considered literally, viz.: (1) all appeals shall be perfected and filed within thirty (30) days after the effective date of the order, decision, or ruling of the Comptroller, or his authorized representative; (2) such proceedings shall have precedence over all other causes of a different nature; (3) trial of all such cases shall commence within ten (10) days from the filing thereof; (4) the order, decision, or ruling of the Comptroller, or his authorized representative, may be suspended or modified by the Court pending a trial on the merits.

Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.62 Records Required

(1) Every supplier, dealer, import-user or user, whether or not required by the provisions of this Subchapter to secure a permit to sell, deliver, or use liquefied gas shall keep for a period of two (2) years open to inspection at all times by the Comptroller or Attorney General, or their authorized representatives, a complete record of all liquefied gas purchased or received and all of such products sold, delivered, or used by them showing the date of each receipt, the name and address of the person from whom purchased or received, the number of gallons received at each place of business or place of storage in Texas, and showing the date of each sale or delivery, the number of gallons sold or delivered for taxable purposes, and the number of gallons sold or delivered for any purpose not subject to the tax imposed herein, and if sold in bulk quantities the name and address of the purchaser, and showing inventories of liquefied gas on hand at each place of business at the end of each month.

(2) Each bulk sale and delivery of liquefied gas shall be covered by an invoice with the name and address of the supplier or dealer and a serial number printed thereon, showing the complete information set out hereinabove for each such sale, one counterpart of which shall be delivered to the purchaser and another counterpart kept by the supplier or dealer for the period of time and purposes above provided. Every delivery of liquefied gas into the fuel supply tank of a motor vehicle shall be recorded upon a serially numbered invoice issued in not less than duplicate on which shall be printed, or stamped with a rubber stamp, the name and address of the supplier, dealer, or user making such delivery and on which shall be shown the name and address or credit card identification of the purchaser, the date of delivery, the number of gallons of liquefied gas so delivered, the total mileage recorded on the speedometer of the motor vehicle into which delivered, and the State highway license or unit number of said motor vehicle. The invoice shall be signed by the driver.

The invoice required above must be demanded by every person purchasing and receiving a delivery of liquefied gas into the fuel supply tank of a motor vehicle in Texas at the time of such delivery and such person shall carry the invoice with the vehicle until the fuel covered by same is consumed. The invoice shall show the tax rate or amount of tax paid or accounted for.

Every supplier, dealer or user making such sales or distribution of liquefied gas and every person so receiving and purchasing liquefied gas must each retain one copy of each such invoice as part of his permanent records for the time and purposes above provided.

(3) Every user shall keep, in addition to his record of deliveries into motor vehicles a complete record of the total gallons of liquefied gas used for other purposes during each month and the purposes for which said liquefied gas was used.

Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.63 Tax Payments—Reports

(1) Every supplier and dealer who is licensed herein to collect taxes for the sale or delivery of liquefied gas and every user who is required to pay taxes on the delivery of liquefied gas into the fuel supply tanks of motor vehicles or on the use of imported liquefied gas shall, on or before the 25th day of each calendar month, pay to the State of Texas at the Office of the Comptroller in Austin, Travis County, Texas, the amount of such taxes required to be collected and the amount required to be paid during the month next preceding, unless said taxes have been paid by a user to a licensed supplier as provided in this Subchapter. At the time of making such tax payments, every supplier, dealer, or user who is re-

For Annotations and Historical Notes, see V.A.T.S.

quired to pay any taxes directly to this State, shall file with the Comptroller a report of liquefied gas handled in the form and manner as herein-after provided.

(2) Every supplier shall, on or before the 25th day of each calendar month, file with the Comptroller upon a form prescribed by the Comptroller an itemized report made subject to the penalties of Article 1.12, Chapter 1 of this Title, accounting for the liquefied gas handled during the preceding month which report shall show the quantities of liquefied gas purchased or received from sources within this State and the quantities received from sources outside of this State, the quantities sold or delivered to dealers and users upon which taxes were required to be collected, the quantities sold and delivered to users without collecting said taxes, the quantities sold and delivered into the fuel supply tanks of motor vehicles, the quantities delivered into the fuel supply tanks of motor vehicles owned or operated by such supplier and the quantities used by him for other purposes, the total quantities sold or delivered to persons other than dealers, users, or operators of motor vehicles, the quantities lost by fire or other accident, the quantities lost by shrinkage or evaporation, and the total quantities on hand at the beginning and at the end of the month covered by such report. The report shall include a schedule of the total quantities of liquefied gas sold or delivered to users without collecting taxes thereon, and the names and addresses of such users. The Comptroller may in his discretion require selective schedules from any supplier with respect to any purchases, sales or deliveries of liquefied gas. Every supplier shall attach legal tender to said report or make proper form of money order or exchange payable to the State Treasurer in the amount of taxes due for the period covered by the report.

(3) Every dealer who purchases or acquires liquefied gas tax-free for taxable resale or delivery of any part of said products shall, on or before the 25th day of each calendar month, make and file with the Comptroller on forms prescribed by the Comptroller an itemized report, made subject to the penalties of Article 1.12, Chapter 1 of this Title, accounting for the liquefied gas handled during the preceding month which report shall show, the quantities of liquefied gas purchased or received and the suppliers from whom received, the quantities of liquefied gas sold and delivered into the fuel supply tanks of motor vehicles, the quantities of liquefied gas sold and delivered for use off the public highways and the purposes for which purchased, the quantities of liquefied gas delivered into the fuel tanks of motor vehicles owned or operated by such dealer and the quantities of liquefied gas used by him for other purposes, the quantities of liquefied gas lost by fire or other accident, and the total gallons of liquefied gas on hand at the beginning and at the end of the month covered by such report. The Comptroller may in his discretion require schedules from any such dealer with respect to any purchases, sales or deliveries of liquefied gas. Every such dealer shall attach legal tender to said report or make proper form of money order or exchange payable to the State Treasurer in the amount of taxes due for the period covered by the report.

(4) Every user who purchases or acquires liquefied gas tax-free for taxable use of any part of said products shall, on or before the 25th day of each calendar month, file with the Comptroller upon forms prescribed by the Comptroller an itemized report, made subject to the penalties of Article 1.12, Chapter 1 of this Title, accounting for the liquefied gas handled during the preceding month which report shall show the quantities of liquefied gas purchased or received and the suppliers from whom received, the quantities delivered into the fuel supply tanks of motor vehicles owned or operated by such user, the quantities used off the public highways of this State and the purposes for which used, the quantities lost by fire or other accident or disposed of in any other manner, and the total

quantities on hand at the beginning and at the end of the month covered by such report. The Comptroller may in his discretion require schedules from any such user with respect to any purchases, deliveries or uses of liquefied gas. Every such user shall attach legal tender to said report or make proper form of money order or exchange payable to the State Treasurer in the amount of taxes due for the period covered by the report.

(5) Every import-user who imports liquefied gas in the fuel supply tanks of motor vehicles operated by him on the public highways of Texas for hire or compensation or for commercial purposes shall, on or before the 25th day of each calendar month, file with the Comptroller on forms prescribed by the Comptroller an itemized report, made subject to the penalties of Article 1.12, Chapter 1 of this Title, accounting for all liquefied gas imported and all liquefied gas used in such motor vehicles during the preceding calendar month, which report shall show for each motor vehicle operated by said user into or from the State of Texas for such purposes, the total miles traveled in Texas and elsewhere, the total quantities of liquefied gas consumed by each motor vehicle in such travel and the average miles traveled per gallon of fuel consumed, the total miles traveled in the State of Texas and the quantities of liquefied gas purchased in Texas and delivered into the fuel supply tanks of each such motor vehicle, and such other information pertinent to the use of liquefied gas in such motor vehicles and the taxes paid or accrued thereon, as the Comptroller may require. The Comptroller may in his discretion permit the filing of such reports on a fleet mileage basis and may require schedules to be submitted as a part of such report with respect to any liquefied gas purchased or used in connection with such operations. Every such user shall attach legal tender or make proper form of money order or exchange payable to the State Treasurer in the amount of taxes due for the period covered in the report.

(6) When it shall appear to the Comptroller from evidence submitted by an import-user that records of liquefied gas used by him for taxable purposes on the public highways of this State in motor vehicles operated in interstate travel cannot be secured from all drivers of such vehicles in time to file accurate reports and tax remittances within the time prescribed by law, the Comptroller may agree to accept monthly reports and tax remittances computed on a fixed mileage basis by which the miles traveled in Texas by said vehicles will be divided by a fixed mileage factor to determine the taxable gallons of liquefied gas used in such vehicles upon the public highways of this State. It is expressly provided, however, that whenever an audit made by the Comptroller from the records required to be kept by the user shows that more liquefied gas was consumed on the Texas highways on a basis of the average miles traveled per gallon of fuel consumed than was reported for tax purposes, the import-user shall be liable for the tax on the additional gallons shown as used, and any penalties and interest accrued thereon.

(7) When it shall appear that a supplier, dealer, or user, to whom the provisions of this Subchapter shall apply, has erroneously reported and remitted or paid more taxes than were due the State of Texas upon any liquefied gas during any taxpaying period, either on account of a mistake of fact or law, it shall be the duty of the Comptroller to credit the total amount of taxes due by such supplier, dealer, or user for the current period, if any, with the total amount of taxes so erroneously paid, or said supplier, dealer, or user may file claim for refund of the taxes erroneously paid. Such credit shall be allowed or the tax refund claim paid before any penalties and interest shall be applicable.

Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.64 Refunds

(1) Except as otherwise provided by Article 10.65 of this Subchapter, any dealer who shall have paid the tax at the rate imposed upon any liquefied gas which has been used or sold for use by such dealer for any purpose other than propelling a motor vehicle upon the public highways of this State, or which has been sold to the United States Government for the exclusive use of said government, and any user who shall have paid said tax at the rate imposed upon any liquefied gas which has been used by such user for any purpose other than propelling a motor vehicle upon said public highways, may file claim for a refund of the tax or taxes so paid, less one and one-half percent (1½%) allowed vendors for the expense of collecting and reporting such taxes to this State. Such claims shall be filed with the Comptroller on forms prescribed by the Comptroller and shall show the date of filing and the period covered in the claim, the number of gallons of liquefied gas sold or used for purposes subject to tax refund, and shall show such other facts and information as the Comptroller may require. Every such claim shall be supported by an invoice or invoices issued to or by the claimant, as hereinafter provided, or such other information as the Comptroller may require, and shall be filed in the Office of the Comptroller within one (1) year from the first day of the calendar month in which the liquefied gas was invoiced or required to be invoiced for sale or use, and no claim shall be made by the claimant or approved by the Comptroller after the expiration of one (1) year from the first day of the calendar month in which said liquefied gas was invoiced or required to be invoiced for sale or use.

Every bonded import-user shall be entitled to a credit equivalent to the tax rate per gallon paid on all liquefied gas upon which the Texas tax has been paid and which has thereafter been consumed in motor vehicles outside of the State of Texas. When the amount of credit herein provided to which the import-user is entitled for any calendar month exceeds the amount of tax for which such import-user is liable for liquefied gas consumed in such vehicles during the same month, such excess shall under regulations of the Comptroller, be allowed as a credit against the tax for which such import-user would be otherwise liable for a period of one (1) year from the first day of the calendar month in which the liquefied gas was used; or upon claim filed with the Comptroller within one (1) year from the first day of any calendar month in which said liquefied gas was used, such excess may be refunded as hereinabove provided. Evidence of the mileage traveled and the gallonage consumed and the payment of the liquefied gas tax, on such form as may be required by or is satisfactory to the Comptroller, shall be furnished by such import-user claiming the credit or tax refund herein allowed.

(2) When liquefied gas is sold by a dealer or is appropriated for use by a user for any purposes for which a refund of the tax paid on said products may be claimed as provided herein, such dealer or user shall, at the time of each sale or appropriation for use and not thereafter, make out a serially numbered invoice in not less than duplicate counterparts with the name and address of the dealer or user printed thereon which shall show the date of the sale or appropriation for use, the quantities of liquefied gas sold or appropriated for use, the purposes for which used, as declared by the purchaser or user, and such other information as the Comptroller may require. The invoice shall be signed by the recipient of any such liquefied gas purchased from a dealer. One counterpart of each invoice shall be kept by the dealer or user for a period of two (2) years open to the inspection of the Comptroller or his authorized representatives, and the other counterpart shall be filed as a part of the claim for tax refund as above provided. The Comptroller may authorize the filing of other information in lieu of the invoice counterpart.

(3) Any dealer or user who shall file claim for refund of the tax on any liquefied gas which has been used to propel a motor vehicle, or other conveyance upon the public highways of Texas for any purpose for which a tax refund is not authorized herein, or who shall file any invoice in a claim for tax refund upon which any date, figure, signature, or other material information is false or incorrect, shall forfeit his right to the entire amount of the refund claim filed.

(4) If upon examination or investigation the Comptroller finds that the claim is just and that the taxes claimed have been paid by the claimant, he shall issue warrant to the claimant in the amount due but no greater amount shall be refunded than has been paid into the State Treasury on any such liquefied gas.

(5) All the moneys paid into the Treasury under the provisions of this Subchapter, except the filing fees provided herein, shall be set aside in the special fund known as the Highway Motor Fuel Tax Fund and no part of said fund shall be credited to the Available School Fund until a report is made by the Comptroller to the Treasurer, showing the total maximum amount of refunds that may be required to be paid by the State out of said funds. The Comptroller shall on the 20th day of each month, or as soon thereafter as is possible, compute and ascertain the maximum amount of funds that may be due by the State on the sale of liquefied gas during the preceding month, upon which a refund may be due, and shall certify to the State Treasurer the maximum amount, and the Treasurer shall reserve said amount each month out of which to pay refunds and shall not distribute that part of said fund until the expiration of the time in which a refund can be made out of said fund, but as soon as said report has been made by the Comptroller and the maximum amount of refunds determined, he shall deduct said maximum amount from the total taxes paid for such month, and apply the remainder of such as provided by law. If the claimant loses, or for any reason fails to receive warrant after it has been issued by the Comptroller, and upon satisfactory proof of such, the Comptroller may issue claimant duplicate warrant as provided in Article 4365, Revised Civil Statutes of Texas.

So much of said fund is hereby appropriated and set aside as may be necessary to pay the refunds provided herein. In no event shall any refund be made to any person in excess of the actual amount paid by such person, and the one and one-half percent (1½%) deducted originally by the supplier upon the sale or delivery of the liquefied gas shall be deducted in computing the refund. The Comptroller shall deduct fifty cents (50¢) from all such refunds as a filing fee, which fee shall be deducted from the warrant issued in payment of such refund which said filing fee shall be set aside for the use and benefit of the Comptroller in the administration and enforcement of the provisions of this Subchapter, and for the payment of expenses in furnishing the claim forms and other forms provided for herein, and the same is hereby appropriated for such purposes. All such filing fees shall be paid out on vouchers and warrants in such manner as may be prescribed by law.

Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.65 Exceptions to Tax Refunds

(1) No tax refunds shall be paid to any person on liquefied gas used in any construction, maintenance or repair work on the public highways of this State when and if such work is paid for from any State funds to which liquefied gas tax collections are allocated or is paid jointly from any such State funds and Federal funds.

(2) The delivery of liquefied gas into the fuel supply tanks of any tractor, truck tractor, vehicle, or machine of any kind or description for use in hauling materials, supplies or products over the public highways to or from any highway construction, maintenance or repair work, shall

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constitute and be deemed to mean the delivery of liquefied gas into the fuel supply tanks of motor vehicles for taxable use.

Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.66 Prima Facie Presumptions

(1) Any supplier, dealer, or user who shall fail to keep the records, issue the invoices or file any reports required by this Subchapter, shall be prima facie presumed to have sold, delivered or used for taxable purposes all liquefied gas shown by a duly verified audit by the Comptroller, or any authorized representative thereof, to have been sold or delivered to such supplier, dealer or user, and the Comptroller is hereby authorized to fix or establish the amount of taxes, penalties and interest due the State of Texas from such records of deliveries or from any records or information available to him and if the tax claim as developed from such procedure is not paid, such claim and any audit made by the Comptroller, or an authorized representative thereof, or any report filed by such supplier or user, shall be admissible in evidence in any suit or judicial proceedings filed by the Attorney General, and shall be prima facie evidence of the correctness of said claim or audit; provided that the prima facie presumption of the correctness of the claim may be overcome upon the trial by evidence adduced or by an audit submitted by said supplier, dealer or user.

(2) A certificate under the seal of the Comptroller executed by said Comptroller or his Chief Clerk, setting forth the terms of any order, rule, regulation, report, bond or other instrument referred to in this Subchapter, and that the same had been adopted, promulgated, or executed and filed with the Comptroller, and was in force and effect at any date or during any period specified in such certificate, shall be prima facie evidence of all such facts, and such certificate, shall be admitted in evidence in any action, civil or criminal, involving such order, rule, regulation, report, bond, or other instrument without further proof of such adoption, promulgation, execution or filing, and without further proof of its contents.

Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.67 Liens

All taxes, penalties, interest and costs due by any supplier, dealer, user or import-user under the provisions of this Subchapter and all taxes collected by a supplier or dealer and required to be paid to this State, shall be secured by a preferred lien, first and prior to any and all other existing liens, contract or statutory, legal or equitable, and regardless of the time such liens originated, upon all of the property of any supplier, dealer, user or import-user devoted to or used in his business or other operations as a supplier, dealer, user, or import-user, which property shall include all plants, storage tanks, warehouses, office buildings, pumps, and equipment, vehicle tanks, trucks, trailers, or other vehicles, stocks on hand of every kind and character whatsoever used or usable in such business or other operations including liquefied gas and the proceeds from the sale or delivery of liquefied gas and including cash on hand and in banks, accounts and notes receivable and any and all other property of every kind and character whatsoever and wherever situated, which is devoted to such use, and each tract of land on which such plants, storage tanks and other property is located, or which is used in carrying on such business or other operations.

This lien shall not be valid against any "mortgagee" of a "motor vehicle" as those terms are defined in the Certificate of Title Act, provided such mortgagee does not have actual notice of the State's lien and has complied with the provisions of the Certificate of Title Act prior to the filing by the Comptroller of Public Accounts with the State Highway

Department a certificate showing the make, body type and motor number of the motor vehicle upon which a tax lien exists and the amount of taxes, penalties, interest, and costs due the State. The Comptroller of Public Accounts' certificate is to be filed with the State Highway Department and the State's lien need not be placed of record upon the motor vehicle's certificate of title.

The Comptroller of Public Accounts shall file with the State Highway Department a certificate containing the information above provided in this Section as to any motor vehicle upon which a tax lien exists to secure the payment of the taxes owing by any supplier, dealer, user, or import-user and the filing of such certificate by the Comptroller of Public Accounts shall constitute sufficient notice of the existence and the assertion by the State of the statutory lien to secure the payment of the taxes owing to the State by such supplier, dealer, user, or import-user and any mortgagee of any mortgage, made after the filing of such certificate with the State Highway Department, shall be deemed to have notice of such lien, and the State's lien upon such motor vehicle shall continue to be a valid and prior lien as to any mortgagee. But such lien shall not be valid as to any mortgagee of a motor vehicle if the lien of such mortgagee was created and recorded prior to the filing of such certificate by the Comptroller of Public Accounts with the State Highway Commission.

Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.68 Civil and Statutory Penalties

(1) If any person affected by this Subchapter shall fail or refuse to comply with any provision thereof or shall violate the same, or shall fail or refuse to comply with any rule and regulation promulgated hereunder by the Comptroller or shall violate the same, he shall forfeit to the State of Texas as a penalty the sum of Twenty-five Dollars (\$25). Such penalty, if not paid, shall be recovered in a suit by the Attorney General in a court of competent jurisdiction in Travis County, Texas, or any other court of competent jurisdiction having venue under existing venue Statutes. Provided that in addition to such penalty, if any supplier, dealer, user or import-user does not make remittance for any taxes collected, or pay any taxes due the State of Texas by said supplier, dealer, user or import-user, within the time prescribed by law said supplier, dealer, user or import-user shall forfeit two percent (2%) of the amount due; and if said taxes are not remitted or paid within ten (10) days from the date the Comptroller gives such supplier, dealer, user or import-user notice in writing directed to his last known address that all taxes which appear to be due have not been paid, an additional eight percent (8%) shall be forfeited. All past due taxes and penalties shall draw interest at the rate of six percent (6%) per annum.

(2) The venue of any suit, injunction or other proceedings at law or in equity available for the establishment or collection of any claim for delinquent taxes, penalties, or interest accruing hereunder, and the enforcement of the terms and provisions of this Subchapter, shall be in a court of competent jurisdiction of Travis County, Texas, or in any other court of competent jurisdiction having venue under existing venue Statutes.

Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.69 Impounding Vehicles

In order to enforce the provision of this Subchapter, the Comptroller or his authorized representatives, or any Highway Patrolman of the Department of Public Safety, any sheriff, constable and their deputies, or any other peace officer, is empowered to stop any motor vehicle which appears to be operating with liquefied gas for the purpose of examining

For Annotations and Historical Notes, see V.A.T.S.

the invoice required to be carried, and examining any permit or copy thereof that may be required to be carried, to take samples from the fuel supply tanks, and for such other investigations as could reasonably be made to determine whether the taxes have been paid or accounted for by a licensed user upon the liquefied gas being used to propel the motor vehicle upon the public highways of Texas. If after said examination or other investigation it is found the owner or operator of said motor vehicle has not been paid said taxes, or does not possess a valid permit as a user or import-user to use such liquefied gas in motor vehicles operating on said public highways, such authorized officers shall impound the motor vehicle, and unless proof is produced within seventy-two (72) hours from the beginning of impoundment that the owner or operator has paid said taxes, and has paid all other taxes established by audit or investigation by the Comptroller, or his authorized representatives, to be due upon the use of liquefied gas for the propulsion of motor vehicles upon the public highways of Texas, or that said owner or operator holds a valid user's or import-user's permit to use liquefied gas for such purposes, the motor vehicle shall be held until all taxes, penalties and interest found to be due this state and all costs of impoundment have been paid, or until said owner or operator has filed bond with the Comptroller payable to the State Treasurer, in an amount equal to twice the amount of taxes, penalties, interest and costs found to be due, to guarantee the payment of such liabilities to the State of Texas.

If the taxes, penalties, interest and costs found to be due are not paid, the Comptroller shall certify the claim to the Attorney General who shall file proceedings to foreclose the State's tax lien upon such motor vehicle, or take such other action to recover the amount due the State as provided by law.

Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.70 Subpoenas

The Comptroller, or any duly authorized representative under the direction of the Comptroller, shall, for the purposes contemplated by this Subchapter, have power to issue subpoenas, compel the attendance of witnesses, administer oaths, certify to official acts, take depositions within or without the State of Texas, as now provided by law, and compel the production of pertinent books, accounts, records, and documents.

If any witness refuses to obey such subpoena or refuses to produce any pertinent books, accounts, records, or documents, named in such subpoena and in the possession or control of said witness, or if any witness in attendance before the Comptroller or one of his authorized representatives refuses without reasonable cause to be examined or to answer any legal or pertinent question, or to produce any books, record, paper, or document when ordered to do so by the Comptroller or his authorized representative, the Comptroller or his representative shall certify the facts and the names of the witnesses so failing and refusing to appear and testify, or refusing access to the books, records, papers, and documents, to the district court having jurisdiction of the witness; said court shall thereupon issue proper summons to said witness to appear before the said Comptroller, or his authorized representatives, at a place designated within the jurisdiction of said court, on a day to be fixed, to be continued as occasion may require, and give such evidence and open for inspection such books, records, papers, and documents as may be required for the purpose of enforcing the provisions of this Subchapter. Upon failure to obey such summons the Judge before whom the matter shall come for hearing shall examine under oath such witness or person, and such person shall be given an opportunity to be heard; and if the Judge shall determine that such person has refused, without reasonable cause or legal excuse, to be examined or answer a legal or pertinent question, or to produce a book, record, paper, or document,

which he was ordered to bring or produce, he shall forthwith punish the offender as for contempt of court.

Subpoena shall be served and witness fees and mileage paid as in civil cases in the district court in the county to which such witness shall be called. Witnesses subpoenaed at the instance of the Comptroller, or his authorized representatives, shall be paid their fees and mileage by the Comptroller out of any funds appropriated to said Comptroller.

The Comptroller may, if necessary to enforce the provisions of this Article, require such number of his representatives as he deems necessary to enforce the provisions hereof to subscribe to the constitutional oath of office, a record of which shall be filed in the Office of the Comptroller. Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.71 Rules and Regulations

(1) It is hereby made the duty of the Comptroller to collect, supervise, and enforce the collection of all taxes, penalties, interest and costs, due or that may become due under the provisions of this Subchapter, and to that end the Comptroller is hereby vested with all the power and authority conferred by this Subchapter. The Comptroller shall also have the power and authority to promulgate rules and regulations, not inconsistent with this Chapter or the Constitution of this State or the United States, for the enforcement of the provisions of this Subchapter and the collection of all taxes, penalties, interest and costs levied hereunder.

(2) Upon final adoption of any rule and regulation, the Comptroller shall file a copy thereof with the Secretary of State, State of Texas, and the same shall have the force and effect of law as of the date of such filing unless a subsequent date is specified therein. Any person who violates or fails to comply with any valid rule and regulation which has been duly promulgated by the Comptroller and filed with said Secretary of State, or violates or fails to comply with any provision thereof, shall be subject to the penalties prescribed by Articles 10.68 and 10.75 of this Subchapter.

Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.72 Allocation of Funds

Before allocation of the funds collected hereunder is made, one percent (1%) of the gross amount of said fund shall be set aside in the State Treasury in a special fund for the use of the Comptroller in the administration and enforcement of the provisions of this Subchapter and so much of said amount as may be needed is hereby appropriated for said purpose. Any unexpended portion of such fund shall at the end of each fiscal year revert to the respective funds in the proper proportions to which the liquefied gas taxes are allocated.

Each month the Comptroller shall, after making deductions for refund purposes as provided in Article 10.64 of this Subchapter, and for the administration and enforcement of the provisions of this Subchapter allocate and deposit the remainder of the taxes collected under the provisions thereof, in the proportions as follows: One-fourth ($\frac{1}{4}$) of such taxes shall go to and be placed to the credit of the Available Free School Fund and three-fourths ($\frac{3}{4}$) of such taxes shall go to and be placed to the credit of the State Highway Fund.

Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

For Annotations and Historical Notes, see V.A.T.S.

Art. 10.73 Penalty, Failure to Pay or Conversion of Taxes

(1) All taxes collected under the provisions of this Subchapter shall be for the use and benefit of the State of Texas and shall not be appropriated or diverted to any other use. Said taxes shall be paid over to the State of Texas at the time and in the manner provided herein.

(2) If any supplier or dealer, or any director, officer, agent, employee, trustee, or receiver of such supplier or dealer, or any person shall willfully fail or refuse to pay over to the State of Texas any such tax fund collected by him under the provisions of this Subchapter on or before the date such payment is required to be paid under the provisions of this Subchapter, such supplier or dealer, or such director, officer, agent, employee, trustee, or receiver of such supplier or dealer, or such person, shall be guilty of a felony and upon conviction shall be punished by confinement in the State penitentiary for not more than ten (10) years, or by confinement in the county jail for not less than one (1) month nor more than one (1) year, or by a fine of not less than Five Hundred Dollars (\$500) nor more than Ten Thousand Dollars (\$10,000), or by both such fine and jail imprisonment.

(3) If any director, officer, agent, employee, trustee, receiver of any supplier or dealer, or any person, shall fraudulently misapply or convert to his own use any tax fund collected for the State of Texas under the provisions of this Subchapter by such supplier or dealer, or any director, officer, agent, employee, trustee, receiver of such supplier or dealer, or by such person, which said money has come into the possession of or that is in the care of or under the control of such director, officer, agent, employee, trustee, receiver of such supplier or dealer, or of such person, and which said money is required to be paid to the State of Texas under the provisions of Subchapter B of this Chapter, such director, officer, agent, employee, trustee, receiver of such supplier or dealer, or such person shall be guilty of a felony and upon conviction, shall be punished by confinement in the State penitentiary for not more than ten (10) years, or by confinement in the county jail for not less than one (1) month nor more than one (1) year, or by a fine of not less than Five Hundred Dollars (\$500), nor more than Ten Thousand Dollars (\$10,000), or by both such fine and jail imprisonment.

(4) If the penalties prescribed elsewhere in this Subchapter overlap as to the offenses punishable under Article 10.73 of this Subchapter, then the penalties prescribed in Article 10.73 shall apply and control over all such penalties. Venue of a prosecution under Article 10.73 shall be in Travis County, Texas, or in the county where the offense occurred. Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.74 Felony Penalties

If any supplier, dealer, user or import-user, or any director, officer, agent, employee, or receiver of such supplier, dealer, user or import-user (a) shall sell, distribute, deliver or use liquefied gas for any purpose for which a permit is required under the provisions of this Subchapter without a valid permit being then and there held by such supplier, dealer, user or import-user, or (b) shall fail or refuse to make and deliver to the Comptroller within the time prescribed by law any report required to be made and delivered to the Comptroller by such supplier, dealer, user or import-user, or (c) shall knowingly make and deliver to the Comptroller any report required by law to be made and delivered which is false or incomplete, or (d) if any supplier, dealer, user or import-user shall fail or refuse to keep in Texas for the period of time prescribed by law any records required to be kept in Texas by such supplier, dealer, user or import-user, or (e) shall knowingly falsify or make false entry in any records required by law to be kept by such supplier, dealer, user or import-user, or (f) shall refuse to permit the Comptroller or any author-

ized representative of the Comptroller to examine or audit any books or records of such supplier, dealer, user or import-user which the Comptroller is authorized by law to examine or audit, or (g) shall refuse to permit the Comptroller to inspect or examine any plant, equipment, motor vehicle, material or premises where liquefied gas is processed, stored, sold, delivered, transported, or used by such supplier, dealer or user, or (h) shall refuse to surrender any motor vehicle for impoundment when such surrender is ordered by a representative of the Comptroller, or any officer authorized by law to impound such motor vehicle, or (i) shall knowingly make any false statement in any claim for a tax refund delivered to or filed with the Comptroller, such supplier, dealer, user or import-user, or such director, officer, agent, employee, or receiver of such supplier, dealer, user or import-user shall be guilty of a felony and upon conviction, shall be punished by confinement in the State penitentiary for not more than five (5) years or by confinement in the county jail for not less than one (1) month nor more than six (6) months, or by a fine of not less than One Hundred Dollars (\$100), nor more than Five Thousand Dollars (\$5,000), or by both such fine and imprisonment.

In addition to the foregoing penalties, a felony conviction for any of the above-named offenses shall automatically forfeit the right of said convicted person to obtain a permit as a supplier, dealer, user or import-user for a period of two (2) years from the date final judgment is entered.

If the penalties prescribed elsewhere in this Subchapter overlap as to offenses punishable under Article 10.74 of this Subchapter, then the penalties prescribed by said Article 10.74 shall control over all such penalties, except the penalties prescribed in Article 10.73 of this Subchapter. Venue of prosecution under Article 10.74 shall be in Travis County, Texas, or in the county in which the offense occurred.

Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

Art. 10.75 Misdemeanor Penalties

(1) If any person shall violate, or fail or refuse to comply with any provision of this Subchapter for which no penalty is provided in Article 10.73 or Article 10.74 of this Subchapter, he shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200).

(2) If any person shall violate, or fail or refuse to comply with any rule and regulation duly promulgated by the Comptroller under provisions of this Subchapter, he shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200).

Acts 1969, 61st Leg., p. 1407, ch. 427, § 1, eff. Sept. 1, 1969.

CHAPTER 12—FRANCHISE TAX

Art.

12.011 Exemption for Homes for Elderly People [New].

12.065 Date Tax is Due [New].

12.211 Additional Franchise Tax [New].

Art. 12.01 Base and Rate of Tax

(1) Except as herein provided, every domestic and foreign corporation heretofore or hereafter chartered or authorized to do business in Texas or doing business in Texas, shall file such reports as are required by Articles 12.08 and 12.19 and pay to the Comptroller a franchise tax for the period from May 1 of each year to and including April 30 of the

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following year which shall be based on whichever of the following Subsections (a), (b), or (c) shall yield the greatest tax:

(a) Basic Tax

(i) Two Dollars and Seventy-five Cents (\$2.75) per One Thousand Dollars (\$1,000) or fractional part thereof applied to that portion of the sum of the stated capital, surplus and undivided profits, the sum of which for the purposes of this Chapter is hereafter referred to as "taxable capital, allocable to Texas in accordance with Article 12.02 of this Chapter.

As used in this Chapter, the phrase "stated capital" shall have the same meaning as defined in Article 1.02 of the Texas Business Corporation Act.

(ii) Tax on Debt. In addition to the franchise tax due and payable under Subsection (1)(a)(i) of Article 12.01 of this Chapter, there is hereby levied on all corporations paying a franchise tax under said Subsection (i) for the privilege of doing business in the corporate form during the periods listed below, an additional tax as follows:

For the Period from:	An Additional tax for the year of:
May 1, 1968, to and including April 30, 1969,	\$2.25
May 1, 1969, to and including April 30, 1970,	\$2.00
May 1, 1970, to and including April 30, 1971,	\$1.50
May 1, 1971, to and including April 30, 1972,	\$1.00
May 1, 1972, to and including April 30, 1973,	\$0.50

per One Thousand Dollars (\$1,000) or fractional part thereof applied to that portion of taxable debt allocable to Texas.

For the purposes of this Subsection (1)(a)(ii), "Taxable Debt" shall mean outstanding bonds, notes and debentures, including all written evidences of indebtedness which bear a maturity date of one (1) year or more from date of issue and all such instruments which bear a maturity date of less than one (1) year from date of issue which represent indebtedness which has remained continuously outstanding for a period of one (1) year or more from date of inception whether or not said indebtedness has been renewed or extended by the issuance of other evidences of the same indebtedness to the same or other parties, but this term shall not include instruments which have been previously classified as surplus.

Taxable debt allocable to Texas shall be determined by using the same percentage used to allocate taxable capital to Texas under the provisions of Article 12.02.

The additional franchise tax levied by this Subsection (1) (a) (ii) shall expire after April 30, 1973.

(b) Two Dollars and Seventy-five Cents (\$2.75) per One Thousand Dollars (\$1,000) or fractional part thereof applied to the assessed value for County ad valorem tax purposes of the property owned by the corporation in this State.

(c) Thirty-five Dollars (\$35).

Sec. (1) amended by Acts 1968, 60th Leg., 1st C.S., p. 2, ch. 2, § 1, eff. Oct. 1, 1968; Acts 1969, 61st Leg., p. 2366, ch. 801, § 1, eff. Sept. 1, 1969.

* * * * *

Art. 12.011 Exemption for Homes for Elderly People

The additional franchise tax levied by Subsection (1) (a) (ii) of Article 12.01 of this Title shall not apply to corporations organized for the purpose of providing homes for elderly people sixty-two (62) years of age and older not for profit without regard to whether such corporations are for purely public charity.

Acts 1959, 56th Leg., 3rd C.S., p. 187, ch. 1, art. 12.011, added by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 3, § 3, eff. Oct. 1, 1969.

For effective date, severability and emergency clauses of Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, see Historical Note under Art. 1.031.

Art. 12.02 Allocation Formula

(1) (a) Each corporation liable for payment of a franchise tax shall determine the portion of its entire taxable capital taxable by the State of Texas by multiplying same by an allocation percentage which shall be the percentage relationship which the gross receipts from its business done in Texas bear to the total gross receipts of the Corporation from its entire business.

(b) For the purpose of this Article, the term "gross receipts from its business done in Texas" shall include:

(i) Sales of tangible personal property when the property is delivered or shipped to a purchaser within this State, regardless of the F.O.B. point or other conditions of the sale, reduced by the deduction, if applicable, allowable under Subsection (c) of this Section (1);

(ii) Services performed within Texas;

(iii) Rentals from property situated, and royalties from the use of patents or copyrights, within Texas, and

(iv) All other business receipts within Texas.

(c) If any sales covered by Subsection (b) (i) of this Section (1) are sales of food or food products exempted from the Limited Sales, Excise and Use Tax under Section (L), Article 20.04, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended, or drugs, medicines, or other products exempted under Section (M), Article 20.04 of that Title, as amended, then a deduction is allowable to the extent of sales of these exempted items shipped from outside the State of Texas.

If any provision of this Subsection (c) or the application thereof to any person, corporation, or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Subsection (c) are declared to be severable and the deduction inapplicable.

(d) For the purpose of this Article, the term "total gross receipts of the corporation from its entire business" shall include all of the proceeds of all sales of the corporation's tangible personal property, all receipts from services, all rentals, all royalties and all other business receipts, whether within or outside of Texas. Provided, however, that, as to the sale of investments and capital assets, the term "total gross receipts of the corporation from its entire business" shall include only the net gain from such sales.

(2) If the allocation and apportionment provisions of Section (1) of this Article do not fairly represent the extent of the taxpayer's business activity in Texas, the taxpayer may petition for and the Comptroller may permit, in respect to all or any part of the taxpayer's business activity, if reasonable:

(a) separate accounting;

(b) the inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in Texas; or

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(c) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's capital.

Amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 7, § 1.

For effective date, severability and emergency clauses of Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, see Historical Note under Art. 1.031.

Art. 12.03 Corporations Exempt

The franchise tax imposed by this Chapter shall not apply to any

(a) insurance company, surety, guaranty, or fidelity company, transportation company, or sleeping, palace car, and dining company now required to pay an annual tax measured by their gross receipts;

(b) corporation organized as a railway terminal corporation and having no annual net income from the business done by it; to any corporation having no capital stock and organized for the exclusive purpose of promoting the public interest of any county, city, or town, or other area within the state; to any corporation organized for the purpose of religious worship or for providing places of burial not for private profit; to any corporation organized for the purpose of holding agricultural fairs and encouraging agricultural pursuits, or for strictly educational purposes, which includes non-profit corporations organized for the sole purpose of providing a student loan fund, or for purely public charity; to any state-chartered building and loan association; to any mutual investment company registered under the Federal Investment Company Act of 1940, as from time to time amended, that holds stocks, bonds, or other securities of other companies, solely for mutual investment purposes; to any non-profit corporation having no capital stock and organized for the purpose of educating the public in the protection and conservation of fish, game, and other wildlife, as well as grasslands and forests; and to any non-profit water supply or sewer service corporation organized in behalf of cities or towns, pursuant to Chapter 76, Acts of the 43rd Legislature, 1st Called Session, 1935, as amended;¹ to any corporation organized under the Texas Non-Profit Corporation Act for the purpose of constructing, acquiring, owning, leasing, or operating a natural gas utility facility in behalf of and for the benefit of the city or residents of the city;

(c) non-profit corporation (as defined in the Texas Non-Profit Corporation Act) or a charitable trust providing nursing care, licensed by the Texas Department of Health, and providing housing for the low-income elderly, if the facility

(A) operates at least 100 licensed nursing home beds and at least 250 housing units for low-income elderly; and

(B) is designed for, necessitated by, or is involved in geriatric research programs in the areas of chronic care, paramedical personnel training, nutritional development, and programs of psychological and nutritional research for the elderly, and limited to such purpose.

(d) non-profit corporation organized for the purpose of providing homes for elderly people sixty-two (62) years of age and older which has no capital stock, where the management of its affairs is vested in a board of trustees who are selected by a church which is a strictly religious society, and where the Articles of Incorporation provide that in the event of a dissolution of the corporation all of its assets and property will go to and vest in said church.

Amended by Acts 1969, 61st Leg., p. 1943, ch. 647, § 2, eff. June 12, 1969.

¹ Vernon's Ann.Civ.St., art. 1434a.

Art. 12.04 Foreign Corporations May Withdraw

Any foreign corporation with a certificate of authority to do business within this State may at any time withdraw from doing business within this State by filing a certificate of withdrawal with the Secretary of State who shall file such certificate of withdrawal according to law; provided, however, that prior to the filing of the certificate of withdrawal such corporation shall have paid in full all franchise taxes and penalties owed by such corporation to the State of Texas.

Amended by Acts 1969, 61st Leg., p. 2366, ch. 801, § 2, eff. Sept. 1, 1969.

Art. 12.06 Initial Tax to be Paid

(1) Every domestic or foreign corporation shall pay its initial franchise tax within ninety (90) days after the expiration of one (1) year from the date of filing its charter or granting its certificate of authority, at which time the tax shall be computed according to its first year's business as prescribed by this Chapter and at the same time, the corporation shall also pay its tax in advance, based upon the first year's business, for the period from the end of the first year to and including April 30th following.

Where the corporation's first year from the filing of its charter or from the granting of its certificate of authority ends between January first and May first, there shall also be computed and paid an additional year's tax for the year beginning May first following the end of the first year as above defined, which tax shall be computed from the data contained in the first report filed by such corporation.

(2) All foreign corporations applying for a certificate of authority to do business, shall at the time of filing its application deposit with the Comptroller of Public Accounts the sum of Five Hundred Dollars (\$500) which sum shall be deposited in a trust fund to be held by the Comptroller of Public Accounts during the time the foreign corporation is engaged in doing business in this State. This deposit shall insure a foreign corporation's payment of all filing fees, filing all franchise tax reports and payment of franchise taxes, penalties and interest due this State according to the provisions of this Chapter. In the event a foreign corporation has ceased doing business in Texas prior to the forfeiture of the corporation's Certificate of Authority, and can demonstrate that all franchise tax reports, franchise taxes and penalties have been filed and paid, such deposit or balance thereof, if any, shall be returned by the Comptroller of Public Accounts to the legal agent of such foreign corporation in this State, designated in conformity with Article 12.11 of this Chapter.

Whenever a corporation's Certificate of Authority to do business in this State be forfeited as provided in this Chapter, the entire amount of said deposit shall likewise be forfeited.

The forfeiture of said deposit shall not bar the State's full recovery of the amount of franchise tax due; however, upon proof by such corporation of the actual amount of such franchise taxes due, and upon the filing of all delinquent tax reports, any amount of said deposit in excess of such franchise tax, including penalty and interest, shall be refunded.

(3) Effective from and after the date of enactment of this Article, each corporation which applies for a Certificate of Authority to do business and each corporation which applied for a renewal of its Certificate of Authority to do business shall comply with Article 12.06(2) above.

Amended by Acts 1969, 61st Leg., p. 2366, ch. 801, § 3, eff. Sept. 1, 1969.

For Annotations and Historical Notes, see V.A.T.S.

Art. 12.065 Date Tax is Due

Except as otherwise provided in Article 12.06 for payment of initial taxes, the franchise tax levied by this Chapter shall be due and payable on or before June 15th of each year.

Acts 1959, 56th Leg., 3rd C.S., p. 187, ch. 1, art. 12.065, added by Acts 1969, 61st Leg., p. 2366, ch. 801, § 4, eff. Sept. 1, 1969.

Art. 12.07 Comptroller of Public Accounts May Require Initial Reports

To determine the amount of any franchise tax payment required by this chapter of any domestic corporation which may be hereafter chartered, or of any foreign corporation which may hereafter apply for a certificate of authority to do business within this State, and also to determine the correctness of any report which is provided for in this Chapter, the Comptroller of Public Accounts may, whenever he deems it necessary or proper to protect the interests of the State, require any one (1) or more of the officers of such corporations to make and file in the office of the Comptroller of Public Accounts an affidavit setting forth fully the facts concerning the amount of the surplus and undivided profits and outstanding evidences of indebtedness respectively, if any, of such domestic or foreign corporations.

Amended by Acts 1969, 61st Leg., p. 2366, ch. 801, § 5, eff. Sept. 1, 1969.

Art. 12.08 Report of Corporation

(1) Except as herein provided all corporations required to pay an annual franchise tax shall, between January first and June 15 of each year, make a report to the Comptroller of Public Accounts on forms furnished by that officer, showing the condition of such corporation on the last day of the corporation's preceding fiscal year.

(2) The report shall also contain any other information concerning the corporation that the Comptroller of Public Accounts shall direct.

Amended by Acts 1969, 61st Leg., p. 2366, ch. 801, § 6, eff. Sept. 1, 1969.

Art. 12.09 Initial Reports

Where a domestic corporation is chartered in this State or where a foreign corporation is granted a certificate of authority to do business in Texas it shall file its first report within ninety (90) days from the expiration of one (1) year from the date such charter was filed or certificate granted, as the case may be, showing its condition as of the end of the month nearest the end of such first year.

Amended by Acts 1969, 61st Leg., p. 2366, ch. 801, § 7, eff. Sept. 1, 1969.

Art. 12.10 Reports Confidential

Reports made under Article 12.08 (or 12.08 & 12.09) shall be privileged and not for the inspection of the general public, but a bona fide stockholder owning one (1) or more shares of the outstanding stock of any corporation may examine such reports upon presentation of evidence of such ownership to the Comptroller of Public Accounts. No other examination, disclosure or use shall be permitted of the reports except in the course of some judicial proceeding in which the State or any bona fide stockholder is a party or in a suit by the State to cancel the certificate of authority or forfeit the charter of such corporation or to collect penalties for a violation of the laws of this State, or for information of any officer of this State charged with the enforcement of its laws, including the Secretary of State and the State Auditor; provided that the Comptroller of Public Accounts may in his discretion for good cause shown disclose to any interested person the names of the officers

and directors and agents for service and the principal office and place of business of any corporation filing a franchise tax report.

The Comptroller is authorized to enter into exchange of information agreements with taxing officials of other states or of the Federal Government. The Comptroller may disclose such information as he deems necessary to taxing officials of other states or of the Federal Government under exchange of information agreements.

Amended by Acts 1969, 61st Leg., p. 2366, ch. 801, § 8, eff. Sept. 1, 1969.

Art. 12.12 Authority of Comptroller of Public Accounts, Rules and Regulations

All reports to the Comptroller of Public Accounts required by this Chapter shall contain such information as the Comptroller of Public Accounts may require. He shall have authority to make and publish rules and regulations not inconsistent with the Constitution or laws of this State or of the United States for the enforcement of this Chapter. The Comptroller of Public Accounts may require any corporation to furnish such additional information from its books and records as may be necessary in determining the amount of taxes that may be due hereunder. The Comptroller of Public Accounts or his authorized representative, or the State Auditor or his authorized representative, shall have full and complete authority to investigate and inquire into and examine the books and records of any such corporation for the purpose of ascertaining the correctness of its franchise tax liability.

Any foreign corporation doing business in Texas under a Certificate of Authority granted under the laws of this State, or any officer or agent thereof, or any domestic corporation which shall fail or refuse to permit the Comptroller of Public Accounts, or his authorized representative, or the State Auditor or his authorized representative, to examine its books and records, whether the same be situated within this State or any other state within the United States, shall thereby forfeit its right to do business in this State; and its Certificate of Authority or charter shall be cancelled or forfeited.

Amended by Acts 1969, 61st Leg., p. 2366, ch. 801, § 9, eff. Sept. 1, 1969.

Art. 12.13 Lien for Taxes and Penalties

The State shall have a prior lien on all corporate property for all franchise taxes and penalties. At any time after any corporation, domestic or foreign, shall have its right to do business forfeited as provided in this chapter, the Comptroller of Public Accounts shall file and record with the Clerk of the County wherein the principal place of business of said corporation is located as shown by its Articles of Incorporation or amendments thereto or the certificate of said corporation, a notice of the taxes and penalties accruing under this Chapter and the liens securing the same on a form prepared or approved by the Attorney General of the State of Texas, showing the name of the corporation owing such taxes and penalties, including the franchise taxes then due and owing and calling attention to the possible additional taxes and penalties which might accrue in the future under the terms of this Chapter; and the County Clerk of such county is hereby authorized to and shall file, record and index such notice in his tax lien records. When such notice has been filed, recorded and indexed, the same shall be and constitute notice to all parties dealing with the real and personal property of such corporation wherever situated, of the taxes and penalties then accrued and to accrue in the future and of the liens herein granted the State of

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Texas. The Comptroller of Public Accounts shall also file and record with the clerk of any county in which he has reason to believe any corporation owing franchise taxes and penalties has real or personal property a copy of said notice and it shall be the duty of the County Clerk of such county to file, record and index such notice in manner and form hereinbefore provided, and when the same has been so filed, recorded and indexed, such notice shall be and constitute additional notice to all parties dealing with the real and personal property of such corporation in said county of such taxes and penalties and the liens granted the State of Texas. The Comptroller of Public Accounts is hereby authorized to execute and deliver (1) complete releases of the liens herein provided for on payment in full of the taxes and penalties, and (2) partial releases releasing particular property upon payment of such sum as the Comptroller of Public Accounts may deem adequate and proper under all circumstances. Such releases shall be on a form prepared or approved by the Attorney General of the State of Texas. No suit in any event shall be brought or instituted for the enforcement of the liens granted the State of Texas by this Chapter unless the same shall be instituted within two (2) years from and after the time the corporation owing such taxes and penalties shall forfeit its right to do business in this State under the provisions of this Chapter; provided, however, that nothing in this Act contained shall prevent the State of Texas from collecting or enforcing by suit or attachment at any time said franchise taxes and penalties due from the corporation owing the same.

Amended by Acts 1969, 61st Leg., p. 2366, ch. 801, § 10, eff. Sept. 1, 1969.

Art. 12.14 Failure to Pay Tax and File Reports

Any corporation, either domestic or foreign, which shall fail to pay any franchise tax provided for in this Chapter when the same shall become due and payable under the provisions of this Chapter or shall fail to file any report provided for in this Chapter when the same shall become due, shall thereupon become liable to a penalty of five per cent (5%) of the amount of such franchise tax due by such corporation, and if said report has not been filed or said taxes have not been paid within thirty (30) days from the date said report or taxes shall have become due, an additional five per cent (5%) of such tax shall be forfeited; said penalty shall never be less than One Dollar (\$1). Delinquent taxes shall draw interest at the rate of six per cent (6%) per annum beginning sixty (60) days from the date due. If the reports required by Articles 12.08, 12.09, and 12.19 be not filed in accordance with the provisions of this Chapter, or if the amount of such tax and penalties be not paid in full on or before the thirtieth day after notice of delinquency is mailed to such corporation, such corporation shall for such default forfeit its right to do business in this State; which forfeiture shall be consummated without judicial ascertainment by the Comptroller of Public Accounts. Any corporation whose right to do business shall be thus forfeited shall be denied the right to sue or defend in any court of this State, except in a suit to forfeit the charter or certificate of authority of such corporation. In any suit against such corporation on a cause of action arising before such forfeiture, no affirmative relief shall be granted to such corporation unless its right to do business in this State shall be revived as provided in this Chapter. Each director and officer of any corporation whose right to do business within this State shall be so forfeited shall, as to any and all debts of such corporation, which shall include all franchise taxes and penalties thereon which shall become due and payable subsequent to the date of such forfeiture, and which may be created or incurred, with his knowledge, approval and consent, within

this State, after such forfeiture by any such directors or officers, and before the revival of the right of such corporation to do business, be deemed and held liable thereon in the same manner and to the same extent as if such directors and officers of such corporation were partners.

Amended by Acts 1969, 61st Leg., p. 2366, ch. 801, § 11, eff. Sept. 1, 1969.

Art. 12.15 Notice of Forfeiture

The Comptroller of Public Accounts shall notify each domestic and foreign corporation which may be or become subject to a franchise tax under the laws of this State, which has failed to file such report or pay franchise tax on or before the 15th day of June, that unless such overdue report is filed or such overdue tax together with said penalties thereon shall be paid within thirty (30) days of the mailing of such notice, the right of such corporation to do business in this State will be forfeited without judicial ascertainment. This notice may be either written or printed and shall be verified by the seal of the office of the Comptroller of Public Accounts, and shall be addressed to such corporation and mailed to the post office named in its articles of incorporation as its principal place of business, or to any other known place of business of the corporation. A record of the date of mailing this notice shall be kept in the office of the Comptroller of Public Accounts, and such notice and record thereof shall constitute legal and sufficient notice thereof for all purposes of this Chapter. Any corporation whose right to do business may have been forfeited, as provided in this Chapter, shall be relieved from such forfeiture by paying to the Comptroller of Public Accounts at any time prior to the forfeiture of the charter or certificate of authority of such a corporation as hereinafter provided, the full amount of the franchise taxes, penalties, and interest due by it. When such taxes, penalties, and interest shall be paid to the Comptroller of Public Accounts, he shall revive the right of the corporation to do business within the State. If any domestic corporation or foreign corporation, whose right to do business within this State shall hereafter be forfeited under the provisions of this Chapter, shall fail to pay the Comptroller of Public Accounts within one hundred and twenty (120) days after such forfeiture, the amount necessary to entitle it to have its right to do business revived under the provisions of this Chapter, such failure shall constitute sufficient ground for the forfeiture of the charter of such domestic corporation, or of the certificate of authority of such foreign corporation. It shall be the duty of the Comptroller of Public Accounts, after such one hundred and twenty (120) days next following such forfeiture, to certify to the Attorney General the names of all corporations whose right to do business within the State has been forfeited as hereinbefore provided. The Attorney General, upon receiving such certificate, shall forthwith institute suit against such corporations as provided in Article 12.16 of this chapter.

Amended by Acts 1969, 61st Leg., p. 2366, ch. 801, § 12, eff. Sept. 1, 1969.

Art. 12.17 Forfeiture of Charter and Bill of Review

(1) Upon the rendition by the district court of any judgment of forfeiture under the provisions of this Chapter, the clerk of that court shall forthwith mail to the Secretary of State a certified copy of such judgment; and, upon receipt thereof, he shall endorse upon the record in his office of such corporation the words, "Judgment of Forfeiture," and the date of such judgment. In the event of an appeal from such judgment by writ of error or otherwise, the clerk of the court from which

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such appeal is taken shall forthwith certify to the Secretary of State the fact that such appeal has been perfected, and he shall endorse upon the record of such corporation in his office the word, "Appealed," and the date upon which such appeal was perfected. When final disposition of such appeal shall be made, the clerk of the court making such disposition thereof shall forthwith certify such disposition and the date thereof to the Secretary of State, who shall briefly note same upon the record of such corporation in his office and the date of such final disposition.

(2) Upon determination by the Secretary of State that any domestic corporation or foreign corporation whose right to do business has been previously forfeited by the Comptroller of Public Accounts, and which corporation has failed and refused to have its right to do business revived pursuant to the provisions of this Chapter, prior to the first day of January next succeeding the date of forfeiture of its right to do business, and which corporation has no assets from which a judgment for franchise tax, penalties, and court costs may be satisfied, the charter or certificate of authority of any such corporation may be forfeited, which shall be consummated without judicial ascertainment by the Secretary of State entering upon the records of such domestic corporation or upon the certificate of authority to do business of a foreign corporation filed in his office, the words, "Charter Forfeited" or "Certificate Forfeited," giving the date thereof and citing this Act as the authority therefor.

(3) In the event of the forfeiture of the charter or certificate of a domestic or foreign corporation, either by the Secretary of State or by judicial ascertainment, as provided by this Title, the right to do business and the charter or certificate may be revived by the following procedure:

(a). The corporation shall first file all delinquent franchise tax returns as required by law and also pay all franchise taxes, penalties and interest due by said corporation at the time of filing the suit hereinafter mentioned. In the case of forfeiture of a charter or certificate of authority by judicial ascertainment, any stockholder or director or officer of the corporation at the time of forfeiture of the right to do business, or the charter or certificate, may, in the name of the corporation, bring suit in the District Court of Travis County, Texas, in the nature of a bill of review to set aside such forfeiture. The Secretary of State and Attorney General shall be made defendants in said suit. In the event judgment is rendered setting aside the forfeiture of the charter or the revocation of the certificate of authority, the Secretary of State shall endorse on the records of said corporation the words "Charter Reinstated by Court Order" or "Certificate Reinstated by Court Order" as the case may be, and state the cause and date on which such judgment was entered, and the Comptroller of Public Accounts shall administratively revive the corporation's right to do business in accordance with the provisions of Article 12.15 of this Title, by making the proper notations upon his record of said corporation.

(b). Any corporation, domestic or foreign, whose charter or certificate has been forfeited without judicial ascertainment by the Secretary of State may revive said charter or certificate, by first filing all delinquent franchise tax reports as required by law and by filing all franchise taxes, penalties, and interest due by said corporation at the time of the request for reinstating the charter or certificate hereinafter mentioned. Any stockholder or director or officer of the corporation at the time of the forfeiture of the right to do business, or the charter, or the certificate may, in the name of the corporation, initiate the above proceedings to set aside the forfeiture. Upon such request, and upon the determination that all delinquent franchise tax reports have been filed and all fran-

chise taxes, penalties and interest due by said corporation at the time of the request for reinstatement have been paid, the Secretary of State shall administratively set aside the forfeiture and the Comptroller of Public Accounts shall administratively revive the corporation's right to do business in accordance with the provisions of Article 12.15 of this Title.

If any forfeited corporation's charter or certificate of authority is reinstated, it shall at the time of its request for reinstatement ascertain from the Secretary of State whether the name of the forfeited corporation is available, and if not available, file an amendment to its charter or its certificate of authority changing the name of the corporation. It is further provided that nothing in this Act shall affect the liability of the officers and directors of such corporation for any debts, obligations or liabilities incurred between the date of the forfeiture of the right to do business and the revival as herein provided.

Amended by Acts 1969, 61st Leg., p. 2366, ch. 801, § 13, eff. Sept. 1, 1969.

Art. 12.19 Optional Use of Short Form Return

(1) In lieu of the franchise tax levied by Article 12.01 of this Chapter, any corporation which has previously paid a franchise tax in Texas under the provisions of this Chapter and whose total assets are less than One Hundred Fifty Thousand Dollars (\$150,000), may elect to pay a franchise tax for the period from May 1st of each year to and including April 30th of the following year in accordance with the following schedule:

If Total Assets Are at Least	But Less Than	The Tax Shall be
\$ 0.00	\$ 15,000.00	\$ 35.00
15,000.00	20,000.00	45.00
20,000.00	25,000.00	55.00
25,000.00	30,000.00	70.00
30,000.00	40,000.00	90.00
40,000.00	50,000.00	115.00
50,000.00	60,000.00	140.00
60,000.00	70,000.00	165.00
70,000.00	80,000.00	190.00
80,000.00	90,000.00	215.00
90,000.00	100,000.00	240.00
100,000.00	110,000.00	265.00
110,000.00	120,000.00	290.00
120,000.00	130,000.00	315.00
130,000.00	140,000.00	340.00
140,000.00	150,000.00	365.00"

Sec. (1) amended by Acts 1968, 60th Leg., 1st C.S., p. 3, § 3, eff. Oct. 1, 1968; Acts 1969, 61st Leg., p. 2366, ch. 801, § 14, eff. Sept. 1, 1969.

* * * * *

(3) The Comptroller of Public Accounts shall prescribe the form of reports to be made by any corporation electing to pay its franchise tax under the provisions of this Article. The Comptroller of Public Accounts may require such reports to contain any or all information required under Article 12.08, 12.09, 12.11 or 12.12 of this Chapter.

There shall be submitted with the report a signed copy of the corporation's Federal income tax return for the period described in Subsection (2) of this Article. All franchise tax reports and income tax returns

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furnished to the Comptroller of Public Accounts under the provisions of this Article shall be confidential in nature and treated as such by the Comptroller of Public Accounts under the same conditions as provided in Article 12.10. The Comptroller of Public Accounts or the State Auditor may in the execution of this Article cause the books of any corporation electing to pay franchise taxes under this Article to be examined, whether such books be located within this State or any other state within the United States. The Comptroller of Public Accounts may make any rules or regulations necessary for the administration of this Article.

Sec. (3) amended by Acts 1969, 61st Leg., p. 2366, ch. 801, § 15, eff. Sept. 1, 1969.

Art. 12.20 Additional Franchise Tax for the Period Ending April 30, 1970

(1) In addition to all other taxes, there is hereby levied on all corporations paying a franchise tax under the provisions of this Chapter for the preceding fiscal year as shown in the report required to be filed with the Comptroller of Public Accounts between January 1 and May 1, 1969 (or the initial or first year report required to be filed with the Comptroller of Public Accounts), under the provisions of this Chapter an additional franchise tax for the privilege of doing business in Texas in corporate form for the period beginning on the effective date of this Act, and ending April 30, 1970.

(2) The additional franchise tax levied by this Article shall be computed by multiplying the franchise tax due and payable under the provisions of Article 12.01, except Section (1) (a) (ii), and Article 12.19 by 18.18 per cent.

(3) The additional franchise tax levied by this Article shall be paid to the Comptroller of Public Accounts within thirty (30) days after the effective date of this Act. If any corporation fails to pay the additional tax levied by this Article within thirty (30) days after the effective date of this Act, the right of such corporation to do business in this State shall be forfeited on April 1, 1970, which forfeiture shall be consummated without judicial ascertainment by the Comptroller of Public Accounts in the same manner as provided for forfeiture in this Chapter, and provided further that such defaulting corporation shall be subject to the same penalties, liens and conditions as provided in this Chapter.

(4) The Comptroller of Public Accounts shall have the right to make and promulgate rules and regulations and to prescribe and mail forms and notices necessary for the efficient and effective administration of the additional franchise tax levied by this Article.

(5) The additional franchise tax levied by this Article shall expire on April 30, 1970.

Amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 3, § 1, eff. Oct. 1, 1969.

For effective date, severability and emergency clauses of Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, see Historical Note under Art. 1.031.

Art. 12.21 Additional Franchise Tax

(1) In addition to the franchise tax due and payable under Article 12.01 of this Chapter, there is hereby levied on all corporations paying a franchise tax under the provisions of Article 12.01 of this Chapter an additional franchise tax for the privilege of doing business in Texas in corporate form in the periods from May 1, 1970, to and including April 30, 1971, and from May 1, 1971, to and including April 30, 1972, which

additional franchise tax shall be computed by multiplying the tax due and payable under Article 12.01, except Section (1) (a) (ii), of this Chapter for the aforesaid periods by 18.18 per cent.

(2) Corporations eligible to and electing to compute the franchise tax for which they are liable under the provisions of Article 12.19 of this Chapter shall, for the privilege of doing business in Texas in corporate form from and after May 1, 1970, pay an additional franchise tax in accordance with the following schedule:

If Total Assets

Are at Least	But Less Than	The Tax Shall Be
\$ 0.00	\$ 15,000.00	\$ 5.00
15,000.00	20,000.00	10.00
20,000.00	25,000.00	10.00
25,000.00	30,000.00	15.00
30,000.00	40,000.00	15.00
40,000.00	50,000.00	20.00
50,000.00	60,000.00	25.00
60,000.00	70,000.00	30.00
70,000.00	80,000.00	35.00
80,000.00	90,000.00	40.00
90,000.00	100,000.00	45.00
100,000.00	110,000.00	50.00
110,000.00	120,000.00	55.00
120,000.00	130,000.00	55.00
130,000.00	140,000.00	60.00
140,000.00	150,000.00	65.00

(3) The additional franchise tax levied by this Article shall be paid at the same time, in the same manner, and subject to the same terms, penalties and conditions as the franchise tax that will become due and payable in the same periods under the provisions of this Chapter.

(4) The State Comptroller of Public Accounts shall have the right to make and promulgate such rules and regulations and to prescribe such forms as he deems necessary for the efficient and effective administration of the additional franchise tax levied by this Article.

(5) The additional franchise tax levied by this Article shall be cumulative of all other taxes imposed by this State.

(6) The additional franchise tax levied by this Article shall expire on April 30, 1972.

Amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 3, § 2, eff. Oct. 1, 1969.

Art. 12.211 Additional Franchise Tax

(1) In addition to the franchise tax due and payable under Article 12.01 of this Chapter, there is hereby levied on all corporations paying a franchise tax under the provisions of Article 12.01 of this Chapter an additional franchise tax for the privilege of doing business in Texas in corporate form from and after May 1, 1972, which additional franchise tax shall be computed by multiplying the tax due and payable under Article 12.01, except Section (1) (a) (ii), of this Chapter for the aforesaid periods by 9.09 per cent.

(2) Corporations eligible to and electing to compute the franchise tax for which they are liable under the provisions of Article 12.19 of this Chapter shall, for the privilege of doing business in Texas in cor-

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porate form from and after May 1, 1972, pay an additional franchise tax in accordance with the following schedule:

If Total Assets

Are at Least	But Less Than	The Tax Shall Be
\$ 0.00	\$ 15,000.00	\$ 5.00
15,000.00	20,000.00	5.00
20,000.00	25,000.00	5.00
25,000.00	30,000.00	5.00
30,000.00	40,000.00	10.00
40,000.00	50,000.00	10.00
50,000.00	60,000.00	15.00
60,000.00	70,000.00	15.00
70,000.00	80,000.00	15.00
80,000.00	90,000.00	20.00
90,000.00	100,000.00	20.00
100,000.00	110,000.00	25.00
110,000.00	120,000.00	25.00
120,000.00	130,000.00	30.00
130,000.00	140,000.00	30.00
140,000.00	150,000.00	35.00

(3) The additional franchise tax levied by this Article shall be paid at the same time, in the same manner; and subject to the same terms, penalties and conditions as the franchise tax that will become due and payable in the same periods under the provisions of this Chapter.

(4) The State Comptroller of Public Accounts shall have the right to make and promulgate such rules and regulations and to prescribe such forms as he deems necessary for the efficient and effective administration of the additional franchise tax levied by this Article.

(5) The additional franchise tax levied by this Article shall be cumulative of all other taxes imposed by this State.

Acts 1959, 56th Leg., 3rd C.S., p. 187, ch. 1, art. 12.211, added by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 3, § 4, eff. Oct. 1, 1969.

For effective date, severability and emergency clauses of Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, see Historical Note under Art. 1.031.

CHAPTER 13—TAX ON COIN-OPERATED MACHINES

Art. 13.02 Amount of Tax

(1) Every "owner" who owns, controls, possesses, exhibits, displays, or who permits to be exhibited or displayed in this State any "coin-operated machine" shall pay, and there is hereby levied on each "coin-operated machine", as defined herein in Article 13.01, except as are exempt herein, an annual occupation tax of \$15.00.

(2) Provided that the first money taken from each coin-operated machine each calendar year shall be paid to the owner to reimburse the payment of that year's annual occupation tax levied above and those levied by any city or county. No owner shall agree or contract or offer to agree to contract to waive this reimbursement either directly or indirectly. No owner shall agree or contract with a bailee or lessee of a coin-operated machine to compensate said bailee or lessee in excess of fifty percent (50%) of the gross receipts of such machine after the above reimbursement has been made. In addition to all other penalties pro-

vided by law the Comptroller shall revoke any license held under Article 13.17 by any person who violates this subsection.

Amended by Acts 1969, 61st Leg., p. 1606, ch. 497, § 2, eff. Sept. 1, 1969.

Severability: Section 4 of Acts 1969, 61st Leg., p. 1606, ch. 497, which act amended this article and art. 13.13 and added art. 13.17, provided: "Section 2 of this Act is hereby declared to be severable from the balance of this Act. If any other Section, clause, or provision of this Act is declared to be invalid, such invalidity shall not affect Section 2 of this Act, and Section 2 shall remain in full force and effect. All other Sections shall likewise be severable, one from another, with this exception: Section 25 of Section 1 of this Act shall not be severable from Sections 1, 3, 4, or 5 of this Act, and should Section 25 of Section 1 of this Act be held to be invalid, this entire Act, save for Section 2 of this Act, shall also be invalid."

Art. 13.13 Sealing Machine to Prevent Operations; Penalty for Breaking Seal

Provided that the Comptroller of Public Accounts, or his authorized representatives, may seal any such machine upon which the tax has not been paid in a manner that will prevent further operation. Whoever shall break the seal affixed by said Comptroller or his authorized representatives, or whoever shall exhibit or display any such coin-operated machine after said seal has been broken or shall remove any coin-operated machine from location after the same has been sealed by the Comptroller shall be guilty of a misdemeanor and upon conviction shall be punished as set out in Article 13.12 of this Chapter. The Comptroller shall charge a fee of \$25.00 for the release of any coin-operated machine sealed for nonpayment of tax.

Amended by Acts 1969, 61st Leg., p. 1606, ch. 497, § 3, eff. Sept. 1, 1969.

For severability clause applicable to the 1969 amendment, see Historical Note under Art. 13.02.

Art. 13.17 Regulation of music and skill or pleasure coin-operated machines

Purpose

Section 1. The purpose of this Article is to provide comprehensive regulation of music and skill or pleasure coin-operated machines and businesses dealing in these machines, and to prevent persons in these businesses from having certain concurrent financial interests in, or unauthorized financial dealings with, certain alcoholic beverage businesses.

Section 1(a). Notwithstanding any language herein contained to the contrary, no provision herein shall be construed to require a fee for a general business license for an individual who, on the effective date of this Act, only owns a single place of business and owns a music or skill or pleasure coin-operated machine in such place of business.

Notwithstanding any language in this Chapter or any other Chapter to the contrary, the term 'music or skill or pleasure coin-operated machine' shall include coin-operated billiard and pool games and shall exclude coin-operated amusement machines designed exclusively for children.

Definitions

Sec. 2. In this Article, unless the context requires a different definition,

(1) "person" includes any association of natural persons, trustee, receiver, partnership, corporation, organization, or the manager, agent, servant, or employee of any of them;

(2) "financial interest" includes any legal or equitable interest, and specifically includes the ownership of shares or bonds of a corporation.

Administration

Sec. 3. The Comptroller shall administer this Article. He or the Attorney General may initiate investigations, hearings, and take other necessary measures to ensure compliance with the provisions of this Article or to determine whether violations may exist. The Comptroller shall institute civil proceedings through the Attorney General in the name of the State against violators. If the Comptroller finds evidence of violation of penal provisions, he shall present it to the District or County Attorney of the county wherein such violation occurred.

Powers of comptroller

Sec. 4. In addition to his existing powers, the Comptroller may, for the purpose of administering this Article,

- (1) prescribe all necessary regulations;
- (2) hold hearings and prescribe rules of procedure and evidence for the conduct of hearings;
- (3) issue, suspend, or cancel licenses;
- (4) prescribe the procedure for registration of music and skill or pleasure coin-operated machines and the method of securely attaching registration stamps;
- (5) disclose confidential information to appropriate officials; and
- (6) prescribe the form and content of
 - (a) license applications;
 - (b) license certificates;
 - (c) registration stamps;
 - (d) reports concerning the location of coin-operated machines; and
 - (e) reports of the consideration of each party to contracts concerning the placement of coin-operated machines in establishments where alcoholic beverages are sold or served for on-premises consumption.

Delegation of authority

Sec. 5. The Comptroller may delegate to an authorized representative any authority given him by this Article, including the conduct of investigations and the holding of hearings.

Agency cooperation

Sec. 6. All state agencies are directed to cooperate with the Comptroller in his investigatory functions under this Article, and shall provide him access to their relevant records and reports including those declared or designated as confidential by other law.

Confidentiality; penalty for disclosure

Sec. 7.

(1) All information derived from books, records, reports, and applications required to be made available under this Article to the Comptroller or the Attorney General is confidential unless specifically designated a public record, and may be used only for the purpose of enforcing the provisions of this Article.

(2) Any employee of the Comptroller or Attorney General who discloses confidential information obtained from the administration of this Article to an unauthorized person is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$1,000.

License required; penalty; exceptions

Sec. 8.

(1) No person shall engage in business to manufacture, own, buy, sell, or rent, lease, trade, lend, or furnish to another, or repair, main-

tain, service, transport within the state, store, or import, a music coin-operated machine or a skill or pleasure coin-operated machine without a license issued under this Article.

(2) A person who knowingly violates this Section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000).

(3) No license is required for a corporation or association organized and operated exclusively for religious, charitable, educational, or benevolent purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual, to own, or lease or rent from another, a music or skill or pleasure coin-operated machine for the corporation's or association's exclusive use and in furtherance of the purposes for which it is established.

(4) No license is required for an individual to own a music or skill or pleasure coin-operated machine for personal use and amusement in his private residence.

(5) No license is required for any person subject to regulation by the Railroad Commission of Texas to transport or store in the due course of business a music or skill or pleasure coin-operated machine not owned by him.

(6) A person who knowingly secures or attempts to secure a license under this Article by fraud, misrepresentation or subterfuge is guilty of a felony and upon conviction is punishable by imprisonment in the penitentiary for not less than two nor more than five years, or by a fine of not more than \$10,000.00, or by both.

Nature of license

Sec. 9. A license issued under this Article

(1) is an annual license which expires on December 31st of each year, unless it expires as provided in subdivision (5) of this Section or is suspended or cancelled earlier;

(2) is effective for a single place of business;

(3) vests no property or right in the licensee except to conduct the licensed business during the period the license is in effect;

(4) is nontransferable, nonassignable, and not subject to execution; and

(5) expires upon the death of an individual licensee, or upon the dissolution of any other licensee.

Temporary extension of license

Sec. 10. When a license issued under this Article expires because of the death of an individual licensee, or the dissolution of any other licensee, or upon conditions involving receivership or bankruptcy, the Comptroller, except for good cause shown, shall permit the successor in interest to operate the business under the same license through December 31st of the year. The Comptroller shall give this permission in writing upon certification by the County Judge of the county in which the business is located that the person requesting the extension is the successor in interest. The extended license is subject to suspension or cancellation as is any other license issued under this Article. An original license application is necessary upon expiration of the extension.

Display; penalty

Sec. 11.

(1) A person licensed to do business under this Article shall prominently display his current license certificate at his place of business at all times.

For Annotations and Historical Notes, see V.A.T.S.

(2) A person who violates this Section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$1,000.00.

Application for license

Sec. 12.

(1) An application for a license to do business under this Article shall contain a complete statement regarding the ownership of the business to be licensed. This statement of ownership must specify

(a) the nature of the business entity to be licensed;

(b) the name and residence address of every person who has a financial interest in the business, and the nature, type, and extent of that financial interest, except corporate applicants may omit any shareholder holding less than 10% of the corporate shares.

(2) The application shall designate a single individual who is responsible for keeping a record and reporting to the Comptroller the following information regarding each music or skill or pleasure coin-operated machine owned, possessed, or controlled by the licensee:

(a) the make, type, and serial number of machine;

(b) the date put in operation;

(c) the dates of the first, and the most recent registration of the machine;

(d) the specific location of each machine;

(e) any change in ownership of a machine.

(3) The application shall be accompanied by a sworn written statement executed by the individual designated to maintain the records and make reports that he is aware of and accepts this responsibility.

(4) The individual designated to maintain the records and to make reports must have the following relationship to the business to be licensed:

(a) the owner of a sole proprietorship;

(b) a partner of the partnership;

(c) an officer of the corporation;

(d) a trustee of the trust;

(e) a receiver of the receivership; or

(f) an officer or principal member of the association, joint venture, organization, or other entity not specified.

(5) The Comptroller may require any other pertinent information to be included in the application.

(6) The application must contain a statement that the information contained in it is true and complete, and this statement shall be made under oath.

(7) The statement of ownership contained in the application becomes a public record upon issuance of a license. Other information in the application is confidential.

Fee with application

Sec. 13. The application must be accompanied by the annual license fee in the form of a cashier's check or money order payable to the State Comptroller.

Records and reports; offenses; penalty

Sec. 14.

(1) The person designated in the license application to do so shall keep records and make reports to the Comptroller of the information specified in Subsection (2) of Section 12 of this Article at intervals specified by the Comptroller, and upon demand by the Comptroller. He shall immediately notify the Comptroller in writing of any change in ownership of the licensed business.

(2) It is an offense for a person to willfully fail or refuse to make reports to the Comptroller as required by this Section.

(3) It is an offense for a person to willfully withhold or conceal any information required to be reported by this Section from a person who has the duty to make the report.

(4) A person who violates this Section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000.00).

Types of licenses

Sec. 15.

(1) A person who wishes to engage in certain business dealing with music coin-operated machines or skill or pleasure coin-operated machines shall apply for a general business license, or an import license, or both.

(2) A general business licensee may engage in business to manufacture, own, buy, sell, rent, lease, trade, repair, maintain, service, transport or exhibit within the state, and store music and skill or pleasure coin-operated machines.

(3) An import licensee may engage in business to import, transport, own, buy, repair, sell, and deliver, music and skill or pleasure coin-operated machines, for sale and delivery within this State.

Fees

Sec. 16.

(1) The annual license fee for each type and place of business licensed under this Article is \$300.00.

(2) After issuance of a license to a licensee, the Comptroller may not refund any portion of a license fee.

Removal of stamp prohibited; penalty

Sec. 17.

(1) No person other than the Comptroller may intentionally remove a current registration stamp from a music or skill or pleasure coin-operated machine.

(2) A person who violates this Section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$1,000.00.

License as consent to entry

Sec. 18. Acceptance of a license issued under this Article constitutes consent by the licensee that the Comptroller or any peace officer may freely enter upon the licensed business premises during normal business hours for the purpose of ensuring compliance with this Article.

Mandatory grounds for refusal, suspension, or cancellation of license

Sec. 19.

(1) The Comptroller shall not issue a license for a business under this Article if he finds that the applicant

(a) has been finally convicted of a felony in a court of competent jurisdiction during the ten years preceding the filing of the application; or

(b) has been on probation or parole as a result of a felony conviction during the five years preceding the filing of the application.

(2) The Comptroller may not renew a license for a business under this Article if he finds that during the time the previous license was held the licensee

For Annotations and Historical Notes, see V.A.T.S.

(a) has been finally convicted of a felony in a court of competent jurisdiction; or

(b) has been placed on probation as a result of a felony prosecution.

(3) The Comptroller may not issue or renew a license for a business under this Article, and shall suspend for any period of time, or cancel a license, if he finds that the applicant or licensee is indebted to the State by judgment for any fees, costs, penalties, or delinquent taxes.

Discretionary grounds for refusal, suspension, or cancellation of license

Sec. 20. The Comptroller may refuse to issue or renew a license, and may suspend for any period or cancel a license if he finds that

(1) the applicant or licensee has intentionally violated any provision of, or any regulation authorized by this Article during

(a) the two years preceding the date of the application for an initial license; or

(b) the period the current license was held;

(2) the applicant or licensee has intentionally failed to answer any question or has made a false statement in, or in connection with, his application or renewal;

(3) the manner in which the applicant proposes to, or the licensee does, conduct his business is of such a nature which, based on the general welfare, health, peace, and safety of the people, warrants a refusal, suspension, or cancellation of the license;

(4) that issuance of, or failure to suspend or cancel, the license would be contrary to the intent and purpose of this Article.

Applicant and licensee defined

Sec. 21. In Sections 19 and 20 of this Article, unless the context requires a different definition, the words "applicant" and "licensee" include each partner of a partnership; each trustee of a trust; each receiver of a receivership; each officer and director of a corporation; and each shareholder owning not less than 25 percent of the outstanding shares; any individual applicant or licensee; each officer, director, and member of any association or other entity not specified and, when applicable in context, the business entity itself.

Notice and hearing

Sec. 22.

(1) An applicant or licensee is entitled to at least ten days' notice and a hearing in the following instances:

(a) after his original application for a license has been refused;

(b) before his application for a renewal of a license may be refused;

(c) before his license may be suspended or cancelled.

(2) Notice of hearing for refusal, cancellation, or suspension may be served personally by the comptroller or his authorized representative or sent by United States certified mail addressed to the applicant or licensee at his last known address. In the event that notice cannot be effected by either of these methods after due diligence, the Comptroller may prescribe any reasonable method of notice calculated to inform a person of average intelligence and prudence in the conduct of his affairs.

Notice of comptroller's order

Sec. 23.

(1) Any order refusing an application or renewal application shall state the reasons for refusal, and a copy of the order shall be delivered immediately to the applicant or licensee.

(2) An order cancelling or suspending a license shall state the reasons for the cancellation or suspension, and a copy of the order shall be delivered immediately to the licensee.

(3) Delivery of the Comptroller's order of refusal, cancellation, or suspension may be given by

(a) personal service upon an individual applicant or licensee;

(b) personal service upon any officer or director or partner or trustee or receiver, as the case may be;

(c) personal service upon the person in charge of the business premises, temporarily or otherwise, of the applicant or licensee;

(d) sending such notice by United States certified mail addressed to the business premises of the applicant or licensee;

(e) posting notice upon the outside door of the business premises of the applicant or licensee.

(4) Notice is complete upon performance of any of the above. Cancellation or suspension takes effect upon service.

Appeal from comptroller's order

Sec. 24. A person who is refused a license, or whose license has been suspended or cancelled, may appeal the Comptroller's order to the District Court by filing a petition in the court within 30 days after the effective date of the order. Venue is in Travis County, Texas.

Sec. 25. In all appeals prosecuted in any of the courts of this state pursuant to the provisions of this Act, such trials shall be de novo as that term is used and understood in appeals from Justice of the Peace Courts to County Courts. When such an appeal is filed and the court thereby acquires jurisdiction, all administrative or executive action taken prior thereto shall be null and void and of no force and effect, and the rights of the parties thereto shall be determined by the court upon a trial of the matters in controversy under rules governing the trial of other civil suits in the same manner and to the same extent as though the matter had been committed to the courts in the first instance and there had been no intervening administrative or executive action or decision. Under no circumstances shall the substantial evidence rule as interpreted and applied by the courts of Texas in other cases ever be used or applied to appeals prosecuted under the provision of this Act. The Legislature hereby specifically declares that the provisions of this Section shall not be severable from the balance of this Act, save for Section 2 of this Act, and further specifically declares that this Act, save for Section 2 of this Act, would not have been passed without the inclusion of this Section. If this Section, or any part thereof, is for any reason ever held by any court to be invalid, unconstitutional or inoperative in any way, such holding shall apply to this entire Act, save for Section 2 of this Act, and in such event this entire Act, save for Section 2, shall be null, void and of no force and effect.

Unauthorized contracts prohibited; penalty

Sec. 26.

(1) No person licensed under this Article may place or operate a music or skill or pleasure coin-operated machine in an establishment where alcoholic beverages are sold or served for on-premises consumption except by written contract. The contract must include all provisions of the agreement between the parties and a statement sworn to by both parties that there are no other understandings or agreements between the parties.

(2) The licensee shall

(a) promptly file a copy of the contract with the Comptroller, unless on terms previously filed with the Comptroller;

* For Annotations and Historical Notes, see V.A.T.S.

(b) furnish a copy to the manager of the establishment where the machine is placed; and

(c) retain a copy at his principal place of business.

(3) The manager of the establishment shall retain his copy of the contract on his premises.

(4) A person who knowingly violates this Section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$1,000.00.

Prohibited financial relationships; credit transactions; penalty

Sec. 27.

(1) It shall be unlawful for a person who has a financial interest in a business required to be licensed by this Article to knowingly have a financial interest in a business engaged in selling or serving alcoholic beverages for on-premises consumption unless otherwise permitted in this Article. No bona fide financial interest or commitment in existence prior to September 1, 1969, shall be deemed a violation of this Article, but no such interest or commitment may be renewed or altered after September 1, 1969, without the written approval of the Comptroller, provided that this prohibition shall not apply if the business engaged in selling or serving alcoholic beverages be a corporation whose securities are registered under the laws of the United States or the State of Texas.

(2) Nothing in this Article shall be construed to prohibit a person who has a financial interest in a business required to be licensed by this Article from having any interest in real property on which is located a business engaged in selling or serving alcoholic beverages for on-premises consumption.

(3) It shall be unlawful for a person who has a financial interest in a business required to be licensed by this Article or for any agent on behalf of such person to contract either orally or in writing to convey an interest in real property whether by lease, sub-lease or otherwise if such contract contains a provision or provisions in any way limiting the other party's right to secure music or skill or pleasure coin-operated machines from any source.

(4) It shall be unlawful for a person to secure or attempt to secure a contract of lease or bailment of a music or skill or pleasure coin-operated machine by coercion, threats or intimidation, through the commission of, or threat to commit, any act prohibited by the penal laws of this State or the Consumer Credit Code of this State.

(5) A person who violates Subsection (1), (3), or (4) of this Section shall be guilty of a felony and upon conviction is punishable by imprisonment in the penitentiary for not less than two (2) years nor more than five (5) years or by a fine of not more than \$10,000.00 or by both.

(6) Any person required to be licensed by this Article may make an extension of credit to a lessee or a bailee of a music or skill or pleasure coin-operated machine for business or commercial purposes when the following terms and conditions have been met and the following duties and obligations satisfactorily assumed and discharged.

(a) Before making the first such extension of credit, the licensee under this Article shall first notify the Comptroller and the Consumer Credit Commissioner of the State of Texas of the intent of such licensee to make extensions of credit in the conduct of the licensee's business.

(b) The consideration for such extensions of credit shall not exceed interest or its equivalent at the rate of one and one-half percent (1½%) per month, computed according to the United States Rule. Consideration excludes court costs and attorney's fees as determined by the court, but includes the aggregate interest, fees, bonuses, commissions, brokerage, discounts, expenses, and other forms of costs charged, contracted for, or received by a licensee or any other person in connection with investigat-

ing, arranging, negotiating, procuring, guaranteeing, making, servicing, collecting, and enforcing an extension of credit or forbearance of money, credit, goods, or things in action, or any other service rendered. If in any transaction any consideration in excess of that provided above is charged or received by the licensee directly, or indirectly, except as the result of an accidental and bona fide error corrected upon discovery, the unpaid balance of the indebtedness created by such transaction shall be void, and that portion of any indebtedness so created which has been paid to the licensee, either the principal or its equivalent or interest or its equivalent, or both, shall be repaid by the licensee to the person.

(c) No extension of credit may be made by any person required to be licensed by this Article unless it is evidenced by a written agreement signed by the parties thereto specifying both the amount of credit extended, the consideration for such extension of credit, and the terms according to which such extension of credit is to be repaid.

(d) Each licensee making extensions of credit authorized by this Section shall keep in this State books and records, which shall be consistent with accepted accounting practices, relating to all such extensions of credit authorized by this Section sufficient to enable any competent person to determine whether or not such licensee is complying with this Section. Such records shall be preserved for four (4) years from the date of the transaction to which they relate, or two (2) years from the date of the final entry made with regard to such transaction, whichever is later.

(e) At such times as the Consumer Credit Commissioner may deem necessary, or at the request of the Comptroller or the Attorney General, the Consumer Credit Commissioner, or his duly authorized representative, may make an examination of the place of business of each licensee hereunder, and may inquire into and examine the transactions, books, accounts, papers, correspondence, or records of such licensee insofar as they pertain to the extensions of credit regulated by this Section. In the course of such examinations, the Consumer Credit Commissioner or his duly authorized representative shall have free access to the office, place of business, files, safes and vaults of such licensee, and shall have the right to make copies of such books, accounts, papers, correspondence and records. The Consumer Credit Commissioner or his duly authorized representative may, during the course of such examination, administer oaths and examine any person under oath upon any subject pertinent to any matter about which the Commissioner is authorized or required by this Section to consider, investigate or secure information. Any licensee who shall fail or refuse to let the Consumer Credit Commissioner or his duly authorized representative examine or make copies of such books or other relative documents shall thereby be deemed in violation of this Section. The information obtained in the course of such examination shall be confidential. Each licensee shall pay to the Commissioner an amount assessed by the Commissioner to cover the direct and indirect costs of such examination, including a proportionate share of general administrative expenses, which amount shall be retained and held by the Consumer Credit Commissioner, and no part of such fee shall ever be paid into the General Revenue Fund of this State. All expenses incurred by the Consumer Credit Commissioner in conducting such examinations shall be paid only from such fees, and no such expense shall ever be charged against the funds of this State.

(f) The Consumer Credit Commissioner may make regulations necessary for the enforcement of this Section and consistent with all its provisions. Before making a regulation the Consumer Credit Commissioner shall give each licensee at least thirty (30) days' written notice of a public hearing, stating the time and place thereof and the terms or substance of the proposed regulation. At the hearing, any licensee or

For Annotations and Historical Notes, see V.A.T.S.

other person may be heard and may introduce evidence, data, or arguments or place the same on file. The Consumer Credit Commissioner, after consideration of all relevant matters presented, shall adopt and promulgate every regulation in written form, stating the date of adoption and date of promulgation. Each regulation shall be entered in a permanent record book which shall be a public record and be kept in the Consumer Credit Commissioner's office. A copy of every regulation shall be mailed to each licensee, and no regulation shall become effective until the expiration of at least twenty (20) days after such mailing. On the application of any person and payment of the cost thereof, the Consumer Credit Commissioner shall furnish such person a certified copy of any such regulation.

(7) Any person required to be licensed by this Article who co-signs, guarantees, or becomes surety for an extension of credit or loan of anything of value to any person engaged in selling or serving alcoholic beverages for on-premises consumption, or to any person who he has reason to believe is about to be engaged in selling or serving alcoholic beverages for on-premises consumption, shall file with the Comptroller and the Consumer Credit Commissioner, a copy of all documents related to the transaction.

(8) Any person who violates Subsection (5), (6), or (7) of this Section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$200.00 nor more than \$1,000.00.

Acts 1959, 56th Leg., 3rd C.S., p. 187, ch. 1, art. 13.17, added by Acts 1969, 61st Leg., p. 1606, ch. 497, § 1, eff. Sept. 1, 1969. Amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 9, § 1, eff. Oct. 1, 1969.

Severability:

For severability and combining clauses applicable to this article, and particularly section 25 thereof, in connection with other sections of the 1969 act, see Historical Note under Art. 13.02.

Section 1(a) was added in 1969.

For effective date, severability and emergency clauses of Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, see Historical Note under Art. 1.031.

CHAPTER 14—INHERITANCE TAX AND FEDERAL ESTATE TAX CREDIT

III. ADMINISTRATION

Art. 14.22 County Judge—Order to Safe Deposit Company, Etc., to Turn Over Property

When it is made to appear to a County Judge in this state that a safe deposit company, trust company, bank, person, or corporation has in its possession or under its control, papers of a decedent of whose estate such court has jurisdiction, or that the decedent has leased from such a corporation a safe deposit box, and that such papers or such deposit box may contain a will of the decedent, or a deed to a burial plot in which the decedent is to be interred, or a policy of insurance issued in the name of the decedent and payable to a named beneficiary, he may make an order directing such deposit company, trust company, bank, person or corporation to permit a person named in the order to examine such papers or safe deposit box in the presence of himself, or his duly authorized representative, or a representative of the Comptroller, and an officer of such safe deposit company, trust company, bank or corporation, or agent of such person, and if such documents are found among such papers, or in such box, to deliver said will to the clerk of the probate court of such county, or said deed to such persons as may be designated

in such order, or said policy of insurance to the beneficiary named therein. The clerk of said court shall furnish a receipt upon the delivery of the will to him.

If no court order has been served upon the safe deposit company, bank, person or corporation, said lessors of safe deposit boxes may permit the spouse, a parent, an adult descendant or a person named as executor in a copy of a purported will produced by him, to open and examine the contents of a safe deposit box or boxes leased by a decedent, or any documents delivered by a decedent for safekeeping, in the presence of an officer of the safe deposit company, trust company, bank, person or corporation; and if so requested by such person, and after obtaining his signed receipt, therefor, may deliver:

(1) Any writing purporting to be a will of the decedent to the person named as executor or co-executor thereof or to the county probate clerk of the county where the decedent resided. The lessor shall retain a copy of any will so delivered for a period of four years from the date of its delivery.

(2) Any writing purporting to be a deed to a burial plot or to give burial instructions to the person making the request for a search.

(3) Any document purporting to be an insurance policy on the life of the decedent to the beneficiary or any co-beneficiary named therein.

But no other contents shall be removed except in the manner as may be otherwise now or hereafter provided by law.

Amended by Acts 1969, 61st Leg., p. 2006, ch. 685, § 1, eff. Sept. 1, 1969.

CHAPTER 19—MISCELLANEOUS OCCUPATION TAXES

Art. 19.01 Miscellaneous Occupation Taxes

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(10) Billiard Tables.

(a) From every person owning and operating for profit and every firm, association of persons, corporation and every other organization, save and except religious, charitable or educational organizations, authorized under the laws of the State of Texas, owning and operating any billiard table, by whatever name called, there shall be collected an annual tax of five Dollars (\$5) for each billiard table.

(b) Billiard Table Defined. A billiard table is defined as any table surrounded by a ledge or cushion with or without pockets upon which balls are impelled by a stick or cue, provided, however, that any coin-operated billiard table, being a skill or pleasure coin-operated machine, shall be subject to the provisions of Chapter 13 of this Title, and taxable thereunder.

(c) Cities and Towns May Levy Tax and License Owners and Operators. All cities and towns, whether incorporated under general or special law, shall have the power and authority to levy and collect a tax, equal to one-half (1/2) of the amount herein levied, and may ban, prohibit, regulate, supervise, control or license, any person, firm, association of persons, corporations and all other organizations, save and except religious, charitable or educational organizations, authorized under the laws of the State of Texas, operating a billiard table within the incorporated limits of such city or town; but in the event that a fee is charged for licensing the operation of billiard tables, said fee shall not

For Annotations and Historical Notes, see V.A.T.S.

exceed Ten Dollars (\$10) annually per table; and said cities and towns may fix penalties for the violation thereof.

Amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 9, § 2, eff. Oct. 1, 1969.

For effective date, severability and emergency clauses of Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, see Historical Note under Art. 1.031.

CHAPTER 20—LIMITED SALES, EXCISE AND USE TAX

Art.

20.031 Administration and Enforcement of Use Tax [New].

Art. 20.01 Title—Definitions

This Chapter is known and may be cited as the "Limited Sales, Excise and Use Tax Act," and the following words shall have the following meanings unless a different meaning clearly appears from the context:

(A) Person. "Person" shall mean and include any individual, firm, copartnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, assignee for the benefit of creditors, trustee, trustee in bankruptcy, syndicate, cooperative, assignee, or any other group or combination acting as a unit. "Person" shall also include the United States or any agency thereof, this State, or any agency hereof, or any city, county, special district, or other political subdivision of this State to the extent engaged in the selling of items taxable under this Chapter.

Sec. (A) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 1, eff. Oct. 1, 1969.

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(D) Receipts.

(1) "Receipts" means the total amount of the sale or lease or rental price, as the case may be, of the retail sales of taxable items by retailers, valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the taxable item sold. However, in accordance with such rules and regulations as the Comptroller may prescribe, a deduction may be taken if the retailer has purchased tangible personal property for some purpose other than resale, has reimbursed his vendor for tax which the vendor is required to pay to the State or has paid the use tax with respect to the tangible personal property, and has resold the tangible personal property prior to making any use of the tangible personal property other than retention, demonstration or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the tangible personal property.

(b) The cost of the materials used, labor or service costs, interest paid, losses or any other expenses.

(c) The cost of transportation of the tangible personal property prior to its sale to the purchaser.

(d) The cost of transportation incident to the performance of a taxable service.

(2) "Receipts" does not include any of the following:

(a) Cash discounts allowed on sales.

(b) Sales price of tangible personal property returned by customers when the full sales price is refunded either in cash or credit, or refunds on the sales price of taxable services.

(c) The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

(d) The amount charged for finance charges, carrying charges, service charges or interest from credit extended on sales of taxable items under conditional sale contracts or other contracts providing for deferred payments of the purchase price.

(e) The value of tangible personal property taken by a seller in trade as all or a part of the consideration for a sale of tangible personal property of any kind or nature.

(f) Charges for transportation of tangible personal property after sale.

(g) The amount charged for labor or services rendered in installing, applying, remodeling, or repairing the tangible personal property sold."

Sec. (D) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 2, eff. Oct. 1, 1969. Sec. (D) (2) amended by Acts 1969, 61st Leg., 2nd C.S., p. 210, ch. 41, § 1, eff. Oct. 1, 1969.

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(F) Occasional Sale. "Occasional Sale" means:

(1) One or two sales of taxable items at retail during any twelve-month period by a person who does not hold himself out as engaging (or who does not habitually engage) in the business of selling taxable items at retail.

(2) The sale of the entire operating assets of a business or of a separate division, branch or identifiable segment of a business. For the purpose of this Subsection a "separate division, branch or identifiable segment" shall be deemed to exist if prior to its sale the income and expenses attributable to such "separate division, branch or identifiable segment" could be separately ascertained from the books of account or record. The purpose of this Subsection is to clarify existing law and merely expresses the original intention of the Legislature.

(3) Any transfer of all or substantially all the property held or used by a person in the course of an activity when after such transfer the real or ultimate ownership of such property is substantially similar to that which existed before such transfer. For the purposes of this Subsection, stockholders, bondholders, partners or other persons holding an interest in a corporation or other entity are regarded as having the "real or ultimate ownership" of the property of such corporation or other entity.

Sec. (F) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 3, eff. Oct. 1, 1969.

(G) Purchase. "Purchase" means:

(1) Any transfer of title or possession, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration.

(2) A transaction whereby the possession of tangible personal property is transferred but the seller retains the title as security for the payment of the price.

(3) A transfer, for a consideration, of tangible personal property which has been produced, fabricated or printed to the special order of the customer.

(4) The acceptance or utilization of any taxable service for a consideration.

Sec. (G) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 4, eff. Oct. 1, 1969.

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For Annotations and Historical Notes, see V.A.T.S.

(I) Retail Sale or Sale at Retail. "Retail Sale" or "Sale at Retail" means:

(1) Any sale of a taxable item.

(2) The delivery in this State of tangible personal property by an owner or former owner thereof or by a factor or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer, pursuant to a retail sale made by a retailer not engaged in business in this State. The person making the delivery in such cases shall include the retail selling price of the tangible personal property in his receipts.

(3) The performance in this State of any taxable service.

Sec. (I) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 5, eff. Oct. 1, 1969.

(J) Retailer.

(1) "Retailer" includes:

(a) Every seller engaged in the business of making sales of tangible personal property for storage, use or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use or other consumption.

(b) Every person making more than two (2) retail sales of tangible personal property during any twelve-month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy.

(c) Every person who leases or rents to another tangible personal property for storage, use or other consumption.

(d) Every person selling taxable services.

Sec. (J) (1) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 6, eff. Oct. 1, 1969.

* * * * *

(K) Sale.

(1) (a) "Sale" means and includes any transfer of title or possession, or segregation in contemplation of transfer of title or possession, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration.

(b) "Sale" includes the performance of a taxable service for a consideration.

(c) "Sale" when used in connection with amusement services means the sale of admission or the right to participate, whether by means of or through the purchase of a club or other membership card, subscription, dues, season or other ticket, lease for admission, or simply by the payment of cash without the delivery or use of any receipt, ticket or other instrument or device.

Sec. (K) (1) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 7, eff. Oct. 1, 1969.

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(L) Sales Price.

(1) "Sales Price" means the total amount for which taxable items are sold, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the taxable items sold.

(b) The cost of material used, labor or service costs, interest paid, losses, or any other expenses.

(c) The cost of transportation of the tangible personal property prior to its sale or purchase.

(d) The cost of transportation incident to the performance of a taxable service.

(2) The total amount for which a taxable item is sold includes all of the following:

(a) Any services which are a part of the sale.

(b) Any amount for which credit is given to the purchaser by the seller.

(3) "Sales Price" does not include any of the following:

(a) Cash discounts allowed on sales.

(b) The amount charged for tangible personal property returned by the customers when the entire amount charged therefor is refunded either in cash or credit, or refunds on the sales price of taxable services.

(c) The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

(d) The amount charged for finance charges, carrying charges, service charges or interest from credit extended on sales of taxable items under conditional sale contracts or other contracts providing for deferred payments of the purchase price.

(e) The value of tangible personal property taken by a seller in trade as all or a part of the consideration for a sale of a taxable item of any kind or nature.

(f) Charges for transportation of tangible personal property after sale.

(g) The amount charged for labor or services rendered in installing, applying, remodeling, or repairing the tangible personal property sold. Sec. (L) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 8, eff. Oct. 1, 1969; Sec. (L) (3) amended by Acts 1969, 61st Leg., 2nd C.S., p. 210, ch. 41, § 2, eff. Oct. 1, 1969.

Sec. (L) (3) amended by Acts 1969, 61st Leg., 2nd C.S., p. 210, ch. 41, § 2, eff. Oct. 1, 1969.

(M) Seller. 'Seller' includes every person engaged in the business of selling, leasing or renting taxable items of a kind, the receipts from the retail sale, lease or rental of which are required to be included in the measure of the limited sales tax.

Sec. (M) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 9, eff. Oct. 1, 1969.

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(R) Use. "Use" includes the exercise of any right or power over tangible personal property incident to the ownership of that tangible personal property except that it does not include the sale of that tangible personal property in the regular course of business or the transfer of tangible personal property as an integral part of a taxable service rendered in the regular course of business. 'Use' specifically includes the incorporation of tangible personal property into real estate or into improvements upon real estate without regard to the fact that such real estate and improvements may subsequently be sold as such except as provided in Article 20.01(T) (2).

Sec. (R) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 10, eff. Oct. 1, 1969.

(S) Sale for Resale. "Sale for Resale" means:

(1) A sale of tangible personal property to any purchaser who is purchasing said tangible personal property for the purpose of reselling it within the geographical limits of the United States of America, its territories and possessions, in the normal course of business either in the form or condition in which it is purchased, or as an attachment to, or integral part of, other tangible personal property.

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(2) A sale of tangible personal property to a purchaser for the sole purpose of that purchaser's renting or leasing, within the geographical limits of the United States of America, its territories and possessions, the tangible personal property to another person, but not if incidental to the renting or leasing of real estate.

(3) A sale of tangible personal property to any purchaser who is purchasing the tangible personal property for the purpose of subsequently transferring it within the geographical limits of the United States of America, its territories and possessions, as an integral part of a taxable service.

(4) A sale of a taxable service performed on any tangible personal property that is held by the purchaser of the taxable service for resale.

Sec. (S) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 11, eff. Oct. 1, 1969.

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(T) Contractor or Repairman. "Contractor" or "Repairman" shall mean any person who performs any repair services upon tangible personal property or who performs any improvement upon real estate, and who, as a necessary and incidental part of performing such services, incorporates tangible personal property belonging to him into the property being so repaired or improved. Contractor or repairman shall be considered to be the consumer of such tangible personal property furnished by him and incorporated into the property of his customer, for all of the purposes of this Chapter.

(1) The above provision shall apply only if the contract between the person performing the services and the person receiving them contains a lump sum price covering both the performance of the services and the furnishing of the necessary incidental material.

(2) If the contract between the person providing the services and the person receiving them contains separate amounts applicable to the performance of the services and the furnishing of the material then the above Section shall not apply, and the person furnishing the materials shall be liable for the limited sales tax upon the agreed price of the materials as thus set forth in the contract. Provided, however, that the agreed price of the materials shall not be less than the actual cost of such materials to the person so providing them.

(3) In any case where the person so providing such materials had paid the limited sales tax to his supplier when purchasing the tangible personal property, he shall be entitled to credit the tax so paid to his supplier against any tax imposed by this Chapter with respect to his subsequent sale of that tangible personal property.

(4) Nothing in this Section applies to the performance of repair services taxable under this Chapter as a taxable service.

Sec. (T) amended by Acts 1968, 60th Leg., 1st C.S., p. 9, ch. 2, § 12, eff. Oct. 1, 1968; Acts 1969, 61st Leg., p. 1522, ch. 458, § 1, eff. June 10, 1969; Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 38, eff. Oct. 1, 1969.

(U) Manufacturing. "Manufacturing" shall mean and include every operation commencing with the first production stage of any article of tangible personal property and ending with the completion of tangible personal property having the physical properties (including packaging, if any) which it has when transferred by the manufacturer to another.

Sec. (U) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 12.

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(W) Taxable Items. "Taxable Items" means tangible personal property.

(X) Motor Vehicles. "Motor Vehicle" means every self-propelled vehicle in or by which any person or property is or may be transported upon a public highway, including trailers and semitrailers. "Motor Vehicle" does not include any device moved only by human power or used exclusively upon stationary rails or tracks and does not include farm machinery or farm trailers or road-building machinery or any self-propelled vehicle used exclusively to move farm machinery or farm trailers or road-building machinery.

Secs. (W), (X) added by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 13.

Acts 1969, 61st Leg., 2nd C.S., p. 210, ch. 41, §§ 3, 4, provided: "Sec. 3. This Act takes effect October 1, 1969.

"Sec. 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house

be suspended, and this Rule is hereby suspended, and that this Act take effect and be in force from and after October 1, 1969, and it is so enacted."

For effective date, severability and emergency clauses of Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, see Historical Note under Art. 1.031.

Art. 20.02 Imposition of Limited Sales Tax

There is hereby imposed a limited sales tax at the rate of three and one-fourth per cent ($3\frac{1}{4}\%$) on the receipts from the sale at retail of all taxable items within this State.

Amended by Acts 1968, 60th Leg., 1st C.S., p. 4, ch. 2, § 4, eff. Oct. 1, 1968; Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 14, eff. Oct. 1, 1969.

For effective date, severability and emergency clauses of Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, see Historical Note under Art. 1.031.

Exemptions: Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, also provided:

Sec. 45. (a) There are exempted from the increase in the Limited Sales, Excise, and Use Tax imposed by this Act the receipts from the sale, use, or rental, and the storage, use, or consumption in this State of tangible personal property, and there are exempted from the Limited Sales, Excise, and Use Tax and the Local Sales and Use Tax the receipts from the sale, use, or rental, and the storage, use or consumption in this state of taxable items not taxed before the effective date of this article, if:

(1) the items are used for the performance of a written contract entered into prior to the effective date of this article, if the contract is not subject to change or modification by reason of the tax; or the items are used pursuant to an obligation of a bid or bids submitted prior to the effective date of this article, if the bid or bids may not be withdrawn, modified, or changed by reason of the tax imposed by this Act; and

(2) notice of a contract or bid on which an exemption is to be claimed is given by the taxpayer to the Comptroller before the 60th day following the effective date of this article.

(b) The exemptions provided by this section have no effect after September 30, 1972.

Art. 20.021 Method of Collection; Bracket System

(A) Every retailer shall add the sales tax imposed by Article 20.02 of this Chapter to his sale price and when added the tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. It is further specified that where tangible personal property is segregated in contemplation of transfer of title or possession and is thereafter to be transported by common carrier from the seller to the buyer, with the price fixed F.O.B. the seller's place of business, and with transportation charges separately stated, the tax herein imposed shall be computed only upon the basis of the charge for the tangible personal property itself, exclusive of the separately stated and independently fixed transportation charges. When the sale price shall involve a fraction of

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a dollar, the tax shall be added to the sale price upon the following schedule:

Amount of Sale	Tax
\$.01 to \$.15	No Tax
.16 to .46	\$. 01
.47 to .76	.02
.77 to 1.07	.03
1.08 to 1.38	.04
1.39 to 1.69	.05
1.70 to 1.99	.06

Provided, that for successive brackets for this schedule in this paragraph, the tax shall be computed by multiplying three and one-fourth per cent (3¼%) times the amount of the sale. Any fraction of one cent (\$.01) which is less than one half of one cent (\$.005) of tax shall not be collected. Any fraction of one cent (\$.01) of tax equal to one half of one cent (\$.005) or more shall be collected as a whole cent (\$.01) of tax.

When several taxable items are purchased together and at the same time, the tax shall be computed on the total amount of the several items less the amount paid for any article or item of tangible personal property specifically exempt under the provisions of Article 20.04 of this Chapter.

The use of tokens or stamps for the purpose of collecting or of enforcing the collection of the tax imposed in this Chapter or for any other purpose in connection with such tax is prohibited.

Sec. (A) amended by Acts 1968, 60th Leg., 1st C.S., p. 4, ch. 2, § 5, eff. Oct. 1, 1968; Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 15, eff. Oct. 1, 1969.

(B) Assumption or Absorption of Tax by Retailer; Unlawful Advertising.

(1) It is unlawful for any retailer to advertise or to hold out or to state to the public or to any customer, either directly or indirectly, that the tax or any part thereof will be assumed or absorbed by him or that any part of it will be refunded or that it will not be added to the selling price of the taxable items sold. Provided, however, that this Section (B) does not prohibit any utility from billing its customers in one lump sum covering the utility sales price plus the tax imposed by this Chapter.

Sec. (B) (1) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 16, eff. Oct. 1, 1969.

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(F) Presumption of Taxability: Resale Certificate. For the purpose of the proper administration of this Chapter and to prevent evasion of the limited sales tax it shall be presumed that all gross receipts are subject to the tax until the contrary is established.

The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the tangible personal property is purchased for the purpose of reselling, leasing or renting it in the regular course of business or for the purpose of subsequently transferring it as an integral part of a taxable service rendered in the regular course of business.

Sec. (F) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 17, eff. Oct. 1, 1969.

(G) Effect of Resale Certificate. The resale certificate relieves the seller from the burden of proof only if taken in good faith from a person who is engaged in the business of selling, leasing or renting taxable items.

A resale certificate may be given by a purchaser, who at the time of purchasing the tangible personal property, intends to sell, lease or rent it in the regular course of business, transfer it as an integral part of a taxable service in the regular course of business or is unable to ascertain at the time of purchase whether the tangible personal property will be resold, leased, rented, or transferred in the regular course of business or will be used for some other purpose.

Sec. (G) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 18, eff. Oct. 1, 1969.

(H) Form and Contents of Resale Certificate.

(1) The certificate shall:

(a) Be signed by and bear the name and address of the purchaser.

(b) Indicate the number of the permit issued to the purchaser or that an application for such permit is pending before the Comptroller.

(c) Indicate the general character of the tangible personal property sold, leased or rented by the purchaser in the regular course of business, or transferred as an integral part of a taxable service rendered in the regular course of business.

Sec. (H) (1) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 19, eff. Oct. 1, 1969.

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(I) Liability of Purchaser Giving Resale Certificate. If a purchaser who gives a resale certificate makes any use of the tangible personal property other than retention, demonstration or display while holding it for sale, lease or rental in the regular course of business or for transfer as an integral part of a taxable service in the regular course of business, the use shall be taxable to the purchaser as of the time when the tangible personal property is first so used, and the sales price of the tangible personal property to him shall be deemed the measure of the tax.

Sec. (I) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 20, eff. Oct. 1, 1969.

(J) Improper Use of Resale Certificates. Any person who gives a resale certificate to the seller for tangible personal property which he knows, at the time of purchase, is purchased for the purpose of use rather than for the purpose of resale, lease or rental by him in the regular course of business or for transfer by him as an integral part of a taxable service rendered in the regular course of business is guilty of a misdemeanor and shall upon conviction suffer the penalties set forth in Article 20.12(B) of this Chapter.

Sec. (J) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 21, eff. Oct. 1, 1969.

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(M) Refunds and Allowances. Credit shall be allowed to the retailer for taxes paid on the amount of any refunds or credits allowed to a purchaser as a result of a bona fide renegotiation of a sales price. Such renegotiation shall include agreements by which the seller refunds or allows credit for any amount in satisfaction for an alleged breach of warranty with respect to taxable items previously sold by him to the person with whom said agreement is made.

Sec. (M) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 22, eff. Oct. 1, 1969.

For effective date, severability and emergency clauses of Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, see Historical Note under Art. 1.031.

Art. 20.03 Imposition and Rate of Use Tax

An excise tax is hereby imposed on the storage, use or other consumption in this State of taxable items purchased, leased or rented from any retailer for storage, use or other consumption in this State, at the same percentage rate as is provided in Article 20.02 of this Title, on the sales price of the taxable item, or in the case of leases or rentals, on said lease or rental prices.

Amended by Acts 1968, 60th Leg., 1st C.S., p. 5, ch. 2, § 6, eff. Oct. 1, 1968; Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 23, eff. Oct. 1, 1969.

For effective date, severability and emergency clauses of Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, see Historical Note under Art. 1.031.

Exemptions

See Historical Note under Art. 20.02.

Art. 20.031 Administration and Enforcement of Use Tax

(A) **Liability for Use Tax: Extinguishment of Liability.** Every person storing, using or otherwise consuming in this State taxable items purchased from a retailer or leased or rented from another person for such purpose is liable for the tax. His liability is not extinguished until the tax has been paid to this State, except that a receipt from a retailer engaged in business in this State or from a retailer who is authorized by the Comptroller, under such rules and regulations as he may prescribe, to collect the tax and who is, for the purposes of this Chapter relating to the use tax regarded as a retailer engaged in business in this State, given to the purchaser pursuant to Section (B) of this Article is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

(B) **Collection by Retailer: Purchaser's Receipt.** Every retailer engaged in business in this State and selling, leasing or renting taxable items for storage, use, or other consumption in this State shall at the time of making the sale collect any use tax which may be due from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the Comptroller.

Retailer engaged in business in this State" as used in this Section (B) and the preceding Section (A) means and includes any of the following:

(1) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place or other place of business.

(2) Any retailer having any representative, agent, salesman, canvasser or solicitor operating in this State under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any taxable items.

(C) **Assumption, Absorption of Tax by Retailers, Unlawful Advertising.** It is unlawful for any retailer to advertise or to hold out or to state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling, renting, or leasing price of the taxable item sold, rented or leased, or that it or any part thereof will be refunded.

(D) **Unlawful Acts.** Any person convicted of violating Sections (B) or (C) of this Article shall be guilty of a misdemeanor and shall suffer the penalties set forth in Article 20.12(D) of this Chapter.

(E) **Registration of Retailers.** Every retailer selling, leasing or renting taxable items for storage, use or other consumption in this State shall register with the Comptroller and give:

(1) The names and addresses of all agents operating in this State.

(2) The location of all distribution or sales houses or offices or other places of business in this State.

(3) Such other information as the Comptroller may require.

(F) **Presumption of Purchase for Use: Resale Certificate.** For the purpose of the proper administration of this Chapter and to prevent evasion of the use tax and of the duty to collect the use tax, it shall be presumed that tangible personal property sold, leased or rented by any person for delivery in this State is sold, leased or rented for storage, use or other consumption in this State until the contrary is established. The burden of proving the contrary is upon the person who sells, leases or rents the property unless he takes from the purchaser a certificate to the effect that the tangible personal property is purchased for resale, leasing, or renting.

(G) **Effect of Resale Certificate.** The resale certificate relieves the seller from the burden of proof only if taken in good faith from a person who is engaged in the business of selling taxable items. A resale certificate may be given by a purchaser who, at the time of purchasing the tangible personal property, intends to sell, lease or rent it in the regular course of business, transfer it as an integral part of a taxable service rendered in the regular course of business or is unable to ascertain at the time of purchase whether the tangible personal property will be sold, leased or rented or will be used for some other purpose.

(H) **Form and Contents of Resale Certificate.**

(1) The certificate shall:

- (a) Be signed and bear the name and address of the purchaser.
- (b) Indicate the number of the permit issued to the purchaser or that an application for such permit is pending before the Comptroller.
- (c) Indicate the general character of the tangible personal property sold, leased or rented by the purchaser in the regular course of business or transferred as an integral part of a taxable service rendered in the regular course of business.

(2) The certificate shall be substantially in such form as the Comptroller may prescribe.

(I) **Liability of Purchaser Giving Resale Certificate; Use of Article Bought for Resale.** If a purchaser who gives a resale certificate makes any use of the tangible personal property other than retention, demonstration or display while holding it for sale, lease or rental, in the regular course of business or for transfer as an integral part of a taxable service rendered in the regular course of business, the use shall be taxable to the purchaser as of the time when the tangible personal property is first so used, and the sales price of the property to him shall be deemed the measure of the tax.

(J) **Improper Use of Resale Certificates.** Any person who gives a resale certificate to the seller for tangible personal property which he knows, at the time of purchase, is purchased for the purpose of use rather than for the purpose of resale, lease or rental by him in the regular course of business or for transfer as an integral part of a taxable service rendered in the regular course of business is guilty of a misdemeanor and shall upon conviction suffer the penalties set forth in Article 20.12 (B) of this Chapter.

(K) **Resale Certificate: Commingled Fungible Goods.** If a purchaser gives a resale certificate with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased but of such a similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales from the mass of commingled goods shall be deemed to be sales of the goods covered by the resale certificate until a quantity of commingled goods equal to the quantity of such goods so commingled has been sold.

(L) **Presumption of Purchase from Retailer.** It shall be further presumed in the absence of evidence to the contrary, that tangible personal property shipped or brought to this State by the purchaser after the effective date of this Chapter was purchased from a retailer on or

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after the effective date of this Chapter for storage, use or other consumption in this State, and that any service used or consumed in this State on or after the effective date of inclusion of that service as a taxable service under this Chapter, was purchased from a retailer on or after that date for use or consumption in this State.

Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I, § 1, added by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 24, eff. Oct. 1, 1969.

For effective date, severability and emergency clauses of Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, see Historical Note under Art. 1.031.

Art. 20.04 Exemptions

(A) "Exempted from taxes imposed by this Chapter" means exempted from the computation of the amount of the taxes imposed.

(B) Exemption Certificates. If a purchaser certifies in writing to a seller that the taxable items purchased will be used in a manner or for a purpose entitling the seller to regard the receipts from the sale as exempted by this Chapter from the computation of the amount of the limited sales tax, and if the purchaser then uses the taxable items in some other manner or for some other purpose, the purchaser shall be liable for payment of the limited sales tax as if he were a retailer making a retail sale of the taxable items at the time of the use, and the cost of the taxable items to him shall be deemed the receipts from such retail sale for the purpose of determining the amount of tax for which he is liable.

Any person who gives an exemption certificate to the seller for taxable items which he knows, at the time of purchase, will be used in a manner other than that expressed in the exemption certificate is guilty of a misdemeanor and shall upon conviction suffer the penalties set forth in Article 20.12(B) of this Chapter.

(C) Constitution and Statutory Exemptions. There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental of and the storage, use or other consumption in this State of taxable items the gross receipts from the sale, lease or rental of which, or the storage, use or other consumption of which, this State is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this State.

(D) Items Taxed Under Existing Statutes.

(1) There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental, production or distribution, or the storage, use or other consumption in this State of:

(a) oil as taxed under the provisions of Chapter 4 of this Title;¹

(b) sulphur as taxed under the provisions of Chapter 5 of this Title;²

(c) cigarettes as defined and taxed under the provisions of Chapter 7 of this Title;³

(d) cigars and tobacco products as defined and taxed under the provisions of Chapter 8 of this Title;⁴

(e) motor fuels as defined, taxed or exempted under the provisions of Chapter 9 of this Title;⁵

(f) special fuels as defined, taxed or exempted under the provisions of Chapter 10 of this Title;⁶

(g) cement as taxed under the provisions of Chapter 18 of this Title;⁷

(h) motor vehicles, trailers and semitrailers as defined, taxed or exempted under the provisions of Chapter 6 of this Title.⁸

(2) There are exempted from the taxes imposed by this Chapter the receipts from the sale, production, distribution, lease or rental of and the storage, use or other consumption in this State of water.

(3) There are exempted from the taxes imposed by this Chapter the receipts from the sale, production, distribution, lease or rental of and

the storage, use or other consumption in this State of telephone and telegraph service.

(E) Property Used in Manufacturing, Packaging and Containers.

(1) Tangible Personal Property Used in Manufacturing. There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental of, and the storage, use or other consumption in this State of:

(a) tangible personal property which will enter into and become an ingredient or component part of tangible personal property manufactured, processed or fabricated for ultimate sale at retail within or without this State; and

(b) tangible personal property used or consumed in or during any phase of such actual manufacturing, processing or fabricating operation, provided that the use or consumption of such tangible personal property is necessary or essential to the performance of such operations. Chemicals, catalysts, and other materials which are used during such operations and which are used for the purpose of producing or inducing a chemical or physical change during such operations or for removing impurities or otherwise placing a product in a more marketable condition are included within the exemption, as are other articles of tangible personal property used in such a manner as to be necessary or essential in the actual manufacturing, processing, or fabricating operations. The exemption provided herein does not include the following:

(i) machinery, equipment and replacement parts and accessories therefor, having a useful life when new in excess of six (6) months;

(ii) machinery, equipment, materials and supplies used in a manner that is merely incidental to the manufacturing, processing or fabricating operation such as intraplant transportation equipment, and maintenance and janitorial equipment and supplies;

(iii) hand tools such as hammers, wrenches, saws, etc.; and

(iv) tangible personal property used by a manufacturer, processor or fabricator in any activities other than the actual manufacturing, processing or fabricating operation such as office equipment and supplies, equipment and supplies used in selling or distributing activities, in research and development of new products, or in transportation activities.

(2) Wrapping, Packing, and Packaging Supplies.

(a) There are exempted from the taxes imposed by this Chapter the receipts from sales of all internal and external wrapping, packing, and packaging supplies and materials to any person for use in wrapping, packing or packaging any tangible personal property for the purpose of expediting or furthering in any way the sale of that property.

(b) For the purpose of this Section, wrapping, packing and packaging supplies shall include, but shall not be limited to:

(i) Wrapping paper, wrapping twine, bags, cartons, crates, crating materials, tape, rope, labels, staples, glue and mailing tubes.

(ii) Property used inside a package in order to shape, form, preserve, stabilize or protect the contents, such as, but not limited to, excelsior, straw, cardboard fillers, separators, shredded paper, ice, dry ice, cotton batting, shirt boards, hay and laths.

(3) Containers.

(a) There are exempted from the taxes imposed by this Chapter the receipts of sales, leases, or rentals of, and the storage, use or other consumption in this State of:

(i) Nonreturnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container.

(ii) Containers when sold with the contents if the sale price of the contents is not required to be included in the measure of the taxes imposed by this Chapter.

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(iii) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling.

(b)⁹ As used in this Article, the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers."

(F) Certain Meals and Food Products. There are exempted from the taxes imposed by this Chapter the receipts from the sale of, and the storage, use or other consumption in this State of:

(1) Meals and food products (including soft drinks and candy) for human consumption served by public or private schools, school districts, student organizations, or Parent-Teacher Associations pursuant to an agreement with the proper school authorities, in an elementary or secondary school during the regular school day.

(2) Meals and food products (including soft drinks and candy) for human consumption when sold by a church or at a function of said church.

(3) Meals and food products (including soft drinks and candy) for human consumption when served to patients and inmates of hospitals and other institutions licensed by the State for the care of human beings.

(G) Interstate Shipments.

(1) Property Shipped Outside State Pursuant to Sales Contract; Delivery by Retailer. There are exempted from the taxes imposed by this Chapter receipts from any sale of tangible personal property which, pursuant to the contract of sale, is shipped to a point outside this State by the retailer by means of:

(a) facilities operated by the retailer;

(b) delivery by the retailer to a carrier for shipment to a consignee at such point; or

(c) delivery by the retailer to a customs broker or forwarding agent for shipment outside this State.

(2) Common Carriers. There are exempted from the computation of the limited sales tax, the receipts from sales of tangible personal property to a common carrier, shipped by the seller via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this State and the tangible personal property is actually transported to the out-of-State destination for use by the carrier in the conduct of its business as a common carrier outside the State of Texas.

(3) Special Use Tax Exemption. The use tax imposed herein shall not apply to:

(a) The use, in this State, of tangible personal property which is acquired outside this State and which is moved into this State for use as a licensed and certificated carrier of persons or property.

(b) The temporary storage in this State of tangible personal property which is acquired outside this State and which, subsequent to being brought into this State and stored here temporarily, is used solely outside this State or is physically attached to or incorporated into other tangible personal property which is used solely outside this State.

(c) The storage, use or consumption of tangible personal property which is acquired outside this State, the sale, lease or rental or the storage, use or consumption of which tangible personal property would be exempt from the limited sales or use tax were it purchased within this State.

(d) The storage and use, in this State, of tangible personal property acquired outside this State for use as a repair or replacement part for and actually affixed in this State to a self-propelled vehicle which is a licensed and certificated common carrier of persons or property.

(H) United States; State; Political Subdivisions; Religious, Eleemosynary Organizations. There are exempted from the computation of the amount of the taxes imposed by this Chapter, the receipts from the

sale, lease or rental of any taxable items to, or the storage, use or other consumption of taxable items by:

(1) The United States, its unincorporated agencies and instrumentalities.

(2) Any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States.

(3) The State of Texas, its unincorporated agencies and instrumentalities.

(4) Any county, city, special district or other political subdivision of this State.

(5) Any organization created for religious, educational, charitable or eleemosynary purposes, provided that no part of the net earnings of any such organization inures to the benefit of any private shareholder or individual.

(I) Occasional Sales. There are exempted from the taxes imposed by this Chapter the receipts from the occasional sales of taxable items and the storage, use or other consumption in this State of taxable items the sale of which to the consumer constitutes an occasional sale or the sale of which to the consumer is made by way of an occasional sale.

(J) Use Tax: Reciprocal Credit for Similar Taxes Paid Elsewhere. There shall be allowed as a credit to any taxpayer against the use tax imposed by this Chapter upon any taxable item, the amount of any like tax paid by that taxpayer in another state, territory or possession of the United States of America with respect to the sale, purchase or use of the items; provided that such other states, territories, or possessions provide for a similar tax credit for taxpayers of this State.

(K) Use Tax Inapplicable When Limited Sales Tax Applies or When Use Tax Previously Paid. The storage, use or other consumption in this State of taxable items, the receipts from the sale, lease, rental or use of which are required to be included in the measure of the limited sales tax, or taxable items upon which a use tax has been paid by the taxpayer using said taxable items, is exempted from the use tax imposed by this Chapter.

(L) Food and Food Products for Human Consumption. There are exempted from the taxes imposed by this Chapter the receipts from sales of, and the storage, use or other consumption of, food products for human consumption.

(1) "Food products" shall include, except as otherwise provided herein, but shall not be limited to, cereals and cereal products; milk and milk products, including ice cream; oleomargarine; meat and meat products; poultry and poultry products; fish and fish products; eggs and egg products; vegetables and vegetable products; fruit and fruit products; spices, condiments and salt; sugar and sugar products; coffee and coffee substitutes; tea, cocoa products; or any combination of the above.

(2) "Food products" shall not include:

(a) Medicines, tonics, vitamins and medicinal preparations in any form.

(b) Carbonated and noncarbonated packaged soft drinks and diluted juices where sold in liquid or frozen form; and ice and candy.

(c) Foods and drinks (which include meals, milk and milk products, fruits and fruit products, sandwiches, salads, processed meats and seafoods, vegetable juices, ice cream in cones or small cups) served, prepared or sold ready for immediate consumption in or by restaurants, drug stores, lunch counters, cafeterias, hotels or like places of business or sold ready for immediate consumption from push carts, motor vehicles, or any other form of vehicle. Provided, however, that food and drinks purchased by a common carrier for the purpose of serving passengers traveling en route aboard such carriers shall be exempt.

For Annotations and Historical Notes, see V.A.T.S.

(M) Drugs, Medicines, Prosthetic Devices. There are exempted from the taxes imposed by this Chapter the receipts from sales of, and the storage, use or other consumption of insulin and of drugs and medicines when prescribed or dispensed for humans or animals by a licensed practitioner of the healing arts. There are also exempted from the taxes imposed by this Chapter, the receipts from sales of and the storage, use or other consumption of braces, spectacles, hearing aids, orthopedic and dental prosthetic appliances, and replacement parts designed specifically for such products.

(N) Animal Life; Feed; Seeds; Plants; Fertilizer. There are exempted from the taxes imposed by this Chapter the receipts from sales of, and the storage, use or other consumption of:

(1) Any form of animal life of a kind the products of which ordinarily constitute food for human consumption. Horses, mules and work animals.

(2) Feed for farm and ranch animals and for animals which are held for sale in the regular course of business.

(3) Seeds and annual plants the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business.

(4) Fungicides, insecticides, herbicides, defoliant and desiccants exclusively used or employed on farms or ranches in the production of food for human consumption, feed for any form of animal life, or other agricultural products to be sold in the regular course of business.

(5) Fertilizer.

(6) Machinery or equipment exclusively used or employed on farms or ranches in the production of food for human consumption, production of grass, the building or maintaining of roads and water facilities, feed for any form of animal life, or other agricultural products to be sold in the regular course of business.

(O) Sale for Resale: Leasing or Renting.

(1) There are exempted from the taxes imposed by this Chapter the receipts from all sales for resale, leasing, renting or for transfer as an integral part of a taxable service rendered in the regular course of business.

(2) However, if a person purchases tangible personal property for the purpose of leasing or renting it to another person, and if he later sells it by means of an occasional sale before he has collected and paid to this State as much tax on the rental or lease charges as would have been due and payable to this State had he not purchased the tangible personal property for the purpose of so renting and leasing it, he shall, at the time of his occasional sale of said tangible personal property include in his receipts from taxable sales the amount by which his purchase price exceeded the amount of rents collected by him on said tangible personal property.

(3) When a lessor makes a retail sale of leased tangible personal property to a lessee of that tangible personal property under an agreement whereby certain rental payments are credited against the purchase price of that tangible personal property, he need not collect or pay any tax on the sale price to the extent that he has collected and paid on such rental payments.

(P) Vessels.

(1) There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental of, or the storage, use or other consumption in this State of materials, equipment and machinery which enter into and become component parts of ships, vessels, including commercial fishing vessels, or barges, of fifty (50) tons displacement and

over, built in this State, and the receipts from the sale of such ships, vessels, or barges when sold by the builder thereof, and repair services and renovation, including labor and materials to such ships, vessels or barges.

(2) The taxes imposed by this Chapter shall not apply to the receipts from the sale, lease or rental of, or the storage, use or other consumption in this State of materials and supplies purchased by the owners or operators of ships or vessels operating exclusively in foreign or interstate coastwise commerce, where such materials and supplies are loaded upon the ship or vessel for use or consumption in the maintenance and operation thereof; or to materials and supplies used in the repair of such ships and vessels where such materials and supplies enter into and become a component part of such ships or vessels.

(3) The taxes imposed by this Chapter shall not apply to the receipts from the sale, lease or rental of, or the storage, use or other consumption in this State of drilling equipment used in the exploration for or production of oil, gas, sulphur, or other minerals when such equipment is built for exclusive use outside the boundaries of the State and is removed forthwith from the State upon completion.

(Q) Certain Aircraft. There are exempted from the taxes imposed by this Chapter the receipts from the sale, use, storage, lease or other consumption of aircraft sold to persons using such aircraft as certificated or licensed carriers of persons or property, or sold to any foreign government or sold to persons who are not residents of this State and repair services to aircraft operated by a certificated or licensed carrier of persons or property.

(R) Gas and Electricity. There are exempted from the taxes imposed by this Chapter the sale, production, distribution, lease or rental of and the storage, use or other consumption in this State of gas and electricity except when sold for residential use or commercial use.

For the purpose of this subsection, the terms "residential use" and "commercial use" shall have the following meanings:

"Residential use" means use in a family dwelling or building or portion thereof occupied as the home, residence, or sleeping place of one or more persons.

"Commercial use" means use by persons engaged in selling, warehousing or distributing a commodity or service, either professional or personal.

The term "commercial use" specifically does not include use by persons engaged in: (1) processing tangible personal property for sale as tangible personal property; (2) exploration for or production and transportation of a material extracted from the earth; (3) agriculture, including dairy or poultry operations and pumping water for farm and ranch irrigation; or, (4) electrical processes such as electroplating, electrolysis and cathodic protection.

(S) Rolling Stock. There are exempted from the taxes imposed by this Chapter receipts from any sale, use, storage or other consumption of locomotives and rolling stock, including fuel or supplies essential to the operation of locomotives and trains.

(T) There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental of, and the storage, use or other consumption in this State of books consisting wholly of writings sacred to any religious faith and religious periodicals published or distributed by any religious faith consisting wholly of writings promulgating the teachings of such faith.

(U) Vending Machine Sales.

(1) There are exempted from the taxes imposed by this Chapter the receipts from the sale of tangible personal property when sold through a coin-operated vending machine for a total consideration of sixteen cents (16¢) or less.

For Annotations and Historical Notes, see V.A.T.S.

(2) There are exempted from the taxes imposed by this Chapter the receipts from the sale of telephone service paid for by inserting coins in coin-operated telephones.

(V) Transfers Without Substantial Change in Ownership. There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental of, and the storage, use or other consumption in this State, pursuant to the terms of a good faith bona fide contractual relationship, of an interest in tangible personal property to a partner, co-owner or other person who before or after such a sale owns a joint or undivided interest (with the seller) in such tangible personal property where the Texas Limited Sales, Excise and Use Tax has previously been paid on such tangible personal property.

(W) Casing, Drill Pipe, Tubing, and Other Pipe. There are exempted from the taxes imposed by this Chapter, the receipts from the sale, lease, or rental in this State of casing, drill pipe, tubing, and other pipe to be used in exploration for or production of oil, gas, sulphur, and other minerals offshore outside the territorial limits of the State.

(X) Property for Use in Offshore Exploration and Production.

(a) There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental in this State of tangible personal property for use exclusively in the exploration for or the production of oil, gas, sulphur, or other minerals offshore and outside the territorial limits of the State.

(b) The property described in Subdivision (a) of this section may be delivered to the purchaser or lessee in this State and removed by means of his own facilities or by any other means beyond the territorial limits of the State.

(c) Receipts from the sale, lease or rental of property described in Subdivision (a) of this section are exempt when the property is shipped to any place in the State for further assembly or fabrication, and receipts from the sale, lease or rental of such property made upon completion of the assembly or fabrication are exempt if the property is forthwith removed beyond the territorial limits of the State.

(Y) Contracts with Exempt Organizations. There are exempted from the computation of the amount of taxes imposed by this Chapter, the receipts from the sale, lease or rental of any tangible personal property to, or the storage, use or other consumption of tangible personal property by, any contractor for the performance of a contract for the improvement of realty for an exempt organization as defined in Section 20.04(H) of this Chapter or otherwise exempt from the taxes imposed by this Chapter to the extent of the value of the tangible personal property so used or consumed or both in the performance of such contract.

(Z) There are exempted from the taxes imposed by this Chapter the receipts from the leasing or licensing of motion picture films of any kind to or by motion picture theatres which are subject to admission taxes as imposed by Chapter 21, Title 122A, Revised Civil Statutes of Texas, 1925, as amended."

Amended by Acts 1968, 60th Leg., 1st C.S., p. 8, ch. 2, §§ 9, 10, eff. Oct. 1, 1968; Acts 1969, 61st Leg., p. 1522, ch. 458, § 2, eff. June 10, 1969; Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 25, eff. Oct. 1, 1969.

¹ Article 4.01 et seq.

² Article 5.01 et seq.

³ Article 7.01 et seq.

⁴ Article 8.01 et seq.

⁵ Article 9.01 et seq.

⁶ Article 10.01 et seq.

⁷ Article 18.01 et seq.

⁸ Article 6.01 et seq.

⁹ Probably should read "(b)".

Section (V)

Former section (V), added by Acts 1969, 61st Leg., p. 1522, ch. 458, § 2 was omitted in the amendment by the 2nd C.S. The former section read: "(V) There are ex-

empted from the computation of the amount of taxes imposed by this Chapter the receipts from the sale, lease or rental of any tangible personal property to, or the storage, use or other consumption of tangi-

ble personal property by, any contractor for the performance of a contract for the improvement of realty for an exempt organization as defined in Section 20.04(F) of this Chapter or otherwise exempt from the taxes imposed by this Chapter to the extent of the value of the tangible person-

al property so used or consumed or both in the performance of such contract."

For effective date, severability and emergency clauses of Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, see Historical Note under Art. 1.031.

Exemptions

See Historical Note under Art. 20.02.

Art. 20.05 Return and Payments

* * * * *

(B) Method Retailer Is To Use in Computing Tax. The limited sales tax levied under Article 20.02 shall be computed and paid to the Comptroller on the basis of the same percentage rate as is provided in Article 20.02 of this Title, applied to all receipts from the total sales of taxable tangible personal property and taxable services sold by the retailer; provided any retailer who can establish to the satisfaction of the Comptroller that fifty percent (50%) or more of his receipts from the sale of tangible personal property and taxable services arise from individual transactions where the total sales price is fifteen cents (15¢) or less may exclude the receipts from such sales when reporting and paying the tax imposed by Article 20.02 of this Chapter. No retailer shall avail himself of this provision without prior written approval of the Comptroller. The Comptroller shall grant such approval when he is satisfied that the retailer qualifies on the basis set forth in this Section and when the retailer has submitted satisfactory evidence that he can and will maintain records adequate to substantiate the exclusion herein authorized. Any attempt on the part of any retailer to exercise this provision without prior written approval of the Comptroller shall be deemed to be a failure and refusal to pay the Limited Sales, Excise and Use Tax and the retailer shall be subject to assessment for back taxes, penalties and interest as provided for in this Chapter.

Sec. (B) amended by Acts 1968, 60th Leg., 1st C.S., p. 7, ch. 2, § 7, eff. Oct. 1, 1968; Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 26, eff. Oct. 1, 1969.

(C) Return; Time for Filing; Persons Required to File; Signatures; Accounting Basis.

* * * * *

(2) For purposes of the limited sales tax a return shall be filed by every person subject to the tax. For purposes of the use tax a return shall be filed by every retailer engaged in business in the State and by every person who has purchased taxable items, the storage, use or other consumption of which is subject to the use tax, but who has not paid the use tax due to a retailer required to collect the tax.

Sec. (C) (2) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 27, eff. Oct. 1, 1969.

* * * * *

(D) Contents of Return.

(1) For the purposes of the limited sales tax, the return shall show the sale or receipts of the retailer or seller during the preceding reporting period. For purposes of the use tax, in case of a return filed by a retailer, the return shall show the total receipts from sales of taxable items sold by him during the preceding reporting period which was purchased for the purpose of storage, use or consumption in this State.

(2) Gross proceeds from taxable rentals or leases of tangible personal property shall be reported and the tax shall be paid with respect thereto in accordance with such rules and regulations as the Comptroller may prescribe.

(3) In case of a return filed by the purchaser, the return shall show the total sales price of the taxable items purchased by him, the storage,

For Annotations and Historical Notes, see V.A.T.S.

use or consumption of which became subject to the use tax during the preceding reporting period.

(4) The return shall also show the amount of the taxes for the period covered by the return and such other information as the Comptroller deems necessary for the proper administration of this Chapter. Sec. (D) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 28, eff. Oct. 1, 1969.

* * * * *

(I) Optional Reporting Methods for Certain Vendors.

* * * * *

(2) Notwithstanding any other provision of this Chapter, any vendor whose taxable receipts from the sale of taxable items are less than ten per cent (10%) of his total receipts may elect to report his taxable receipts from the sale of taxable items by the method set forth by paragraph (a) of subsection (1) of this Section (I) irrespective of the fact that such vendor may not fall within the definition of the term 'retail grocer' as that term is defined by paragraph (c) of subsection (1) of this Section (I).

Sec. (I) (2) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 29, eff. Oct. 1, 1969.

* * * * *

(J) Commingled Tax and Receipts. Any retailer who establishes an accounting system under which the amount of tax collected pursuant to this Chapter is commingled with the receipts from the sale of taxable items may determine taxable receipts in the following manner:

(1) He shall subtract from his total receipts the receipts from any sales which are specifically exempt from or otherwise excluded from the tax imposed by this Chapter. The remainder shall consist of the receipts from the sale of taxable items plus the tax collected pursuant to the provisions of this Chapter.

(2) This remainder shall then be divided by 1.0325. The answer resulting shall be the taxable gross receipts of the retailer for reporting purposes as prescribed by Section (B) of this Article.

The sole purpose of this Section is to permit the widest possible latitude in the internal accounting system of retailers and to avoid requiring certain retailers to remit to the State a tax computed upon a base which already includes the tax imposed by this Chapter. Nothing herein shall be construed to relieve the retailer of the obligation and duty of collecting the tax in the specific manner prescribed by Article 20.021 of this Chapter.

Sec. (J) amended by Acts 1968, 60th Leg., 1st C.S., p. 9, ch. 2, § 11, eff. Oct. 1, 1968; Acts 1969, 61st Leg., p. 61, ch. 1, § 30, eff. Oct. 1, 1969.

(K) Direct Payment Procedure Authorized. The Comptroller shall establish a system of direct payment which shall be applicable to those consumers who meet the qualifications set forth in this Section and who, after approval by the Comptroller, are issued a direct payment permit. The holder of a direct payment permit may issue to all of the vendors or sellers from whom purchases of taxable items are made a blanket exemption certificate covering all future purchases made by the direct payment permit holder and such certificate shall show the number of the direct payment permit and shall specify that the direct payment permit holder agrees to accrue and pay to the State of Texas all taxes which are or may in the future be due on taxable items purchased pursuant to exemption certificate.

(1) Direct payment permits may be issued by the Comptroller after receipt of a written application for such a permit. The application shall be accompanied by:

(a) Records establishing the fact that the applicant is a responsible person annually purchasing taxable items having a value when pur-

chased equal to or in excess of Two Hundred Thousand Dollars (\$200,000) exclusive of any purchase for which a resale certificate authorized by Article 20.021(F) of this Chapter can be or could have been issued.

(b) A description, in such detail as the Comptroller may require, of the accounting methods by which the applicant proposes to differentiate between taxable and exempt purchases.

(c) An agreement, in a form prescribed by the Comptroller and signed by the applicant or, if a corporation, by a responsible officer thereof, under which the applicant agrees to accrue and pay all taxes imposed by Article 20.03 of this Chapter on all purchases not specifically exempted by Article 20.04 of this Chapter. The agreement shall stipulate that the applicant agrees to remit the taxes due quarterly on or before the last day of the month next succeeding each quarterly period. Such agreement shall also stipulate that the applicant agrees to waive any claim for the discount authorized by Article 20.05(E) of this Chapter on any tax paid by him pursuant to a direct payment permit, provided, however, that if the applicant holds a valid seller's permit issued under the provisions of Article 20.021(C) of this Chapter he shall continue to be entitled to claim the discounts authorized on sales made pursuant to such seller's permit.

(2) A direct payment permit shall be issued to any applicant who meets, to the satisfaction of the Comptroller, the qualifications set forth in subsection (1) of this Section. The Comptroller shall be the sole judge of whether such qualifications have been met and refusal by the Comptroller to issue a direct payment permit shall not be appealable. Any applicant may, however, request an opportunity to submit an amended application or if denied a direct payment permit, after a reasonable length of time, he may submit a new application.

(3) Persons holding direct payment permits hold them as a matter of revocable privilege and not as a matter of right and the Comptroller may, upon his own initiative and with reasonable notice, cancel any direct payment permit. A cancellation shall not be appealable. The Comptroller shall notify a direct payment permit holder that his permit has been cancelled by registered mail and, immediately upon receipt of such notification, the direct payment permit holder shall contact all of the vendors or sellers from whom purchases of taxable items are made and notify them that the exemption certificates issued to them pursuant to the direct payment permit are no longer valid. Failure of a person to so notify the vendors or sellers from whom purchases of taxable items are made of the cancellation of a direct payment permit shall be considered as a failure and refusal to pay the Limited Sales, Excise and Use Tax by the person required to issue such notices.

(4) Any direct payment permit holder may voluntarily relinquish such permit by notifying the Comptroller of his desire to relinquish such permit. Such voluntary relinquishment of a direct payment permit shall not be effective until a termination notice is issued by the Comptroller. Immediately upon receipt of the Comptroller's termination notice, the direct payment permit holder shall contact all of the vendors or sellers from whom purchases of taxable items are made and notify them that the exemption certificates issued to them pursuant to the direct payment permit are no longer valid. Failure of a person to so notify the vendors or sellers from whom purchases of taxable items are made of the voluntary relinquishment of a direct payment permit shall be considered as a failure and refusal to pay the Limited Sales, Excise and Use Tax by the person required to issue such notice.

Sec. (K) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 31, eff. Oct. 1, 1969.

For effective date, severability and emergency clauses of Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, see Historical Note under Art. 1.031.

For Annotations and Historical Notes, see V.A.T.S.

Art. 20.06 Deficiency Determination

* * * * *

(C) Notice of Comptroller's Determination; Service.

(1) The Comptroller shall give to the retailer or person storing, using or consuming taxable items written notice of his determination.

(2) The notice may be served personally or by mail; if by mail, the notice shall be addressed to the retailer or person storing, using or consuming taxable items at his address as it appears in the records of the Comptroller.

(3) In case of service by mail of any notice required by this Chapter, the service is complete at the time of deposit in the United States Post Office.

Sec. (C) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 32, eff. Oct. 1, 1969.

(D) Time Within Which Notice of Deficiency Determination to be Mailed; Consent to Later Mailing of Notice.

* * * * *

(2) The limitation specified in this Article does not apply in case of a limited sales tax proposed to be determined with respect to sales of taxable items for the storage, use or other consumption of which notice of a deficiency determination has been or is given pursuant to paragraphs (C), (D) (1) and (G) of this Article, and paragraph (B) of Article 20.07. The limitation specified in this Article does not apply in case of an amount of use tax proposed to be determined with respect to storage, use or other consumption of taxable items for the sale of which notice of a deficiency determination has been or is given pursuant to paragraphs (C), (D) (1), and (G) of this Article, and paragraph (B) of Article 20.07 and to subparagraph 1 of this paragraph.

Sec. (D) (2) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 33, eff. Oct. 1, 1969.

* * * * *

(E) Determination if No Return Made; Estimate and Computation; Discontinuance of Business.

(1) If any person fails to make a return, the Comptroller shall make an estimate of the receipts of the person, or, as the case may be, of the amount of the total sales, rent or lease price of taxable items sold, rented or leased or purchased, by the person, the storage, use or other consumption of which in this State is subject to the use tax. The estimate shall be made for the period or periods in respect to which the person failed to make a return and shall be based upon any information which is in the Comptroller's possession or may come into his possession. Upon the basis of this estimate, the Comptroller shall compute and determine the amount required to be paid to the State, adding to the sum thus arrived at a penalty equal to ten per cent (10%) thereof. One or more determinations may be made for one or for more than one period.

Sec. (E) (1) amended by Acts 1969, 61st Leg., 2 C.S., p. 61, ch. 1, art. 1, § 34, eff. Oct. 1, 1969.

For effective date, severability and emergency clauses of Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, see Historical Note under Art. 1.031.

Art. 20.11 Administration

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(C) Records to be Kept by Sellers, Retailers and Others.

(1) Every seller, every retailer, and every person storing, using or otherwise consuming in this State taxable items purchased from a retailer shall keep such records, receipts, invoices and other pertinent papers in such form as the Comptroller may reasonably require.

(2) Every such seller, retailer or person shall keep such records for not less than four (4) years from the making of such records unless the Comptroller in writing sooner authorizes their destruction.

(D) Examination of Records; Investigation of Business. The Comptroller, or any person authorized in writing by him, may examine the books, papers, records and equipment of any person selling taxable items and any person liable for the use tax and may investigate the character of the business of the person in order to verify the accuracy of any return made, or, if no return is made by the person, to ascertain and determine the amount required to be paid.

Secs. (C), (D) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 35, eff. Oct. 1, 1969.

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(F) Reports for Administering Use Tax: Contents. In administration of the use tax, the Comptroller may require the filing of reports by any person or class of persons having in his or their possession or custody information relating to sales of taxable items, the storage, use or other consumption of which is subject to the tax. The report shall:

(1) Be filed when the Comptroller requires.

(2) Set forth the names and addresses of purchasers of the tangible personal property, the sales price of the property, the date of sale, and such other information as the Comptroller may require.

Sec. (F) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 36, eff. Oct. 1, 1969.

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For effective date, severability and emergency clauses of Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, see Historical Note under Art. 1.031.

Art. 20.12 Violations

* * * * *

(B) Penalty for Improper Use of Resale Certificate. Any person who gives a resale certificate to the seller for property which he knows, at the time of purchase, is purchased for the purpose of use rather than the purpose of resale, lease or rental by him in the regular course of business or for transfer as an integral part of a taxable service in the regular course of business, is guilty of a misdemeanor and such person shall upon conviction be fined not more than Five Hundred Dollars (\$500) for each conviction.

Sec. (B) amended by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 1, § 37, eff. Oct. 1, 1969.

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For effective date, severability and emergency clauses of Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, see Historical Note under Art. 1.031.

CHAPTER 21—ADMISSIONS TAX

Art. 21.02 Tax Imposed

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(3) There is hereby levied a tax of one cent (1¢) on each ten cents (10¢) or fractional part thereof paid as admission to horse racing, dog racing, motorcycle racing, and like mechanical or animal contests and exhibitions, except automobile racing.

Sec. 3 amended by Acts 1969, 2nd C.S., 61st Leg., p. 61, ch. 1, art. 8, § 1, eff. Oct. 1, 1969.

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For effective date, severability and emergency clauses of Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, see Historical Note under Art. 1.031.

TITLE 125A—TRUSTS AND TRUSTEES
IN GENERAL

Art. 7425a—1. Charitable trusts; appointment of trustees; vacancies; absence of agreements [New].

IN GENERAL

Art.
 7425a—1. Charitable trusts; appointment of trustees; vacancies; absence of agreements [New].

UNIFORM COMMON TRUST FUND ACT

Art.
 7425b—48a. Incorporation of Uniform Common Trust Fund Act as part of Texas Trust Act [New].

Art. 7425a—1. Charitable trusts; appointment of trustees; vacancies; absence of agreement

If a vacancy occurs in the number of trustees originally appointed under a valid charitable trust agreement and the trust agreement does not provide for filling such vacancy, then the vacancy may, at the discretion of the remaining trustees, be filled upon the affirmative vote of a majority of the remaining trustees.

Acts 1969, 61st Leg., 2nd C.S., p. 60, ch. 9, § 1, emerg. eff. Sept. 19, 1969.

Title of Act:

An Act relating to the filling of vacancies occurring in the number of trustees originally appointed under a valid charitable

trust agreement; and declaring an emergency. Acts 1969, 61st Leg., 2nd C.S., p. 60, ch. 9.

TEXAS TRUST ACT

Art. 7425b—46. Investment powers of trustee

A. In acquiring, investing, reinvesting, exchanging, retaining, selling, supervising and managing property for the benefit of another, the trustee shall exercise the judgment and care under the circumstances then prevailing, which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital. Within the limitations of the foregoing standard, the trustee is authorized to acquire and retain every kind of property, real, personal, or mixed, and every kind of investment, specifically including but not by way of limitation, bonds, debentures and other corporate obligations, and stocks, preferred or common, and interests in investment trusts and mutual funds, which men of ordinary prudence, discretion, and intelligence acquire or retain for their own account; and within the limitations of the foregoing standard, a fiduciary may retain property properly acquired, without limitation as to time and without regard to its suitability for original purchase.

Subsec. A amended by Acts 1969, 61st Leg., p. 2016, ch. 689, § 1, eff. Sept. 1, 1969.

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UNIFORM COMMON TRUST FUND ACT

**Art. 7425b—48a. Incorporation of Uniform Common Trust Fund Act
as part of Texas Trust Act**

That the "Uniform Common Trust Fund Act," codified as Article 7425b—48 V.A.T.S. (Chapter 209, Acts of the 50th Legislature, page 371), shall be considered as, and is hereby made a part of, the "Texas Trust Act," codified as Article 7425b—1 through 7425b—47 (Chapter 148, Acts of the 48th Legislature, page 232, as amended), for all purposes. Acts 1969, 61st Leg., p. 2017, ch. 690, eff. Sept. 1, 1969.

Title of Act: An Act declaring that the Uniform Common Trust Fund Act shall for all purposes be considered a portion of the Texas Trust Act; and declaring an emergency. Acts 1969, 61st Leg., p. 2017, ch. 690.

TITLE 127—VETERINARY MEDICINE AND SURGERY

Art. 7465a. Veterinary licensing act

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Fees

Sec. 19. Applicants for examinations shall pay to the Board a fee of Fifty Dollars (\$50), and an applicant for license under the reciprocal provisions of this Act shall pay to the Board a fee of One Hundred Dollars (\$100) at the time of application to the Board for such license. Licensees shall pay to the Board for annual renewal of licenses, a fee of not less than Five Dollars (\$5), nor more than Thirty Dollars (\$30), as determined by the Board, based upon the needs of the Board, and a licensee whose license has been lost or destroyed shall be issued a duplicate license after application and upon payment of a fee of Twenty Dollars (\$20).

Sec. 19 amended by Acts 1969, 61st Leg., p. 360, ch. 128, § 1, emerg. eff. May 6, 1969.

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TITLE 128—WATER

I. IRRIGATION AND WATER RIGHTS

CHAPTER ONE—USE OF STATE WATER

2. TEXAS WATER RIGHTS
COMMISSION

- Art.
7477c. Dissolution of inactive districts
[New].
- 7477d. Continuing right of supervision over
water districts; exceptions [New].

3. REGULATION OF USE

- 7547a. Water supply contracts; eligible
parties [New].

4. POLLUTION

- Art.
7621d—2. Gulf Coast Waste Disposal Au-
thority [New].

2. TEXAS WATER RIGHTS COMMISSION

Art. 7467. Property of the State

(a) The waters of the ordinary flow and underflow and tides of every flowing river or natural stream, of all lakes, bays or arms of the Gulf of Mexico, and the storm, flood or rain waters of every river or natural stream, canyon, ravine, depression or watershed, within the State of Texas, are hereby declared to be the property of the State, and the right to the use thereof may be acquired by appropriation in the manner and for the uses and purposes hereinafter provided, and may be taken or diverted from its natural channel for any of the purposes expressed in this chapter.

(b) Waters imported from any source outside the boundaries of the state for use in this state are the property of the state if the waters are transported through the beds and banks of any of the navigable stream within the state or by utilizing any facilities owned or operated by the state.

Amended by Acts 1967, 60th Leg., p. 198, ch. 110, § 1, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 1528, ch. 463, § 1, eff. Sept. 1, 1969.

Art. 7468. How stored and purpose of

The water described in the preceding article may be held or stored by dams, in lakes or reservoirs, or diverted by means of canals, ditches, intakes, pumping plants, or other works, constructed by any person, corporation, association of persons, or irrigation district created under the statutes for the purpose of irrigation, mining, milling, manufacturing, the development of power, the construction and operation of waterworks for cities and towns, for stock raising, or for any other beneficial use. The waters of any arm or inlet of the Gulf of Mexico, or of salt water bay, may be changed from salt to sweet or fresh water, and held or stored by dams, dikes, or other structures, and taken or diverted for any of the purposes expressed in this chapter.

Amended by Acts 1969, 61st Leg., p. 1526, ch. 461, § 1, eff. Sept. 1, 1969.

Art. 7471. Priority in appropriation of water

In the conservation and utilization of water declared the property of the state, the public welfare requires not only the recognition of uses beneficial to the public well-being, but requires as a constructive public

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policy, a declaration of priorities in the allotment and appropriation thereof; and it is hereby declared to be the public policy of the state and essential to the public welfare and for the benefit of the people that in the allotment and appropriation of the waters defined in Article 7467, Revised Civil Statutes of Texas, 1925, preference and priority be given to the following uses in the order named, to-wit:

- (1) domestic and municipal uses, including water for sustaining human life and the life of domestic animals;
- (2) water to be used in processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, and to include water necessary for the development of electric power by means other than hydro-electric;
- (3) irrigation;
- (4) mining and recovery of minerals;
- (5) hydro-electric power;
- (6) navigation;
- (7) recreation and pleasure; and
- (8) other beneficial uses.

Amended by Acts 1969, 61st Leg., p. 1527, ch. 462, § 1, emerg. eff. June 10, 1969.

Art. 7477c. Dissolution of inactive districts

Section 1. All districts created under the provisions of Article XVI, Section 59, or Article III, Section 52, Constitution of the State of Texas, which are or may become inactive for a period of five consecutive years and which have no outstanding bonded indebtedness may be dissolved by order of the Texas Water Rights Commission after notice and hearing.

Sec. 2. The commission shall give notice of such dissolution hearing which briefly describes the reasons for such proceeding. Notice of a proceeding to dissolve a district shall be published once each week for two consecutive weeks prior to the date stated in the notice of hearing in some newspaper having general circulation in the county or counties in which such district is located, with the first publication being 30 days prior to the hearing date. The commission shall also give notice by first class mail addressed to the directors of such district according to the last record on file with the commission.

Sec. 3. The commission shall cause an investigation to be made of the facts and circumstances of the district to be dissolved and the result of such investigation shall be reduced to writing.

Sec. 4. At the conclusion of the hearing, if the commission finds that the district has not performed any of the functions for which it was created for a period of five consecutive years prior to the date of such proceeding and that the district has no outstanding bonded indebtedness, an order dissolving the district may be entered by the commission.

Sec. 5. A certified copy of the order of dissolution of any district shall be filed by the commission in the deed records of the county or counties in which district is located. If the particular district was created by special act of the legislature, a certified copy of the order of dissolution of the district shall be filed with the secretary of state.

Sec. 6. Appeals from a commission order dissolving a district shall be filed and heard in the district court of any of the counties where the land lies.

Sec. 6A. Such trial, on appeal, shall be de novo, and the substantial evidence rule shall not apply.

Acts 1969, 61st Leg., p. 611, ch. 207, eff. Sept. 1, 1969.

Title of Act:

An Act relating to dissolution of certain inactive districts created under Article XVI, Section 59, or Article III, Section 52,

Constitution of the State of Texas; and declaring an emergency. Acts 1969, p. 611, ch. 207.

Art. 7477d. Continuing right of supervision over water districts; exceptions

The powers and duties of all districts and authorities, whether created pursuant to the general laws of this state or by special act of the Legislature, which derive their creation, powers and duties from Article XVI, Section 59, Constitution of Texas, are declared to be subject to the continuing right of supervision of the State of Texas, by and through the Texas Water Rights Commission or its successor; provided, however, that the provisions of this Act shall not apply to any river authority encompassing ten (10) or more counties which was not subject to the continuing right of supervision of the State of Texas, by and through the Texas Water Rights Commission or its predecessors, on the effective date of this Act.

Acts 1969, 61st Leg., p. 1715, ch. 564, § 1, emerg. eff. June 10, 1969.

Title of Act:

An Act providing for the continuing right of supervision of the State of Texas, by and through the Texas Water Rights Commission or its successor, of the powers and duties of certain water districts created

under Article XVI, Section 59, Constitution of Texas; with certain exceptions; and declaring an emergency. Acts 1969, 61st Leg., p. 1715, ch. 564.

3. REGULATION OF USE

Art. 7547a. Water supply contracts; eligible parties

Section 1. Any district or authority created pursuant to Article XVI, Section 59 of the Constitution of Texas and any corporation formed pursuant to the provisions of Article 1434a, Vernon's Texas Civil Statutes, is an "Eligible District" within the meaning of this Act.

Sec. 2. Any Eligible District is hereby authorized to contract with any other Eligible District for the purpose of supplying water to such other Eligible District. Any contract authorized by this Act may provide that the Eligible District purchasing water thereunder shall not obtain water from any other source except to the extent provided in such contract. Any such contract may be upon such terms and for such time as the parties may agree, and it may provide that it shall continue in effect until bonds specified therein and refunding bonds issued in lieu of such bonds are paid. If the source of water supply to be provided under the provisions of this Act is public surface water, no contract shall be final until approved by the Texas Water Rights Commission.

Sec. 3. Any water supply contract herein authorized shall be subject to the statutory or the contractual duty of the Eligible District supplying water thereunder from time to time to revise the rate of compensation for water sold and services rendered by the Eligible District so supplying water so that the net revenues of such Eligible District will at all times be sufficient to enable such Eligible District to pay its operation and maintenance expense and to pay the principal of and interest on bonds secured by such contract to the extent provided in the resolution or order authorizing said bonds. Money required to be paid by an Eligible District under any such contract shall be paid from the revenues of,

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and shall constitute an operating expense of, such Eligible District's water system.

Acts 1969, 61st Leg., p. 778, ch. 262, emerg. eff. May 21, 1969.

Title of Act:

An Act authorizing any district or authority created pursuant to Article XVI, Section 59 of the Constitution of Texas and any corporation formed pursuant to Article 1434a, Vernon's Texas Civil Statutes, to contract with any other such district, authority or corporation for the purpose of supplying water to such other district, authority or corporation; providing that any contract may provide that the party

purchasing water thereunder shall not obtain water from any other source except to the extent provided in such contract; providing contracts involving public surface water shall be approved by the Texas Water Rights Commission; enacting other provisions relating to the subject; providing a severability clause; and declaring an emergency. Acts 1969, 61st Leg., p. 778, ch. 262.

Art. 7612. Information required; exemption of domestic and livestock water takers; riparian owners' rights

On or before the first day of March of each year hereafter, every person, association of persons, corporation, water district, municipality or other body politic, and every agency of the State or United States, which is now taking, or in the future may take, any waters, public, private or otherwise, flowing in a natural stream or natural water course which is wholly or partially within the State or forms a boundary of the State, or any of such waters stored in reservoirs located on any such natural stream or natural water course, by virtue of a water permit from the State or certified filing authorizing the appropriation of public waters, riparian right, prescriptive right, or otherwise, shall file with the Texas Water Rights Commission or its successor a statement, on forms to be furnished by the Commission upon request, containing such information on water use for the preceding year as the Commission or its successor may require as necessary to aid in the administration of the water laws of the State and the inventorying of the water resources, in addition to such information as may be required to be kept by the provisions of Article 7611, Revised Civil Statutes of Texas, 1925. Provided, however, that with the exception of public utilities and political subdivisions furnishing water for municipal uses, nothing in this Act shall require the filing of any information with the Commission or its successor where water is taken solely for domestic or stock-raising purposes. Provided, further, if the water reported as being used by a riparian owner is not all of the water which the riparian user has the right to use, the amount reported shall in no way limit the right of the riparian user to use all of the water which he has a right to use.

Amended by Acts 1955, 54th Leg., p. 394, ch. 114, § 1; Acts 1969, 61st Leg., p. 1712, ch. 562, § 1, emerg. eff. June 10, 1969.

4. POLLUTION

Art. 7621b. Injection Well Act

Short title

Section 1. This Act may be cited as the Injection Well Act.

Definitions

Sec. 2. As used in this Act, unless the context requires a different definition:

- (a) "board" means the Texas Water Quality Board;
- (b) "commission" means the Texas Railroad Commission;
- (c) "person" means individual, corporation, organization, government or governmental subdivision or agency, business trust, partnership, association, or any other legal entity;

(d) "pollution" means the alteration of the physical, chemical, or biological quality of, or the contamination of, water that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation or property, or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose;

(e) "industrial and municipal waste" is any liquid, gaseous, solid or other waste substance or a combination thereof resulting from any process of industry, manufacturing, trade, or business or from the development or recovery of any natural resources, or resulting from the disposal of sewage, or other wastes of cities, towns, villages, communities, water districts and other municipal corporations, which may cause or might reasonably be expected to cause pollution of fresh water;

(f) "fresh waters" means waters whose bacteriological, physical and chemical properties are such that they are suitable and feasible for beneficial use for the purposes permitted by law;

(g) "casing" means any material utilized to seal off strata at and below the earth's surface;

(h) "injection well" means an artificial excavation or opening into the ground, made by means of digging, boring, drilling, jetting, driving or otherwise, and made for the purpose of injecting, transmitting, or disposing of industrial and municipal waste into a subsurface stratum; also a well initially drilled for the purpose of producing oil and gas when used for the purpose of transmitting, injecting, or disposing of industrial and municipal waste into a subsurface stratum; but "injection well" does not include any surface pit, excavation or natural depression used to dispose of industrial and municipal waste.

(i) Notwithstanding any provisions of Subsection (e) of this section, 'waste arising out of or incidental to the drilling for or the producing of oil or gas' includes, but is not limited to, the following items when they result from such drilling or producing activities: salt water, brine, sludge, drilling mud, and other liquid or semi-liquid waste materials.

Industrial and municipal wastes; applications to board

Sec. 3. (a) Before any person commences the drilling of an injection well, or before any person converts any existing well into an injection well, for the purpose of disposing of industrial and municipal waste, other than waste arising out of or incidental to the drilling for or the producing of oil or gas, a permit therefor shall be obtained from the board. The board shall prepare suitable forms for making application which shall be available upon request without cost. The board shall require the furnishing of such information by an applicant as the board may deem necessary to discharge properly the duties imposed by this Act. An application for a permit to drill an injection well, or to convert any existing well to an injection well, shall be accompanied by a fee of \$25.00 which shall be collected by the board for the benefit of the state.

(b) Upon receipt by the board of an application in proper form and accompanied by the necessary fee for a permit to drill an injection well, or to convert an existing well to an injection well, the board shall cause an inspection to be made of the location of the proposed injection well to determine local conditions and the probable effect of the injection well, and shall cause an evaluation to be made to determine the requirements for the setting of casing, as provided in Section 5 of this Act.

(c) The board shall also send copies of every application received in proper form to the Texas Water Development Board, the Texas State Department of Health, the Texas Water Well Drillers Board, and to such other persons as the board may designate. The agencies and other persons to whom a copy of the application is sent may make recommendations to the board concerning any aspect of the application, and shall have such reasonable time to do so as the board may prescribe.

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(d) The board may hold a public hearing upon an application if it is deemed necessary and in the public interest, but otherwise, a public hearing is not required. Notice of any public hearing and its procedure shall be under such terms and conditions as the board may prescribe.

(e) Any person applying to the board for a permit to inject industrial and municipal waste, other than waste arising out of or incidental to the drilling for or the producing of oil or gas, into a subsurface stratum shall submit with the application a letter from the commission stating that the drilling of the injection well and the injection of industrial and municipal waste into the subsurface stratum will not endanger or injure any oil or gas formation.

Wastes from oil drilling; applications to railroad commission

Sec. 4. (a) Before any person may commence the drilling of an injection well, or before any person may convert any existing well into an injection well, for the purpose of disposing of waste arising out of or incidental to the drilling for or the producing of oil or gas, a permit therefor shall be obtained from the commission. The commission shall require the furnishing of such information by an applicant as the commission may deem necessary to discharge properly the duties imposed by this Act and shall promulgate such regulations or orders as to notice and hearing as may be deemed proper and necessary.

(b) Any person applying to the commission for a permit to inject waste arising out of or incidental to the drilling for or the producing of oil or gas into a subsurface stratum shall submit with the application a letter from the board stating that the drilling of the injection well and the injection of such waste into the subsurface stratum will not endanger the fresh water strata in that area and that the formation or strata to be used for such waste disposal are not fresh water sands.

Issuance of permit; casing of well; rules and regulations

Sec. 5. If the board or commission, as the case may be, finds that the installation of the injection well is in the public interest, will not impair any existing rights, and that by requiring proper safeguards both ground and surface fresh waters can be protected adequately from pollution, the board or commission, as appropriate, may grant the application in whole or in part and issue a permit with such terms, provisions, conditions and requirements as are reasonably necessary to protect fresh waters from pollution by industrial and municipal waste. Specifically, the board or commission shall require that the injection well shall be so cased as to protect all fresh waters from pollution by the intrusion of industrial and municipal waste. The casing shall be set at such depth, with such materials, and in such manner as the board or the commission may require. The board or the commission, in establishing the depth to which casing shall be installed, shall consider known geological and hydrological conditions and relationships, the foreseeable future economic development in the area, and the foreseeable future demand for the use of the fresh waters in the locality. The board or commission may also require the permittee to keep and furnish a complete and accurate record of the depth, thickness and character of the different strata penetrated in the drilling of the well. In the event an existing well is to be converted to an injection well, the board or commission may require that the applicant furnish an electric log or a drilling log of the existing well. A copy of every permit issued by the board shall be furnished by the board to the commission, the Texas Water Development Board, the Texas State Department of Health, and the Texas Water Well Drillers Board. A copy of every permit issued by the commission shall be furnished by the commission to the board, which shall in turn forward copies to the other agencies named in

the preceding sentence. The board and the commission each shall adopt rules, regulations and procedures reasonably required for the performance of the duties, powers and functions prescribed for each by this Act. Copies of any rules or regulations under this Act proposed by the board or the commission shall, before their adoption, be sent by each of these agencies to the other agency, and also to the Texas Water Development Board, the State Department of Health, the Texas Water Well Drillers Board, and such other persons as the originating agency may designate. Any agency or person to whom the copies of proposed rules and regulations are sent may submit comments and recommendations to the agency proposing the rules and regulations, and shall have such reasonable time to do so as the originating agency may prescribe.

Filing copy of permit

Sec. 6. Any person receiving a permit to inject industrial and municipal waste, shall, before injection operations are begun, file a copy of the permit with the health authorities of the county, city and town where the well is located.

Enforcement

Sec. 7. Any person who fails to comply with the provisions of this Act, or with any rule or regulation promulgated by the board or the commission under this Act, or with any term, condition or provision in his permit issued pursuant to this Act, shall be subject to a civil penalty in any sum not exceeding One Thousand Dollars (\$1,000.00) for each day of non-compliance and for each act of non-compliance, as the court may deem proper. The action may be brought by the board or the commission, as appropriate, in any court of competent jurisdiction in the county where the offending activity is occurring or where the defendant resides. Full authority is also given the board or commission, as appropriate, to enforce by injunction, mandatory injunction or other appropriate remedy, in courts having jurisdiction in the county where the offending activity is occurring, any and all reasonable rules and regulations promulgated by it which do not conflict with any law, and all of the terms, conditions and provisions of permits issued by the board or commission pursuant to the provisions of this Act. At the request of the board or the commission, the attorney general shall institute and conduct a suit in the name of the State of Texas for injunctive relief or to recover the civil penalty, or for both the injunctive relief and civil penalty, authorized in this section. Any party to a suit may appeal from a final judgment as in other civil cases. The obtaining of a permit under the provisions of this Act by a person shall not act to relieve that person from liability under any statutory law or the Common Law.

Acts 1961, 57th Leg., p. 159, ch. 82; Sec. 1(e) amended by Acts 1965, 59th Leg., p. 1369, ch. 615, § 1, eff. Aug. 30, 1965; Secs. 1-7 amended by Acts 1969, 61st Leg., p. 1329, ch. 406, § 1, eff. Sept. 1, 1969.

Acts 1969, 61st Leg., p. 1329, ch. 406, which rewrote this article, also provided:

"Sec. 2. Validation of Authorized Actions; Transfer of Records. All permits, orders, and rules and regulations issued, promulgated, or administered by the Texas Water Development Board under Chapter 82, Acts of the 57th Legislature, Regular Session, 1961, as amended (Article 7621b, Vernon's Texas Civil Statutes), and in effect on the effective date of this Act, are validated and remain in effect unless and until amended or superseded by order or other appropriate action of the Texas Water Quality Board, and shall be administered by and under the jurisdiction of the Texas Water Quality Board. The permits, orders,

and rules and regulations issued, promulgated or administered by the Texas Water Development Board under that Act and such reports, records and other information, or copies thereof, as the Texas Water Development Board and the Texas Water Quality Board mutually agree are reasonably necessary to enable the Texas Water Quality Board to properly administer the permits, orders, and rules and regulations, and perform the responsibilities of the Texas Water Quality Board under this Act, shall be transferred to and become the responsibility of the Texas Water Quality Board.

"Sec. 3. Repealer. To the extent that any duties and functions under Article

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7621b, Vernon's Texas Civil Statutes, were transferred or assigned to the Texas Water Development Board by Section 8 of Chapter 297, Acts of the 59th Legislature, Regular Session, 1965 (compiled as Section 21 of Article 8280—9, Vernon's Texas Civil Statutes, and enumerated in Paragraph (a) of that Section 21), or to the extent that there is any conflict between said section 8 of Chapter 297 and this Act, that part of said Section 8 of Chapter 297 is repealed.

"Sec. 4. Severability Clause. The provisions of this Act are severable. If any word, phrase, clause, sentence, section, provision or part of this Act should be held to be invalid or unconstitutional, it shall not affect the validity of the remaining portions, and it is hereby declared to be the legislative intent that this Act would have been passed as to the remaining portions, regardless of the invalidity of any part."

Art. 7621d—1. Texas Water Quality Act

SUBCHAPTER A. GENERAL PROVISIONS

Short title

Section 1.01. This Act may be cited as the Texas Water Quality Act.

Policy and purpose

Sec. 1.02. It is the policy of this state and the purpose of this Act to maintain the quality of the water in the state consistent with the public health and enjoyment, the propagation and protection of terrestrial and aquatic life, the operation of existing industries, and the economic development of the state; to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state; and to require the use of all reasonable methods to implement this policy.

Definitions

Sec. 1.03. As used in this Act, unless the context requires a different definition:

(1) "person" means individual, corporation, organization, government or governmental subdivision or agency, business trust, partnership, association, or any other legal entity;

(2) "board" means the Texas Water Quality Board;

(3) "executive director" means the executive director of the Texas Water Quality Board;

(4) "water" or "water in the state" means groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico within the territorial limits of the State of Texas, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially within or bordering the state or within the jurisdiction of the state;

(5) "waste" means sewage, industrial waste, municipal waste, recreational waste, agricultural waste, or other waste, as defined in this section;

(6) "sewage" means water-borne human waste and waste from domestic activities, such as washing, bathing and food preparation;

(7) "municipal waste" means water-borne liquid, gaseous, or solid substances that result from any discharge from a publicly owned sewer system, treatment facility, or disposal system;

(8) "recreational waste" means water-borne liquid, gaseous, or solid substances that emanate from any public or private park, beach, or recreational area;

(9) "agricultural waste" means water-borne liquid, gaseous, or solid substances that arise from the agriculture industry and agricultural activities, including without limitation agricultural animal feeding pens and lots, structures for housing and feeding agricultural animals, and processing facilities for agricultural products; the term 'agricultural waste' does not include tailwater or runoff water from irrigation, or rainwater runoff from cultivated or uncultivated range lands, pasture lands and farm lands, and these items are, if they may cause impairment of the quality of the water in the state, included in the term 'other waste';

(10) "industrial waste" means water-borne liquid, gaseous, or solid substances that result from any process of industry, manufacturing, trade, or business;

(11) "other waste," means garbage, refuse, decayed wood, sawdust, shavings, bark, sand, lime, cinders, ashes, offal, oil, tar, dyestuffs, acids, chemicals, salt water, or any other substance, other than sewage, industrial waste, municipal waste, recreational waste, or agricultural waste, that may cause impairment of the quality of water in the state; "other waste" also includes tailwater or runoff water from irrigation, or rainwater runoff from cultivated or uncultivated range lands, pasture lands and farm lands, that may cause impairment of the quality of the water in the state;

(12) "pollution" means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental or injurious to humans, animal life, vegetation, or property or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose;

(13) "sewer system" means pipelines, conduits, storm sewers, canals, pumping stations, force mains, and all other constructions, devices, and appurtenant appliances used to transport waste;

(14) "treatment facility" means any plant, disposal field, lagoon, incinerator, area devoted to sanitary landfills, or other facility installed for the purpose of treating, neutralizing or stabilizing waste;

(15) "disposal system" means any system for disposal of waste, including sewer systems and treatment facilities;

(16) "local government" means an incorporated city, a county, a river authority, or a water district or authority acting under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution;

(17) "permit" means an order issued by the board in accordance with the procedures prescribed in this Act establishing the treatment which shall be given to wastes being discharged into or adjacent to any water in the state to preserve and enhance the quality of the water, and specifying the conditions under which the discharge may be made;

(18) "to discharge" includes to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of; or to allow, permit or suffer any such act or omission; and

(19) "rule" includes regulation.

Ownership of underground water

Sec. 1.04. Nothing in this Act affects ownership rights in underground water.

Prior actions of pollution control board validated

Sec. 1.05. (a) All permits, orders, rules, regulations, water quality criteria, water quality standards, water quality requirements, and other actions issued, taken, performed, or established by the Texas Water Pollution Control Board under Chapter 42, Acts of the 57th Legislature, 1st Called Session, 1961, as amended (Article 7621d, Vernon's Texas Civil Statutes), to the extent authorized under that Act, are validated and re-

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main in effect unless and until amended or superseded by order of the Texas Water Quality Board, and are administered by and under the jurisdiction of the Texas Water Quality Board. Any permit or order of the Texas Water Pollution Control Board, created under Chapter 42, Acts of the 57th Legislature, 1st Called Session, 1961, as amended (Article 7621d, Vernon's Texas Civil Statutes), in litigation on the effective date of this Act shall not be affected by this Section, and the rights of the complaining party are expressly reserved.

(b) Where the Texas Water Pollution Control Board is referred to in any statute, rule, or regulation, the reference shall be construed to mean the Texas Water Quality Board.

Board as principal authority

Sec. 1.06. The Texas Water Quality Board is the principal authority in the state on matters relating to the quality of the water in the state. The board has the responsibility for establishing a water quality sampling and monitoring program for the State of Texas. All other state agencies engaged in water quality or water pollution control activities shall coordinate those activities with the board.

Duty of water development board

Sec. 1.07. The Texas Water Development Board shall investigate all matters concerning the quality of groundwater in the state and shall report its findings and recommendations to the board. Nothing in this Act affects the powers and duties of the Texas Water Development Board under Chapter 82, Acts of the 57th Legislature, Regular Session, 1961, as amended (Article 7621b, Vernon's Texas Civil Statutes). The Texas Water Development Board and the Texas Water Well Drillers Board shall continue to exercise the authority granted to them in Chapter 264, Acts of the 59th Legislature, Regular Session, 1965 (Article 7621e, Vernon's Texas Civil Statutes).

Duty of the parks and wildlife department

Sec. 1.08. The Parks and Wildlife Department and its authorized employees shall enforce the provisions of this Act to the extent that any violation affects aquatic life and wildlife, as provided in Subsection (b) of Section 4.03 of this Act.

Duty of health department

Sec. 1.09. The State Department of Health shall continue to apply the authority vested in it by Chapter 234, Acts of the 49th Legislature, 1945, as last amended by Chapter 446, Acts of the 57th Legislature, Regular Session, 1961 (Article 4477—1, Vernon's Texas Civil Statutes), in the abatement of nuisances resulting from pollution not otherwise covered by this Act. The State Department of Health shall investigate and make recommendations to the board concerning the health aspects of matters related to the quality of the water in the state.

Duty of railroad commission

Sec. 1.10. The Texas Railroad Commission is solely responsible for the control and disposition of waste and the abatement and prevention of pollution of surface and subsurface water resulting from activities associated with the exploration, development, and production of oil or gas. The Texas Railroad Commission may issue permits for the discharge of waste resulting from these activities, and discharge of waste into any water in this state resulting from these activities shall meet the water quality standards established by the board. Nothing in this Act affects the powers and duties of the Texas Railroad Commission under

Chapter 82, Acts of the 57th Legislature, Regular Session, 1961, as amended (Article 7621b, Vernon's Texas Civil Statutes).

Effect on private remedies

Sec. 1.11. Nothing in this Act affects the right of any private corporation or individual to pursue any available common-law remedy to abate a condition of pollution or other nuisance or to recover damages.

Secret processes, etc.

Sec. 1.12. Nothing in this Act requires any person to disclose any classified data of the federal government or any confidential information relating to secret processes or economics of operation.

Repeal of other laws

Sec. 1.13. All general, local, and special laws enacted before the effective date of this Act are repealed to the extent that those laws give local governments the authority to set and enforce water quality criteria other than those adopted by the board under this Act.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Texas water quality board

Section 2.01. The Texas Water Quality Board is an agency of the state.

Members of board

Sec. 2.02. The board is composed of seven members, chosen as follows: Three are appointed by the governor with the advice and consent of the Senate; and the other four are the executive director of the Texas Water Development Board, the state commissioner of health, the executive director of the Parks and Wildlife Department, and the chairman of the Texas Railroad Commission. Each of the latter four shall perform the duties of a member of the board as additional duties required of him in his other official capacity.

Terms of appointed members

Sec. 2.03. The members appointed by the governor hold office for staggered terms of six years, with the term of one member expiring on the 1st day of September in each odd-numbered year. Each appointed member holds office until his successor is appointed and has qualified.

Qualification by members; vacancies; records

Sec. 2.04. (a) A member appointed by the governor while the Senate is in session is qualified to serve on the board after his nomination has been confirmed by the Senate and upon taking the Constitutional oath of office. A member appointed by the governor while the Senate is not in session is qualified to serve upon taking the Constitutional oath of office, and serves until the expiration of his term or until his nomination is rejected by the Senate, or is not confirmed by the Senate at the next regular or special session thereafter.

(b) If a vacancy occurs in the office of an appointed member of the board, the position shall be filled by a person appointed by the governor in the same manner as for a regular appointment, and the person so appointed shall serve only to the end of the unexpired term and until his successor is appointed and has qualified.

(c) The official records of the board shall reflect the date each member's certificate of appointment was issued by the secretary of state,

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the date he took the oath of office, the person who administered the oath, the date the appointive term began, and the date the term expires.

Per diem; expenses

Sec. 2.05. (a) A member of the board is not entitled to a salary for duties performed as a member of the board; but each member appointed by the governor is entitled to \$25 each day he is in attendance at meetings or hearings or on authorized business of the board, including time spent in traveling to and from the place of the meeting, hearing, or other authorized business.

(b) Each member appointed by the governor is entitled to reimbursement for travel and other necessary expenses incurred in performing official duties, as evidenced by vouchers approved by the executive director. Each of the other members is entitled to reimbursement for travel and other necessary expenses incurred in performing official duties for the board, out of funds made available for those purposes to the state agency of the member.

Personal representatives

Sec. 2.06. (a) The executive director of the Texas Water Development Board, the executive director of the Parks and Wildlife Department, the state commissioner of health, and the chairman of the Texas Railroad Commission may each delegate to a personal representative from his office the authority and duty to represent him on the board; but by this delegation a member is not relieved of responsibility for the acts and decisions of his representative.

(b) While engaged in performing official board duties as authorized by a member, a personal representative stands in the place of the member for the purpose of participating in and voting on matters at board meetings and hearings, and performing other business of the board. He has all the powers and duties of the member, including the power to take testimony at board hearings.

(c) A personal representative may serve as either chairman or vice-chairman of the board.

(d) A personal representative is entitled to reimbursement for travel and other necessary expenses incurred in performing official duties for the board to the same extent and in the same manner as the member he represents.

Board officers

Sec. 2.07. The board shall elect a chairman and a vice-chairman to serve two-year terms beginning on February 1 of each odd-numbered year.

Board meetings

Sec. 2.08. (a) The chairman, or in his absence the vice-chairman, shall preside at all meetings of the board. In the absence of both the chairman and the vice-chairman from any meeting of the board, the members of the board present may select one of their number to serve as chairman for the meeting.

(b) The board shall have regular meetings at times specified by a majority vote of the board.

(c) The chairman may call special meetings at any time. He shall call a special meeting on written request signed by at least two members of the board.

(d) A majority of the board constitutes a quorum to transact business.

Executive director

Sec. 2.09. The board shall employ an executive director. The executive director is the chief administrative officer of the board. In addition to his other duties, he shall keep full and accurate minutes of all transactions and proceedings of the board; he is the custodian of all of the files and records of the board.

Deputy director; staff

Sec. 2.10. (a) The executive director shall employ a deputy director, subject to the approval of the board. In the absence of the executive director, the deputy director shall assume his duties and functions.

(b) The executive director shall employ the staff authorized by the board. In addition to its own staff, the board may by interagency contract utilize, and upon request of the board shall receive, the assistance of any state-supported educational institution, experimental station, or other agency.

(c) When provided by legislative appropriation, the board is authorized to pay the costs of transporting and delivering the household goods and effects of employees transferred by the board from one permanent station to another when, in the judgment of the board, the transfer will serve the best interest of the state.

Funds from other state agencies

Sec. 2.11. Any state agency that has statutory responsibilities for water pollution or water quality control and that receives a legislative appropriation for these purposes may transfer to the board any amount mutually agreed on by the board and the agency, subject to the approval of the governor.

Gifts and grants

Sec. 2.12. The board may apply for, request, solicit, contract for, receive, and accept money and other assistance from any source to carry out its duties.

Special fund

Sec. 2.13. Money received by the board under Section 2.11 or 2.12 of this code shall be deposited in the state treasury and credited to a special fund. The board may use this fund for salaries, wages, professional and consulting fees, planning and construction grants, loans and contracts, travel expenses, equipment, and other necessary expenses incurred in carrying out its duties under this Act, as provided by legislative appropriation.

Documents, etc., public property

Sec. 2.14. All information, documents, and data collected by the board in the performance of its duties are the property of the state. Subject to the limitations of Section 1.12 of this Act, all records of the board are public records open to inspection by any person during regular office hours.

Copies of documents, proceedings, etc.

Sec. 2.15. Subject to the limitations of Section 1.12 of this Act, on the application of any person, the board shall furnish certified or other copies of any proceedings or other official act of record, or of any map, paper, or document filed with the board. A certified copy with the seal

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of the board and the signature of the chairman of the board or the executive director is admissible as evidence in any court or administrative proceeding. The board shall prescribe in its rules the fees which shall be charged for copies and is authorized to furnish copies, certified or otherwise, to a person without charge when the furnishing of the copies serves a public purpose. Any other Acts concerning fees for copies of records do not apply to the board, except that the fees set by the board for copies prepared by the board shall not exceed those prescribed in Article 3913, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 446, Acts of the 59th Legislature, Regular Session, 1965.

Biennial reports

Sec. 2.16. The board shall make biennial written reports to the governor and to the Legislature and shall include in each report a statement of its activities.

Seal

Sec. 2.17. The board shall adopt a seal.

SUBCHAPTER C. POWERS AND DUTIES

In general

Section 3.01. The board shall administer the provisions of this Act and shall establish the level of quality to be maintained in, and shall control the quality of, the water in this state as provided by this Act. Waste discharges or impending waste discharges, under the purview of this Act, are, at all times, subject to such reasonable rules, regulations, or orders as the board, in the public interest, may adopt or issue. The board has the powers and duties specifically prescribed by this Act and all other powers necessary or convenient to carry out its responsibilities.

State water quality plan

Sec. 3.02. The board shall prepare and develop a general, comprehensive plan for the control of water quality in the state.

Research, investigations

Sec. 3.03. The board shall conduct, or have conducted, any research and investigations it considers advisable and necessary for the discharge of its duties under this Act.

Power to enter property

Sec. 3.04. The members, employees, and agents of the board have the right to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of any water in the state. Any member, employee, or agent who, acting under the authority in this section, enters private property which has management in residence shall notify management, or the person then in charge, of his presence and exhibit proper credentials. Members, employees or agents entering private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection. Should any member, employee or agent of the board be refused the right to enter in or upon such public or private property, the board may have the remedies authorized in Section 4.02 of this Act.

Power to examine records

Sec. 3.05. The members, employees and agents of the board may examine during regular business hours any records or memoranda pertaining to the operation of any sewer system, treatment facility, or disposal system, or pertaining to any discharge of waste.

Enforcement proceedings

Sec. 3.06. The board, or the executive director when authorized by the board, may cause legal proceedings to be instituted in courts of competent jurisdiction to compel compliance with the provisions of this Act or the rules, orders, permits, or other decisions of the board.

Cooperation

Sec. 3.07. The board shall:

(1) encourage voluntary cooperation by the people, cities, industries, associations, agricultural interests, and representatives of other interests in preserving the greatest possible utility of the water in the state;

(2) encourage the formation and organization of cooperative groups, associations, cities, industries, and other water users for the purpose of providing a medium to discuss and formulate plans for attainment of water quality control;

(3) establish policies and procedures for securing close cooperation among state agencies that have water quality control functions; and

(4) cooperate with the governments of the United States and other states, and with official or unofficial agencies and organizations, with respect to water quality control matters and with respect to formulation of interstate water quality control compacts or agreements; when representation of state interests on a basin planning agency for water quality purposes is required under Section 3(c) of the Federal Water Pollution Control Act (33 U.S.C. Sec. 466 et seq.), or other federal legislation having a similar purpose, the representation shall include an officer or employee of the board.

Contracts, instruments

Sec. 3.08. The board may make contracts and execute instruments that are necessary or convenient to the exercise of its power or the performance of its duties.

Rule-making

Sec. 3.09. The board shall make and enforce rules reasonably required to effectuate the provisions of this Act, including rules governing procedure and practice before the board. The board may amend any rule it makes. In making and amending rules, the board shall comply, as appropriate, with the requirements of Chapter 274, Acts of the 57th Legislature, Regular Session, 1961, as amended (Article 6252—13, Vernon's Texas Civil Statutes).

Orders

Sec. 3.10. The board is authorized to issue orders and make determinations as may be necessary to effectuate the purposes of this Act. The board shall set forth the findings on which it bases any order granting or denying any special relief requested of the board, or involving a determination following a hearing on an alleged violation of Section 4.01 of this Act, or directing a person to perform or refrain from performing a certain act or activity. The executive director shall attest the orders

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of the board. The board, or the executive director when authorized by the board, may issue temporary orders relating to the discharge of waste without notice and hearing, or with such notice and hearing as the board or the executive director, in its or his judgment, deems practicable under the circumstances when this is necessary to enable action to be taken more expeditiously than is otherwise provided by this Act so as to effectuate the policy and purposes of this Act. If the board or the executive director issues a temporary order under authority of this section without a hearing before the board, the order shall fix a time and place for a hearing to be held before the board, which shall be held as soon after the temporary order is issued as is practicable. The requirements of Section 3.13 of this Act as to the time for notice, newspaper notice and method of giving a person notice do not apply to such a hearing, but such general notice of the hearing shall be given as in the judgment of the board or the executive director is practicable under the circumstances. At the hearing, the board shall affirm, modify or set aside the temporary order. If the nature of the board's action requires, further proceedings shall be conducted as appropriate under other applicable provisions of this Act.

Hearing powers

Sec. 3.11. The board may call and hold hearings, administer oaths, receive evidence at the hearing, issue subpoenas to compel the attendance of witnesses, and the production of papers and documents related to the hearing, and make findings of fact and decisions with respect to administering the provisions of this Act or the rules, orders or other actions of the board.

Delegation of hearing powers

Sec. 3.12. (a) Except for those hearings required to be held before the board under Section 3.10 of this Act, the board may authorize the executive director to call and hold hearings on any subject on which the board may hold a hearing. The board may also authorize the executive director to delegate to one or more employees of the board, or to professional or technical personnel under contract to the board, the authority to hold any hearing called by the executive director. The board may establish the qualifications required of the persons who may be delegated the authority by the executive director to hold hearings. At any hearing called by the executive director, he or the person delegated the authority by him to hold the hearing is empowered to administer oaths and receive evidence.

(b) The individual or individuals holding a hearing under the authority of this section shall report the hearing in the manner prescribed by the board.

Notice of hearings; continuance

Sec. 3.13. (a) Except as otherwise specified in Section 3.10 of this Act, the provisions of this section apply to all hearings conducted pursuant to this Act.

(b) Notice of the hearing shall describe briefly and in summary form the purpose of the hearing and the date, time, and place of the hearing.

(c) Notice of the hearing shall be published at least once in a newspaper regularly published or circulated in each county where, by virtue of the county's geographical relation to the subject matter of the hearing, the board has reason to believe persons reside who may be affected by the action that may be taken as a result of the hearing. The

date of the publication shall be not less than 20 days before the date set for the hearing.

(d) If notice of the hearing is required by this Act to be given to a person, the notice shall be served personally or mailed to the person at his last address known to the board, not less than 20 days before the date set for the hearing. If the party is not an individual, the notice may be given to any officer, agent, or legal representative of the party.

(e) The individual or individuals holding the hearing (hereafter in this subsection called the hearing body) shall conduct the hearing at the time and place stated in the notice. The hearing body may continue the hearing from time to time and from place to place without the necessity of publishing, serving, mailing or otherwise issuing a new notice. If a hearing is continued and a time and place for the hearing to reconvene are not publicly announced by the hearing body at the hearing before it is recessed, a notice of any further setting of the hearing shall be served personally or mailed in the manner prescribed in Subsection (d) of this section at a reasonable time prior to the new setting, but it is not necessary to publish a newspaper notice of the new setting.

Water quality standards

Sec. 3.14. The board, by order, shall set water quality standards for the water in the state, and may amend the standards from time to time. The board has the sole and exclusive authority to set water quality standards for all water in the state.

Hearings on standards; consultation

Sec. 3.15. Before setting or amending water quality standards, the board shall:

- (1) hold public hearings at which any person may appear and present evidence, under oath, pertinent for consideration by the board; and
- (2) consult with the Texas Water Development Board and the Texas Water Rights Commission to insure that the proposed standards are not inconsistent with the objectives of the state water plan.

Hearings on standards; notice

Sec. 3.16. Notice of a hearing under Section 3.15 of this Act shall be given to each of the following that the board believes may be affected:

- (1) each local government whose boundary is contiguous to the water in question, or whose boundaries contain all or part of the water, or through whose boundaries the water flows;
- (2) the holders of rights to appropriate water from the water in question, as shown by the records of the Texas Water Rights Commission; and
- (3) the holders of permits from the board to discharge waste into or adjacent to the water in question.

Standards to be published

Sec. 3.17. The board shall publish its water quality standards and amendments and shall make copies available to the public on written request.

Board may issue permits

Sec. 3.18. The board may issue permits and amendments to permits for the discharge of waste into or adjacent to water in the state. A person desiring a permit or to amend a permit shall submit an applica-

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tion to the board containing all information reasonably required by the board or the executive director.

Action on application

Sec. 3.19. (a) Except as provided in Subsection (b) of this section, a public hearing shall be held on an application for a permit or to amend a permit. Notice of the hearing shall be given to the persons who in the judgment of the board may be affected.

(b) An application to amend a permit to improve the quality of waste authorized to be discharged may be set for consideration and may be acted on by the board at a regular meeting, without the necessity of holding a public hearing, if the applicant does not seek to increase significantly the quantity of waste authorized to be discharged or change materially the pattern or place of discharge. Notice of the application shall be mailed to the mayor and health authorities for the city or town, and the county judge and health authorities for the county, in which the waste is or will be discharged, at least 10 days before the board meeting, and they may present information to the board on the application.

Conditions of permit; amendment; revocation and suspension

Sec. 3.20. (a) In each permit the board shall prescribe the conditions on which it is issued, including:

- (1) the duration of the permit;
- (2) the location of the point of discharge of the waste;
- (3) the maximum quantity of waste that may be discharged under the permit at any time and from time to time;
- (4) the character and quality of waste that may be discharged under the permit; and
- (5) any monitoring and reporting requirements prescribed by the board for the permittee.

(b) After a public hearing, notice of which shall be given to the permittee, the board may require the permittee, from time to time, for good cause, to conform to new or additional conditions. The board shall allow the permittee a reasonable time to conform to the new or additional conditions, and on application of the permittee, the board may grant additional time.

(c) A permit does not become a vested right in the permittee; it may be revoked or suspended for good cause, after a public hearing, notice of which shall be given to the permittee, on any of the following grounds:

- (1) the permittee has failed or is failing to comply with the conditions of the permit;
- (2) the permit is subject to cancellation or suspension under Subsection (d) of Section 3.29 of this Act;
- (3) the permit or operations under the permit have been abandoned;

or

- (4) the permit is no longer needed by the permittee.

(d) The notice required by Subsections (b) and (c) of this section shall be sent to the permittee at his last known address as shown by the records of the board.

Permit: effect on recreational water

Sec. 3.21. In considering the issuance of a permit to discharge effluent into any body of water having an established recreational standard, the board shall consider any unpleasant odor quality of the effluent and the possible adverse effect that it might have on the receiving body of water; and the board may consider the odor as one of the elements of the water quality of the effluent.

Septic tanks

Sec. 3.22. (a) Whenever it appears that, because of the nature of the soil or drainage in an area, the use of septic tanks in the area should be controlled or prohibited to prevent pollution, the board may hold a public hearing in or near the area to determine whether an order should be entered controlling or prohibiting the installation or use of septic tanks in the area. Before entering such an order, the board shall consult with the state commissioner of health for recommendations concerning the impact of the use of septic tanks in the area on public health. If the board finds after the hearing and after consulting with the state commissioner of health that an order controlling or prohibiting the use of septic tanks in the area is necessary to prevent pollution that may directly or indirectly injure the public health, the board may enter an order to do one or more of the following:

(1) limit the number and kind of septic tanks which may be used in the area;

(2) prohibit the installation and use of additional septic tanks in the area; or

(3) provide for a gradual and systematic reduction of the number or kind of septic tanks in the area.

The board may also provide in the order for a system of licensing the installation of additional septic tanks in the area, in which case no person may install a septic tank in the area without a license.

(b) Whenever it appears to the commissioners court of any county that, because of the nature of the soil or drainage in an area in the county, the use of septic tanks in that area should be controlled or prohibited to prevent pollution that may directly or indirectly injure the public health, the county may proceed in the same manner and in accordance with the same procedures as the board to hold a hearing and enter an order, resolution, or other regulation controlling or prohibiting the installation or use of septic tanks in that area. The order, resolution or regulation may provide the same restrictions and requirements as is authorized for an order of the board entered under Subsection (a) of this section. Before the order, resolution, or other regulation becomes effective, the county shall submit it to the board and obtain the board's written approval.

Rating of waste disposal systems

Sec. 3.23. After consultation with the State Department of Health, the board shall provide by rule for a system of approved ratings for municipal waste disposal systems and such other waste disposal systems as the board may designate. The owner or operator of a municipal waste disposal system which attains an approved rating has the privilege of erecting signs of a design approved by the board on highways approaching or within the boundaries of the municipality, subject to such reasonable restrictions and requirements as may be established by the Texas Highway Department. In addition, the owner or operator of any waste disposal system, including a municipal system, which attains an approved rating has the privilege of erecting signs of a design approved by the board at such locations as may be approved or established by the board, subject to such reasonable restrictions and requirements as may be imposed by any governmental entity having jurisdiction. If the waste disposal system fails to continue to achieve an approved rating, the board may revoke the privilege. On due notice from the board, the owner or operator of the system shall remove the signs.

Approval of disposal system plans

Sec. 3.24. This section applies to all sewer systems, treatment facilities, and disposal systems, except those public sewage disposal systems, the plans for which are subject to review and approval by the State Department of Health under Article 4477—1, Section 12, Vernon's Texas Civil Statutes, or by the Texas Water Rights Commission under statutes pertaining to water districts. Every person who proposes to construct or materially alter the efficiency of any sewer system, treatment facility, or disposal system to which this section applies, before beginning construction thereof, shall submit completed plans and specifications therefor to and obtain the approval of the plans by the board or, when authorized by the board, the executive director. The board, or the executive director when authorized by the board, shall approve the plans and specifications if they conform to the waste discharge requirements and water quality standards established by the board.

Federal grants

Sec. 3.25. The board may execute agreements with the Department of the Interior, the Federal Water Pollution Control Administration, or any other federal agency that administers programs providing federal cooperation, assistance, grants, or loans for research, development, investigation, training, planning, studies, programming, and construction related to methods, procedures, and facilities for the collection, treatment, and disposal of waste or other water quality control activities. The board may accept federal funds for these purposes and for other purposes consistent with the objectives of this Act and may use the funds as prescribed by law or as provided by agreement.

State grants and loans

Sec. 3.26. (a) The board may use money provided by legislative appropriation to make grants or loans to municipalities and interstate agencies, as those terms are defined in the Federal Water Pollution Control Act (33 U.S.C. Sec. 466 et seq.), and to local governments, and the board may itself expend such money, for construction of treatment works, as defined in the federal act, and for construction of sewer systems, treatment facilities, and disposal systems.

(b) The board may use money provided by legislative appropriation to make grants or interest-free loans to, or to contract with, local governments, regional planning commissions, and planning agencies to pay administrative and other expenses of such entities for a period of not more than three years, and the board may itself expend such money, for developing effective, comprehensive water quality control and pollution abatement plans for designated areas of the state. Any loan made under this subsection shall be repaid when the resulting construction is begun.

(c) The board may not make any construction grant or loan under Subsection (a) of this section unless or until:

(1) the project is approved by the board and included in the state water quality plan;

(2) the board determines that the project is entitled to priority over other eligible projects on the basis of financial need as well as water quality needs;

(3) the recipient of the grant or loan agrees to pay the difference between the amount of the grant or loan and the cost of the project, which difference must be at least 20 percent of the estimated reasonable cost of the project as determined by the board; and

(4) the recipient has made provision satisfactory to the board to assure proper and efficient operation and maintenance of the project after the construction is completed.

(d) In determining the desirability of construction projects and of approving state grants, loans or contracts for them, the board shall consider:

(1) the public benefits to be derived from the project and the propriety of state participation;

(2) the benefits to be derived from the protection and conservation of the water and other natural resources in the state;

(3) the relation of the ultimate cost of constructing and maintaining the project to the public interest and the public necessity for the project; and

(4) the adequacy of provisions made or proposed to assure proper and efficient operation and maintenance of the project after the construction is completed.

(e) Money granted, loaned or contracted for construction shall be used exclusively for construction costs on the approved project.

Construction

Sec. 3.27. As used in Sections 3.25 and 3.26 of this Act, 'construction' includes:

(1) preliminary planning to determine the economic and engineering feasibility of the project;

(2) engineering, architectural, legal, fiscal, and economic investigations and studies;

(3) surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary to the construction of the project;

(4) erection, building, acquisition, alteration, remodeling, improvement, and extension; and

(5) inspection and supervision.

Control of grant, loan, and contract programs

Sec. 3.28. In order to implement and administer the federal and state grant, loan, and contract programs and to assure proper disbursement of and accounting for the public funds, the board shall adopt rules and procedures for the necessary engineering review and supervision, fiscal control, and fund accounting. The rules and procedures shall be consistent with federal law to the extent the board considers it applicable. The fiscal-control and fund-accounting procedures are supplemental to other procedures prescribed by state law.

Regional or area-wide systems

Sec. 3.29. (a) The Legislature finds and declares that it is necessary to the health, safety and welfare of the people of this state to implement the state policy to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state. Within any standard metropolitan statistical area in the state, the board is authorized to implement this policy in the manner and in accordance with the procedure provided in the following subsections of this section. In those portions of the state not within a standard metropolitan statistical area, the board shall observe this state policy by encouraging interested and affected persons to cooperate in developing and using regional and area-wide systems; in such portions of the state, the board may not use the procedure specified in the following subsections

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of this section to implement this policy, but this does not affect or diminish any authority which the board may otherwise have and exercise under other provisions of this Act. As used in this subsection, the term 'standard metropolitan statistical area' means an area consisting of a county or one or more contiguous counties which is officially so designated by the United States Bureau of the Budget or by any agency which succeeds to the Bureau or to this designation function of the Bureau.

(b) Whenever it appears to the board that, because of the existing or reasonably foreseeable residential, commercial, industrial, recreational, or other economic development in an area, a regional or area-wide waste collection, treatment, or disposal system or systems are necessary to prevent pollution or maintain and enhance the quality of the water in the state, the board may hold a public hearing in or near the area to determine whether the policy stated in Subsection (a) of this section should be implemented in that area. Notice of the hearing shall be given to the local governments who in the judgment of the board may be affected. If after the hearing the board finds that a regional or area-wide system or systems are necessary or desirable to prevent pollution or maintain and enhance the quality of the water in the state, the board may enter an order defining the area in which such a system or systems are necessary or desirable.

(c) At the same hearing held under Subsection (b) of this section, or at a subsequent hearing held in or near an area defined under Subsection (b) of this section, the board may consider whether to designate a regional or area-wide system or systems to serve all or part of the waste collection, treatment or disposal needs of the area defined. Notice of the hearing shall be given to the local governments and the owners and operators of any waste collection, treatment and disposal systems who in the judgment of the board may be affected. If after the hearing the board finds that there is an existing or proposed system or systems then capable, or which will in the reasonably foreseeable future be capable, of serving the waste collection, treatment or disposal needs of all or part of the area defined, and that the owners or operators of the system or systems are agreeable to providing the services, the board may enter an order designating the waste collection, treatment or disposal system or systems to serve all or part of the area defined.

(d) After the board has entered an order as authorized in Subsection (c) of this section, the board may, after public hearing and after giving notice of the hearing to the persons who in the judgment of the board may be affected, take any one or more of the following actions:

(1) enter an order requiring any person discharging or proposing to discharge waste into or adjacent to the water in the state in an area defined in an order entered under Subsection (b) of this section to use a regional or area-wide system designated under Subsection (c) of this section for the disposal of his waste;

(2) refuse to grant any permits for the discharge of waste, or to approve any plans for the construction or material alteration of any sewer system, treatment facility, or disposal system, in an area defined in an order entered under Subsection (b) of this section unless the permits or plans comply and are consistent with any orders entered under this section; or

(3) cancel or suspend any permit, or amend any permit in any particular, which authorizes the discharge of waste in an area defined in an order entered under Subsection (b) of this section.

The exercise of the authority granted to the board in this Subsection (d) shall be predicated on findings by the board that there is an existing or proposed regional or area-wide system designated under Subsection (c) of this section which is capable, or which will in the reasonably foreseeable future be capable, of serving the waste collection, treatment or

disposal needs of the person or persons who are the subject of an action taken by the board under this subsection; that the owner or operator of the designated regional or area-wide system is agreeable to providing the service; and that it is feasible for the service to be provided on the basis of waste collection, treatment and disposal technology, engineering, financial, and related considerations existing at the time, exclusive of any loss of revenues from any then-existing or proposed waste collection, treatment or disposal systems in which the person or persons who are the subject of an action taken by the board under this subsection have an interest.

(e) Upon motion of any interested party and after a public hearing, the board may set reasonable rates for the furnishing of waste collection, treatment, or disposal services to any person by a regional or area-wide system designated under Subsection (c) of this section. Notice of the hearing shall be given to the owner or operator of the designated regional or area-wide system, the person requesting the hearing, and any other person who, in the judgment of the board, may be affected by the action taken by the board as a result of the hearing. After the hearing the board shall enter an order setting forth its findings and the rates which may be charged for the services by the designated regional or area-wide system.

Accidental discharges and spills

Sec. 3.30. (a) As used in this section:

(1) "accidental discharge" means an act or omission through which waste or other substances are inadvertently discharged into water in the state;

(2) "spill" means an act or omission through which waste or other substances are deposited where, unless controlled or removed, they will drain, seep, run or otherwise enter water in the state; and

(3) "other substances" means substances which may be useful or valuable and therefore are not ordinarily considered to be waste, but which will cause pollution if discharged into water in the state.

(b) Whenever an accidental discharge or spill occurs at or from any activity or facility which causes or may cause pollution, the individual operating, in charge of, or responsible for the activity or facility shall notify the office of the board as soon as possible and not later than 24 hours after the occurrence.

(c) Activities which are inherently or potentially capable of causing or resulting in the spillage or accidental discharge of waste or other substances, and which pose serious or significant pollutional threats, are subject to such reasonable rules or orders establishing safety and preventive measures as the board may adopt or issue. The safety and preventive measures which may be required shall be commensurate with the potential harm which could result from the escape of the waste or other substances.

(d) The provisions in this section are cumulative of the other provisions in this Act relating to waste discharges. Nothing in this section exempts any person from complying with or being subject to any other provision of this Act.

Control of certain waste discharges by rule

Sec. 3.31. Whenever the board determines that the quality of water in an area is adversely affected or threatened by the combined effects of several relatively small-quantity discharges of wastes being made for which it is not practical to issue individual permits, or that the general nature of a particular type of activity which produces a waste discharge is such that requiring individual permits is unnecessarily burdensome both to the waste discharger and the board, the board may by rule regulate and set the requirements and conditions for such discharges of waste.

Health hazards

Sec. 3.32. The board may use any means provided by this Act to prevent a discharge of waste that is injurious to public health.

Monitoring and reporting

Sec. 3.33. The board may prescribe reasonable requirements for a person making waste discharges to monitor and report on his waste collection, treatment and disposal activities. When in the judgment of the board significant water quality management benefits will result or water quality management needs justify, the board may also prescribe reasonable requirements for any person or persons making waste discharges to monitor and report on the quality of any water in the state which the board has reason to believe may be materially affected by the waste discharges.

**SUBCHAPTER D. PROHIBITION AGAINST
POLLUTION; ENFORCEMENT**

Unauthorized discharges prohibited

Section 4.01. (a) Except as authorized by a rule, regulation, permit or other order issued by the board, or the executive director when authorized by the board, no person may:

(1) discharge sewage, municipal waste, recreational waste, agricultural waste, or industrial waste into or adjacent to any water in the state;

(2) discharge other waste into or adjacent to any water in the state which in itself, or in conjunction with any other discharge or activity, causes, continues to cause, or will cause pollution of any of the water in the state; or

(3) commit any other act or engage in any other activity, which in itself, or in conjunction with any other discharge or activity, causes, continues to cause, or will cause pollution of any of the water in the state, unless the activity is under the jurisdiction of the Parks and Wildlife Department, the General Land Office, or the Texas Railroad Commission, in which case this Paragraph (3) does not apply.

(b) In implementing Paragraphs (2) and (3) of Subsection (a) of this section, consideration shall be given to the state of existing technology, economic feasibility, and the water quality needs of the waters that might be affected.

(c) No person may cause, suffer, allow, or permit the discharge of any waste or the performance of any activity in violation of this Act or of any rule, regulation, permit, or other order of the board.

(d) Any person who violates any provision of this Act or of any rule, regulation, permit or other order of the board is subject to a civil penalty of not less than \$50.00 nor more than \$1,000.00 for each day of violation and for each act of violation, as the court may deem proper, to be recovered in the manner provided in this Subchapter.

Enforcement by board

Sec. 4.02. (a) Whenever it appears that a person has violated or is violating, or is threatening to violate, any provision of this Act, or of any rule, regulation, permit, or other order of the board, then the board, or the executive director when authorized by the board, may cause a civil suit to be instituted in a district court for injunctive relief to restrain the person from continuing the violation or threat of violation, or for the assessment and recovery of a civil penalty of not less than \$50.00 nor more than

\$1,000.00 for each act of violation and for each day of violation, as the court may deem proper, or for both injunctive relief and civil penalty. Upon application for injunctive relief and a finding that a person is violating or threatening to violate any provision of this Act or any rule, permit, or other order of the board, the district court shall grant the injunctive relief the facts may warrant.

(b) At the request of the board, or the executive director when authorized by the board, the attorney general shall institute and conduct a suit in the name of the State of Texas for injunctive relief or to recover the civil penalty, or for both injunctive relief and penalty, as authorized in Subsection (a) of this section.

Enforcement by others

Sec. 4.03. (a) Whenever it appears that a violation or threat of violation of any provision of Section 4.01 of this Act, or of any rule, regulation, permit, or other order of the board has occurred or is occurring within the jurisdiction of a local government, exclusive of its extraterritorial jurisdiction, the local government, in the same manner as the board, may cause a suit to be instituted in a district court through its own attorney for the injunctive relief or civil penalties, or both, as authorized in Subsection (a) of Section 4.02 of this Act against the person who committed, or is committing or threatening to commit, the violation. This power may not be exercised by a local government unless its governing body adopts a resolution authorizing the exercise of the power. In a suit brought by a local government under this Subsection (a), the board is a necessary and indispensable party.

(b) Whenever it appears that a violation or a threat of violation of any provision of Section 4.01 of this Act or of any rule, regulation, permit, or other order of the board has occurred or is occurring that affects aquatic life or wildlife, the Parks and Wildlife Department, in the same manner as the board, may cause suit to be instituted in a district court for injunctive relief or civil penalties, or both, as authorized in Subsection (a) of Section 4.02 of this Act, against the person who committed or is committing, or is threatening to commit, the violation. The suit shall be brought in the name of the State of Texas through the county attorney or the district attorney, as appropriate, of the county where the defendant resides or in the county where the violation or threat of violation occurs.

Venue and procedure

Sec. 4.04. (a) A suit for injunctive relief or for recovery of a civil penalty, or for both injunctive relief and penalty, may be brought either in the county where the defendant resides or in the county where the violation or threat of violation occurs.

(b) In any suit brought to enjoin a violation or threat of violation of this Act or of any rule, regulation, permit, or other order of the board, the court may grant the board, the Parks and Wildlife Department, or the local government, without bond or other undertaking, any prohibitory or mandatory injunction the facts may warrant, including temporary restraining orders after notice and hearing, temporary injunctions, and permanent injunctions.

(c) A suit brought under this Act shall be given precedence over all other cases of a different nature on the docket of the trial or appellate court.

(d) Either party may appeal from a final judgment of the court as in other civil cases.

For Annotations and Historical Notes, see V.A.T.S.

(e) All civil penalties recovered in suits instituted under this Act by the State of Texas through the board or the Parks and Wildlife Department shall be paid to the General Revenue Fund of the State of Texas.

(f) All civil penalties recovered in suits instituted by a local government or governments under this Act shall be equally divided between the State of Texas on the one hand and the local government or governments first instituting the suit on the other, with 50 percent of the recovery to be paid to the General Revenue Fund of the State of Texas and the other 50 percent equally to the local government or governments first instituting the suit.

Act of God, war, etc.

Sec. 4.05. Any pollution, or any discharge of waste without a permit or in violation of a permit, caused by an act of God, war, strike, riot, or other catastrophe is not a violation of this Act.

SUBCHAPTER E. AUTHORITY OF LOCAL GOVERNMENTS

Inspection of public water

Section 5.01. A local government may inspect the public water in its area and determine whether or not:

- (1) the quality of the water meets the state water quality standards adopted by the board;
- (2) persons discharging effluent into the public water located in the areas over which the local government has jurisdiction have obtained permits for the discharge of the effluent; and
- (3) persons who have permits are making discharges in compliance with the requirements of the permits.

Recommendations to board

Sec. 5.02. A local government may make written recommendations to the board as to what in its judgment the water quality standards should be for any public water within its territorial jurisdiction.

Power to enter property

Sec. 5.03. A local government has the same power as the board has under Section 3.04 of this Act to enter public and private property within its territorial jurisdiction to make inspections and investigations of conditions relating to water quality. The local government in exercising this power is subject to the same provisions and restrictions as the board. When requested by the board, the results of any inspection or investigation made by the local government shall be transmitted to the board for its consideration.

Enforcement action

Sec. 5.04. A local government may bring an enforcement action under this Act in the manner provided in Subchapter D of this Act for local governments.

Cooperative agreements

Sec. 5.05. A local government may execute cooperative agreements with the board or other local governments:

- (1) to provide for the performance of water quality management, inspection, and enforcement functions and to provide technical aid and educational services to any party to the agreement; and
- (2) for the transfer of money or property from any party to the agreement to another party to the agreement for the purpose of water quality

management, inspection, enforcement, technical aid and education, and the construction, ownership, purchase, maintenance, and operation of disposal systems.

SUBCHAPTER F. JUDICIAL REVIEW

Appeal of board action

Section 6.01. (a) A person affected by any ruling, order, decision, or other act of the board may appeal by filing a petition in a district court of Travis County.

(b) The petition must be filed within 30 days after the date of the board's action, or, in the case of a ruling, order, or decision, within 30 days after its effective date.

(c) Service of citation on the board must be accomplished within 30 days after the date the petition is filed. Citation may be served on the executive director or the deputy director.

(d) The plaintiff shall pursue his action with reasonable diligence. If the plaintiff does not prosecute his action within 18 months after the action is filed, the court shall presume that the action has been abandoned. The court shall dismiss the suit on a motion for dismissal made by the attorney general unless the plaintiff, after receiving due notice, can show good and sufficient cause for the delay.

(e) In an appeal of a board action other than cancellation or suspension of a permit, the issue is whether the action is invalid, arbitrary, or unreasonable.

(f) An appeal of the cancellation or suspension of a permit shall be tried in the same manner as appeals from the justice court to the county court.

Acts 1967, 60th Leg., p. 745, ch. 313. Eff. Sept. 1, 1967. Amended by Acts 1969, 61st Leg., p. 2229, ch. 760, § 1, eff. Sept. 1, 1969.

Acts 1969, 61st Leg., p. 2229, ch. 760, which rewrote this article, also provided:

"Sec. 2. The three members of the Texas Water Quality Board appointed under the provisions of Section 4(a) of Chapter 313, Acts of the 60th Legislature, Regular Session, 1967 (Article 7621d—1, Vernon's Texas Civil Statutes), who are in office when this Act goes into effect shall continue in office as the appointed members of the Texas Water Quality Board; Howard V. Rose, the member appointed to the term which began in November 1963, and who was redesignated by the Governor as the member representing general public interests on November 23, 1965, shall serve for a period ending September 1, 1969; Jerry L. Brownlee, the member appointed to the term which began in November 1965, shall serve for a period ending September 1, 1971;

and, Gordon Fulcher, the member appointed to the term which began in November 1967, shall serve for a period ending September 1, 1973. A person appointed as a member following the expiration of the term of office of a member who is in office when this Act goes into effect shall serve during a six-year term as provided in Section 2.03 of this Act.

"Sec. 3. Severability Clause. The provisions of this Act are severable. If any word, phrase, clause, sentence, section, provision or part of this Act should be held to be invalid or unconstitutional, it shall not affect the validity of the remaining portions, and it is hereby declared to be the legislative intent that this Act would have been passed as to the remaining portions, regardless of the invalidity of any part."

Art. 7621d—2. Gulf Coast Waste Disposal Authority

SUBCHAPTER 1. GENERAL PROVISIONS

Purpose

Section 1.01. The purpose of this Act is to establish an instrumentality for developing and effectuating for Chambers, Galveston, and Harris Counties a regional water quality management program including provision of waste disposal systems and regulation of disposal of wastes.

For Annotations and Historical Notes, see V.A.T.S.

Findings and declaration of policy

Sec. 1.02. It is hereby found and declared that the quality of waters in Chambers, Galveston, and Harris Counties is materially affected by the disposal of wastes throughout those counties; that regional approaches to studying water pollution in these counties, to planning corrective and preventive measures, to providing coordinated facilities for waste disposal, and to regulating waste disposal would be far more effective than efforts on a county-wide, city-wide, or smaller scale; that solid wastes, as well as other kinds of waste, may impair water quality by seepage, drainage, and otherwise; that creation of the Gulf Coast Waste Disposal Authority would advance the established policy of the state to maintain the quality of the waters in the state consistent with the public health and public enjoyment thereof, the propagation and protection of terrestrial and aquatic life, the operation of existing industries, and the economic development of the state; and that impending shortage of water in the district for beneficial uses requires that all reasonable measures be taken to prevent and abate water pollution, and to reclaim polluted water for beneficial uses.

Definitions

Sec. 1.03. (a) In this Act, unless the context requires a different definition,

(1) "Authority" means the Gulf Coast Waste Disposal Authority created by this Act.

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

(3) "Director" means a member of the board.

(4) "District" means the territory included in the authority.

(5) "Person" means any individual, public or private corporation, political subdivision, governmental agency, municipality, copartnership, association, firm, trust, estate or any other entity whatsoever.

(6) "Quality board" means the Texas Water Quality Board created by Chapter 313, Acts of the 60th Legislature, Regular Session, 1967 (Article 7621d—1, Vernon's Texas Civil Statutes), or its successors.

(7) "Rule" includes regulation.

(8) "Water" means groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico within the district, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, that are wholly or partially within the district.

(9) "Waste" means sewage, industrial waste, municipal waste, recreational waste, agricultural waste, or other waste, as defined in this section.

(10) "Sewage" means waterborne human or animal waste.

(11) "Municipal waste" means waterborne liquid, gaseous, or solid substances that result from any discharge from a publicly owned sewer system, treatment facility, or disposal system.

(12) "Recreational waste" means waterborne liquid, gaseous, or solid substances that emanate from any public or private park, beach, or recreational area.

(13) "Agricultural waste" means waterborne liquid, gaseous, or solid substances that arise from any type of agricultural activity, including waterborne poisons and insecticides used in agricultural activities.

(14) "Industrial waste" means waterborne liquid, gaseous, or solid substances that result from any process of industry, manufacturing, trade, or business.

(15) "Other waste" means garbage, refuse, decayed wood, sawdust, shavings, bark, sand, lime, cinders, ashes, offal, oil, tar, dyestuffs, acids,

chemicals, salt water, or any other substance, other than sewage, industrial waste, municipal waste, recreational waste, or agricultural waste, that may cause impairment of the quality of the water in the state.

(16) "Solid waste" means any putrescible or non-putrescible discarded material, including but not limited to garbage and refuse.

(17) "Water pollution" means the alteration of the physical, chemical, or biological quality of, or the contamination of, water that renders the water harmful, detrimental or injurious to humans, animal life, vegetation or property or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

(18) "Sewer system" means pipelines, conduits, canals, pumping stations, force mains, and all other constructions, devices, and appurtenant appliances used to transport waste.

(19) "Treatment facility" means any plant, disposal field, lagoon, incinerator, area devoted to sanitary landfills, or other facility installed for the purpose of treating, neutralizing, or stabilizing waste.

(20) "Disposal system" means any system for disposing of waste, including sewer systems and treatment facilities.

(21) "Local government" means an incorporated city, a county, a river authority, or a water district or authority acting under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution.

(22) "Outside the district" means the area contained in counties adjacent to the district.

SUBCHAPTER 2. ADMINISTRATIVE PROVISIONS

Creation of authority

Section 2.01. There is hereby created, pursuant to Article XVI, Section 59, of the Texas Constitution, a conservation and reclamation district to be known as the Gulf Coast Waste Disposal Authority, which shall be a governmental agency and body politic and corporate of the State of Texas. A confirmation election shall not be necessary.

Description

Sec. 2.02. The authority's territory consists of the area inside the boundaries of Chambers, Galveston, and Harris Counties. The Legislature declares that all the area included in the district will be benefited by the exercise of the powers conferred by this Act.

Board

Sec. 2.03. (a) The authority's powers, rights, duties, and functions are exercised by a board of directors.

(b) The board consists of nine directors.

(c) From each county within the district, the governor of the State of Texas shall appoint one director.

(d) From each county within the district, the county commissioners court of that county shall appoint one director.

(e) From each county within the district, the municipalities waste disposal council of that county, hereinafter created, shall appoint one director.

Qualification of directors

Sec. 2.04. To be qualified to be appointed a director, a person must be a qualified property taxpaying elector of the county from which he is appointed.

For Annotations and Historical Notes, see V.A.T.S.

Terms of directors and appointment procedures

Sec. 2.05. (a) A director's term of office shall be two years, commencing September 1 of the year of his appointment, except that four directors of the first board shall have one-year terms, in order to obtain staggered terms. When the directors have been appointed, they shall draw lots to determine which have one-year terms.

(b) Appointments of directors for the first board shall be made promptly after this Act becomes effective.

(c) There are hereby created: the Municipalities Waste Disposal Council of Chambers County, which shall be composed of the mayors of each and all of the incorporated cities and towns the city hall of which is situated within Chambers County; the Municipalities Waste Disposal Council of Galveston County, which shall be composed of the mayors of each and all of the incorporated cities and towns the city hall of which is situated within Galveston County; and the Municipalities Waste Disposal Council of Harris County, which shall be composed of the mayors of each and all of the incorporated cities and towns the city hall of which is situated within Harris County. The sole function of these councils shall be the selection of directors. The temporary chairman of each council shall be the mayor of the county seat. Promptly after this Act becomes effective, each municipalities waste disposal council shall meet at a time and place designated by its temporary chairman after notice of the time and place of that meeting has been mailed by the temporary chairman to each member of the council at least 48 hours prior to the time fixed for the meeting. At that meeting, the council shall elect a chairman, vice-chairman, and secretary, and shall adopt such bylaws relating to the conduct of its affairs as the council shall determine to be necessary.

(d) When a director's term expires, his successor shall be appointed by the same source and in the same manner as was the director whose term expired.

(e) When a director's office becomes vacant by death, resignation, or removal, the unexpired term shall be filled by the same source and in the same manner as was the director whose office has become vacant.

Qualification by directors

Sec. 2.06. To qualify for office, each director must

(1) take the oath of office prescribed by Article 16, Revised Civil Statutes of Texas, 1925;

(2) execute a bond in the amount of \$5,000 with a corporate surety authorized to do business in this state conditioned on the faithful performance of his duties; and

(3) file a copy of his bond with the secretary of state, and with the commissioners court of the county from which he is appointed.

Meetings and actions of the board

Sec. 2.07. (a) The board shall meet at least once each month, and may meet at any other time provided in its bylaws.

(b) Except as otherwise provided in this Act, the vote of a majority of directors is required for board action.

(c) The board shall adopt bylaws at its first meeting or as soon thereafter as possible.

Organization of board

Sec. 2.08. (a) The board shall elect from its members a chairman, vice-chairman, secretary, and other officers it deems necessary. A person who is elected to a board office shall serve for two years in that ca-

capacity or until he ceases to be a director, if this event occurs within two years. Officers' terms shall commence on September 1.

(b) At its September meeting each year, the board shall elect officers for the offices to be filled.

(c) If a vacancy occurs in a board office, the directors at the next monthly meeting shall elect a person to serve until the next September meeting of the board.

(d) The board's bylaws shall prescribe the powers, duties, and procedures for removal from board office of officers that it elects.

Interest in contract

Sec. 2.09. A director who is financially interested in a contract to be executed by the authority for the purchase of property or the construction of facilities shall disclose that fact to the other directors and may not vote on the acceptance of the contract.

Director's compensation

Sec. 2.10. (a) A director is entitled to receive an allowance of \$25 a day and reimbursement for actual and necessary expenses incurred

(1) for each day he spends attending meetings of the board; and

(2) for each day he spends attending to the business of the authority which is authorized by a resolution of the board.

(b) A director is not entitled to receive a per diem allowance for more than 120 days in any one calendar year.

General manager

Sec. 2.11. (a) The board shall employ a general manager for a term and salary set by the board.

(b) The general manager is the chief executive officer of the authority. Under policies established by the board, he is responsible to the board for

(1) administering the directives of the board;

(2) keeping the authority's records, including minutes of the board's meetings;

(3) coordinating with state, federal, and local agencies;

(4) developing plans and programs for the board's approval;

(5) hiring, supervising, training, and discharging the authority's employees;

(6) contracting for or retaining technical, scientific, legal, fiscal, and other professional services; and

(7) performing any other duties assigned to him by the board.

(c) The board may discharge the general manager upon a majority vote of all the qualified directors.

Directors' and employees' bonds

Sec. 2.12. (a) The general manager and each employee of the authority charged with the collection, custody, or payment of any money of the authority shall execute a fidelity bond. The board shall approve the form, amount, and surety of the bond.

(b) The authority shall pay the premiums on the employees' bonds under this section and the directors' bonds under Section 2.06 (2) of this Act.

Principal office

Sec. 2.13. The authority shall maintain its principal office inside the district.

Records

Sec. 2.14. (a) The authority shall keep complete and accurate accounts of its business transactions in accordance with generally accepted methods of accounting.

(b) The authority shall keep complete and accurate minutes of its meetings.

(c) The authority shall keep its accounts, contracts, documents, minutes, and other records at its principal office.

(d) Neither the board nor its employees shall disclose any records that it has relating to trade secrets or economics of operation of industries.

(e) Except as provided in Subsection (d) of this section, the authority shall permit reasonable public inspection of its records during regular business hours.

Seal

Sec. 2.15. The authority shall adopt a seal, the form of which it may alter from time to time.

Suit

Sec. 2.16. The authority may sue and be sued in its corporate name.

SUBCHAPTER 3. POWERS AND DUTIES**General powers and duties**

Sec. 3.01. (a) The authority shall administer and enforce the terms of this Act and shall use its facilities and powers to accomplish the purpose of this Act.

(b) The authority shall conduct studies and research for the control of water pollution and waste disposal within the district. It shall cooperate with the Galveston Bay Study of the quality board and utilize the results of that study.

(c) The regulatory powers of the authority under this Act extend to every person, as that term is defined in this Act.

(d) Except as expressly limited by this Act, the authority shall have all powers, rights, and privileges necessary and convenient for accomplishing the purposes of this Act conferred by general law upon any conservation and reclamation district created pursuant to Article XVI, Section 59, of the Texas Constitution.

(e) Subject only to the authority vested by general law, and particularly the Texas Water Quality Act (Article 7621d—1, Vernon's Texas Civil Statutes), as now or hereafter amended, in the quality board and the state agencies represented on the quality board, the authority is empowered to control water pollution and waste disposal within the district.

(f) The powers granted to the authority in this Act are cumulative of all powers granted by other laws, now or hereafter existing, which are by their terms applicable to the authority.

Authority rules

Sec. 3.02. (a) The authority shall adopt and enforce rules reasonably required to effectuate the provisions of this Act, including rules governing procedure and practice before the board.

(b) In adopting rules, the board shall comply, as appropriate, with the requirements of Chapter 274, Acts of the 57th Legislature, Regular

Session, 1961, as amended (Article 6252—13, Vernon's Texas Civil Statutes).

(c) The board shall print its rules and furnish copies to any person on his written request.

Inspections and investigations

Sec. 3.03. (a) Under the same provisions and restrictions applicable to the quality board or its successor, the authority may enter public or private property for the purpose of inspecting and investigating conditions relating to water quality and waste disposal in the district.

(b) The authority shall transmit the results of its inspections and investigations to the quality board.

Hearings

Sec. 3.04. The board may

(1) hold hearings, receive pertinent and relevant proof from any party in interest who appears before the board, compel the attendance of witnesses, make findings of fact and determinations with respect to administering the provisions of this Act or of any orders or rules of the authority; and

(2) delegate to one or more of its members or to one or more of its employees, the authority to take testimony in any hearing called by the authority, or authorized by the authority to be held, with power to administer oaths, but all orders entered shall be made by and in the name of the authority after its official action and attested to by the proper members of the board of directors.

Penalties

Sec. 3.05. (a) A person who violates a rule, permit, or order of the authority is subject to a civil penalty of not less than \$50 nor more than \$1,000 for each day of violation. The authority may sue to recover the penalty in a district court in the county where the violation occurred. Penalties shall be paid to the authority.

(b) The authority may sue for injunctive relief in a district court in the county where a violation of its rule, permit, or order occurred or is threatened. In any such suit, the court shall have jurisdiction to grant to the authority, without bond or other undertaking, such prohibitory and mandatory injunctions as the facts may warrant, including temporary restraining orders, after notice and hearing, temporary injunctions, or permanent injunctions.

(c) The authority may sue for injunctive relief and penalties in the same proceeding.

(d) The quality board is a necessary party to any suit brought under this section.

Court review

Sec. 3.06. (a) A person who is adversely affected by a rule, act, or order of the authority may sue the authority in a district court to set aside the rule, act, or order. The suit shall be filed within 60 days after the day on which the rule, act, or order took effect.

(b) Venue for suits under Subsection (a) of this section is in any county in the district.

Authority of local governments

Sec. 3.07. (a) Under the same provisions and restrictions as are applicable to the authority, a local government may go in and on public and private property to make inspections to determine compliance with

For Annotations and Historical Notes, see V.A.T.S.

the rules, permits, or orders of the authority. A local government shall transmit the results of its inspections to the authority.

(b) A local government, upon formal resolution of its governing body, may sue to enforce the provisions of Section 3.05 of this Act and for the penalties and injunctive relief provided therein. The authority is a necessary party to a suit under this subsection. Penalties recovered in such actions shall be paid to the authority.

Water quality standards and criteria

Sec. 3.08. (a) After public hearing, the authority shall prescribe standards and criteria for the waters in the district.

(b) After the authority has prescribed standards and criteria, it shall forward a copy of the standards and criteria to the quality board for approval.

(c) The quality board shall consider the standards and criteria.

(d) If the quality board objects to the standards and criteria in any respect, it shall so notify the authority in writing within 90 days after receiving the proposed standards and criteria, stating the objections and the reasons therefor. The authority shall amend its standards and criteria in light of the quality board's timely objections. When the authority has amended the standards and criteria in light of the quality board's objections, the quality board shall promptly evidence its approval of the amended standards and criteria in writing.

(e) If the quality board does not notify the authority that it objects to the standards and criteria within 90 days after receiving them, they are operative at the end of the 90-day period. If the quality board notifies the authority within the 90-day period that it objects to the standards and criteria, they are operative from the date the quality board approves them.

Enforcement of state water standards

Sec. 3.09. Upon formal resolution of the board, the authority may sue to impose the penalties and obtain the injunctive relief prescribed in the Act creating the quality board.

Master plan

Sec. 3.10. (a) The authority shall prepare a master plan encompassing plans for the maximum abatement and prevention of water pollution, plans for the control of waste disposal, and plans and methods for the treatment and control of waste water that would otherwise cause pollution. The master plan shall show at least: (1) the nature and location of existing waste disposal systems in the district; and (2) the nature and location of proposed waste disposal systems which will be needed in the district within stated periods of time to maintain desired water quality. The master plan shall be a guide for development of such systems by the authority and by other persons.

(b) The master plan shall be filed with the quality board, for its review and approval. If the quality board shall not notify the authority in writing of its disapproval of the plan in any respect within 180 days of filing, its approval shall not be required. Any objections to the plan by the quality board shall be submitted in writing to the authority, and when the objections are met to the satisfaction of the quality board, it shall promptly evidence its approval in writing.

(c) The master plan so approved shall be available for inspection by the public at the authority's principal office.

(d) The master plan may be amended or supplemented by the authority, provided that a copy of such amendment or supplement to the master plan shall be filed and approved in accordance with Subsection (b) of this section.

(e) The first master plan, as amended or supplemented, shall be effective for a period of 10 years. Upon the expiration of each 10-year period, the authority shall revise its master plan and a copy of said revised plan shall be filed and approved in accordance with Subsection (b) of this section.

(f) Prior to the adoption of a master plan, or any amendment, supplement, or revision effecting any substantial change, the authority shall give notice to the public that it proposes to adopt such master plan, amendment, supplement, or revision, by causing a notice describing its general nature to be published once in a newspaper of general circulation in each county in the district. In addition to such publication, a copy of such notice shall be transmitted by mail to the county judge of each county within the district, to the mayor of each incorporated municipality within the district, and to the manager or presiding director of every water district within the district which has registered with the Texas Water Rights Commission under Chapter 62, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 8280—7, Vernon's Texas Civil Statutes), such notice to be mailed not less than 20 days before the regular meeting at which the master plan, amendment, supplement, or revision is to be considered for the first time. Failure in delivery of notice does not invalidate the action taken.

(g) Such master plan, amendment, supplement, or revision may be considered and approved at the regular meeting of the board next following the last date of publication or, without further notice, at any regular meeting thereafter. However, any amendment, supplement, or revision to a duly approved and filed master plan which is made effective by law or by original action of the quality board shall not be subject to the notice requirements of Subsection (f) of this section.

(h) The affirmative vote of at least a majority of all the directors is required for the approval of the master plan, amendment, supplement, or revision.

(i) After the master plan has been filed with and approved by the quality board, a copy of the plan of any waste disposal system or water pollution abatement proposal, or of any request for permit or authority submitted to the quality board, to be operative within the district, not now or hereafter exempted by law from the requirement for procuring a permit, shall be submitted in such form as the authority shall require to the authority at its principal office by the party making the proposal or request. In case the proposed plan or request is one by law requiring action by the quality board, the authority shall have the right to present its views and recommendations to the quality board and receive notice of any hearings conducted by it in the matter. Should the proposed plan or request be one not requiring by law action by the quality board, then the authority shall hold a hearing at which the proponents of the proposed plan or request may present their evidence and recommendations.

(j) The authority shall approve such proposal requiring only its action, if it finds such proposal compatible with the authority's master plan; final approval or disapproval shall issue from the authority within 90 days after receipt of a copy of such proposal or request.

(k) If approved, such proposal or request shall be incorporated into the master plan.

Regulation of solid waste disposal

Sec. 3.11. (a) The authority shall establish minimum standards of operation for all aspects of solid waste handling, including but not limited to storage, collection, incineration, sanitary landfill, or composting. Before establishing such standards, the authority shall:

(1) hold public hearings after having given public notice in the time and manner prescribed by the rules of the board;

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(2) consult with the quality board, the Texas Air Control Board, and the Texas State Department of Health to insure that the standards are not inconsistent with established criteria; and

(3) find that the standards are reasonably necessary for protection of public health or welfare from water pollution or other environmental harm.

(b) To amend standards, the authority shall follow the same procedures required for establishing standards.

(c) The authority may make rules reasonably necessary to implement solid waste disposal standards. These rules may include issuance and revocation of permits for operation of solid waste disposal sites and other aspects of solid waste handling.

Septic tanks

Sec. 3.12. (a) If it finds that because of the nature of the soil or drainage in the area it is necessary to prevent water pollution that may directly or indirectly injure the public health, the authority by rule may

(1) provide limits on the number and kind of septic tanks in any area defined in the rule;

(2) forbid the use of septic tanks in the area; or

(3) forbid the installation of new septic tanks in the area.

(b) The board shall consult with the Texas State Department of Health and the quality board prior to the adoption of a rule under Subsection (a) of this section.

(c) The board may provide in the order for a gradual and systematic reduction of the number or kind of septic tanks in the area and may by rule provide for a system of licensing and issuing permits for the installation of new septic tanks in the area affected, in which event no person may install septic tanks in the area without a license or permit from the board.

(d) The board may not issue a rule under Subsection (a) of this section without first holding a public hearing in the area to be affected by the rule.

Disposal of waste from watercraft

Sec. 3.13. (a) The authority may enforce within the district the rules of any agency of the State of Texas concerning the disposal of waste from watercraft.

(b) It also may make and enforce its own rules concerning the disposal of waste from watercraft, after public hearing and finding that such rules are reasonably necessary to minimize water pollution.

Acquisition, construction, and operation of disposal systems

Sec. 3.14. (a) The authority

(1) may acquire by purchase, gift, or lease any disposal systems within or outside the district;

(2) may construct disposal systems within or outside the district;

(3) may operate and sell any disposal systems that it constructs or acquires;

(4) may contract with any person to operate and maintain any disposal system belonging to the person; and

(5) may contract with any person to train or supervise employees of a disposal system.

(b) Before the authority may discharge effluent, it must obtain the necessary permits from the quality board.

Waste disposal contracts

Sec. 3.15. (a) The authority may contract to receive and treat or dispose of wastes from any person in the district.

(b) In contracts under Subsection (a) of this section, the authority shall set fees on the basis of

- (1) the quality of the waste;
- (2) the quantity of the waste;
- (3) the difficulty encountered in treating or disposing of the waste;
- (4) operation and maintenance expenses and debt retirement services; and
- (5) any other reasonable considerations.

Sale of water and by-products

Sec. 3.16. The authority may store and sell water that it collects under Section 3.15 of this Act, and may furnish water of a specified quality. It also may store and sell any by-product from its operations.

Permits from Texas water rights commission

Sec. 3.17. (a) For the purpose of maintaining established water quality standards in the bays and estuaries within the district, the authority may apply to the Texas Water Rights Commission for water appropriation permits.

(b) The authority may apply for water storage or use permits from the Texas Water Rights Commission to store and sell water under the provisions of Section 3.16 of this Act.

Eminent domain

Sec. 3.18. The authority may acquire property of any kind within or outside the district, appropriate for the exercise of its functions, through the exercise of the power of eminent domain under the provisions of Title 52, Revised Civil Statutes of Texas, 1925, as now or later amended.

Relocation of facilities

Sec. 3.19. In the event that the authority, in the exercise of the power of eminent domain or power of relocation, or any other power, makes necessary the relocation, raising, rerouting or changing the grade of or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipelines, all such necessary relocation, raising, rerouting, change in grade or alteration of construction, shall be accomplished at the sole expense of the authority. The term "sole expense" shall mean the actual cost of such relocation, raising, rerouting, change in grade or alteration of grade or construction in providing comparable replacement without any enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Use of public easements

Sec. 3.20. The authority shall have the right, power, and authority to use any and all public roadways, streets, alleys, or public easements within or outside the district in the accomplishment of its purposes, without the necessity of securing a franchise.

Acquisition and disposition of property

Sec. 3.21. (a) The authority may purchase, lease, acquire by gift, maintain, use, and operate property of any kind appropriate for the exercise of its functions.

(b) Sales of property not authorized by any other provision of this Act are hereby authorized, subject to the following limitations: (1) The board, by affirmative vote of seven directors, shall determine that the property is not needed by the authority; (2) sales shall be by competitive bidding if the value of the property as appraised by the board exceeds

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\$10,000; (3) notice of the proposed sale shall be published once each week for three consecutive weeks in a newspaper having general circulation in the county or counties in which the property is situated if the value of the property as appraised by the board exceeds \$2,000; (4) the specific terms of the sale shall be approved by the board, an affirmative vote of seven directors being required for this purpose, unless the value of the property as appraised by the board is \$2,000 or less, in which event the board by affirmative vote of seven directors may authorize the general manager to sell on such terms as he deems advisable.

Facilities

Sec. 3.22. The authority may acquire in any lawful manner, construct, extend, improve, maintain, reconstruct, use, and operate any facilities necessary or convenient to the exercise of its powers, rights, duties, and functions.

Contracts generally

Sec. 3.23. (a) The authority may make contracts and execute instruments that are necessary or convenient to the exercise of its powers, rights, duties, and functions. A contract may be for any term not to exceed 50 years.

(b) Any construction, maintenance, operation, or repair contract, or contract for the purchase of material, equipment or supplies, or any contract for services other than technical, scientific, legal, fiscal, or other professional services, shall be awarded to the lowest and best bidder therefor, after publication of a notice to bidders once each week for three consecutive weeks before the date set for awarding the contract, if the contract will require an estimated expenditure of more than \$2,000, or if the contract is for a term of six months or more. In the event of an emergency, the authority may let such contracts as are necessary to protect and preserve the public health and welfare or the properties of the authority, without such bidding procedures.

(c) The notice is sufficient if it states the time and place, when and where the bids will be opened, the general nature of the work to be done, or the material, equipment, or supplies to be purchased, or the nonprofessional services to be rendered, and states the terms upon which copies of the plans, specifications, or other pertinent information may be obtained.

(d) Publication of the notice shall be in a newspaper having general circulation in the county or counties in which the contract is to be performed. In addition to publishing notice in a newspaper having general circulation, the notice may also be published in any other appropriate publication.

(e) Anyone desiring to bid on the construction of any work advertised as herein provided, shall, upon written application to the board, be furnished with a copy of the plans and specifications or other engineering and architectural documents showing the work to be done, and all the details thereof, providing that a charge may be made therefor to cover the cost of making such copy. All bids to do any such work shall be in writing, and sealed and delivered to the board, and shall be accompanied by a certified check upon some responsible bank in the State of Texas or a bid bond from a company approved by the board, for at least one percent of the total amount bid, and the amount of said check or bond shall be forfeited to the authority in the event such successful bidder shall fail or refuse to enter into a proper contract therefor, or shall fail or refuse to furnish bond therefor as required by law. Any or all bids may be rejected by the board.

(f) Bids shall be opened at the place specified in the published notice and shall be announced by the board. The place where the bids are opened and announced shall always be open to the public.

(g) The contract price of all construction contracts of the authority may be made in partial payment as the work progresses, but such payments shall not exceed 90 percent of the amount due at the time of such payment as shown by the report of the general manager of the district. The board shall at all times during the progress of the work, inspect the same or cause the same to be inspected by the general manager or his assistants, and upon the completion of any contract in accordance with such terms, they shall pay the balance due thereon.

(h) The person, firm or corporation to whom such contract is let shall provide such performance and payment bonds as are required by law.

(i) The provisions of this section do not prohibit the authority from purchasing surplus property from the United States by negotiated contract and without necessity for advertising bids.

(j) An officer, agent, or employee of the authority who is financially interested in a contract of the types enumerated in Subsection (b) of this section shall disclose that fact to the board before the board votes on the acceptance of the contract.

(k) Notwithstanding any provision of any charter of any city or town, contracts between the authority and any city or town need not be submitted to the electorate.

Cooperative agreements

Sec. 3.24. The authority may enter into cooperative agreements with other local governments, state agencies, or agencies of the United States of America

(1) to perform water quality and waste disposal management, inspection, and enforcement functions and give technical aid and education services to any entity that is a party to the agreement; and

(2) to transfer money or property to any entity that is a party to the cooperative agreement for the purpose of water quality and waste disposal management, inspection, enforcement, and technical aid and education.

SUBCHAPTER 4. GENERAL FISCAL PROVISIONS

Disbursement of funds

Section 4.01. The authority's money is disbursable only by check, draft, order, or other instrument, signed by the person or persons authorized to do so in the board's bylaws, or by resolution of the board.

Fees and charges

Sec. 4.02. The authority shall establish fees and charges which may not be higher than necessary to fulfill the obligations imposed on it by this Act.

Loans and grants

Sec. 4.03. (a) The authority may borrow money for its corporate purposes.

(b) The authority may borrow money and accept grants from private sources, the United States of America, the state, and local governments. The authority may enter into any agreement in connection with the loan or grant which is not in conflict with the constitution and laws of this state.

(c) The sources of any funds accepted by the authority shall be public information, both as to amount and any restrictions placed by the donor on their expenditure.

Fiscal year and audit by state auditor

Sec. 4.04. (a) The authority's fiscal year shall be established by the board.

(b) The state auditor shall audit annually the authority's books and accounts in a manner enabling him to report to the Legislature the manner and purpose of the expenditure of the authority's money during each fiscal year.

State auditor's report

Sec. 4.05. (a) The state auditor shall make a report of his audit promptly.

(b) The state auditor shall file a copy of the report with the governor, the quality board, the commissioners court of each county in the district, and as may otherwise be provided by law.

Cost of state auditor's audit

Sec. 4.06. (a) After completing the report required by Section 4.05 of this Act, the state auditor shall prepare a detailed statement showing the actual cost of the audit and certify the statement to the authority for payment.

(b) Upon receipt of the statement, the authority shall pay the state treasurer the cost of the audit.

(c) The state treasurer shall credit the payment to the general revenue fund.

Independent audit

Sec. 4.07. (a) The authority may contract for independent audits.

(b) The authority shall file copies of any independent audit made with the persons and agencies who receive the state auditor's report under Section 4.05(b) of this Act.

Depository banks

Sec. 4.08. (a) The board shall designate one or more banks within the district to serve as depository for the funds of the authority. All funds of the authority shall be deposited in such depository bank or banks except that bond proceeds and funds pledged to pay bonds may, to the extent provided in a trust indenture, be deposited with the trustee bank named in the trust indenture, and except that funds shall be remitted to the bank of payment for the payment of principal of and interest on bonds. To the extent that funds in the depository banks or a trustee bank are not invested or insured by the F.D.I.C. they shall be secured in the manner provided by law for the security of county funds.

(b) Before designating a depository bank or banks, the board shall issue a notice stating the time and place when and where the board will meet for such purpose and inviting the banks in the district to submit applications to be designated depositories. The term of service for depositories shall be prescribed by the board. Such notice shall be published one time in a newspaper of general circulation in the district and specified by the board, or, in lieu of such publication, a copy of such notice may be mailed to each bank in the district.

(c) At the time mentioned in the notice, the board shall consider the applications and the management and condition of the banks filing them, and shall designate as depositories the bank or banks which offer the most favorable terms and conditions for the handling of the funds of the

authority and which the board finds have proper management and are in condition to warrant handling of authority funds. Membership on the board of an officer or director of a bank shall not disqualify such bank from being designated as depository.

(d) If no applications are received by the time stated in the notice, the board shall designate some bank or banks within or outside the district upon such terms and conditions as it may find advantageous to the authority.

SUBCHAPTER 5. BOND AND TAX PROVISIONS

Bonds

Section 5.01. (a) For the purpose of carrying out any power or authority conferred by this Act, including the expense of preparing the master plan and the payment of engineering and other expenses in connection therewith, the authority is empowered to issue its bonds in three general classes:

(1) bonds secured by ad valorem taxes;

(2) bonds secured by a pledge of all or part of the revenues accruing to the authority, including without limitation those received from sale of water or other products, rendition of service, tolls, charges, and from all other sources other than ad valorem taxes;

(3) bonds secured by a combination pledge of all or part of the revenues described in Subdivision (2) of this subsection, and taxes.

(b) Such bonds shall be authorized by resolution of the board and shall be issued in the name of the authority, signed by the chairman or vice-chairman, attested by the secretary and shall bear the seal of the authority. It is provided, however, that the signatures of the chairman, the vice-chairman or of the secretary or of both may be printed or lithographed on the bonds if authorized by the board, and that the seal of the authority may be impressed on the bonds or may be printed or lithographed thereon. The bonds shall be in such form as shall be prescribed by the board, shall be in such denomination or denominations, shall mature serially or otherwise in not to exceed 50 years from their date, shall bear such interest, and may be sold at a price and under terms determined by the board to be the most advantageous reasonably obtainable, and within the discretion of the board, may be made callable prior to maturity at such times and prices as may be prescribed in the bonds, and may be made registrable as to principal or as to both principal and interest. Such bonds may be further secured by an indenture of trust with a corporate trustee.

(c) Bonds may be issued in more than one series, and from time to time, as required for carrying out the purposes of this Act. Any pledge of revenues may reserve the right, under conditions therein specified, to issue additional bonds which will be on a parity with, or be secured by a lien senior to or subordinate to the bonds then being issued.

(d) The resolution authorizing the bonds or the trust indenture further securing such bonds may specify additional provisions which shall constitute a contract between the authority and its bondholders. The board shall have full discretion in providing for such additional provisions including the authority to provide for a corporate trustee or receiver to take possession of facilities of the authority in the event of default on the part of the authority in fulfilling the covenants therein made.

Refunding bonds

Sec. 5.02. The authority is authorized to issue refunding bonds for the purpose of refunding any outstanding bonds authorized by this Act and interest thereon. Such refunding bonds may be issued to refund one or more series of outstanding bonds and combine the pledges for the

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outstanding bonds for the security of the refunding bonds, and may be secured by other or additional revenues. The provisions of this law with reference to the issuance by the authority of other bonds, their security, and their approval by the attorney general and the remedies of the holders shall be applicable to refunding bonds. Refunding bonds shall be registered by the comptroller upon surrender and cancellation of the bonds to be refunded, but in lieu thereof, the resolution authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the bank where the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the principal of and the interest on the original bonds to their option date or maturity date, and the comptroller shall register them without concurrent surrender and cancellation of the original bonds.

Approval and registration of bonds

Sec. 5.03. After any bonds (including refunding bonds) are authorized by the authority, such bonds and the record relating to their issuance shall be submitted to the attorney general for his examination as to the validity thereof. If such bonds recite that they are secured by a pledge of the proceeds of a contract theretofore made between the authority and any city or other governmental agency, authority or district, a copy of such contract and the proceedings of the city or other governmental agency, authority or district authorizing such contract shall also be submitted to the attorney general. If he finds that such bonds have been authorized and such contracts have been made in accordance with the Constitution and laws of the State of Texas, he shall approve the bonds and such contracts and the bonds then shall be registered by the comptroller of public accounts. Thereafter the bonds, and the contracts, if any, shall be valid and binding and shall be incontestable for any cause.

Bond election

Sec. 5.04. No bonds payable wholly or partially from ad valorem taxes (except refunding bonds) shall be issued unless authorized by an election at which only the qualified property tax-paying voters of the district may vote and unless a majority of the votes cast in such election is in favor of the issuance of the bonds. Refunding bonds and bonds not payable wholly or partially from ad valorem taxes may be issued without an election. Such elections shall be held in accordance with the provisions hereinafter set forth governing ad valorem tax elections.

Maintenance tax

Sec. 5.05. The board shall have the power to levy and collect ad valorem taxes for the maintenance of the authority and its improvements, in such amounts as are voted in accordance with the procedure hereinafter set forth; provided that the maintenance tax shall not exceed the maximum rate voted, and said rate shall remain in effect until or unless changed by subsequent vote, and that in no event shall the tax rate exceed the limit specified in Section 5.08 of this Act.

Election

Sec. 5.06. No such maintenance tax shall be levied or collected and no bonds payable wholly or partially from ad valorem taxes shall be issued unless an election is held in the district and any such taxes or bonds are duly and favorably voted by a majority of the qualified property tax-paying voters of the district, voting at the election. Each such election shall be called by resolution of the board. The election resolution shall set forth the date of the election, the proposition to be submitted and

voted on, the polling places, and any other matters deemed advisable by the board. Notice of said election shall be given by publishing a substantial copy of the resolution calling the election in a newspaper of general circulation in the district not less than twice in such newspaper, with the interval between such publications to be at least one week, and with the first of each of said publications to be at least 60 days prior to the date set for the election. To the extent not inconsistent with the provisions hereof, the elections herein provided for shall be held in accordance with the provisions of the Texas Election Code.

Rendition, assessment, equalization, levying, and collection of taxes

Sec. 5.07. The rendition and assessment of property for taxation, the equalization of values, and the collection of taxes for the benefit of the authority shall be in accordance with the law applicable to counties, insofar as such law can be made applicable, and except as hereinafter specifically provided. The board may act as the board of equalization for the authority, or may appoint a separate board of equalization to consist of five resident, qualified voters who own taxable property in the district. In either case, the board of equalization shall have the powers, functions, and duties of the commissioners courts of counties in equalizing property values in accordance with law applicable to counties, insofar as such laws can be made applicable. It is provided, however, that renditions shall be made to the county tax assessor and collector of the county in which the property is located and the tax assessor and collector of each county, respectively, shall act as the tax assessor and collector for the authority for property located in such county. It shall be the duty of the tax assessor and collector in each county to cause to be placed on the county tax rolls such additional column or columns as are needed to show the taxes levied by the authority and the amount thereof, based on the value of such property as approved finally by the authority's board of equalization. The fee of each county tax assessor and collector for assessing and collecting taxes shall be one percent of the taxes collected, such fee to be paid over and disbursed in each county as are other fees of office. All of the laws for the enforcement of state and county taxes shall be available to the authority. The authority shall have the right to cause the officers of each county to enforce and collect the taxes due to the authority in that county, as provided in the law for the enforcement of state and county taxes. Taxes assessed and levied for the benefit of the authority shall be payable and shall become delinquent at the same time, in the same manner, and subject to the same discount for advance payment as taxes levied by and for the benefit of the county in which the property is taxable. The fee for collecting delinquent taxes through prosecution of suit shall be 15 percent of the taxes collected by such suit, such fee to be paid over and disbursed in each county as are other fees of office. Concurrently with the levy of county taxes by the commissioners courts, the board shall levy the tax on all taxable property in the district which is subject to such taxation and shall immediately certify such tax rate to the tax assessor and collector of the counties comprising the authority.

Tax limit

Sec. 5.08. The maximum rate of tax which may be levied for any year for all purposes is 10 cents on each \$100 of taxable property based on its assessed valuation.

Acts 1969, 61st Leg., p. 1336, ch. 409, § 1, eff. Sept. 1, 1969.

Title of Act:

An Act creating, under Article XVI, Section 59, of the Texas Constitution, the Gulf Coast Waste Disposal Authority, for the purpose of preventing water pollution in Chambers, Galveston, and Harris Counties,

by providing on a regional basis means for disposal of wastes and for the regulation of waste disposal; prescribing the organization, powers, and duties of the authority; conferring power upon the authority to issue bonds payable from revenues, taxes,

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or a combination thereof, and power to levy taxes for the purposes of the authority; prescribing relationships between the au- thority and other agencies; prescribing penalties; and declaring an emergency. Acts 1969, 61st Leg., p. 1336, ch. 409.

Art. 7621e. Water Well Drillers Act

* * * * *

Rules and regulations

Sec. 7. (a) The Board shall adopt, prescribe, promulgate, and enforce all rules and regulations reasonably necessary to effectuate the provisions of this Act, including all rules governing applications for registration certificates, qualifications of applicants, marking of water well drilling rigs and equipment, standards of conduct for registered water well drillers and all rules governing procedure and practice before the Board. Be it further provided, however, that before the Board may adopt any substantive rule under this Act, it must mail a copy of the proposed rule or amendment together with an informative summary of the rule or amendment to each person licensed under this Act, at least twenty (20) days prior to the proposed effective date of such a proposed rule. The procedural rules adopted by the Board shall be filed with the Secretary of State and shall become effective thirty (30) days thereafter. Sec. 7(a) amended by Acts 1969, 61st Leg., p. 1180, ch. 376, § 1, eff. Sept. 1, 1969.

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Marking rigs with identification number

Sec. 14. It is the duty of all registered water well drillers to see that all rigs used by them or their employees in the water well drilling business are marked with legible identification numbers at all times; the "identification number" to be used on the rigs shall be the "license number" which appears on the driller's registration certificate; the Board shall set out in detail in its rules the specific method and manner for marking the rigs. The driller shall furnish a sworn statement that he has complied with this provision of the Act with his annual renewal fee each year. Any licensed driller has one hundred eighty (180) days to comply with the regulations provided in Section 14. Sec. 14 amended by Acts 1969, 61st Leg., p. 1180, ch. 376, § 2, eff. Sept. 1, 1969.

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Bond required

Sec. 16. Repealed by Acts 1969, 61st Leg., p. 1180, ch. 376, § 3, eff. Sept. 1, 1969.

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Art. 7621g. Regional Waste Disposal Act

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Definitions

Sec. 2. Words and phrases used in this Act shall have meanings as follows: (a) "Act" shall mean the Regional Waste Disposal Act, as amended. (b) "Person" means any individual, public agency as defined herein, public or private corporation, political subdivision or governmental agency of the United States of America or the state, city as defined here-

in, co-partnership, association, firm, trust, estate, or any other entity whatsoever.

(c) "District" means any district or authority heretofore or hereafter created and existing under Article XVI, Section 59, or Article III, Section 52 of the Constitution of Texas, including any river authority, as defined herein.

(d) "City" means any incorporated city or town, whether operating under general law or under its home-rule charter.

(e) "Public agency" means any district as defined herein, any city as defined herein, or any other political subdivision or agency of the state having the power to own and operate waste collection, transportation, treatment or disposal facilities or systems. The term also means any Joint Board created pursuant to the provisions of Acts, 1947, 50th Legislature, Chapter 114, Section 14.

(f) "River authority" means any district or authority heretofore or hereafter created by act of the Legislature, containing an area within its boundaries of one or more counties, and governed by a board of directors appointed or designated in whole or in part by the Governor, or by the Texas Water Rights Commission, including, without limitation, the following districts and authorities heretofore created by the Legislature: San Antonio River Authority.

(g) "River basin" and "coastal basin" mean the river basins and coastal basins as now defined and designated by the Texas Water Development Board as separate units for purposes of water development and inter-watershed transfers, and as same are made certain by contour maps on file in the offices of the Texas Water Development Board, including, but not limited to, the rivers and their tributaries, streams, waters, coastal waters, sounds, estuaries, bays, lakes, and portions thereof, as well as the lands drained thereby.

(h) "Waste" means sewage, industrial waste, municipal waste, recreational waste and agricultural waste, waste heat, and any other waste that may cause impairment of the quality of the waters in the state.

(i) "Sewer system" or "sewerage system" means pipelines or conduits, canals, pumping stations, and force mains, and all other constructions, devices, and appliances appurtenant thereto, used for conducting waste to a point of ultimate disposal.

(j) "Treatment facilities" means any plant, disposal field, lagoon, pumping station, constructed drainage ditch or surface water intercepting ditch, canal, incinerator, area devoted to sanitary land fills, or other works not specifically mentioned herein, installed for the purpose of treating, neutralizing, stabilizing or disposing of waste or facilities to provide cooling water to collect, control and dispose of waste heat.

(k) "Disposal system" means a system for disposing of waste, and including sewer systems and treatment facilities, as such terms are defined herein."

(l) The terms "sewage," "municipal waste," "recreational waste," "agricultural waste," "industrial waste," "other waste," "pollution," "waters" or "waters in the state," and "local government" shall have meanings as set forth in the Texas Water Quality Act of 1967, as amended (codified as Article 7621d—1, Vernon's Texas Civil Statutes, 1925).

Sec. 2 amended by Acts 1969, 61st Leg., p. 2282, ch. 769, § 1, eff. Sept. 1, 1969.

Regional planning

Sec. 2a. Each river authority shall be authorized to prepare comprehensive regional plans for water quality management, control and abatement of pollution in its river basin or segment thereof and adjoining coastal basins which (a) are consistent with any applicable water quality standards established pursuant to current law within the river basin;

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(b) recommend such disposal systems as will provide the most effective and economical means of collection, storage, treatment and purification of waste, and recommends means to encourage rural, municipal and industrial use of such works and systems; and (c) recommend maintenance and improvement of water quality standards within the river basin or a portion thereof, and recommend methods of adequately financing those facilities as may be necessary to implement the plan. River authorities are authorized to conduct such other planning in related or affected fields as may be reasonably necessary to give meaning to the water quality management and pollution control planning carried out under this Act. River authorities may join in the performance of planning functions with any district or public agency and enter into planning agreements for such term and upon such conditions as may be deemed desirable so as to provide coordinated planning on a basin-wide scale, including adjacent coastal basins and may provide for river basin planning committees as entities with such powers, responsibilities, functions and duties as may be conferred by mutual agreement. A river authority performing planning functions under this Act shall coordinate its efforts and cooperate with other public planning agencies having significant planning interests in the river basin or segment thereof in or for which the planning is being conducted by the river authority. River authorities are authorized to make such applications and enter into such contracts for financial assistance in comprehensive planning as may be appropriate under Section 3(c) of the Federal Water Pollution Control Act, under 33 U.S.C., Sec. 1926, et seq., under 40 U.S.C., Sec. 461, et seq., and under any other relevant statutes. The Texas Water Quality Board is charged with the authority to exercise continuing supervision on behalf of the state of comprehensive plans prepared under this Act.

Sec. 2a added by Acts 1969, 61st Leg., p. 2284, ch. 769, § 2, eff. Sept. 1, 1969.

Authority of district

Sec. 3. A district may acquire, construct, improve, enlarge, extend, repair, operate and maintain one or more disposal systems, and may make contracts with any person, including any public agency located within or without the boundaries of the district, under which the district will, within or without the district, collect, transport, treat or dispose of waste for such person. A district may also enter into contracts with any person to purchase or sell, by installments over such term as may be deemed desirable, or otherwise, any waste collection, transportation, treatment or disposal facilities or systems. A district is also authorized to enter into operating agreements with any person, for such terms and upon such conditions as may be deemed desirable, for the operation of any waste collection, transportation, treatment or disposal facilities or systems of any person by the district; and a district may lease to or from any person, for such term and upon such conditions as may be deemed desirable, any waste collection, transportation, treatment or disposal facilities or systems.

Sec. 3 amended by Acts 1969, 61st Leg., p. 2285, ch. 769, § 3, eff. Sept. 1, 1969.

Acquisition of property; eminent domain

Sec. 4. A district shall have the power and right to acquire by purchase, lease, gift or in any other manner, and to own, maintain, use and operate any and all property of any kind, real, personal or mixed, or any interest therein within or without the boundaries of the district necessary or convenient to the exercise of the purposes of and the powers granted by this Act. A district shall also have the power and right of eminent domain to acquire by condemnation any and all property of any kind, real, personal or mixed, or any interest therein within or without the bound-

aries of such district necessary or convenient to the exercise of the powers and purposes authorized by this Act. Such power of eminent domain shall be exercised in the manner provided in the laws applicable or available to the district.

Sec. 4 amended by Acts 1969, 61st Leg., p. 2285, ch. 769, § 4, eff. Sept. 1, 1969.

Contracts

Sec. 4a. Each river authority may enter into such contracts as are authorized by this Act with any person, including any public agency situated wholly or partly within its boundaries and any public agency situated wholly or partly within the river basin and any public agency situated wholly or partly within the coastal basins adjoining its boundaries, provided, however, a river authority may not enter into such contracts to serve a public agency situated wholly within the boundaries of another river authority or to serve facilities of a person situated wholly within the boundaries of another river authority, except with the consent of such other river authority.

Sec. 4a added by Acts 1969, 61st Leg., p. 2285, ch. 769, § 5, eff. Sept. 1, 1969.

Public agencies; contracts; terms and provisions

Sec. 5. Public agencies are hereby authorized to make contracts with a district under which the district will make a disposal system available to a public agency or group of public agencies or to other persons and furnish waste collection, transportation, treatment and disposal services by the district's disposal system. The contract may be upon such terms and for such period of time as the parties may agree and may provide that it will remain in effect until any bonds issued or to be issued by the district, and any bonds which may be issued to refund the same are paid; the contract may contain provisions to assure equitable treatment of parties who contract with the district for waste collection, transportation, treatment and disposal services from the same disposal system; may contain provisions requiring the public agency to regulate the quality and strength of waste to be handled by the disposal system; shall provide the method of determining the amounts to be paid by the public agency to the district; may provide for the sale or lease to or use of by the district of any disposal system or any part thereof at the time owned or to be acquired by the public agency; may provide that the district shall operate any disposal system or part thereof at the time owned or to be acquired by the public agency; may provide that the public agency shall have the right to continued performance of such services after the amortization of the district's investment in the disposal system during the useful life thereof upon payments of reasonable charges therefor, reduced to take into consideration such amortization; and may contain such other provisions and requirements as the district and the public agency may determine to be appropriate or necessary. A city may also provide in its contract that the district shall have the right to use the streets, alleys and public ways and places within the city during the term of the contract.

Sec. 5 amended by Acts 1969, 61st Leg., p. 2285, ch. 769, § 6, eff. Sept. 1, 1969.

Payments by public agencies

Sec. 6. Payments by a public agency to the district for waste collection, transportation, treatment, and disposal services may be made from the income of the public agency's waterworks system or its sanitary sewer system or of both systems or of its combined water and sanitary sewer system, as may be prescribed in the contract between the district and the public agency. In the alternative, a Joint Board herein defined

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as a public agency, may make such payments to the district from all or any part of any revenues or other funds within its control specified in the contract if the City Councils of the cities which created such Joint Board approve, by ordinance, the contract between the Joint Board and the district. Such payments shall constitute an operating expense of the system or systems whose revenues are thus to be applied. Payments to be made under the contract by the public agency from the income of the water system shall be subordinate to amounts required to be paid from the net revenues of its water system for principal of and interest on bonds of the public agency which are outstanding at the time of the making of the contract and which are payable solely from such water system net revenues unless the ordinance or resolution authorizing such outstanding bonds of the public agency expressly reserves the right to accord such contract payments a priority over such public agency's bond requirements. Unless the alternative procedure prescribed in Section 7 is followed, neither the district nor the holder of any bonds of the district shall have the right to demand payment of the public agency's obligation out of any funds raised or to be raised by taxation. If the alternative procedure prescribed in Section 7 is followed, payments under the contract may be payable from and constitute solely an obligation against the taxing powers of the city or may be payable both from taxes and from such revenues as may be prescribed in the contract.

Sec. 6 amended by Acts 1969, 61st Leg., p. 2286, ch. 769, § 7, eff. Sept. 1, 1969.

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Concurrent services; allocation of costs

Sec. 9. Any contract or group of contracts under this Act may provide for services to be rendered concurrently by the district to more than one person through the construction and operation of a disposal system and provide that the cost of such services shall be allocated among the several persons as determined in the contract or group of contracts.

Sec. 9 amended by Acts 1969, 61st Leg., p. 2287, ch. 769, § 8, eff. Sept. 1, 1969.

Bonds; form and denomination

Sec. 10. For the purpose of acquiring, constructing, improving, enlarging, extending and repairing a disposal system or disposal systems, a district is authorized to issue bonds payable from and secured by a pledge of all or any part of revenues under any contract or contracts it enters into under this Act and from any other income pledged by the district. Said bonds shall constitute investment securities governed by Chapter Eight, Uniform Commercial Code,¹ and shall be in such form and denomination and shall bear such rate or rates of interest as are prescribed by the governing body of the district. A district is likewise authorized to refund any bonds issued under this Act upon such terms and conditions and bearing such rate or rates of interest as the governing body may prescribe. Said bonds may be sold at such price or prices and upon the terms determined by the governing body of the district at public or private sale or may be exchanged for property of any kind, real, personal or mixed, or any interest therein deemed necessary or convenient to the purposes authorized by this Act. Pending the issuance of definitive bonds, a district may issue negotiable interim bonds or obligations eligible for exchange or substitution by use of definitive bonds.

Sec. 10 amended by Acts 1969, 61st Leg., p. 2287, ch. 769, § 9, eff. Sept. 1, 1969.

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Liberal construction; powers not in derogation of existing powers; repealer

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

powers granted under this Act shall be in addition to and not in derogation of any and all existing powers or any district or public agency. Chapter 263, Acts of the 59th Legislature (codified as Article 8197g, Vernon's Texas Civil Statutes), is hereby repealed; otherwise, this Act shall not be deemed to repeal, expressly or by implication, any power or right granted to any district or to any public agency, and any district or public agency having powers under existing law similar to or in the nature of those granted hereunder may continue to operate and act in the exercise of such powers or may operate and act under the powers granted herein or both. This Act shall, however, constitute full authority for any district and any public agency to enter into any contracts as authorized herein and for any district to authorize and issue bonds in accordance with the provisions hereof, without reference to the provisions of any other general or special law or specific act or charter and no other general or special law or specific act or charter provision which in any way limits or restricts or imposes additional requirements upon the carrying out of any of the matters herein authorized to be done shall ever be construed as applying to any action or proceedings taken hereunder or done pursuant hereto except as expressly provided to the contrary in this Act.

Acts 1967, 60th Leg., p. 182, ch. 97, emerg. eff. April 28, 1967; Sec. 17 amended by Acts 1969, 61st Leg., p. 2287, ch. 769, § 10, eff. Sept. 1, 1969.

¹ V.T.C.A. Bus. & C. § 8.101 et seq.

Validation

Section 11 of Acts 1969, 61st Leg., p. 2282, ch. 769, provided: "All acts and proceedings of the governing bodies of any district or any public agency heretofore accomplished in the authorization and execution of regional waste disposal contracts as contemplated by said Chapter 97 as well as the terms and provisions of said contracts themselves are hereby ratified, approved, confirmed and validated in all respects as of the respective dates thereof with the parties thereto bound accordingly until the

terms and provisions of said contracts are lawfully changed by mutual consent of the parties thereto. All bonds authorized and issued by any district as contemplated by said Chapter 97 are also hereby ratified, approved, confirmed and validated. Notwithstanding the foregoing provisions of this section, nothing herein shall validate any contract or any bonds now involved in litigation questioning the validity thereof, if the question is ultimately determined against the validity thereof."

CHAPTER THREE A—WATER CONTROL AND IMPROVEMENT DISTRICTS

Art.
7880—20b. Appointment of district directors; cities and towns in counties of 900,000 to 1,000,000; Annexation authority [New].

Art.
7880—75d. Annexation of territory annexed to a city within district [New].

Art. 7880—1. May be organized; petition

Creating and Validating Acts

Harris County Water Control and Improvement District No. 56, validation of bond election, see Acts 1969, 61st Leg., p. 503, ch. 169.

Harris County Water Control and Improvement District No. 69, validation of bond election, see Acts 1969, 61st Leg., p. 138, ch. 47.

Harris County Water Control and Improvement District No. 71, validation of proceedings and actions, see Acts 1969, 61st Leg., p. 2436, ch. 816.

Harris County Water Control and Improvement District No. 81, validation of proceedings and actions, see Acts 1969, 61st Leg., p. 1873, ch. 627.

Liberty County Water Control and Improvement District No. 5.

Election of directors, see Acts 1963, 58th Leg., p. 126, ch. 73. Repealed by Acts 1969, 61st Leg., p. 2567, ch. 857, § 4.

For Annotations and Historical Notes, see V.A.T.S.

Art. 7880—20b. Appointment of district directors; cities and towns in counties of 900,000 to 1,000,000; annexation authority

Section 1. This Act shall apply to all incorporated cities and towns, including Home Rule cities and those operating under the general laws or special charters, located in counties having a population of not less than 900,000 and not more than 1,000,000 inhabitants according to the last preceding Federal census, (hereinafter called "city" or ("cities")), wherein a part of the territory of a water control and improvement district, (organized under Chapter 25, Acts, 39th Legislature, Regular Session, 1925), is located within more than one of such cities and a part of which is located outside the corporate limits of such cities. Nothing in this Act shall affect in any way Water District or Conservation District created by Chapter 62, Acts of the Regular Session of the 52nd Legislature (Article 8280—141, Vernon's Annotated Civil Statutes) or by Chapter 78, Acts of the Regular Session of the 53rd Legislature (Article 8280—147, Vernon's Annotated Civil Statutes).

Sec. 2. The governing body of any such city in which the largest portion of the territory of any such water control and improvement district is located may, by ordinance, appoint the members of its governing body including the mayor, as the members of the Board of Directors of such water control and improvement district and shall succeed to all of the powers and duties imposed upon such Board by law and such Board shall thereafter be abolished and the terms of office of its members shall be terminated. The city, immediately upon passage of such ordinance, shall send a copy of the same to the Board of Directors of such water control and improvement district by certified mail, return receipt requested, and such ordinance shall not become effective until it has been approved by resolution duly adopted by the Board of Directors of such water control and improvement district. Provided, however, in the event the Board of Directors of such water control and improvement district fail to approve such ordinance within twenty-one days from the date of its receipt by them, said ordinance shall become null and void.

Provided, however, in the event that such ordinance is adopted neither such city nor water control and improvement district shall have the power to extend the boundaries of either such city or district into the corporate limits or extraterritorial annexation jurisdiction of any other city or town, including Home Rule cities; and, further providing that any city, in whose corporate limits a minority portion of the territory of any such water control and improvement district lies, may by ordinance exclude such water control and improvement district from further operation, jurisdictional power or authority from such city's corporate limits. That any such city excluding from its corporate limits the further operation, jurisdictional power or authority of such water control and improvement district from its corporate limits shall by agreement with such water control and improvement district, purchase the existing facilities of such water control and improvement district within the territory to be excluded, and such purchase price shall provide for the payment of pro rata share of such excluded territory's bonded indebtedness.

Sec. 3. The mayor of such cities shall act as presiding officer and the governing body of such city shall thereafter conduct its meetings as both Board of Directors and city council and shall consolidate all functions, powers and duties of both city and water control and improvement district. All equipment and personnel of both such city and district may be used interchangeably to effect the most economical operation and avoid unnecessary duplication of work and expense in the performance of all of such functions, powers and duties. The mayor shall only vote in case of ties.

Sec. 4. Members of the governing body of any such city who shall assume the duties as Directors of such water control and improvement districts under this Act shall receive no fees of office.

Acts 1969, 61st Leg., p. 2472, ch. 832, eff. Sept. 1, 1969.

Title of Act:

An Act relating to water control and improvement districts, with certain exceptions, the territory of which is located in more than one city or town and outside thereof in counties having a population of not less than 900,000 and not more than 1,000,000 inhabitants according to the last preceding Federal census; providing that the governing body of the city in which the largest portion of territory of such

water control and improvement district is located may be appointed as the Board of Directors of such district; restricting annexation authority of such city and water control and improvement district; providing for the exclusion of such water control districts from certain cities and the purchase of existing facilities therefrom; and declaring an emergency. Acts 1969, 61st Leg., p. 2472, ch. 832.

Art. 7880—75d. Annexation of territory annexed to a city within district

Territory heretofore or hereafter annexed to any city contained in a district organized under the provisions of this Chapter and providing water or sewer services to such city or its inhabitants thereof may be annexed to such district in the following manner:

(1) At any time after final passage of an ordinance or resolution annexing territory to such city, the Board of Directors of the District may issue a notice of hearing on the question of annexing said territory or any part thereof. Such notice shall be sufficient if it states the date and place of the hearing, a description of the area proposed to be annexed, but in lieu of such description the notice may make reference to the annexation ordinance of the city.

(2) The notice shall be published one time in a newspaper having general circulation in the city which made the annexation, such publication to be at least ten (10) days before the date set for the hearing. Additional notice by certified mail shall be given to a railroad, at its latest address appearing on the tax rolls of the city, district or county where the territory to be annexed contains any railroad right of way or property.

(3) If, pursuant to such hearing, the Board of Directors finds that the territory proposed to be annexed will be benefited by the facilities or services afforded or to be afforded by the District, the Board shall adopt a resolution annexing said territory to the District.

(4) After territory is added to the District, the Board of Directors of the District may call an election over the entire District for the purpose of determining whether the entire District as enlarged shall assume the tax-supported bonds then outstanding and those theretofore voted but not yet sold and whether an ad valorem tax shall be levied upon all taxable property within the District as enlarged for the payment thereof. Such election shall be called and held in the same manner as elections for the issuance of bonds as provided in this Chapter.

Added by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 10, § 1, emerg. eff. Sept. 19, 1969.

Section 2 of the Act of 1969 was a severability clause.

Art. 7880—126. Eminent domain

For the purpose of condemning property (as herein defined), all Districts now operating or hereafter to be operating, as Water Control and Improvement Districts, shall have the right to proceed as hereinafter provided for, viz:

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(1) At, or before, the hearing upon the filed report of the Tribunal of Appraisalment, any owner of land, or other property, affected by such report, or by the District's plans for improvements, either in person, or by an attorney or other agent, may file exceptions to all or any part of such report, and any person as to whose property no damages have been assessed, and who believes that his land, or other property, will be damaged by carrying out the plans for improvements, may, and shall, also file with the District a claim for such damages:

Said Tribunal, at the time and place named in such notice, shall proceed to hear evidence and determine all such objections and claims for damages, and shall make such changes and modifications from time to time as will cause its proposed decree to conform to the justice of each case under the facts presented; they may grant, in whole or in part, or may overrule, any claim for compensation or damage, or any other exception to their proposed report. Such hearing may be recessed from one day or place to other days and places, to be announced in open meeting, until all persons desiring a hearing have been heard.

When said Tribunal shall have finally determined all presented matters, concerning their proposed report, they shall enter their final decree concerning such proposed report insofar as it is confirmed, and approving and confirming the same as modified or changed, insofar as the same has been modified and changed, and shall in their decree condemn all such land, easements, rights of way, or other property, within or without the District, as shall have been deemed by the Directors of the District to be needed, and designated to make effectual and practicable the construction and operation of all works, improvements and services which may be planned ultimately to be provided by the District, and to accomplish any or all of the purposes designated in this Act. Said Tribunal shall have the power to apportion and adjudge costs incurred upon any hearing in such manner of allocation as may be deemed equitable. Such condemnation shall be either of the fee simple title, or of an easement only, as the Directors of the District may have elected and designated. The Tribunal shall adjudge and award all compensation for property to be taken, or placed under easement, and shall award all damages, if any there be allowable under the law.

A certified copy of the final decree of condemnation concerning the property in each county shall be filed with the County Clerk of such county for record, and such record shall be notice to all persons of the contents of such decree. The original decree shall be a permanent record of the District and shall also constitute notice. The final decrees of said Tribunal concerning any matter shall be subject to Appeal, or Judicial Review, in the manner hereby specified, and not otherwise: Such Appeal, or Review, may be effected in the following specific manner:

The Directors of the District, in the name and behalf of the District, or any person having an interest in the decree of the appraisers, may appeal from the decree assessing or refusing to assess damages, or fixing compensation for the value of property taken or subjected to an easement; the only questions which may be considered on appeal shall be, whether just compensation has been allowed, or whether any damages are lawfully recoverable. Such appeals shall be taken to the District Court having jurisdiction over the area in which the land condemned is situated, either in whole or in part. The Courts of Jurisdiction shall be such number as are required to provide appeals in the jurisdiction within which any given land is situated. All appeals for each given county shall, however, constitute one proceeding on the docket of any such court, as elsewhere is provided in this Act. Such District Courts shall have jurisdiction regardless of the amount or the number of the separate claims involved. Such appeal may be perfected as follows: Notice of appeal shall be given at any time within two (2) days after the entry of the

final decree by the Tribunal of Primary Jurisdiction by filing written notice of an appeal, which shall be a simple statement that the undersigned gives notice of appeal from the decree entered on the date stated, and specifying the exact claims sought to be established by such appeal. This notice shall be filed with the Secretary of the District, and appellant shall within five (5) days after the entry of the decree appealed from, file with the clerk of the court to which the appeal is being prosecuted an appeal bond with two or more good and sufficient sureties, in an amount to be double the costs, if any, already allocated to appellant, plus double the amount estimated by such clerk to be incurred on the appeal being taken. Such bond shall be payable to such clerk of the court to which the appeal is being prosecuted and shall be subjected to his approval as to sufficiency. The condition of such bond shall be that appellant will prosecute his appeal with effect, and pay all such costs as may be awarded against appellant by the court. Unless an appeal is perfected, as herein provided, within seven (7) days after the day of the rendition of the final decree of said Tribunal, such decree, as to any given matter not so appealed from shall be instantly final and conclusive, and there shall be no extension of time for the filing of an appeal bond. Within twelve (12) days after the entry of said final decree of condemnation, if appeal shall have been prosecuted therefrom, the Secretary of the District shall file with the clerk of such court a certified transcript of the final decree of condemnation, insofar as may be required to show the facts concerning the items of decision appealed from together with the original notices of appeal, or a certificate showing the names and addresses of all persons who gave notice of appeal, and to include the stated grounds upon which each of such appeals has been predicated, as herein provided, and it shall not be necessary to file any other or additional pleadings in said court. All appeals hereunder shall constitute one cause in the District Court and shall be so docketed. The docket shall, however, recite the name of each of the parties to the proceeding and shall be indexed accordingly. The court, upon motion, may grant, or refuse to grant, a severance as to any separate claim arising out of distinction as to ownership. It is provided that an appealing District shall not be required to give a bond for costs. Upon filing of said appeal, the court shall set the same down for a hearing, such appeal shall be trial de novo by the court and the court shall grant to any interested party the right to trial by jury upon request, and all proceeding before the court and relating thereto shall be in accordance with the provisions of the Texas Rules of Civil Procedure as applied to an ordinary civil case, notices of such hearings shall be given as prescribed by the Texas Rules of Civil Procedure as any other ordinary civil proceeding. An incomplete hearing may be recessed from one day to any other stated day, or may be continued to the next term, or succeeding terms, of the court. Such hearings shall be by the court given precedence over all civil causes upon the docket not of a character involving the public welfare, shall be concluded with all reasonable dispatch, and shall be as summary in character as is consistent with the doing of full and complete justice.

The court shall proceed to hear evidence proper to be considered under any filed exception. After having heard all evidence and argument offered, the court in termtime shall enter its final decree, either approving the decree of the Tribunal of Original Jurisdiction, modifying the same, or in any manner changing the same, so that the decree will in the court's judgment conform to the justice of each specific case. As to all matters not herein specifically, or by logical intent, provided for, the court's decree shall conform to the provisions of Title 52 of the Revised Civil Statutes of Texas.

Upon such appeals the claimant shall be considered the plaintiff, and the District shall be considered the defendant, save in those cases

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in which the District has filed exceptions to the report of the District's referees of appraisal. The admission of evidence and the fixing of awards, so far as applicable and not inconsistent herewith, shall be governed by the law and rules of procedure relating to trials and awards in damage suits. Appeals may be taken from the judgment of the District Court, as in civil cases, and each appeal shall constitute a separate cause upon the docket of the Court of Civil Appeals.

No appeal from the decree of the Tribunal to condemn shall delay possession of the condemned property or prosecution of the work; provided, however, the District shall set apart in its designated depository, out of its Construction Fund, a total sum of money to be not less than double the amount of the total award made by the Tribunal of Condemnation, plus such additional sum as may be deemed by the Directors of the District sufficient to pay the costs then incurred, and such costs as may be incurred upon appeal and said fund must be applied to such payment, and shall not be used for any other purpose. Certificate of such reserve shall be made by the depository bank to the clerk of the court in which appeals may be pending. The judge of said court, upon motion made by any aggrieved appellant, may, in case of evident abuse of discretion by the Directors of the District, require the Directors of the District to increase this reserve fund to a sum deemed by the judge to be adequate to discharge final awards, which must be complied with before the District shall be authorized to take possession of any property condemned, or to cause damage to any property. In case of appeals by the District, they shall not be required to give bond, nor can they be required to give bond for costs. However, upon compliance herewith the title to all lands, easements, rights of way, or other property condemned shall, after payment, or provision for payment, of compensation, vest in the District, and it shall be entitled to immediate possession thereof.

No person owning or having any interest in any property affected by the District's plans for improvements and service, or its condemnation proceedings had after the giving of notice as herein provided, who has failed to file claim, or objection, or who has failed to appeal from any adverse ruling by the Tribunal to condemn on any claim or objections, as herein provided, shall thereafter be heard to claim from the District, its officers, contractors, agents or employees, any compensation for property or damage to property other than that which may have been already awarded by the Tribunal. It is, however, understood that this provision shall not apply to claims not incidents of lawful condemnation, construction and operation.

Subsec. (1) amended by Acts 1969, 61st Leg., 2nd C.S., p. 68, ch. 16, § 1, emerg. eff. Sept. 19, 1969.

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CHAPTER FOUR—FRESH WATER SUPPLY DISTRICTS

1. ESTABLISHMENT

<p>Art. 7899a. District projects financed by bond issues; feasibility investigations</p>	<p>by Texas Water Rights Commission [New].</p>
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1. ESTABLISHMENT

Art. 7899a. District projects financed by bond issues; feasibility investigations by Texas Water Rights Commission

The Texas Water Rights Commission shall be and is constituted a commission to investigate and report upon the organization and

feasibility of all fresh water supply districts created pursuant to Article 7881, et seq., Revised Civil Statutes of Texas, 1925, which shall issue bonds under the provisions thereof. All such districts desiring to issue bonds for any purpose shall submit in writing to the commission an application for investigation, together with a copy of the engineer's report and a copy of data, profiles, maps, plans, and specifications prepared in connection therewith. The commission or its designated agents shall examine same and shall visit the project and carefully inspect the same and may ask for and shall be supplied with additional data and information requisite to a reasonable and careful investigation of the project and proposed improvements. They shall file in their office in writing their suggestions for changes and improvement and furnish a copy thereof to the board of directors of such district. If the commission shall finally approve or refuse to approve such project, or the issuance of bonds for such improvements, they shall make a full written report thereon, file same in their office and furnish a copy of same to the board of directors of said district. During the course of construction of such project and improvements, no substantial alterations shall be made in the plans and specifications without the approval of the commission. The commission or its designated agent shall have full authority to inspect the works of improvement at any time during construction to determine if the project is being constructed in accordance with the plans and specifications approved by the commission. In the event the commission finds that the project is not being constructed in accordance with the approved plans and specifications, then the commission immediately shall notify in writing by certified mail each member of the board of directors of such water district and its manager, if there be one. If, within 10 days after the notice is mailed, the directors of the district do not take steps to insure that the project is being constructed in accordance with the approved plans and specifications, the commission shall give written notice of that fact to the attorney general. When the attorney general receives this notice, he may bring an action for injunctive relief, or he may bring quo warranto proceedings against the directors. Venue for either of these actions is exclusively in the District Court of Travis County. "Designated agent," as used in this section shall mean any licensed engineer selected by the commission to perform the functions as specified herein.

Acts 1969, 61st Leg., p. 1713, ch. 563, § 1, eff. Sept. 1, 1969.

Title of Act:

An Act requiring the Texas Water Rights Commission or its designated agents to investigate the feasibility of fresh water supply district projects financed by bond issues; containing a severability clause; and declaring an emergency. Acts 1969, 61st Leg., p. 1713, ch. 563.

V. NAVIGATION

CHAPTER NINE—NAVIGATION DISTRICTS

2. SPECIAL POWERS

A. PORT FACILITIES

Art. 8247a. Additional powers to navigation districts for improvement of port facilities

Wharves, warehouses, elevators, etc.

Section 1. Any navigation district heretofore organized or hereafter to be organized under any of the provisions of the Constitution or laws

For Annotations and Historical Notes, see V.A.T.S.

of the State of Texas, in addition to all other powers conferred by law is hereby given authority and shall hereafter have power in the manner hereinafter provided to acquire land, purchase, construct, enlarge, extend, repair, maintain, operate or develop wharves, docks, warehouses, grain elevators, bunkering facilities, belt railroads, floating plants, and facilities, lightering facilities and towing facilities, and everything appurtenant thereto, together with all other facilities or aids incident to or useful in the operation or development of the district's ports and waterways or in aid of navigation and commerce thereon.

Sec. 1 amended by Acts 1969, 61st Leg., p. 1186, ch. 382, § 1, eff. Sept. 1, 1969.

Utility facilities; relocation facilities

Sec. 1a. In the event any navigation district in carrying out any of the powers herein conferred or in the exercise of the power of eminent domain or police power requires the relocation, raising, lowering, rerouting, or change in grade or alteration in the construction of any railroad, electric transmission, telegraph or telephone lines, conduits, poles, properties or facilities, or pipelines, all such relocation, raising, lowering, rerouting, or changes in grade or alteration of construction shall be accomplished at the sole expense of such district. The term 'sole expense' shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility. Acts 1969, 61st Leg., p. 1186, ch. 382, § 1, eff. Sept. 1, 1969.

Fees and charges for use of lands and facilities

Sec. 2. The Board of Navigation and Canal Commissioners of any district taking advantage of the provisions of this Act shall prescribe fees and charges to be collected for the use of the lands, improvements and facilities of such district and for the use of any lands, improvements or facilities acquired under the provisions of this Act, which fees and charges shall be reasonable and equitable and fully sufficient to produce revenues adequate to pay, and said Board of Navigation and Canal Commissioners shall cause to be paid:

(a) All expenses necessary to the operation and maintenance of said improvements and facilities. Such operating and maintenance expenses payable from current revenues shall include the cost of the acquisitions of properties and materials necessary to maintain said improvements and facilities in good condition and operate them efficiently, wages and salaries paid to the employees of the District in that connection, and such other expenses as may be necessary to the efficient operation of said improvements and facilities.

(b) The annual or semi-annual interest upon any obligations issued hereunder and payable out of the revenues of said improvements and facilities.

(c) The amount required to be paid annually into the sinking fund for the payment of any obligations issued hereunder and payable out of the revenues of said improvements and facilities.

No other charge shall be made upon the revenues derived from said improvements and facilities so long as any obligations issued hereunder shall remain outstanding and unpaid as to principal or interest; provided, however, that out of revenues which may be received in excess of those required for the purposes listed in the above sub-paragraphs (a), (b) and (c) the Board of Navigation and Canal Commissioners may pay the cost of improvements and replacements not covered by said paragraph (a) and may establish a depreciation fund.

Sec. 2 amended by Acts 1969, 61st Leg., p. 1187, ch. 382, § 2, eff. Sept. 1, 1969.

Borrowing; issuance of obligations

Sec. 3. The Board of Navigation and Canal Commissioners of any such navigation district may borrow money from the United States, or from any other source, and in evidence thereof issue the notes, warrants, certificates of indebtedness or other forms of obligation of such district payable solely out of the revenues to be derived from said land, improvements and facilities, for the purpose of obtaining funds to acquire lands, waterways and all improvements thereon and thereto and to acquire, purchase, construct, enlarge, extend, repair, maintain, operate or develop wharves, docks, warehouses, grain elevators, bunkering facilities, belt railroads, floating plants and facilities, lightering facilities, towing facilities, and everything appurtenant thereto, together with all other facilities or aids incident to or useful in the operation or development of the district's ports and waterways or in aid of navigation and commerce therein.

Sec 3 amended by Acts 1969, 61st Leg., p. 1187, ch. 382, § 3, eff. Sept. 1, 1969.

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Pledge of revenues for payment of obligations

Sec. 5. Any obligations issued hereunder may be issued payable from and secured by the pledge of all or part of the revenues derived from the ownership or operation of the lands, improvements, facilities or other properties of the district, exclusive of any revenues derived from taxation or assessments, or may be payable from and secured by the pledge of only such revenues as may be derived from the ownership or operation of the lands, improvements, facilities or properties acquired with the proceeds of the sale of such obligations, all as may be provided in the proceedings authorizing the issuance of such obligations. Such obligations may be issued in more than one series, and from time to time as may be required for carrying out the purposes of the district. Any pledge of revenues may reserve the right under conditions therein specified to issue additional obligations which will be on a parity with, senior to or subordinate to the obligations then being issued.

Sec. 5 amended by Acts 1969, 61st Leg., p. 1188, ch. 382, § 4, eff. Sept. 1, 1969.

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CHAPTER TEN—PILOTS

Art. 8267. [6302] [3793] Regulations and rates

(A) The board shall have authority, within the limits provided in this subdivision, to fix rates of pilotage, and to establish regulations respecting the stations whereat and the times wherein pilots shall be on duty, with provisions for leave of absence; as also respecting the class, condition, number and use of pilot boats, and such other minor regulations, compatible with the provisions of this subdivision, as may be needed for the government of pilots and for the order and good effect of the proceedings of the board, of which proceedings a record shall be kept; provided no regulation shall be adopted repugnant to the Constitution.

(B) The commissioners of pilots in no case shall authorize or fix a rate or rates of pilotage applicable to any port in Galveston County differing from the rate in effect at the time of this enactment unless and until the following procedure has been completed:

(1) An application for the establishment of a new rate of pilotage has been filed with each commissioner by one or more pilots or by the owner,

For Annotations and Historical Notes, see V.A.T.S.

agent, or other person defined as "consignee" of a vessel in Article 8276 of this Title, provided such application for increase or decrease of rates shall contain a brief statement of the circumstances which it is alleged warrant the requested action of the commissioners and shall also contain a certificate that the applicant has submitted copies of the application to all known pilots and such associations of "consignees" as defined in Article 8276 of this Title, as are operating in Galveston County at the time of the application.

(2) In the event the notice required is in fact given and no written objection on the part of any legitimately interested party is received by any commissioner within 20 days after said notice is sent, the commissioners shall proceed to act upon the application as they see fit without further proceedings, and file their action thereupon with the county clerk as provided in Subparagraph (9), within 20 days after the initial 20-day notice period.

(3) In the event any commissioner receives in writing an objection to the application from any person, firm, or corporation who appears to have a legitimate interest in the application within 20 days after notice of the filing of the application was given, the commissioners shall hold a hearing within 20 days after expiration of the initial 20-day notice period for the filing of and objection to the application and shall notify the applicants, the persons objecting to the application and such other parties as the commissioners may, in their sole discretion, determine to be interested in the proceedings, and shall file their decision with the county clerk as provided in Subparagraph (9), within 20 days after the close of the hearing.

(4) Said hearing shall be held at a convenient and public place in any one of the ports affected and shall be open to the public. At the hearing all parties, upon demonstrating a legitimate interest in the application, shall have the right to be heard, to present evidence and, to the extent deemed practical by the commissioners, cross-examine the witnesses appearing to testify at the hearing.

(5) After the receipt of the evidence offered by the parties and such arguments and briefs as the commissioners may desire to receive, the application shall be granted, denied, or modified by the commissioners.

(6) In determining their action upon any application the commissioners shall consider:

(a) The effect which the granting, refusal, or modification of the application would have upon the port or ports within the jurisdiction of the commissioners and the citizens residing in it;

(b) The assurance of an adequate and reasonable compensation to the pilots and a fair return upon the equipment and vessels which they employ in connection with their duties;

(c) The relationship between the pilotage rates in the ports under the commissioners' jurisdiction and the rates applying in other ports of this state and competitive ports in other states.

(7) The action of the commissioners in granting, denying, or modifying the application shall be final provided it is supported by substantial evidence.

(8) The commissioners shall have the authority to assess the actual cost of reporting and secretarial services necessarily incurred in connection with any hearing against one or more of the applicants and/or objecting parties as shall appear to the commissioners to be fair and just. The commissioners may further require that any applicant or objecting party deposit a sum against said cost as a condition of presenting its application or objection. The costs authorized by this paragraph shall be strictly limited to the actual and reasonable cost of reporting and stenographic services.

(9) A copy of the commissioners' order with respect to the application shall be filed in the office of the county clerk and said order shall

state when it is effective. No pilotage charges in excess of those in existence at the time of the passage of this Act shall be made with respect to the ports of Galveston County except pursuant to such an order so filed by the commissioners. Pilotage rates for the ports of Galveston County properly fixed pursuant to this Article shall not be subject to the maximum limits contained in Article 8274.

(C) The commissioners of pilots in no case shall authorize or fix a rate or rates of pilotage applicable to the public ports of Beaumont, Orange or Port Arthur, Texas, or of the privately owned docks or terminals in Orange or Jefferson Counties, Texas, differing from the rate in effect at the time of this enactment unless and until the following procedure has been completed:

(1) An application for the establishment of a new rate of pilotage in one of the counties has been filed with each commissioner by pilot associations or by the owner, agent, or other person defined as "consignee" of a vessel in Article 8276 of this Title, provided such 'consignee' maintains an office in the county in which the application is filed, or by the Port of Port Arthur Navigation District or the Orange County Navigation and Port District or the Port of Beaumont Navigation District, which application for increase or decrease of rates shall contain a brief statement of the circumstances which it is alleged warrant the requested action of the commissioners and shall also contain a certificate that the applicant has submitted copies of the application to all known pilot associations and navigational districts and associations of "consignees" as defined in Article 8276 of this Title, as are operating in the counties at the time of the application.

(2) In the event the notice required is in fact given and no written objection on the part of any legitimately interested party is received by any commissioner within 20 days after said notice is sent, the commissioners shall proceed to act upon the application as they see fit without further proceedings, and file their action thereupon with the appropriate county clerks as provided in Subparagraph (8), within 20 days after the initial 20-day notice period.

(3) In the event any commissioner receives in writing an objection to the application from any person, firm, or corporation who appears to have a legitimate interest in the application within 20 days after notice of the filing of the application was given, the commissioners shall hold a hearing within 20 days after expiration of the initial 20-day notice period for the filing of and objection to the application and shall notify the applicants, the persons objecting to the application and such other parties as the commissioners may, in their sole discretion, determine to be interested in the proceedings, and shall file their decision with the appropriate county clerks as provided in Subparagraph (8), within 20 days after the close of the hearing.

(4) Said hearing shall be held at a convenient and public place in any one of the ports affected and shall be open to the public. At the hearing all parties, upon demonstrating a legitimate interest in the application, shall have the right to be heard, to present evidence and, to the extent deemed practical by the commissioners, cross-examine the witnesses appearing to testify at the hearing.

(5) After the receipt of the evidence offered by the parties and such arguments and briefs as the commissioners may desire to receive, the application shall be granted, denied, or modified by the commissioners. However, it is expressly provided that no increase of rates to either the public ports of Beaumont, Port Arthur or Orange, Texas, shall ever be set, established or granted unless the Board of Commissioners of the Port of Beaumont Navigation District, Port of Port Arthur Navigation District or Orange County Navigation and Port District so affected shall approve same.

For Annotations and Historical Notes, see V.A.T.S.

(6) In determining their action upon any application the commissioners shall consider:

(a) The effect which the granting, refusal, or modification of the application would have upon the port or ports within the jurisdiction of the commissioners and the citizens residing in it;

(b) The assurance of an adequate and reasonable compensation to the pilots and a fair return upon the equipment and vessels which they employ in connection with their duties;

(c) The relationship between the pilotage rates in the ports under the commissioners' jurisdiction and the rates applying in other ports of this state and competitive ports in other states.

(7) The commissioners shall have the authority to assess the actual cost of reporting and secretarial services necessarily incurred in connection with any hearing against one or more of the applicants and/or objecting parties as shall appear to the commissioners to be fair and just. The commissioners may further require that any applicant or objecting party deposit a sum against said cost as a condition of presenting its application or objection. The costs authorized by this paragraph shall be strictly limited to the actual and reasonable cost of reporting and stenographic services.

(8) A copy of the commissioners' order with respect to the application shall be filed in the offices of the appropriate county clerks and said order shall state when it becomes effective. No pilotage charges in excess of those in existence at the time of the passage of this Act shall be made with respect to the public ports of Orange, Beaumont, Port Arthur or any privately owned docks or terminals in Orange or Jefferson Counties, Texas, except pursuant to such an order so filed by the commissioners. Pilotage rates for the public ports of Orange, Beaumont, Port Arthur or any privately owned docks or terminals in Orange or Jefferson Counties, Texas, fixed pursuant to this Article shall not be subject to the maximum limits contained in Article 8274.

Amended by Acts 1969, 61st Leg., p. 2322, ch. 785, § 1, emerg. eff. June 14, 1969.

Art. 8270. [6305] [3796] Appointment

The Governor shall appoint at each of the ports and for all of the ports in Galveston County, such number of branch pilots as may from time to time be necessary, each of whom shall hold his office for the term of four (4) years.

Amended by Acts 1963, 58th Leg., p. 1178, ch. 463, § 1, emerg. eff. June 10, 1963; Acts 1969, 61st Leg., p. 2124, ch. 728, § 1, eff. Sept. 1, 1969.

Art. 8274. [6309], [3800] Pilotage

Except for rates fixed pursuant to Article 8267, as amended, for Galveston County ports and for the public ports of Orange, Port Arthur and Beaumont and any privately owned docks or terminals in Orange or Jefferson Counties, the rate of pilotage which may be fixed under Articles 8267 and 8269 on any class of vessel shall not, in any port of this state (except as hereinafter provided) exceed \$6.50 for each foot of water which the vessel at the time of piloting draws, and whenever a vessel, except of the classes below excepted, shall decline the services of a pilot offered outside the bar, and shall enter the port without the aid of one, she shall be liable to the first pilot whose services she so declined for the payment of half pilotage; and any vessel which, after being brought in by the pilot, shall go out without employing one, shall be liable to the payment of half pilotage to the pilot who brought her in, or if she has come in without the aid of a pilot, though offered outside, she shall on so going out be liable for the payment of half pilotage to the pilot who had first offered

his services before she came in; but if she has come in without the aid of a pilot, or the offer of one outside, she shall not, in case of going out without a pilot, be liable to half pilotage. At any port where vessels shall receive or discharge their cargoes at an anchorage outside of the bar, such vessel shall be liable to pilotage at the above rate to such anchorage, but shall not be liable for or compelled to pay pilotage from such anchorage to the open sea; and if any vessel bound from open sea to such anchorage, while under way, shall decline the services of a pilot, and shall afterward receive or discharge any portion of her cargo at such anchorage on the lighters or otherwise, she shall be liable for the payment of half pilotage, at the above rate, to such anchorage to the first pilot whose services shall have been tendered to and declined by her, but not liable for any pilotage from such anchorage to the open sea; and when a pilot takes charge of a vessel 20 miles outside of the bar, and brings her to it, he shall be entitled to one-fourth pilotage for such offshore service, in addition to what he is entitled to recover for bringing her in; but if such offshore service be declined, no portion of said compensation shall be recovered.

Amended by Acts 1955, 54th Leg., p. 648, ch. 224, § 1; Acts 1959, 56th Leg., p. 33, ch. 21, § 1; Acts 1961, 57th Leg., 1st C.S., p. 36, ch. 14, § 1; Acts 1963, 58th Leg., p. 1173, ch. 459, § 1, eff. Aug. 23, 1963; Acts 1967, 60th Leg., p. 4, ch. 4, § 1, emerg. eff. Feb. 22, 1967; Acts 1969, 61st Leg., p. 2325, ch. 785, § 2, emerg. eff. June 14, 1969.

VI. GENERAL PROVISIONS

CHAPTER ELEVEN—IN GENERAL

<p>Art. 8280—9b. Texas Water Development Board; navigation facilities [New].</p> <p>8280—9c. Water improvement bonds; issuance by political subdivisions [New].</p>	<p>Art. 8280—13. Flood insurance; participation in federal program by political subdivisions [New].</p>
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Art. 8280—9. Texas Water Development Board

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Bond issue; interest; form; approval and registration

Sec. 4. (a) Pursuant to the existing provisions of Article III, Section 49-c of the Constitution of the State of Texas, the Board is hereby authorized from time to time to provide by resolution for the issuance of negotiable bonds in an aggregate amount not exceeding Two Hundred Million Dollars (\$200,000,000.00) and pursuant to Article III, Section 49-d of the Constitution of the State of Texas the Board upon two-thirds (2/3) vote of the elected members of each House of the Texas Legislature, shall be authorized to issue by resolution additional negotiable bonds in the aggregate amount not to exceed Two Hundred Million Dollars (\$200,000,000.00).

(b) In the event that Article III, of the Constitution of the State of Texas is amended at the General Election to be held the first Tuesday after the first Monday in August, 1969, which amendment shall increase the amount and extend the purpose and use of the Texas Water Development Fund, the Board shall have the further authority to provide by resolution for the issuance of negotiable bonds in the additional amount of \$3,500,000,000.00, provided that two-thirds (2/3) of the elected members of each House at a subsequent Legislature shall resolve to authorize the Board to issue such additional bonds, or any portion thereof.

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(c) All such bonds shall be on a parity and shall be called the "Texas Water Development Bonds." The proceeds from the sale of any bond, or bonds shall be used for the purpose of creating the Texas Water Development Fund provided for by the Constitution. At the option of the Board, said bonds may be issued in one (1) or several installments. The bonds of each issue shall be dated, and shall bear interest which may, at the option of the Board, be payable annually or semi-annually; shall mature serially or otherwise, not later than fifty (50) years from their date; and may be redeemable before maturity, at the option of the Board, at such price or prices, and under such terms and conditions as may be fixed by the Board in the resolution providing for the issuance of the bonds. The Board shall determine the form of the bonds, including the form of any interest coupon to be attached thereto, and shall fix the denomination or denominations of said bonds and the place or places of the payment of the principal and interest thereon. Said bonds shall be executed on behalf of the Texas Water Development Board as general obligations of the State of Texas in the following manner: they shall be signed by the chairman and the Development Fund manager respectively of the Board, and the seal of the Board shall be impressed thereon, and they shall be signed by the Governor and attested by the Secretary of State of the State of Texas with the seal of the State of Texas impressed thereon. The resolution authorizing the issuance of any installment or series of bonds may prescribe the extent to which facsimile signatures and facsimile seals in lieu of manual signatures and manually impressed seals may be used in executing such bonds and appurtenant coupons. Interest coupons may be signed by the facsimile signatures of the chairman of the Board and the Development Fund manager. In the event any officer whose manual or facsimile signature appears on any bond, or whose facsimile signature shall appear on any coupon, shall cease to be such officer before the delivery of the bonds, the signatures shall, nevertheless, be valid and sufficient for all purposes the same as if he had remained in office until such delivery had been made. The resolution may provide for registration of the bonds as to ownership and for successive conversion and reconversion from registered to bearer bonds and vice versa. Before any such bonds so issued are delivered to the purchasers, the record pertaining thereto shall have been examined by the Attorney General of Texas and said records and bonds shall be approved by him. After such approval, the bonds shall be registered in the office of the Comptroller of Public Accounts of Texas.

(d) All bonds issued hereunder shall, after approval by the Attorney General, registration by the Comptroller of Public Accounts of the State of Texas, and delivery to the purchasers, be incontestable and shall constitute general obligations of the State of Texas. The performance of official duties prescribed by Article III, Section 49-c of the Constitution and by the original Act as amended in reference to the provisions for the payment and the payment of such bonds may be enforced in any court of competent jurisdiction through mandamus or other appropriate proceedings.

(e) All bonds issued in accordance with and under the provisions of this Act shall be, and are hereby declared to be negotiable instruments under the laws of this state.

(f) The Board is fully authorized to provide for the replacement of any bond which might have become mutilated, lost or destroyed. Sec. 4 amended by Acts 1959, 56th Leg., p. 333, ch. 164, § 1, eff. May 12, 1959; Acts 1965, 59th Leg., p. 587, ch. 297, § 3, eff. Aug. 30, 1965; Acts 1969, 61st Leg., p. 1014, ch. 326, § 1, eff. Sept. 1, 1969.

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Clearance Fund; payments into; transfers to other special funds

Sec. 10-B. With the exception of proceeds from the sale of Texas Water Development Bonds and proceeds from the sale of bonds of political subdivisions sold in accordance with the provisions of Section 15 hereof, all moneys received by the Board in any fiscal year, including all amounts received as repayment of financial assistance granted under this Act and interest on such loans, shall be paid into the Clearance Fund. Moneys so paid into the Clearance Fund may be transferred at any time to the Texas Water Development Bonds Interest and Sinking Fund until the reserve to be established therein is equal to the average annual principal and interest requirements on all outstanding bonds issued under this Act. Not later than fifteen (15) days following the end of each fiscal year, any funds standing to the credit of the Clearance Fund as of the last day of the preceding fiscal year shall be transferred to the special funds created by this Act in the following manner:

(a) There shall be determined the amount of interest becoming due on all Water Development Bonds then outstanding, together with the amount of principal of such bonds maturing and becoming payable during such fiscal year, and there shall also be determined the average annual principal and interest requirements on all outstanding bonds issued under this Act. There shall be transferred to the Interest and Sinking Fund, after taking into account any moneys and Securities (as the term is hereafter defined in Section 10-D) on deposit therein, such amount as may be necessary to pay all such principal and interest maturing on such bonds during the fiscal year, together with all collection charges and exchanges thereon plus an amount sufficient to establish and maintain an additional reserve equal to the average annual principal and interest requirements on all outstanding bonds issued under this Act. In the event the amount transferred from the Clearance Fund plus the moneys and securities on hand in the Interest and Sinking Fund are insufficient to pay the interest becoming due and the principal maturing on the Water Development Bonds during the fiscal year, then after the transfer to the Interest and Sinking Fund of so much as is available in the Clearance Fund, the State Treasurer shall transfer out of the first moneys coming into the Treasury of the State of Texas, not otherwise appropriated by the Constitution, such amount as shall be required to pay principal and interest on such Water Development Bonds during such fiscal year.

(b) If, after making the transfers provided in paragraph (a) of this Section, there remain other moneys in the Clearance Fund, then to the extent possible there shall be transferred from such fund to the Administrative Fund an amount sufficient to cover the appropriation for administrative appropriations of said Board, as authorized by the Legislature, for the fiscal year.

(c) If, after making the transfers provided for in paragraphs (a) and (b) of this Section, there remain other moneys in the Clearance Fund, the balance of such fund shall be transferred at the end of each fiscal year to the Development Fund, and such moneys so transferred may be used for all of the purposes for which the proceeds of the Water Development Bonds were authorized to be used.

Sec. 10-B amended by Acts 1961, 57th Leg., p. 75, ch. 44, § 1, eff. Aug. 28, 1961; Acts 1969, 61st Leg., p. 1016, ch. 327, § 1, eff. Sept. 1, 1969.

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Water Development Fund; purpose; certificate by applicant

Sec. 11. The Texas Water Development Fund may be used by the Board hereof for the purpose of providing financial assistance and aid to the various political subdivisions, as defined in Section 2 hereof, and

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others, in the conservation and development of the water resources of the State of Texas by the construction, acquisition or improvement of projects, as defined in Section 2 hereof.

No application for financial assistance shall be granted until the political subdivision shall have furnished to the Board a resolution adopted by the Texas Water Rights Commission certifying:

(a) That an applicant proposing surface water development is possessed of the necessary water right authorizing it to impound, or otherwise appropriate and use, the waters to be made available by the project, or

(b) That an applicant proposing underground water development, has obtained the right to use the waters to be made available by the project.
Sec. 11 amended by Acts 1969, 61st Leg., p. 688, ch. 234, § 1, eff. Sept. 1, 1969.

Use of Water Development Fund; purposes; acquisition of storage facilities; permits; contracts; sale, transfer or lease of facilities; prices; conditions precedent to sales, transfers or leases; use of proceeds; storage of unappropriated waters; emergency releases; sale of water; preferential rights of political subdivisions; Combined Facilities Operation and Maintenance Fund; rules and regulations

Sec. 12. (a) The Texas Water Development Board is hereby authorized to use funds of the Texas Water Development Fund for any "project" and in any manner consistent with the provisions of Article III, Sections 49-c and 49-d of the Constitution of the State of Texas, and in the event that Article III of the Constitution of the State of Texas is hereafter amended to permit the issuance of \$3,500,000,000.00 additional Texas Water Development Bonds, the Texas Water Development Board is hereby authorized to use the Texas Water Development Fund in any manner consistent with the provisions of said amendment; but the Board may not use any monies now or hereafter deposited in the Water Development Fund for retail distribution or for the transportation of water solely to retail purchasers. The Board shall obtain permits for storage of water and/or permits for transportation of water and/or permits to apply water to beneficial use with regard to water in reservoirs and associated works constructed by the Board under this Act.

(b) The Texas Water Development Board may use the Texas Water Development Fund to design, acquire, lease, construct, reconstruct, develop, and/or enlarge, in whole or in part, any existing or proposed project either singly or as a joint venture in partnership with any person or entity, including any agency or political subdivision of the State of Texas, or with another state or the political subdivisions of such state, or with the United States, or with a foreign nation, to the extent permitted by law. State funds shall not be expended for the purposes herein authorized when, and to the extent that, any political subdivision of the state is willing and able reasonably to finance, or assume the obligation of repaying, the costs of providing or acquiring such facilities, provided such political subdivision has qualified by obtaining any permit required under the laws of Texas to provide or acquire such facilities, and provided the proposals of the political subdivision are consistent with the objectives of the State Water Plan.

(c) The Texas Water Development Board, before acquiring storage facilities in any reservoir in any manner shall affirmatively find:

(1) That it is reasonable to expect the state to recover its investment in such facilities;

(2) That the cost of such storage facilities to be acquired exceeds current financing capabilities of the area involved and that such facilities cannot be reasonably financed otherwise by local interests without state participation; and

(3) That the public interest will be served thereby;

(4) That such facilities, to be constructed or reconstructed, contemplate the optimum development of the site which is reasonably reserved under all existing circumstances.

The Texas Water Development Board shall obtain permits for storage of water with regard to storage facilities acquired in any reservoir, and the issuance of such permit or permits by the Texas Water Rights Commission or its successor shall be the approval required by Article III, Section 49-d of the Constitution of Texas.

(d) The Texas Water Development Board may also execute contracts to the full extent that such contracts are now or hereafter constitutionally authorized and not limited, for the design, management, acquisition, lease, construction, reconstruction, development, enlargement, operation and/or maintenance of any existing or proposed project. Such contracts shall include but not be limited to:

(1) contracts secured by the general credit of the State of Texas, and if so secured such contracts shall constitute general obligations of the State of Texas in the same manner and with the same effect as Texas Water Development Bonds; and provisions in said Section 49-c with respect to payment of principal and interest on state bonds issued shall likewise apply with respect to payment of principal and interest required to be paid by such contracts;

(2) federal grants or grants from other sources;

(3) contracts which may be fully or partially secured by water purchase or repayment contracts executed by political subdivisions of the State of Texas for purchase of water and facilities necessary to supply present and future regional and local water requirements;

(4) contracts with any person, including but not limited to the United States, local public agencies, power cooperatives, and investor owned utilities, for financing, constructing, and operating facilities to operate and deliver pumping energy required for projects; and

(5) contracts for all goods and services necessary for the design, management, acquisition, lease, construction, reconstruction, development, enlargement, implementation, operation and/or maintenance of any existing or proposed project, or for any portion thereof.

If facilities are acquired for a term of years, such contracts may contain provisions for renewal that will protect the State's investment.

(e) The Texas Water Development Board, after having used funds from the Texas Water Development Fund for the acquisition, construction, reconstruction, development or enlargement of a project, is authorized to sell, transfer or lease the project, to the extent of its ownership, provided that the applicant to buy or lease such facilities shall have first secured a valid permit for water use from the Texas Water Rights Commission or its successor, which permit may be for a term of years if the facilities are leased. If the application for a permit to use water involves a proposed use of water either within or outside of the watershed of the impoundment, the Texas Water Rights Commission or its successor shall give paramount consideration to recouping the state's investment in granting any permit in order to protect the public interest and promote the general welfare. Before the permit for water use shall be issued by the Texas Water Rights Commission or its successor, the applicant shall have completed contractual negotiations with the Water Development Board for the acquisition of such facilities and all terms, conditions and provisions of such contract shall have been agreed upon by the parties thereto. Reservoir lands which may have been acquired may be leased by the Board prior to completion of construction of any dam without the necessity of a permit being issued by the Texas Water Rights Commission or its successor.

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(f) It is further provided that the above sale, transfer or lease shall be at a price not less than the direct cost of the Board in acquiring same. "Direct cost" of such facilities shall mean the principal amount the Board pays or agrees to pay for such facilities. "Direct cost of the Board in acquiring same" shall mean the amount theretofore paid by the Board on the "direct cost" of such facilities. In selling or transferring the state's interest in such facilities acquired by the Board, from the proceeds of Texas Water Development Bonds, the price shall be the sum of the "direct cost of the Board in acquiring same," as such term is defined above, plus an interest charge computed at a rate on one-half of one percent ($\frac{1}{2}$ of 1%) per annum from the date of acquisition by the Board, plus interest annually at the cumulative average effective rate on all Texas Water Development Bonds sold up to the date of the sale of the facilities, plus the Board's cost of operating and maintaining the facilities being sold or transferred from the date of acquisition to the date of transfer, less any payments received by the Board from the lease of such facilities or the sale of water therefrom.

(g) In selling or transferring the state's interest in such facilities acquired under contracts, as authorized in Subsection (d) above, the price shall be the sum of the "direct cost of the Board in acquiring same," as the term is defined above, plus an interest charge thereon of one-half of one percent ($\frac{1}{2}$ of 1%) per annum from the date of acquisition of such facilities by the Board, plus interest at the cumulative average effective rate on all Texas Water Development Bonds sold up to the date of the sale of such facilities for each of those years or portions of years in which the Board paid interest to the other party(ies) to the contract, plus the Board's cost of operating and maintaining the facilities being sold or transferred from the date of acquisition to the date of transfer, less any payments received by the Board from the lease of such facilities or the sale of water therefrom. If the Board in transferring any contract remains in any way directly, conditionally or contingently liable or responsible for the performance of any part of the contract assigned or transferred, then the assignee or purchaser shall, in addition to the payments above set forth, pay to the Board annually one-half of one percent ($\frac{1}{2}$ of 1%) of the remaining amount owing to the other party(ies) to the contract and such payment shall continue until the Board is fully and completely released from such contract.

(h) In leasing such facilities for a term of years, each annual payment which shall be made by the lessee shall be not less than the annual principal and interest requirements applicable to the indebtedness incurred by the state allocated to acquisition of the facilities being leased, plus the state's annual cost for the project's operation, maintenance and rehabilitation, if the project has been rehabilitated.

(i) As a condition precedent to selling, transferring or leasing, in whole or in part, any such facilities or the right to use such facilities, the Texas Water Development Board shall affirmatively find:

(1) That the applicant therefore has a valid permit for water use from the Texas Water Rights Commission or its successor;

(2) That such sale, transfer or lease will contribute to the conservation and development of the water resources of Texas; and

(3) That the consideration for same is fair, just and reasonable and in full compliance with all requirements of law.

(j) The money received from any sale, transfer or lease of any such facilities shall be used to pay principal and interest on state bonds issued or to meet contractual obligations incurred by the Texas Water Development Board. Such moneys shall be collected, deposited in, and transferred to the appropriate statutory fund of the Board in the same manner as other moneys received in payment of principal and interest on loans to political subdivisions made by the Board for water supply projects, taking into consideration the manner in which such facilities

involved were acquired; that is, either by use of bonds proceeds or by contract, as the case may be. When the moneys are sufficient to pay the full amount of indebtedness then outstanding (which shall include state bonds issued and the principal on contractual obligations incurred) and the full amount of interest to accrue thereon, any further sums received from the sale, transfer or lease of such facilities may be used by the Board for the acquisition of additional such facilities or for providing financial assistance to political subdivisions for water supply projects.

(k) The Texas Water Development Board is hereby authorized and empowered to store unappropriated public waters of the state and other waters acquired by the state in such facilities. The Board is further authorized and empowered to sell any of such waters at a price to be fixed and determined by the Board. As a prerequisite to the purchase of such water, the applicant therefore shall have secured a valid permit from the Texas Water Rights Commission authorizing the appropriation and use of the water and its use shall be governed by the terms and conditions of such permit. The permit may be for a term of years. If the application for a permit involves a proposed use of water either within or outside the watershed of the impoundment, the Texas Water Rights Commission or its successor shall give paramount consideration to recouping the state's investment in granting any permit in order to protect the public interest and promote the general welfare. Before the permit shall be issued by the Texas Water Rights Commission or its successor, the applicant shall have completed contractual negotiations with the Water Development Board for the sale of water and all terms, conditions and provisions of such contract shall have been agreed upon by the parties thereto. The permit shall be conditioned upon continued payment of the obligations assumed under the contract with the Board and may provide for cancellation at any time upon contract default. The Texas Water Development Board is authorized to determine the consideration, terms, provisions and conditions to be included in contracts for the sale of water or its use, but such considerations, terms, provisions and conditions shall be fair, reasonable and without discrimination. Included in the services for which the Board may make charges is that of standby service, which is hereby defined to mean holding water and conservation storage space available for use, as well as for the actual delivery of water.

The Board shall not compete with political subdivisions of the state and municipalities in the sale of water when such competition will jeopardize the ability of a political subdivision or municipality to meet obligations incurred to finance its own water supply projects. The Board will make the same determinations with respect to the sale of water as are required to be made in Subsection (i) above relating to selling, transferring or leasing facilities.

Money received from the sale of water and standby service needed for operation and maintenance of such facilities shall be deposited in the Combined Facilities Operation and Maintenance Fund, which Fund is hereby created as a special fund in the State Treasury, and such Fund may be used by the Board for the operation and maintenance of such facilities, and the Legislature may also appropriate available state funds for such purpose. Money received from the sale of water not needed for operation and maintenance of such facilities may be used for the payment of principal and interest on state bonds issued or contractual obligations incurred by the Board in acquiring such facilities.

Unappropriated public waters and other waters of the state stored in any such facilities acquired by the Board and under the Board's control may be released without charge to relieve any emergency condition that may arise due to drought, severe water shortage or public calamity, provided that the Texas Water Rights Commission or its successor shall

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have first determined the existence of such emergency and requested the Board to make releases of water.

(l) Political subdivisions shall be accorded a preferential right, but not an exclusive right, to purchase, acquire or lease facilities, or to purchase water in storage, from the Board. Priority in the sale, transfer or lease of facilities, or in the sale of water, shall also be accorded in the manner established by Article 7471 and Article 7472(c), Revised Civil Statutes of Texas, 1925, as amended, or as may be hereafter amended, relating to priorities and preferences in the appropriation and use of public waters. The Texas Water Development Board and the Texas Water Rights Commission or their successors shall coordinate their efforts to meet these objectives and to assure that the public waters of the state, which waters are held in trust for the use and benefit of the public, will be conserved, developed and utilized in the greatest practicable measure for the public welfare.

(m) The Texas Water Development Board is authorized to enter into contracts for the operation and maintenance of the state's interest in any project and the Board may agree to pay reasonable operation and maintenance charges allocable to such state interest.

(n) The Board may enter into contracts with political subdivisions of the state, with agencies of the state, with the United States and its agencies, and with others to the extent authorized, for the development and operation of recreational facilities at any project in which the state has acquired an interest. Income received by the Board from contracts for the development and operation of recreational facilities may be used by the Board for the same purposes as income from the sale of water may be used. The Legislature may make appropriations of available state funds for developing and operating recreational facilities at projects in which the state has acquired an interest.

(o) Tracts of land which have been acquired by the Board for project purposes may be leased by the Board for a term of years for any purposes not inconsistent with ultimate project construction. Such lease shall be scheduled to expire prior to initiation of project construction, and may provide for contribution by the lessee to units of local government of amounts equivalent to ad valorem taxes or special assessments. Money received by the Board from the lease of lands shall be used and applied in the same manner as prescribed for money received from the sale of water and standby service.

(p) The Attorney General of Texas shall approve as to legality:

(1) The resolution of the Board authorizing state ownership in a project; and

(2) All contracts executed pursuant to this Section and to which the Board is a party.

(q) The Texas Water Development Board and the Texas Water Rights Commission or its successor are hereby authorized to create and promulgate reasonable and necessary rules and regulations, separately or jointly, to implement and effectuate the provisions of this Act. Such rules and regulations and amendments thereto shall not be inconsistent with the provisions hereof and shall be approved by the Attorney General of Texas and filed with the Secretary of State.

Sec. 12 amended by Acts 1965, 59th Leg., p. 587, ch. 297, § 5, eff. Aug. 30, 1965; Acts 1965, 59th Leg., p. 1246, ch. 569, § 2, eff. Aug. 30, 1965; Acts 1969, 61st Leg., p. 2267, ch. 764, § 1, eff. Sept. 1, 1969.

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Hearing and determination on application; form of application; approval

Sec. 14. In passing upon such applications, the Board shall consider the needs and benefits to the area to be served by the project in

relation to the needs and benefits appertaining to other projects requiring state assistance in any manner as well as the availability of revenues from all sources of the political subdivision for the ultimate repayment of the costs of such project, including interest, and whether the project can be reasonably financed without assistance of the state. The Board shall specifically consider the relationship of the project contained in such application with the overall, state-wide water needs of Texas and the relationship of the project contained in such application with the State Water Plan for water resource development. If after consideration of the foregoing, and the consideration of any other relevant factors, the Board finds that the public interest requires state participation in the project; that the project cannot be reasonably financed without state assistance in the amount finally approved by the Board; and if the Board makes the further finding that in its opinion the revenues or taxes or both pledged by the political subdivision will be sufficient to meet all of the obligations assumed by the political subdivision within not more than fifty (50) years, the Board may approve the application within the limits of this Act.

Application for financial assistance shall be in such form as prescribed herein and by regulations of the Board and shall not be accepted by the Board unless submitted in affidavit form by the officials of the political subdivisions as prescribed by the regulations of the Board. Nothing in such regulations shall restrict or prohibit the Board from requiring additional factual material of any applicant.

Sec. 14 amended by Acts 1961, 57th Leg., p. 13, ch. 8, § 1, eff. Feb. 23, 1961; Acts 1965, 59th Leg., p. 587, ch. 297, § 6, eff. Aug. 30, 1965; Acts 1969, 61st Leg., p. 356, ch. 125, § 1, eff. Sept. 1, 1969.

**Purchase of bonds of political subdivision by board;
bond requirements; sale**

Sec. 15. After the Board has examined an application of a political subdivision for financial assistance from the Fund and determined by resolution that same should be approved, the Board may give financial assistance to the political subdivision by the purchase with moneys out of the Texas Water Development Fund of bonds or other securities issued by the political subdivision for the purpose of providing funds to finance a project. The Board is hereby empowered to purchase such political subdivision bonds or other securities even though such bonds or other securities be secondary, or subordinate to other bonds or other securities issued by the political subdivision to finance the same project for which assistance from the Fund is sought; the Board may use proceeds of the Texas Water Development Fund to purchase outstanding prior lien bonds previously issued by the political subdivision whenever such purchase of outstanding prior lien bonds will avoid or reduce the necessity for issuing junior lien bonds for subsequent sale to the Board, provided, however, that the security for both prior lien and junior lien bonds shall be pledged from substantially the same sources of revenue. The Board shall never purchase bonds or other securities which have a maturity date in excess of fifty (50) years from date of issuance. The Board shall never purchase bonds or other securities of a political subdivision in excess of Thirty Million Dollars for any one project. Such bonds and other securities purchased from moneys in the Fund by the Board shall bear the weighted average effective interest rate on all state bonds theretofore sold under the provisions of this Act plus one-half ($\frac{1}{2}$) of one percent (1%). The bonds shall bear coupons evidencing interest at such a rate or combination of rates as shall approximate the effective rate as nearly as the Board shall deem practicable, and the effective rate shall be arrived at by the payment of premiums or the deduction of discounts as necessary. Before purchasing any bonds or other securities of a political subdivision, the Board shall be assured that such bonds or other securities

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have been approved by the Attorney General and registered by the Comptroller of Public Accounts and after such approval and registration and sale at not less than par and accrued interest, said bonds shall be valid, binding and incontestable. The Board is fully empowered and authorized to sell or dispose of political subdivision bonds purchased with moneys out of the Fund, provided that such bonds are sold at not less than par and accrued interest. The proceeds from such sale shall be deposited to the credit of the Fund and used in the same manner as other funds deposited therein, except accrued interest shall be deposited in the Interest and Sinking Fund. Should the Board determine to sell such political subdivision bonds, competitive bids therefor shall be received and notice of such sale shall be given and the sale conducted in the same manner as in the case of a sale of the state bonds authorized by this Act; provided, however, that the Board shall first have offered said bonds at their par value plus accrued interest to the issuing political subdivision at least thirty (30) days prior to the date of requesting competitive bids; and provided such political subdivision shall have failed within such thirty (30) day period to give notice to said Board of its desire to acquire such bonds at par and accrued interest.

Sec. 15 amended by Acts 1961, 57th Leg., p. 14, ch. 8, § 2, eff. Feb. 23, 1961; Acts 1967, 60th Leg., p. 1293, ch. 575, § 1, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 357, ch. 126, § 1, eff. Sept. 1, 1969.

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Meetings of board; seal; Executive Director; Development Fund Manager; salaries; duties of Executive Director; centralized data bank; travel expenses of employees; transfer of functions; plans for construction of levees

Sec. 21.

Partial Repeal

Acts 1969, 61st Leg., p. 1329, ch. 406, § 3, repeals the reference in Paragraph (a) to article 7621b, repeals any transfer under this section of functions prescribed by art. 7621b, and repeals anything in this section in conflict with article 7621b to the extent of such conflict. See note under art. 7621b.

Sec 21-a. Repealed by Acts 1969, 61st Leg., p. 2267, ch. 764, § 2, eff. Sept. 1, 1969.

* * * * *

A section 12, enacted as part of this article by Acts 1957, 55th Leg., p. 1268, ch. 425, and amended by Acts 1965, 59th Leg., p. 1246, ch. 569, § 2, was repealed by Acts 1969, 61st Leg., p. 688, ch. 234, § 2. As so amended, section 12 provided:

"No application for financial assistance shall be granted until the political subdivision shall have furnished to the Board a resolution adopted by the Texas Water Commission certifying:

"(1) The feasibility of the project based on preliminary investigations and studies, including the estimated cost of construction, operation, and maintenance, and the quantity and quality of water;

"(2) That there is an existing need or bona fide future need within a reasonable time, or both, for the water to be provided by the project;

"(3) That the applicant

"(A) For surface water development, is possessed of the necessary permit, or certi-

fied filing, authorizing it to impound, or otherwise appropriate and use, the waters to be made available by the project, or

"(B) For underground water development, has obtained the right to use the waters to be made available by the project; and

"(4) That if a dam is to be constructed or enlarged, the project contemplates the optimum development of the site of the project which is reasonably required under all existing circumstances."

See, now, section 11 of this article.

Acts 1969, 61st Leg., p. 688, ch. 234, § 1, amended section 11 of this article, and section 2 provided: "Repealer clause. All laws and parts of laws in conflict herewith are repealed to the extent of the conflict only. Section 12, Chapter 425, Acts of the 55th Legislature, Regular Session, 1957, as such section was amended by Chapter 569, Acts of the 59th Legislature, 1965, is hereby repealed; provided however, that this Act

shall not affect nor impair Section 12, Chapter 425, Acts of the 55th Legislature, Regular Session, 1957, as amended by Chapter 297, Acts of the 59th Legislature, 1965.”

Acts 1969, 61st Leg., p. 2267, ch. 764, which amended section 12 of this article, provided in sections 3 and 4:

“Sec. 3. Severability clause. If any provisions of this Act or the application thereof to any person or circumstance is held

invalid, this invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are declared severable.

“Sec. 4. Repealer clause. All laws and parts of laws in conflict herewith are repealed to the extent of the conflict only.”

Art. 8280—9b. Texas Water Development Board; navigation facilities

(a) The Texas Water Development Board may improve streams and canals and may construct all waterways and other facilities necessary to provide for navigation within the Cypress Creek drainage basin which is located in the northeast portion of the state.

(b) The Board may execute long term contracts with the United States or any of its agencies for the acquisition and development of the improvements and facilities described in Subsection (a) of this Act.

(c) The Texas Water Development Board may act in behalf of local District or Districts until such time as they can take over the project or projects in accordance with the Board’s agreement with the District or Districts in acting as such sponsor.

Acts 1969, 61st Leg., p. 490, ch. 157, § 1, emerg. eff. May 7, 1969.

Title of Act:

An Act relating to the authority of the Texas Water Development Board to provide

facilities for navigation; and declaring an emergency. Acts 1969, 61st Leg., p. 490, ch. 157.

Art. 8280—9c. Water improvement bonds; issuance by political subdivisions

Section 1. In this Act, unless the context requires a different definition:

(a) “Subdivision” means any political subdivision or body politic or corporate of the State of Texas, which is eligible to borrow from the Texas Water Development Board, including river authorities, conservation and reclamation districts, districts created or organized or authorized to be created or organized under Article XVI, Section 59, or Article III, Section 52, of the Texas Constitution, interstate compact commissions to which the State of Texas is a party, and municipal corporations.

(b) “State bonds” means bonds issued by the Texas Water Development Board after the effective date of this Act.

(c) “Board” means the Texas Water Development Board.

(d) “Water improvement bonds” means bonds that are eligible for purchase by the board in its financial assistance program.

(e) “Net effective interest rate” means net effective interest rate as such term is defined in Chapter 3, Acts of the 61st Legislature, Regular Session, 1969.”

Sec. 2. (a) In order to accomplish the purposes for which water improvement bonds were approved at an election or otherwise authorized, a subdivision may sell its water improvement bonds, use the proceeds from the sale for the purchase of state bonds at not less than par and accrued interest to date of delivery, and sell the state bonds, even at a discount, to the highest bidder. In such sale of state bonds at a discount, the net effective interest rate shall not exceed the maximum net effective interest rate at which such subdivision can legally sell its own bonds.

(b) Before state bonds are sold by a subdivision, it shall advertise the sale in the manner provided in Section 7, Chapter 425, Acts of the 55th Legislature, Regular Session, 1957, as amended (Article 8280—9, Vernon’s Texas Civil Statutes). Any number of subdivisions may join with each other and with the board in giving notice of the sale and in receiving bids for the bonds.

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(c) The proceeds from the resale of state bonds shall be used by the subdivision for the purpose for which its water improvement bonds were approved at an election or otherwise authorized.

(d) If water improvement bonds are sold by a subdivision to a purchaser other than the board, the board may purchase these bonds directly from the purchaser with the proceeds received by the board from the sale of the state bonds to the subdivision.

Sec. 3. The development fund manager or executive director of the board may designate times and places at which the state bonds and water improvement bonds may be delivered and paid for.

Sec. 4. To obtain money to purchase and hold state bonds pending resale, any subdivision may borrow money temporarily by issuing a note payable from the proceeds of the sale of its own water improvement bonds.

Sec. 5. No statute or city charter provision requiring competitive bidding is applicable to water improvement bonds sold under this Act.

Sec. 5A. This Act expires at midnight December 31, 1971.
Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 4, emerg. eff. Sept. 11, 1969.

Title of Act:

An Act authorizing any political subdivision, as defined in this Act, to sell its water improvement bonds as defined in this Act, use the proceeds for the purchase of state bonds as defined in this Act at not less than par and accrued interest to date of delivery, and resell the state bonds to the highest bidder even at a discount; requiring the subdivisions to advertise for bids on state bonds; authorizing the subdivisions to join with each other and with Texas Water Development Board in the notice of sale of the state bonds and the receipt of bids therefor; requiring the subdivisions to use the proceeds from the sale of state bonds for the same purpose as their water improvement bonds were approved at an election otherwise authorized; authorizing the Texas Water Development

Board to purchase the water improvement bonds from the purchaser with proceeds received by the board from sale of state bonds to the subdivision; authorizing development fund manager or executive director of board to designate times and places at which bonds may be delivered and paid for; authorizing the subdivision to borrow money temporarily payable from the sale of water improvement bonds; providing that no statute or city charter provision requiring competitive bidding shall be applicable to water improvement bonds sold under this Act; enacting provisions related to the subject; providing for severability; and declaring an emergency. Acts 1969, 61st Leg., 2nd C.S., p. —, ch. 4.

Art. 8280—13. Flood insurance; participation in federal program by political subdivisions

Short title

Section 1. This Act may be cited as the "Flood Control and Insurance Act."

Purpose

Sec. 2. The State of Texas recognizes the personal hardships and economic distress caused by flood disasters since it has become uneconomic for the private insurance industry alone to make flood insurance available to those in need of such protection on reasonable terms and conditions. Recognizing the burden of the nation's resources, Congress enacted the National Flood Insurance Act of 1968, Title 42, United States Code, Section 4001-4127, whereby flood insurance can be made available through coordinated efforts of the Federal Government and the private insurance industry, by pooling risks, and the positive cooperation of state and local government. The purpose of this Act is to evidence a positive interest in securing flood insurance coverage under this Federal program, and to so procure for those citizens of Texas desiring to participate; and the promoting of public interest by providing appropriate protection against the perils of flood losses and encouraging sound land use by minimizing exposure of property to flood losses.

Definitions

Sec. 3. For the purpose of this Act the term:

(a) "Board" means the Texas Water Development Board.

(b) "Political Subdivision" means any political subdivision or body politic and corporate of the State of Texas, and includes any county, river authority, conservation and reclamation district, water control and improvement district, water improvement district, water control and preservation district, fresh water supply district, irrigation district, and any type of district heretofore or hereafter created or organized or authorized to be created or organized pursuant to the provisions of Article XVI, Section 59 or Article III, Section 52 of the Constitution of the State of Texas; "political subdivision" also means any interstate compact commission to which the State of Texas is a party, municipal corporation or city whether operating under the Home Rule Amendment of the Constitution or under the General Law.

(c) "National Flood Insurance Act" means the United States Congressional Enactment, Title 42, United States Code, Sections 4001-4127, and the implementation and administration of the Act by the Secretary of the United States Department of Housing and Urban Development.

(d) "Secretary" means the Secretary of the United States Department of Housing and Urban Development.

Cooperation of Texas Water Development Board

Sec. 4. In recognition of the necessity for a coordinated effort at all levels of government, the Texas Water Development Board shall cooperate with the Federal Insurance Administrator of the United States Department of Housing and Urban Development in the planning and carrying out of state participation in the National Flood Insurance Program; provided, however, that the responsibility for qualifying for the National Flood Insurance Program shall belong to any interested political subdivision, whether presently in existence or created in the future.

Political subdivisions; compliance with federal requirements

Sec. 5. All political subdivisions are hereby authorized to take all necessary and reasonable actions to comply with the requirements and criteria of the National Flood Insurance Program including but not limited to:

(1) Making appropriate land use adjustments to constrict the development of land which is exposed to flood damage and minimize damage caused by flood losses;

(2) Guiding the development of proposed future construction, where practicable, away from location which is threatened by flood hazards;

(3) Assisting in minimizing damage caused by floods;

(4) Authorizing and engaging in continuing studies of flood hazards in order to facilitate a constant reappraisal of the flood insurance program and its effect on land use requirements;

(5) Engaging in flood plan management and adopting enforcing permanent land use and control measures consistent with the criteria established under the National Flood Insurance Act;

(6) Declaring property, when such is the case, to be in violation of local laws, regulations or ordinances which are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas, and notifying the Secretary, or whomever he designates, of such property;

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(7) Consulting with, giving information to and entering into agreements with the Department of Housing and Urban Development for the purpose of

(a) Identifying and publishing information with respect to all flood areas, including coastal areas, and

(b) Establishing flood-risk zones in all such areas, and make estimates with respect to the rates of probable flood-caused loss for the various flood-risk zones for each of these areas;

(8) Cooperating with the Secretary's studies and investigations with respect to the adequacy of local measures in flood-prone areas as to land management and use, flood control, flood zoning, and flood damage prevention;

(9) Taking steps to improve the long-range management and use of flood-prone areas;

(10) Purchasing, leasing and receiving property from the Secretary, when such property is owned by the Federal Government and lies within the boundaries of the political subdivision, pursuant to agreements with the Department of Housing and Urban Development or other appropriate legal representative of the United States Government;

(11) Requesting aid pursuant to the entire authorization above from the Texas Water Development Board;

(12) Satisfying criteria adopted and promulgated by the Department pursuant to the National Flood Insurance Program; and

(13) Adopting permanent land use and control measures with enforcement provisions which are consistent with the criteria for land management and use adopted by the Secretary.

**Coordination of local, state and federal programs by Texas
Water Development Board**

Sec. 6. (a) The Texas Water Development Board shall aid, advise and coordinate the efforts of present and future political subdivisions endeavoring to qualify for participation in the National Flood Insurance Program.

(b) Pursuant to the National Flood Insurance Program and state and local efforts complimenting such Program, the Board shall aid, advise and co-operate with political subdivisions, the State Board of Insurance, and the United States Department of Housing and Urban Development when such aid, advice and cooperation are requested or deemed advisable by the Board.

(c) The aforementioned aid may include but is not necessarily limited to:

(1) Coordinating local, state and federal programs relating to floods, flood losses, and flood plain management;

(2) Evaluating the present structure of all federal, state, and political subdivision flood control programs, within or adjacent to the state, including an assessment of the extent to which public and private flood plain management activities have been instituted;

(3) Carrying out studies with respect to the adequacy of present public and private measures, laws, regulations, and ordinances in flood-prone areas as to land management and use, flood control, flood zoning, and flood damage prevention;

(4) Evaluating all available engineering, hydrologic and geologic data relevant to flood-prone areas and flood control in those areas; and

(5) Carrying out flood plain studies and mapping programs of flood plains, flood-prone areas and flood-risk zones.

(d) On the basis of such studies and evaluations, the Board, to the extent of its capabilities, shall periodically identify and publish information and maps with respect to all flood plain areas including the states' coastal area, which have flood hazards, and where possible, aid the Fed-

eral Government in identifying and establishing flood-risk zones in all such areas.

Cooperation of State Board of Insurance

Sec. 7. Pursuant to the National Flood Insurance Program, the State Board of Insurance shall aid, advise and cooperate with political subdivisions, the Texas Water Development Board and the United States Department of Housing and Urban Development when such aid, advice and cooperation are requested or deemed advisable by the State Board of Insurance.

Rules and regulations

Sec. 8. Political subdivisions which qualify for the National Flood Insurance Program, the State Board of Insurance, and the Texas Water Development Board may adopt and promulgate reasonable rules and regulations which are necessary for the orderly effectuation of the respective authorizations herein.

Time limitation

Sec. 9. Political subdivisions wishing to qualify under the National Flood Insurance Program shall have the authority and endeavor to do so by June 30, 1970 by complying with the directions of the Department of Housing and Urban Development and by

(a) Evidencing to the Secretary a positive interest in securing flood insurance coverage under the Flood Insurance Program, and

(b) Giving to the Secretary satisfactory assurance that by June 30, 1970 permanent land use and control measures will have been adopted for the political subdivision which measures will be consistent with the comprehensive criteria for land management and use developed by the Department of Housing and Urban Development, and that the application and enforcement of such measures will commence as soon as technical information on floodways and on controlling elevations is available.

Acts 1969, 61st Leg., p. 2313, ch. 782, eff. Sept. 1, 1969.

Title of Act:

An Act to secure for Texas citizens flood insurance coverage under the National Flood Insurance Act of 1968; providing for flood control programs within the state; granting necessary powers and authorizations to political subdivisions, the State Board of Insurance and the Texas Water Development Board; defining certain words

and phrases; stating a purpose; declaring a title, providing for the adoption and promulgation of rules and regulations; declaring an intent to satisfy the Federal deadline date for qualifying for insurance; and declaring an emergency. Acts 1969, 61st Leg., p. 2313, ch. 782.

VII. PARTICULAR WATER SUPPLY AND CONTROL DISTRICTS

CHAPTER TWELVE—CREATION, POWERS AND OBLIGATIONS

Art.	Art.
8280—318e. Pirate's Cove Municipal Utility District; addition of land [New].	8280—425. Cherry Hill Municipal Utility District [New].
8280—393. Baytown Levee District [New].	8280—426. Manning Utility District [New].
8280—394. Pendleton Bridge Utility District [New].	8280—427. Boone Road Utility District [New].
8280—395. Thompson Road Utility District [New].	8280—428. Memorial West Utility District [New].
8280—396. Lynchburg Utility District [New].	8280—429. Candlewood Utility District [New].
8280—397. Palm Valley Estates Utility District [New].	8280—430. Langham Creek Utility District [New].
8280—398. Pinehurst Utility District [New].	8280—431. Braes Utility District [New].
8280—399. North Belt Utility District [New].	8280—432. Sulphur Springs Water District [New].
8280—400. Collin-Denton County Water and Sanitation District [New].	8280—433. Glenshire Municipal Utility District [New].
8280—401. Harris County Water Control and Improvement District No. 132 [New].	8280—434. Northgate Utility District [New].
8280—402. Rayford Road Municipal Utility District [New].	8280—435. Belleau Wood East Utility District [New].
8280—403. Cypress Creek Utility District [New].	8280—436. Gulfway Utility District [New].
8280—404. Tomball Road Utility District [New].	8280—437. Ponderosa Forest Utility District [New].
8280—405. Harris County Utility District No. 1 [New].	8280—438. Bammel Utility District [New].
8280—406. Harris County Utility District No. 3 [New].	8280—439. Chimney Rock Municipal Utility District [New].
8280—407. Harris County Utility District No. 5 [New].	8280—440. Fondren Lake Municipal Utility District [New].
8280—408. Harris County Utility District No. 7 [New].	8280—441. Woodland North Utility District [New].
8280—409. Memorial Hills Utility District [New].	8280—442. Harris County Utility District No. 6 [New].
8280—410. Lake Tanglewood Utility District [New].	8280—443. Hidalgo County Drainage District No. 2 [New].
8280—411. San Patricio County Drainage District [New].	8280—444. Timber Lane Utility District [New].
8280—412. Jackson County County-Wide Drainage District [New].	8280—445. Quail Valley Utility District [New].
8280—413. Willacy County Drainage District No. 1 [New].	8280—446. Sageglen Municipal Utility District [New].
8280—414. Willacy County Drainage District No. 2 [New].	8280—447. White Bluff Water Control and Improvement District of Hill County [New].
8280—415. Tehuacana Utility District [New].	8280—448. Kerrville South Utility District No. 1 [New].
8280—416. Harris County Utility District No. 4 [New].	8280—449. Greenbriar Utility District [New].
8280—417. Post Oak Road Municipal Utility District [New].	8280—450. Arroyo Estates Utility District [New].
8280—418. Burlington Colony Municipal Utility District [New].	8280—451. East Plantation Utility District [New].
8280—419. McHard Road Municipal Utility District [New].	8280—452. Greenwood Utility District [New].
8280—420. Court Road Municipal Utility District [New].	8280—453. Parkway Utility District [New].
8280—421. Green Ridge Municipal Utility District [New].	8280—454. Timber Creek Utility District [New].
8280—422. Cedar Bayou Park Utility District [New].	8280—455. Rio Grande Valley Municipal Water Authority [New].
8280—423. Harris County Utility District No. 2 [New].	8280—456. Fallbrook Utility District [New].
8280—424. Cape Royale Utility District [New].	8280—457. Burleson County Water Control and Improvement District No. 1 [New].
	8280—458. Rhea Utility District [New].
	8280—459. Galveston County Flood Control District [New].
	8280—460. Bay Ridge Utility District [New].

- Art.
- 8280—461. Hueco Valley Utility District [New].
- 8280—462. Tigua-Hueco Utility District [New].
- 8280—463. Lavaca County Countywide Conservation and Reclamation District [New].
- 8280—464. Louetta Road Utility District [New].
- 8280—465. Spring Hill Utility District [New].
- 8280—466. CNP Utility District [New].
- 8280—467. Harbor Utility District [New].
- 8280—468. Casa Manana Utility District [New].
- 8280—469. Iowa Park Municipal District [New].

- Art.
- 8280—470. Robards Utility District [New].
- 8280—471. Amigoland Utility District [New].
- 8280—472. Horsepen Bayou Municipal Utility District [New].
- 8280—473. Tattor Road Municipal District [New].
- 8280—474. Fairwood Utility District [New].
- 8280—475. DeWitt County Countywide Conservation and Reclamation District [New].
- 8280—476. Brazoria County Conservation and Reclamation District No. 3 [New].

Art. 8280—106. Guadalupe-Blanco River Authority

* * * * *

Sec. 4. The powers, rights, privileges and functions of the District shall be exercised by a board of nine (9) directors (herein called the Board), which is a state board of a state agency as contemplated by Section 30a of Article XVI, Constitution of Texas. Each member of the Board shall be a freehold property taxpayer of the State of Texas and shall reside in one of the counties which is included within the boundaries of the District, but only one director shall be appointed from any county. The directors shall be appointed by the Governor from nominations furnished him by the Texas Water Rights Commission and the appointments confirmed by the Senate as in other cases of appointments by the Governor. Of the directors first appointed, three (3) shall hold office for a term expiring February 1, 1937, three (3) for a term expiring February 1, 1939, and three (3) for a term expiring February 1, 1941. Thereafter, directors shall hold office for a term of six (6) years. Each director shall hold office until the expiration of the term for which he was appointed and thereafter, until his successor shall have been appointed and qualified unless sooner removed as in this Act provided. Any director may be removed by the authority which appointed him for inefficiency, neglect of duty or misconduct in office, after at least ten (10) days' written notice of the charge against him and an opportunity to be heard in person by counsel at public hearing. A vacancy resulting from the death, resignation or removal of any director shall be filled by the authority which appointed him for the unexpired term. Each director shall qualify by taking the official oath of office prescribed by General Statute.

(a) Each director shall receive Twenty-five Dollars (\$25) per day, or such amount as may hereafter be prescribed by general law, for each day spent in attending meetings of the Board, and any other business of the District that the Board thinks necessary, plus actual traveling and other expenses.

(b) Until the adoption of by-laws fixing the time and place of regular meetings and the manner in which special meetings may be called, meetings of the Board shall be held at such times and places as five (5) of the directors may designate in writing. Five (5) directors shall constitute a quorum at any meeting and, except as otherwise provided, in this Act or in the by-laws, all action may be taken by the affirmative vote of a majority of the directors present at any such meeting, except that no contracts which involve any amount greater than Ten Thousand Dollars (\$10,000) or which is to run for a period longer than a year, and no bonds, notes or other evidence of indebtedness and no amendment of the by-laws

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

Sec. 4 amended by Acts 1969, 61st Leg., p. 1465, ch. 432, § 1, emerg. eff. June 2, 1969.

* * * * *

Sections 2-4 of the amendatory act of 1969 provided:

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

"Sec. 3. It is determined and found that a proper and written notice of the intention to introduce this Act setting forth the general substance of this Act has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas in a newspaper having a general circulation in the counties in which said District or part thereof is located; that a copy of such notice and a copy of this

Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to this Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives within thirty (30) days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article XVI, Section 59d, Constitution of the State of Texas, have been fulfilled and accomplished as herein provided.

"Sec. 4. If any word, phrase, clause, sentence or part of this Act shall be held by any court of competent jurisdiction to be invalid or unconstitutional, it shall not affect any other word, phrase, clause, sentence or part of this Act, and such remaining portions shall remain in full force and effect."

Art. 8280—119. San Antonio River Authority

Section 1. Definitions. The words and phrases used in this Act shall, unless the same be inconsistent with the context, be construed as follows:

* * * * *

(i) "Flood Plain" shall mean the area of the channel of a river or stream and those portions of land abutting and adjacent to such channel which are reasonably required to carry floodwaters.

(j) "San Antonio River Basin" shall mean all of the area except Banderita, Real and Kerr Counties which has topographic characteristics causing surface waters to flow into the San Antonio River and its tributaries."

Sec. 1(i), (j) added by Acts 1969, 61st Leg., p. 2488, ch. 836, § 1, eff. Sept. 1, 1969.

* * * * *

Sec. 3. Powers of the District. The District is hereby invested with all of the powers of the State of Texas under Article 16, Section 59, of the Constitution of the State of Texas to effectuate the construction, maintenance and operation of navigable canals or waterways, to effectuate flood control, to effectuate the conservation and use, for all beneficial purposes, of ground, storm, flood and unappropriated flow waters in the District, to effectuate irrigation, to effectuate soil conservation, to effectuate sewage treatment, to effectuate pollution prevention, to encourage and develop parks, recreational facilities and to preserve fish, to effectuate forestation and reforestation, and to do all things as are required therefor, subject only to: (i) declarations of policy by the Legislature of the State of Texas as to the use of water; (ii) continuing supervision and control by the State Board of Water Engineers and any board or agency which may thereafter succeed to its duties; (iii) the provisions of Section 4, page 212, Acts of the Thirty-fifth Legislature, 1917, as subsequently amended (codified under Article 7471, Vernon's Civil Statutes of the State of Texas), prescribing the priorities of uses for water; and

(iv) the rights heretofore or hereafter legally acquired in water by municipalities and other users. Subject to the foregoing, it shall be the duty of the District to exercise for the greatest practicable measure of the conservation and beneficial utilization of all ground, storm, flood and unappropriated flow waters of the District, in the manner and for the particular purposes specified hereinafter in this Section 3 and elsewhere in this Act the following powers, rights, privileges and functions, to wit:

* * * * *

(b) Flood Control and Flood Plain Management. To prevent and aid in the prevention of damage to persons and property by the overflow of any and all rivers, streams or tributaries thereof within the District including the study and designation of flood plains and the regulation thereof;

* * * * *

(f) Sewage Treatment and Solid Waste Disposal. As a necessary aid to the conservation, control, preservation, purification and distribution of surface and ground waters within the District, the District shall have the power to construct, own, operate, maintain or otherwise provide, within the San Antonio River Basin, sewage gathering, treatment and/or disposal services, including solid waste disposal services, to charge for such services, and to make contracts in reference thereto with counties, municipalities and others. Provided, however, that the District shall not exercise the powers hereinabove granted by this Section 3(f) within the boundaries of Kerr, Real, or Bandera Counties unless the Commissioners Court of such county or counties shall first have consented by a majority vote thereof to the exercise of such power within such county or counties;

(g) Pollution Prevention. To provide for the study, correcting and control of both artificial and natural pollution including organic, inorganic and thermal, of all ground or surface water within the San Antonio River Basin. In this connection, the District is given the power by ordinance to promulgate rules and regulations with regard to such pollution, both artificial and natural, with the right of policing by said District to enforce such rules and regulations and of providing reasonable and commensurate penalties for the violation of any rules and regulations, which penalties shall be cumulative of any penalties fixed by General Law in Texas, and not to exceed the limit for penalties as fixed elsewhere in this Act. Provided, however, that no ordinance enacted pursuant to the powers hereinabove given the District by this Section 3(g) shall be promulgated in any county or counties outside the existing boundaries of the District;

* * * * *

(j) Contractual: To make contracts and to execute instruments necessary or convenient to the exercise of the powers, rights, privileges and functions conferred upon it by this Act, with the United States, its agencies, counties, cities, all municipal corporations, political subdivisions and districts, and with private persons, partnerships, associations and corporations. The District shall make and execute such contracts and instruments in accordance with the following procedures:

(1) Concerning any wholesale contract for the sale, purchase, procurement, distribution and/or supply of water or conservation storage capacity, or for the treatment, transmission and disposal of sewerage, or for the construction of a navigable canal or waterway, or any contract authorized by Section 1, Chapter 84, page 140, Acts of the 52nd Legislature, 1951, as subsequently amended (codified under Article 7048b, Vernon's Civil Statutes of Texas), the Board of Directors shall cause a notice describing the general nature of such contract to be published once each week for three (3) consecutive weeks in a newspaper of general cir-

culuation in each county in the District within which such contract is to have effect. Such contract may be considered and acted upon at the regular meeting of the Board next following the last date of publication or, without further notice, at any meeting thereafter. The affirmative vote of at least seven (7) members of the Board shall be required for the approval or confirmation or ratification of any such contract. Of those seven (7) affirmative votes, at least three (3) affirmative votes shall be cast by Board members from Bexar County, at least one (1) affirmative vote shall be cast by a Board member from Wilson County, at least one (1) affirmative vote shall be cast by a Board member from Karnes County, and at least one (1) affirmative vote shall be cast by a Board member from Goliad County. The District may use any such contract as the sole basis, or as a supplement to the basis, for securing its bonds;

(2) Concerning any construction, maintenance, operation or repair contract, contract for the purchase of material, equipment or supplies or any contract for services other than professional services, the Board shall award such contract to the lowest and best bidder after publication of a notice to bidders once each week for three (3) consecutive weeks before awarding the contract if such contract will require an estimated expenditure of more than Two Thousand Dollars (\$2,000) or if such contract is for a term of six (6) months or more. Such notice shall be sufficient if it states the time and place when and where the bids will be opened, the general nature of the work to be done, or the material, equipment, or supplies to be purchased, or the non-professional services to be rendered, and states where and the terms upon which copies of the plans, specifications or other pertinent information may be obtained. Members of the Board of Directors shall be ineligible to submit such bids. The publication of said notice shall be in a newspaper of general circulation in the county or the counties in which the contract is to be performed, said newspaper or newspapers to be designated by the Board of Directors. In addition to publishing said notice in a newspaper of general circulation, said notice may also be published in any other appropriate publication. Bids shall be opened at the place specified in the published notice and shall be announced by the Manager or other officer designated by the Board; provided, however, that said place of opening and announcing the bids shall always be open to the public. According to the amount of the lowest and best bid, the District may thereafter make and execute any such contract by and through either its Executive Committee or its Board of Directors. Any provision of this Subsection to the contrary notwithstanding, the District may purchase surplus property from the United States by negotiated contract and without the necessity of advertising for bids.

(k) General:

(1) This District hereby is vested with such title and right of control as the State has, or may have, in, to and concerning the natural bed and banks of the San Antonio River in its entire length, and all of its tributaries as are within the District, as said District is defined in Section 2-a of this Act, and the District hereby is further vested with such title and right of control as the State has, or may have, in, to and concerning the natural bed and banks of any other navigable stream or tributary thereof as may be situated within the District, as said District is defined in Section 2-a of this Act; which investment, however, shall be in trust, and to authorize said District to make such uses, and/or disposition of such lands and rights (and the proceeds, income, revenues, or trading values thereof) as in actual experience may prove to be reasonably required for, or in aid of, the accomplishment of the purposes of this Act;

(2) To make preliminary investigations and surveys in the manner and for the purposes specified in said Chapter 25 (either independently

at its own cost, or jointly with others, or to contribute to the cost thereof when done by another), whereby to procure cooperation by the Government of the United States of America, to the end that any project lawfully within the purposes of this Act may be approved for construction as a Federal project under such contractual terms and conditions as may be demanded by the Federal Congress;

(3) To expend all sums reasonably deemed to be necessary or expedient for seeking cooperation in accomplishing the objects of this Act from the Federal Government, and/or any and all other persons, creatures, or entities, whether natural, or creatures of law or contract;

(4) Subject to the provisions of this Act from time to time to sell or otherwise dispose of any property of any kind, real, personal, or mixed, or any interest therein, which shall not be necessary to the carrying on of the business of the District;

(5) To overflow and inundate any public lands and public property and to require the relocation of roads and highways in manner and to the extent permitted to districts organized under General Laws pursuant to Section 59 of Article 16 of the Constitution of the State of Texas. In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of any railroad, or street railway, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District;

(6) To construct, extend, improve, maintain and reconstruct, to cause to be constructed, extended, improved, maintained, and reconstructed, and to use and operate, any and all facilities of any kind necessary or convenient to the exercise of such powers, rights, privileges, and functions;

(7) To sue and to be sued in its corporate name;

(8) To adopt, use, and alter a corporate seal;

(9) To adopt and to amend its bylaws for the management of its affairs;

(10) To appoint officers, agents, employees and professional consultants, none of whom shall have any interest, direct or indirect, in any contracts awarded by the District;

(11) To prescribe the duties and fix the compensation of all officers, agents, employees and professional consultants;

(12) To acquire by purchase, lease, gift, or in any other lawful manner and to maintain, use, and operate any and all property of any kind, real, personal or mixed, or any interest therein, within and without the boundaries of the District, necessary or convenient to the exercise of the powers, rights, privileges and functions conferred upon it by this Act, in the manner provided by general law with respect to condemnation or, at the option of the District, in the manner provided by the statutes relative to condemnation by Districts organized under general law pursuant to Section 59 of Article 16 of the Constitution of the State of Texas;

(13) To condemn lands used or dedicated for cemetery purposes in the manner provided by the General Law of Texas where reasonably necessary to effectuate the powers, rights, privileges and functions of the District, provided, however, that, when such power of condemnation is sought to be exercised with respect to any Perpetual Care cemetery, as defined in Article 912a, Vernon's Civil Statutes of the State of Texas, as to the condemnation of any such Perpetual Care cemetery or portion thereof, jurisdiction is hereby conferred for such purpose on the District Court or Courts of the county in which such cemetery land or any part thereof may be located, and such condemnation action shall likewise involve the issue of the removal of the dedication thereof as such Perpetual Care cemetery and the issue of the necessity for such taking;

(14) To borrow money for its corporate purposes and to execute proper notes or other evidences of indebtedness, and without limitation of the generality of the foregoing, to borrow money and accept grants from the United States of America, and in connection with any such loan or grant, to enter into such agreements as the United States of America or such corporation or agency may require; and to make and issue its negotiable bonds for moneys borrowed in the manner and to the extent provided in Section 16. Nothing in this Act shall authorize the issuance of any bonds, notes, or other evidences of indebtedness of the District, except as specifically provided in this Act, and no issuance of bonds, notes, or other evidences of indebtedness, except as specifically provided in this Act, shall ever be authorized except by an Act of the Legislature;

(15) To obtain loans from and accept grants from the United States and its agencies, and from the State of Texas, and its agencies, and it shall have the right to participate in and be the beneficiary of any plan which may be evolved by the State or Federal Government for guaranteeing or otherwise subsidizing the obligations of the District;

(16) The District shall have the power to adopt and promulgate by ordinance all reasonable rules and regulations for purposes elsewhere provided in this Act and generally to secure and protect any and all of its property and any and all of its works of improvement, and to regulate residence, hunting, fishing, boating and camping, and all recreational and business privileges on any navigable river of the District, or any reservoir of the District, or upon any land owned by the District. The District may prescribe reasonable and commensurate penalties for the violation of any and all such rules and regulations of the District, which penalties shall be cumulative of any penalties fixed by the General Law in Texas and shall not exceed fines of more than Two Hundred Dollars (\$200), or imprisonment for not more than one hundred eighty (180) days, or may provide for both such fine and imprisonment. No rule or regulation which provides a penalty for the violation thereof shall be in effect, as to enforcement of the penalty, until five (5) days next after the District may have caused a substantive statement of the particular rule or regulation and the penalty for the violation thereof to be published once a week for three (3) consecutive weeks in a newspaper of general circulation in each county in which it is to be effective. The substantive statement so to be published shall be as condensed as is possible to afford an intelligent direction of the mind to the act forbidden by the rule or regulation; one (1) notice may embrace any number of regulations; there must be embraced in the notice advice that breach of the particular regulation, or regulations, will subject the violator to the infliction of a penalty and there also shall be included in the notice advice that the full text of the regulations sought to be enforced is on file in the principal office of the District, where the same may be read by any interested person. Five (5) days after the third publication of the notice hereby required, the advertised regulation shall be in effect, and ignorance of any such regulation shall not constitute a defense to a prosecution for the enforcement of a penalty and, the rules and regulations authorized hereby, after the required publication, shall judicially be known to the courts and shall be considered of a nature like unto that of valid penal ordinance of a city of the State. The District shall be primarily liable for any court costs incurred hereunder, and the cost to maintain any offender committed for imprisonment hereunder. Any fine imposed in any such proceeding and paid in money shall be payable to this District and applied as its Board may direct;

(17) To designate an official newspaper of the District in each county in the District, each of which newspapers shall be a newspaper having general circulation in the county in which it is situated;

(18) To acquire such rights-of-way as are necessary to construct, operate and maintain such roads as are necessary for ingress and egress to any work of improvement or to any park, recreational facility, or fish or wildlife preserve or reserve;

(19) To grant concessions and franchises upon the premises of any works of improvement or any park, recreational facility or fish or wildlife preserve or reserve to any person or corporation;

(20) When germane to the accomplishment and the purposes of this Act, and not otherwise adequately provided by Chapter 25, or provided elsewhere in this Act, the Directors of the District shall have the power to adopt and promulgate ordinances, which may be done by a majority (except as specifically provided elsewhere in this Act) of those Directors present at any meeting held in compliance with the provisions of the by-laws at which there must be present a majority of the Board, constituting a quorum. No notice shall be required before the passage of such ordinance, except such notices of special or regular meetings of the Board as may be provided elsewhere in this Act. After having adopted such ordinances, the Directors shall cause the same to be filed and recorded in the official records of the Authority. The Directors may, if they deem necessary and proper, in addition to filing and recording same in the official records of the Authority, either caused certified copies of same to be forthwith filed of record in the office of the County Clerk of each county situated in whole or in part within the District within which such ordinance is intended to have application and/or to be published once or more each week for three (3) or more consecutive weeks in a newspaper or newspapers of general circulation in each county within the District within which ordinance is intended to have application, following either or all of which methods of recording and/or publication the ordinance shall be in full force and effect; and thereafter all courts and persons shall be held to have knowledge thereof, just as though the same had been embraced in the body of this Act and the County Clerk in any county is authorized and directed to file and record all certified copies of such county and to charge therefor the same fees as is provided for recording deeds of conveyance. And the powers of said District to adopt ordinances shall include, among other things as follows: in any case in which said Chapter 25 does not provide a specific power or right germane to, or appropriate, or adequate to accomplish an object of this Act, and such specific power has been, or hereafter may, conferred by law on Counties, Cities, Water Improvement Districts, Water Control and Improvement Districts, Drainage Districts, Navigation Districts, Canal Corporations, Channel and Dock Corporations, Deep Water Corporations, Railway Corporations, Terminal Railway Corporations, Telegraph and Telephone Corporations, or other like creatures of the law, then to the intent required to make adequate hereto the powers and rights of this District, it may by ordinance adopt and have as part of the law of its being so much of the power and right of any of the herein designated creatures of the law as will enable it effectively to accomplish that purpose of this Act. The adoption of a power or mode of procedure hereunder shall not be held to include any incidental limitation which would impede the lawful accomplishment of the purposes of this Act. As to this, there shall be no limit hereof save such as would violate the provisions of the Constitution of the United States and the State of Texas concerning the rights of others;

(21) This District shall have all such powers and rights, and regulations for government and procedure, as are contained in said Chapter 25, which shall be cumulative of those provided by this Act, and those rules for procedure which may be provided by ordinances adopted by the District under other provisions of this Act.

Sec. 3(b) (f) (g) (j) (k) amended by Acts 1969, 61st Leg., p. 2489, ch. 836, §§ 2-7, eff. Sept. 1, 1969.

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Sec. 10. Election of Directors.

(a) Those persons seeking to have their names placed on the official ballot shall make application to the Secretary of the Board in accordance with rules prescribed by the Board either in the ordinance calling the election or in the bylaws.

(b) The Secretary of the Board shall make up the official ballot for each county from the names of candidates who have filed applications, and the placing of the names of the candidates on the ballots shall be determined by lot. The drawing of lots for the placing of the names of the candidates on the ballots shall be by the Secretary of the Board, and all candidates, or their designated representatives, may be present at such drawing.

(c) The Directors from Wilson, Karnes, and Goliad Counties shall be elected at large from each county. The Directors from Bexar County shall be elected by place in accordance with procedures and rules prescribed by the Board of Directors either in the ordinance calling said election or in the bylaws.

(d) The candidates receiving the greatest number of votes, that is a plurality, shall be declared elected. Should there be a tie in the votes received, the winner of the election shall be determined by the majority of the Board.

Sec. 10 added by Acts 1961, 57th Leg., p. 466, ch. 233, § 11, emerg. eff. May 26, 1961; Amended by Acts 1969, 61st Leg., p. 2492, ch. 836, § 8, eff. Sept. 1, 1969.

Former section 10 of Acts 1937, 45th Leg., ch. 276 was repealed by Acts 1961, 5th Leg. p. 466, ch. 233, § 10.

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Sec. 22. Liberal Construction; Conflicts. * * *

It is especially provided, however, that in the event any authority or power granted in this Act overlaps or conflicts with any authority or power heretofore vested in the Guadalupe-Blanco River Authority as created by H. B. No. 138, Chapter 410, Acts of the 44th Legislature at its First Called Session, that the power and authority granted by said Act creating said Guadalupe-Blanco River Authority shall supersede and control over any power or authority granted by this Act, unless said Guadalupe-Blanco River Authority consents to the exercise of such power or authority by San Antonio River Authority.

Sec. 22, 2nd par. amended by Acts 1969, 61st Leg., p. 2492, ch. 836, § 9, eff. Sept. 1, 1969.

* * * * *

Acts 1969, 61st Leg., p. 2488, ch. 836, which amended sections 1, 3, 10 and 22 of this article, provided in sections 10-12:

"Sec. 10. If any provision of this Act or the application thereof to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

"Sec. 11. Wherever there is any conflict between this Act, and any other laws or parts of laws, or any provisions of said Chapter 276, Acts of the 45th Legislature,

1937, as amended, the provisions of this Act shall prevail.

"Sec. 12. The provisions of this Act are severable. If any Section, subsection, provision or part whatsoever of this Act should be held to be void as in violation of the Constitution, it shall not affect the validity of the remaining portions thereof, and it is hereby declared to be the legislative intent that this Act would have been passed as to the remaining portions hereof, regardless of the invalidity of any part."

Art. 8280—131. Lavaca-Navidad River Authority

* * * * *

Sec. 1a. Throughout Chapter 22, Acts, 1959, 56th Legislature, Third Called Session, as amended by Chapter 14, Acts, 1963, 58th Legislature, Regular Session, and all other Acts amendatory and supplemental there-

to, and in all other Acts wherever reference is made to Jackson County Flood Control District from and after the effective date of this Act, each and every such reference shall mean and be interpreted to mean Lavaca-Navidad River Authority. Lavaca-Navidad River Authority shall succeed to all rights, powers and duties conferred or imposed by all statutes of said Jackson County Flood Control District and to all rights, powers and duties conferred by or assumed in all contracts to which said Jackson County Flood Control District is a party.

Sec. 1a added by Acts 1969, 61st Leg., p. 1378, ch. 417, § 1, emerg. eff. June 2, 1969.

* * * * *

Change of Name

Acts 1969, 61st Leg., p. 1378, ch. 417, changed the name of "Jackson County Flood Control District" to "Lavaca—Navidad River Authority." See section 1a of this article.

Art. 8280—135. Trinity Bay Conservation District

* * * * *

Sec. 6. Each Director shall receive a per diem of not to exceed Twenty-five Dollars (\$25) for each regular or special meeting of the Board attended by him, or for each day devoted to the business of the District, and shall receive reimbursement of actual expenses incurred in attending regular or special meetings of the Board, or in attending to District business. The Board shall fix the compensation of the secretary, general manager, attorneys, engineers and all other employees and laborers; and said Board shall fix and determine the term and time of employment of all employees of the District, and the method by which they may be discharged.

Sec. 6 amended by Acts 1969, 61st Leg., p. 1114, ch. 362, § 1, emerg. eff. May 27, 1969.

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Art. 8280—141. North Texas Municipal Water District

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Sec. 1a. In this Act, unless the context requires a different definition:

- (1) "District" means the North Texas Municipal Water District, and any other public body at any time succeeding to the property and principal rights, powers, and obligations of said North Texas Municipal Water District.
- (2) "Member cities" means the cities of Garland, Princeton, Plano, Mesquite, Wylie, Rockwall, Farmersville, McKinney, Forney, and Royse City and any other city which may hereafter legally become a part of said District.
- (3) "Customer" means users of District water other than member cities.
- (4) "Prospective customer" means any person, firm, corporation, company, partnership, association, body corporate, or politic who evidences in any manner an interest in securing water from District.
- (5) "Basic service area" means that geographic area contained within the corporate limits of the member cities, and such areas as are now or may hereafter be served by said member cities' primary water system.
- (6) "Service area" means that geographic area contained within the watershed of the East Fork of the Trinity River, Texas, and in addition thereto, any area contained within the corporate limits of the member cities and such areas as are served by said member cities' water system.

(7) "Other service area" means that geographic area contained within the State of Texas and being outside the "service area" as defined in Subdivision (6) of this section.

(8) "Original Lavon water" means that water for which the District holds a permit from Texas Water Rights Commission to store and divert from Lavon Reservoir on the East Fork of the Trinity River, Texas, as originally constructed.

(9) "Enlarged Lavon water," means that water which the District holds now, or secures in the future, under or through a permit from the Texas Water Rights Commission to store and divert from Lavon Reservoir on the East Fork of the Trinity River, Texas, as modified.

(10) "Other water" means any water which the District secures under or through a permit from the Texas Water Rights Commission to store and divert, other than Lavon water, or enlarged Lavon water.

(11) "Interim basis" means only until such time as the District needs such water for the use and benefit of its service area—not permanent, but only during such times as a surplus of dependable safe yield is present in each classification of water.

(12) "Primary right" means the superior right to permanent water, and to the quantity, quality, and price of the water.
Sec. 1a added by Acts 1969, 61st Leg., p. 334, ch. 122, § 2, emerg. eff. May 5, 1969.

* * * * *

Sec. 3.

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(b) Each director shall receive a fee of \$50 for attending each meeting of the board and \$20 per day devoted to the business of the District other than attending board meetings, but not more than \$1,200 shall be paid to any director in one calendar year therefor. Each director shall be entitled to reimbursement for actual expenses incurred in attending to District business provided the service and expense are expressly approved by the Board.

Subsec. (b) amended by Acts 1969, 61st Leg., p. 334, ch. 122, § 1, emerg. eff. May 5, 1969.

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Sec. 7. (a) The District is hereby empowered to acquire any and all rights in and to storage and storage capacity in the Lavon Reservoir as now constructed, or later modified, and in any other reservoir or from any other source, and the right to take water from such reservoirs or other sources after obtaining a permit from the Water Rights Commission of the State of Texas, and by complying with Chapter 1, Title 128, Revised Civil Statutes of Texas, 1925, as amended, and pursuant to any contract or contracts which the District may make with the United States Government, any of its agencies, or any other agency, in reference to such rights, and to develop or otherwise acquire, with consent of owners of surface, underground sources of water. The District is also empowered to construct or otherwise acquire all works, plants and other facilities necessary or useful for the purpose of storing, impounding, retaining, diverting, or processing this water and transporting it to cities and other areas for municipal, domestic and industrial purposes. To the extent permissible under the contract with the United States Government, any of its agencies, and any other agency, the District may dispose of surplus water under its control by contract with the Texas Water Development Board or any other State or local agency for irrigation or beneficial purposes. No works for the diversion of such water from the impounding dams shall be constructed until the plans are approved by the Water Rights Commission of the State of Texas; provided that the District shall apply to and obtain authority from the Water Rights Commission of the State of Texas to appropriate such waters.

(b) The District may not be compelled to supply water for use outside its service area except by order of the Texas Water Rights Commission in accordance with Article 7560, et seq., Revised Civil Statutes of Texas, 1925.

(c) The basic service area has the primary right to water in each classification which the District secures under permit from the Texas Water Rights Commission.

(d) This Act does not compel any customer or prospective customer to secure water from the District, except pursuant to contracts voluntarily executed.

(e) This Act does not alter any outstanding permit, contract or other obligation.

Sec. 7 amended by Acts 1969, 61st Leg., p. 334, ch. 122, § 3, emerg. eff. May 5, 1969.

Sec. 8.

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(b) In the event that the District, in the exercise of the power of eminent domain or police power, or any other power granted thereunder, makes necessary the relocation, raising, lowering, rerouting, or changing the grade of, or altering the construction of any railroad, electric transmission, telegraph or telephone lines, properties and facilities, or pipeline, all such relocation, raising, lowering, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 8(b) added by Acts 1969, 61st Leg., p. 334, ch. 122, § 4, emerg. eff. May 5, 1969.

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Art. 8280—154. Canadian River Municipal Water Authority

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Sec. 4. Qualifications of Members of Board. To be qualified for election to the Board of Directors, a person must be a qualified voter and a property owning taxpayer in the city from which he is elected and must not be a member of the governing body or an employee of such city. Each such Director shall subscribe to the constitutional oath of office and shall hold office until his successor has been elected and qualified. Each such Director who shall have been elected President, Vice-President, or Secretary shall give bond for the faithful performance of his duties in the amount of Five Thousand Dollars (\$5,000.00).

Sec. 4 amended by Acts 1969, 61st Leg., p. 164, ch. 63, § 1, emerg. eff. April 3, 1969.

Sec. 5. Board Action—Duties—Quorum—Compensation and Expenses.

* * * * *

(b). The Board of Directors shall hold regular meetings, the date thereof to be established in the District's bylaws or by resolution. The President or any three members may call such special meetings as may be necessary in the administration of the District's business, provided that at least five days prior to the meeting date, the Secretary shall have mailed notice thereof to the address which each member shall file with the Secretary. Notices of special meetings may be waived in writing by any Director. Each Director shall receive the fee of Twenty (\$20.00) Dollars for

attending each meeting of the Board, provided that not more than Forty (\$40.00) Dollars shall be paid to any Director for meetings held in any one calendar month.

Sec. 5(b) amended by Acts 1969, 61st Leg., p. 164, ch. 63, § 2, emerg. eff. April 3, 1969.

* * * * *

Sec. 11. Audits. The Board of Directors shall cause to be kept complete and accurate accounts conforming to approved methods of bookkeeping and such accounts and all contracts, documents and records of the District shall be kept at its principal office and shall be open to public inspection at all reasonable times. Once each year, the Board shall cause to be made and completed, an audit of books of account and financial records of the District for the preceding year, such audit to be made by an independent Certified Public Accountant, or firm of Certified Public Accountants. Copies of the written report of such audit certified to by said accountant or accountants shall be placed and kept on file at the office of the District and shall be open to public inspection at all reasonable times.

Sec. 11 amended by Acts 1969, 61st Leg., p. 164, ch. 63, § 3, emerg. eff. April 3, 1969.

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Art. 8280—163. Benbrook Sewer and Water Authority

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Sec. 2. The Authority shall be in Tarrant County, Texas, and shall embrace all of the territory which is contained within the limits of the City of Benbrook, Tarrant County, Texas, as the boundaries of said city existed as of February 1, 1969. It is provided, however, that no invalidity in the fixing of such boundaries shall affect the boundaries of the territory contained in this Authority, it being hereby found and determined that all of the territory and taxable property contained within the boundaries of said city will be benefited by the works and improvements of the Authority.

(a) Territory annexed after February 1, 1969, to the City of Benbrook initially contained in the Authority or hereafter added to the Authority and may be annexed to the Authority in the following manner, to wit:

(1) At any time after final passage of an ordinance or resolution annexing territory to the city, the Board may issue a notice of hearing on the question of annexing said territory or any part thereof. Such notice shall be sufficient if it states the date and place of the hearing and a description of the area proposed to be annexed, but in lieu of such description the notice may make reference to the annexation ordinance or resolution of the city.

(2) The notice shall be published one (1) time in a newspaper having general circulation in the city which made the annexation, such publication to be at least ten (10) days before the date set for the hearing.

(3) If, pursuant to such hearing, the Board finds that the territory proposed to be annexed will be benefited by the present or contemplated improvements, works or facilities of the Authority, the Board shall adopt a resolution annexing said territory to the Authority.

(b) After territory is added to the Authority, the Board may call an election over the entire Authority for the purpose of determining whether the entire Authority as enlarged shall assume the tax supported bonds then outstanding and those theretofore voted but not yet

sold and whether an ad valorem tax shall be levied upon all taxable property within the Authority as enlarged for the payment thereof, unless such proposition had been previously voted at an election held within the territory annexed and became lawfully binding upon such territory. Such election shall be called and held and notice thereof given in the same manner as elections for the issuance of bonds as provided in this Act.

If such election is not successful, the Board of Directors of the Authority may, in its discretion, pass a resolution detaching such new territory from the Authority.

Sec. 2 amended by Acts 1969, 61st Leg., p. 1774, ch. 593, § 1, emerg. eff. June 10, 1969.

Sec. 3.

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(c) A regular election for the election of Directors shall be held on the first Saturday in April of each year beginning in 1970. Two (2) Directors shall be elected in each even numbered year and three (3) in each odd numbered year. The regular elections shall be called by the Board of Directors. The Board shall appoint the presiding judge who shall appoint an assistant judge and at least two (2) clerks. Notice shall be given the same as is provided for the first election of Directors. In even numbered years the two (2) candidates receiving the highest number of votes shall be elected to serve for a period of two years and in odd numbered years the three (3) candidates receiving the highest number of votes shall be elected to serve for two (2) years.

Sec. 3(c) amended by Acts 1969, 61st Leg., p. 1774, ch. 593, § 2, emerg. eff. June 10, 1969.

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Acts 1969, 61st Leg., p. 1774, ch. 593, which amended sections 2 and 3(c) of this article, provided in section 3: "Proof of publication of the constitutional notice required in the enactment hereof under the provisions of Article XVI, Section 59(d) of the Texas Constitution has been made in the manner provided therein and a copy

of said notice and the bill as originally introduced have been delivered to the Governor of the State of Texas as required in such constitutional provision, and such notice and delivery are hereby found and declared to be proper and sufficient to satisfy such requirements."

Art. 8280—188. Trinity River Authority of Texas

* * * * *

Sec. 5. The Authority is hereby invested with all of the powers of the State under Article XVI, Section 59 of the Constitution to effectuate flood control and the conservation and use, for all beneficial purposes, of storm and flood waters and unappropriated flow waters in the Trinity watershed, subject only to: (i) declarations of policy by the Legislature as to use of water; (ii) continuing supervision and control by the State Board of Water Engineers and any board or agency which may thereafter succeed to its duties; (iii) the provisions of Article 7471 prescribing the priorities of uses for water, and (iv) the rights heretofore or hereafter legally acquired in water by municipalities and other users. The Authority is hereby further invested with all of the powers of the State under Article XVI, Section 59 of the Constitution to encourage, promote and provide for the navigation of inland and coastal waters within the Trinity River Watershed, including the power to cooperate with the Chambers-Liberty Counties Navigation District in the development and construction of navigation canals and facilities or harbor and terminal facilities within the boundaries of the Chambers-Liberty Counties Navigation District. It shall be the duty of the Authority to exercise for the greatest practicable measure of the conservation and beneficial utilization of storm, flood and unappropriated flow waters of the Trinity River Watershed in the manner and for the par-

ticular purposes specified hereinafter in this Section and elsewhere in this Act, powers, including those:

* * * * *

(m) In addition to all other powers expressly or impliedly granted by other sections of this Act, as the same has been or hereafter may be amended, the Authority is hereby specifically empowered to acquire, operate, maintain, and improve the canal system and properties generally known as "Devers Canal System," and to enlarge and extend said system within the scope of the permits heretofore or hereafter granted by the Texas Water Rights Commission to Devers Canal Company, or to its predecessor, and to the Trinity River Authority of Texas, in Chambers and Liberty Counties and that portion of Jefferson County, described as follows:

All that portion of Jefferson County located South and West of the following described line:

BEGINNING at the point where the Chambers and Jefferson County line intersects the North line of Section 180 (J. H. Dunshire Survey, A-677).

THENCE East along the North line of said Section 180 to its Northeast corner.

THENCE South along the East line of said Section 180 to its Southeast corner, same being the Northwest corner of Section 186 (D. L. Broussard Survey, A-470).

THENCE East along the North line of said Section 186 to its Northeast corner.

THENCE South along the East line of said Section 186 to its Southeast corner, same being the Northwest corner of Section 190 (H. W. Smith Survey, A-537).

THENCE East approximately 4,000 feet along the North line of said Section 190 to the Northeast corner of the Hebert Trust 480 acre tract located on the West right of way of a 150 foot wide drainage canal.

THENCE South along the East line of said Hebert Trust 480 acre tract located in said Section 190 and the East line of the Hebert Trust 480 acre tract located in Section 250 (H. W. Smith Survey, A-538) and being the West right of way line of said 150 foot wide drainage canal to the South line of said Section 250, same being in the North line of Section 255, A-354.

THENCE East along the North line of Sections 255, A-354; 256 (W. H. Smith, A-541); 257, A-335; 258 (W. S. Benson, A-672); 259, A-356; 260 (W. S. Benson, A-671); and Section 261, A-357, to the Northeast corner of said Section 261. This line is also the South right of way line of the aforementioned 150 foot wide drainage canal.

THENCE South along the East line of Sections 261, A-357 and 264 (T. & N. O. R. R.) and the West right of way line of said 150 foot wide drainage canal to its intersection with the Northwesterly right of way line of the Intracoastal Canal.

THENCE in a Southwesterly direction along the North right of way line of said Intercoastal Canal to a point where the North right of way line of said Intercoastal Canal intersects the West line of a 1205.27 acre tract of land owned by the McFadden Trust Company.

THENCE due South approximately 3- $\frac{3}{8}$ miles to the Gulf of Mexico.

For said purposes, or any of them, the Authority is authorized to issue its bonds as provided in said Chapter 518, as heretofore and hereafter amended and to issue them for cash or in exchange for the property or for the capital stock of the Devers Canal Company. For the purposes of this Section, the Authority shall also have the power of eminent domain

in the above-described portion of Jefferson County, such power to be exercised as provided in the said Chapter 518.

(n) The Authority shall be authorized to appropriate and divert the waters of the Trinity River under the permits and contracts previously owned by and acquired from the Devers Canal Company and to distribute, sell, and use such waters for any lawful purpose heretofore or hereafter approved by the Texas Water Rights Commission within Chambers County, Liberty County, and that portion of Jefferson County hereinabove described, but in no event shall the Authority be authorized to assess, levy, or collect any tax of any nature whatsoever for the purposes of Subsection 5(m) or of this Subsection; neither shall the Authority sell any water for use in Jefferson County except in that portion thereof hereinabove described nor for irrigation use in Chambers County within areas now authorized to be served by the Chambers-Liberty Counties Navigation District under Certified Filings and Permits held by the District and heretofore or hereafter issued by the Texas Water Rights Commission or its predecessors, without the approval of the said District.

Sec. 5(m) (n), amended by Acts 1969, 61st Leg., p. 1118, ch. 364, § 1, emerg. eff. May 28, 1969.

Sec. 5a. (a) The Board of Directors of the Authority shall have the power to adopt and promulgate all reasonable regulations to regulate residence, hunting, fishing, boating, camping and all recreational and business privileges on all lands and easements owned by the Authority and to protect the property of the Authority; provided, however, that such regulations shall not include any provisions for the collection of fees or the requirement of permits and/or licenses for boat inspections, non-commercial fishing, the use on lakes owned by the Authority of boats operated for non-commercial purposes, and hunting except for the use of duck blinds constructed, operated and maintained by the Authority.

(b) The Board of Directors of the Authority shall have the right to make contracts with responsible persons for the construction and operation of any facility on the Authority's property, fixing the compensation to be charged for service by any such facility to the end that the same be reasonable, and requiring adequate bond from any such contracting person, association or corporation, payable to the Authority and to be of such amount and condition as the Board of Directors of the Authority may in its discretion deem appropriate, and such contracts may provide for forfeiture of the particular franchise in case of a failure of the licensee to render adequate public service.

(c) The Authority may prescribe reasonable penalties for the breach of any regulation of the Authority, which penalties shall not exceed fines of more than Two Hundred Dollars (\$200.00), or imprisonment for not more than thirty (30) days, or may provide both such fine and such imprisonment. The penalties hereby authorized shall be in addition to any other penalties provided by the laws of Texas and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the violation occurred, provided, however, that no rule or regulation which provides a penalty for the violation thereof shall be in effect, as to enforcement of the penalty, until five (5) days next after the Authority may have caused a substantive statement of the particular rule or regulation and the penalty for the violation thereof to be published, once a week for two (2) consecutive weeks in the district. The substantive statement so to be published shall be as condensed as is possible to afford an intelligent direction of the mind to the act forbidden by the rule or regulation; the one notice may embrace any number of regulations; there must be embraced in the notice advice that breach of the particular regulation or regulations, will sub-

ject the violator to the infliction of a penalty, and there also shall be included in the notice advice that the full text of the regulations sought to be enforced is on file in the principal office of the Authority, where the same may be read by any interested person. Five (5) days after the second publication of the notice hereby required, the advertised regulation shall be in effect, and ignorance of any such regulation shall not constitute a defense to a prosecution for the enforcement of a penalty; and, the rules and regulations authorized hereby, after the required publication shall judicially be known to the courts and shall be considered of a nature like unto that of valid penal ordinances of a city of the state.

(d) It further is expressly provided that the Authority shall have the power to employ and constitute its own law enforcement officers, and any such officer or law enforcement officer of any other governmental entity shall have the power to make arrests when necessary to prevent or abate the commission of any offense against the regulations of the Authority, and against the laws of the State of Texas, when any such offense, or threatened offense, occurs upon any land, water or easement owned or controlled by the Authority.

Sec. 5a added by Acts 1969, 61st Leg., p. 584, ch. 198, § 1, eff. Sept. 1, 1969.

Sec. 6. Subject to the limitation as to the maximum rate of tax as prescribed in this Section, the Authority may levy and collect such ad valorem taxes as are voted at an election or elections, called by the Board for the purpose and conducted throughout the territory of the Authority. The maximum rate of tax which can be levied and collected for any year shall be Fifteen Cents (15¢) on the One Hundred Dollars (\$100.00) of taxable property based on its assessed valuation. Only qualified electors, owning taxable property within the boundaries of the Authority and who have duly rendered their property for taxation shall be entitled to vote in any such election. An elector otherwise qualified must vote in the county and precinct of his residence. The resolution calling for such election shall state the maximum rate or rates of taxes which are to be authorized. Such notice shall be published at least once in each of four (4) weeks on the same day of each week in a newspaper published in, or having general circulation in, each county within the Authority, the date of the first publication being at least thirty (30) days prior to the date of the election. The resolution calling the election shall specify the voting places in each of the several counties. The notice of election will be sufficient as to any county within the Authority if it states that the election is to be held throughout the territory comprising the Authority and if it specifies the voting places in such county. But it shall not be necessary to publish such details except in the county to which they are applicable. Returns of the election shall be made to the Board. If, and only if, a majority vote of the qualified voters voting in at least a majority of the counties which are wholly or partially within the Authority, together with a majority vote of the qualified voters voting in the entire Authority, shall be in favor of the levy of the tax, the Board may levy taxes within the maximum rate thus voted. The rate of tax shall be uniform throughout the territory comprising the Authority, and shall be certified by the President and Secretary of the Authority to the Tax Assessor and the Tax Collector of each included county. After an election has resulted favorably to the levy of a tax, the Board of Directors may use such funds for any purpose authorized by the powers conferred upon the Authority by this Act.

Sec. 6 amended by Acts 1967, 60th Leg., p. 604, ch. 273, § 2, emerg. eff. May 23, 1967; Acts 1969, 61st Leg., p. 486, ch. 155, § 1, emerg. eff. May 7, 1969.

* * * * *

Sec. 8.(a) For the purpose of carrying out any one or more powers of the Authority, Authority may issue negotiable bonds of three (3) general classes:

(1) Bonds secured by ad valorem taxes, when voted; provided that the maximum rate of tax in any one (1) year to be levied by the Authority for bonds and all other purposes shall not exceed Fifteen Cents (15¢) on the One Hundred Dollars (\$100) of taxable property;

(2) Bonds secured solely by a pledge of all or part of the revenues accruing to the Authority, including but without limitation those received from sale of water, rendition of services, tolls, charges and from all sources other than ad valorem taxes.

(3) Bonds secured by a combination pledge of revenues and taxes, to the end that taxes will be collected for such purpose only to the extent that the revenues are insufficient to provide the amount of money necessary to pay operating and maintenance expenses and to service the bonds as prescribed in the resolution authorizing, or the indenture securing, the bonds.

* * * * *

(d) Bonds secured wholly or in part by a pledge of the revenues of the Authority may be secured by all or that part of the revenues specified in the resolution authorizing the bonds or in the indenture securing the bonds. Within the discretion of the Board bonds may be secured further by a lien on all or any part of the physical property of the Authority. In making any such pledge of the revenues the right under the conditions therein specified to issue additional bonds which will be on a parity with, senior to or subordinate to the bonds then being issued, may be expressly reserved.

(e) Where bonds are issued payable wholly from ad valorem taxes it shall be the duty of the Board at the time of their authorization to levy a tax sufficient to pay the principal of and interest on the bonds as such interest and principal become due, and to provide the reserve funds if prescribed in the resolution authorizing or the trust indenture securing the bonds, having due regard for the maximum rate of tax which is permitted under this Act.

(f) Where the bonds are payable both from ad valorem taxes and from revenues of the Authority, an ad valorem tax shall be levied at the time of the authorization of the bonds sufficient to pay such principal and interest and create and maintain such reserve funds, but the rate of tax actually to be collected for any year, shall be so fixed as to take into consideration the money which shall have been in the interest and sinking fund from the pledged revenues and which will be available for payment of principal and interest and for the creation of such reserve funds, to the extent and in the manner permitted by the resolution authorizing or the trust indenture securing the bonds.

(g) Where bonds are payable wholly from revenues, it shall be the duty of the Board of Directors to fix, and from time to time revise the rates, tolls, and charges for the sales and services rendered by the Authority, the revenues from which are pledged to the end that such rates, tolls, and charges will yield sufficient money to pay: designated expenses of the Authority, the principal of an interest on said bonds as such principal and interest matures, and to create, and maintain funds as prescribed in the resolution authorizing, or the trust indenture securing, the bonds. Where the bonds are payable both from ad valorem taxes and from revenues, it shall be the duty of the Board to fix, and from time to time to revise, the rate of compensation for water sold, services rendered, tolls and charges levied, by the Authority, to the extent pledged, which will be sufficient to assure compliance with the resolution authorizing the bonds or the trust indenture securing them.

(h) From the proceeds of the sale of any issue of bonds the Authority may set aside an amount for the payment of interest anticipated to accrue for the period specified or during the construction period and for two (2) additional years, and to provide for a deposit into reserves for the interest and sinking fund to the extent prescribed in the resolution authorizing or the trust indenture securing the bonds. Proceeds from the sale of the bonds shall be used for the purposes for which the bonds were authorized and may be used for the payment of all expenses necessarily incurred in accomplishing the purposes for which the Authority is created, including the expense of issuing and selling the bonds. But no expenditure of such proceeds shall be made in violation of provisions contained in the resolution authorizing or the trust indenture securing the bonds.

Sec. 8, Subsecs. (a), (d)-(h), amended by Acts 1969, 61st Leg., p. 488, ch. 156, §§ 1 to 6, emerg. eff. May 7, 1969.

* * * * *

Sec. 8-C. The Authority is authorized to issue bonds for cash or in exchange for property of any kind, real, personal or mixed or any interest therein which the Board of Directors shall deem necessary or convenient for any corporate purpose.

Sec. 8-C added by Acts 1965, 59th Leg., p. 366, ch. 173, § 1, eff. May 15, 1965, amended by Acts 1969, 61st Leg., p. 488, ch. 156, § 7, emerg. eff. May 7, 1969.

* * * * *

Acts 1969, 61st Leg., p. 1118, Ch. 364, which added subsections (m) and (n) of section 5 of this article, provided in section 2: "It is hereby found that notice of intention to introduce this bill has been published at least thirty (30) days and not more than ninety (90) days prior to its introduction in newspapers having general circulation in counties in which said Authority is situated and in the manner provided by Article XVI, Section 59(d) of the Constitution, that a copy of said notice and of this bill as introduced were delivered to the Governor, and the time, form, and manner as to giving said notice is hereby approved and ratified. The evidence of the foregoing was exhibited in the Legislature before the passage of this Act."

Acts 1969, 61st Leg., p. 488, ch. 156, §§ 1-6, amended section 8(a) and (d) to (h) of this article; section 7 amended section 8-c of this article; and section 8 provided: "Proof of Publication of the Constitutional notice required in the enactment hereof under the provisions of paragraph (d) of Section 59 of Article XVI of the Texas Constitution has been made in the manner provided therein and a copy of said notice and the bill as originally introduced have been delivered to the Governor of the State of Texas as required in such Constitutional provision, and such notice and delivery are hereby found and declared to be proper and sufficient to satisfy such requirements."

Art. 8280—193. North Central Texas Municipal Water Authority

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Sec. 2. Said Authority shall contain all of the territory contained in the boundaries of the Cities of Goree, Knox City and Munday in Knox County and the City of Haskell in Haskell County, as the boundaries of each of said cities are set forth in ordinances or resolutions passed or adopted prior to the effective date of this Act. It is provided, however, that no invalidity of any of said ordinances or resolutions or the fixing of the boundaries as therein set out shall affect the boundaries of the territory contained in this Authority, it being hereby found and determined that all of the territory and taxable property contained within the boundaries set forth in said ordinances or resolutions will be benefited by the works and improvements of the Authority and that the territory described in said ordinances or resolutions shall be contained within the Authority whether lawfully contained within any of said cities or not.

Sec. 2 amended by Acts 1969, 61st Leg., p. 182, ch. 77, § 1, emerg. eff. April 14, 1969.

* * * * *

Sec. 15(a) No bonds payable wholly or partially from ad valorem taxes (except refunding bonds) shall be issued unless authorized by an election held after January 1, 1969, at which only the qualified voters who reside in the Authority and who own taxable property therein and who have duly rendered the same for taxation shall be qualified to vote, and unless a majority of the votes cast in each city contained in the Authority is in favor of the issuance of the bonds. If a majority of the votes cast in any city contained in the Authority is against the issuance of the bonds, the Board of Directors may adopt a resolution detaching the territory of such city from the Authority if the Board finds that it is to the best interest of the Authority to issue bonds payable wholly or partially from taxes, but no territory shall be detached from the Authority while any bonds which are payable from revenues or taxes or both are outstanding. Bonds not payable wholly or partially from ad valorem taxes may be issued without an election.

Sec. 25. Repealed by Acts 1969, 61st Leg., p. 182, ch. 77, § 3, emerg. eff. April 14, 1969.

* * * * *

(25) Repealed by Acts 1969, 61st Leg., p. 182, ch. 77, § 3, emerg. eff. April 14, 1969.

* * * * *

Sections 4 and 5 of the amendatory act of 1969 provided:

"Sec. 4. If any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

"Sec. 5. Proof of publication of the constitutional notice required in the enact-

ment hereof under the provisions of paragraph (d) of Section 59 of Article XVI of the Texas Constitution has been made in the manner provided therein and a copy of said notice and the bill as originally introduced have been delivered to the Governor of the State of Texas as required in such Constitutional provision, and such notice and delivery are hereby found and declared to be proper and sufficient."

Art. 8280—228. Red River Authority of Texas

* * * * *

Sec. 4. All powers of the Authority shall be exercised by a Board consisting of nine (9) directors, all of whom shall be freehold property tax payers and legal voters of the State of Texas and residents of a county or portion of a county within the Authority. Each director shall be appointed by the Governor of the state and such appointment shall be confirmed by the Senate. As soon as practicable after the passage of this Act, three (3) directors shall be appointed for a term of two (2) years; three (3) directors shall be appointed for a term of four (4) years; and three (3) directors shall be appointed for a term of six (6) years; and upon expiration of the respective terms of said directors the successors of each and all of them shall be appointed thereafter for a term of six (6) years. The directors shall hold office after their appointment and qualification until their successors shall be appointed and qualify. Should any vacancy occur in the Board of Directors, the same shall be filled in like manner by the Governor for the unexpired term. The directors appointed shall within fifteen (15) days after their appointment qualify by taking the official oath and filing with the Secretary of the State of Texas and obtaining his approval thereon, a good and sufficient bond in the sum of Five Thousand (\$5,000.00) Dollars each, payable to the Authority and conditioned upon the faithful performance of duties as a director.

Sec. 4 amended by Acts 1969, 61st Leg., p. 2566, ch. 856, § 3, emerg. eff. June 18, 1969.

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Sec. 14a. (1) In addition to other purposes heretofore authorized by law, the Authority shall have and is vested with all the powers of the state of Texas under Section 59, Article XVI, Constitution of the State of Texas, and shall likewise, have and is vested with all powers, rights, privileges, and functions conferred upon navigation districts by General Law. Without limitation of the generality of the foregoing, the Authority shall have and is hereby authorized to exercise the following powers, rights and privileges, and functions;

(2) to promote, construct, maintain and operate or aid and encourage, the construction, maintenance and operation of navigable canals or waterways and all navigational systems or facilities auxiliary thereto using the natural bed and banks of the Red River, where practicable and thence traversing such route as may be found by the Authority to be more feasible and practicable to connect Red River in Texas with any new navigation canals to be constructed in the lower reaches of Red River or to connect Red River with the intercoastal canal. The Authority is empowered to construct or cause to be constructed a system of artificial waterways and canals, together with all locks and other works, structures and artificial facilities as may be necessary and convenient for the construction, maintenance and operation of navigation canals or waterways and all navigational systems and facilities auxiliary thereto;

(3) the right, power, and authority to acquire, purchase, improve, extend, take over, construct, maintain, repair, operate, develop and regulate ports, levees, wharves, docks, locks, warehouses, grain elevators, dumping facilities, belt railways, lands, and all other facilities or aids to navigation or aids necessary to the operation or development of ports, or waterways within the Red River Basin in Texas, provided, the powers conferred on the Authority under the provisions of this subdivision extend to a facility or aid authorized under this subdivision only if the facility or aid is situated in a county or counties included as part of said Authority;

(4) to acquire by gift or purchase any and all properties of any kind, including lighters, tugs, barges and other floating equipment of any nature, real, personal or mixed, or any interest therein within or outside of the boundaries of the Authority necessary to the exercise of the powers, rights, privileges and functions conferred upon it by this Act and by condemnation in the manner provided in Section 18 of the Act creating the Authority, provided that the Authority shall not be required to give bond for appeal or bond for costs in any judicial proceedings;

(5) to control, develop, store and use the natural flow and floodwaters of the Red River and its tributaries for the purpose of operating and maintaining said navigable canals or waterways and all navigational systems or facilities auxiliary thereto, provided, however, that such navigational use shall be subordinate to consumptive use of water, and navigation shall be incidental thereto;

(6) to effectuate the construction, maintenance and operation of bank stabilization facilities, channel rectification or alignment, to prevent and aid in preventing devastation of lands from recurrent over-flows and the protection of life and property in the Red River in Texas or any tributaries thereof within the Authority from uncontrolled flood waters; to store and conserve to the greatest beneficial use the storm, flood and unappropriated waters of the Red River in Texas or any tributaries thereof within the Authority, so as to prevent the escape of any water without maximum beneficial use either within or without the boundaries of the Authority;

(7) in the event the construction or maintenance and operation of navigable canals or waterways and all navigational systems or facilities auxiliary thereto on the Red River in Texas is taken over or performed by the Federal Government or any agency of the Federal Government, then

and in such event the Authority shall be fully authorized to make and enter into any such contracts as may be lawfully required by the Federal Government, including such assignments and transfers of property and rights of property and easements and privileges and any and all other lawful things and acts may be necessary and required in order to meet the requirements of the Federal Government or any agency of the Federal Government in taking over the construction or maintenance and operation of said navigable canals or waterways and all navigational systems or facilities auxiliary thereto;

(8) the Authority shall have the power to acquire additional land adjacent to any permanent improvement heretofore or hereafter constructed within the Authority for the purpose of developing public parks and recreational facilities; the power to acquire necessary right-of-way for public ingress and egress to such areas. The Authority may provide recreational facilities and services, and may enter into contracts and agreements with the Federal Government or any agency thereof; the Parks and Wildlife Department of the State of Texas, any county, municipality, municipal corporation, person, firm or nonprofit organization for the construction, operation and maintenance of such park or recreational facility. It is legislative intent that the Authority will coordinate the development of any public parks and recreational facilities with the Parks and Wildlife Department for conformity with the "State Comprehensive Outdoor Recreation Plan." The Authority may perform all functions necessary to qualify for state or federal recreational grants and loans;

(9) in addition to other purposes heretofore authorized by law and as a necessary aid to the conservation, control, preservation, and distribution of such water for beneficial use, the Authority is authorized to purchase, construct, improve, repair, operate and maintain works and facilities necessary for the collection, transportation, treatment and disposal of sewage and industrial waste and effluent and to issue negotiable bonds for such purposes, and the Authority may make contracts with cities and others under which the Authority will collect, transport, treat and dispose of sewage from such cities or other entities. The Authority may also make contracts with any city for the use of any collection, transportation, treatment or disposal facilities owned by such city or by the Authority;

(10) the bonds which may be issued under this Section, shall be payable from revenues under any contract or contracts described herein or from other income of the Authority. Such bonds shall be in the form and shall be issued in the manner prescribed by law for other revenue bonds and as provided in Sections 26, 27, 28 and 29, Article 8280-228.

Sec. 14a added by Acts 1967, 60th Leg., p. 1279, ch. 570, § 1, eff. Aug. 28, 1967. Amended by Acts 1969, 61st Leg., p. 2564, ch. 856, § 1, emerg. eff. June 18, 1969.

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Sec. 16. The Authority is granted the power to execute such contracts and enter into such agreements as may be necessary to accomplish the purpose for which it is created. In keeping with this provision the Authority is authorized to enter into contracts with cities, corporations, districts, the United States and its agencies, the State of Texas and agencies thereof, or the States of Oklahoma, Arkansas, and Louisiana, the confines of which are contiguous or adjacent to Red River.

Sec. 16 amended by Acts 1969, 61st Leg., p. 2566, ch. 856, § 2 emerg. eff. June 18, 1969.

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Sec. 16A. The Authority may enter into any contracts necessary to provide for the sale and delivery of water to the City of Eldorado, Oklahoma.

Sec. 16A added by Acts 1969, 61st Leg., p. 2077, ch. 715, § 1, emerg. eff. June 12, 1969.

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Art. 8280—258. Palo Pinto County Municipal Water District No. 1

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Sec. 8. The District is empowered to obtain an appropriation permit or permits from the Texas Water Rights Commission and shall comply with the requirements of Chapter 1 of Title 128, Revised Civil Statutes of 1925, as amended.

Sec. 8 amended by Acts 1969, 61st Leg., p. 2494, ch. 837, § 3, eff. Sept. 1, 1969.

Sec. 9. The District is authorized to acquire or construct within or without the boundaries of the District within Palo Pinto County or Eastland County a dam or dams and all works, plants and other facilities necessary or useful for the purpose of impounding, processing and transporting water to cities and others for all useful purposes. The size of the dam and reservoir shall be determined by the Board of Directors, taking into consideration probable future increases in water requirements, and the size of the dam shall not be limited by the amount of water initially authorized by the Board of Water Engineers to be impounded therein. No dam or other facilities for impounding water shall be constructed until the plans therefor are approved by the Board of Water Engineers.

Sec. 9 amended by Acts 1969, 61st Leg., p. 2494, ch. 837, § 1, eff. Sept. 1, 1969.

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Sec. 11.

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(a) The District shall have the right to acquire by condemnation the fee simple title to, easements or rights-of-way in or upon, or other interests in land and other property and easements within and without the boundaries of the District within Palo Pinto County or Eastland County necessary to the exercise of the powers, rights, privileges and functions conferred upon the District by this Act in the manner provided by Title 52, Revised Civil Statutes, as amended relating to eminent domain; or at the option of the District in the manner provided by statutes relative to condemnation by Districts organized under General Law pursuant to Section 59, Article 16 of the Constitution of the State of Texas. Such right of eminent domain shall be exercised only as to properties located in Palo Pinto County or Eastland County. This District is hereby declared to be a municipal corporation within the meaning of Article 3268 of said Title 52. The amount of and character of interest in land, other property and easements thus to be acquired shall be determined by the Board of Directors. The District shall have the same rights and powers as are conferred upon water control and improvement districts by Section 49 of Chapter 25, Acts of the 39th Legislature with reference to making surveys and attending to other business of the District.

Sec. 11(a) amended by Acts 1969, 61st Leg., p. 2494, ch. 837, § 2, eff. Sept. 1, 1969.

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Art. 8280—266. El Paso County Water Authority

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Sec. 2. The Authority shall contain the following described territory in El Paso County, Texas, to-wit:

The following sections in Block 77—Township 3:

Sections Nos. 1, 2, 3, 4, 6, 8, 9, 10, 11 and 12, 14, 16, 18, 24, 26, 32, 38, 40, 42, 44, 46 and 48.

The following sections in Block 78—Township 3:

Sections Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 13, 14, 15, 16, 17, 18, 19, the N 1/2 and the SW 1/4 of Section 20, and Sections 22, 23, 28, 30, 32, 36, 37, 38, 42 and 48.

The following section in C. D. Stuart Survey:

Section No. 322.

The following section in W. J. Rand Survey:

Section No. 325.

The following sections in Block 77—Township 3—T & P:

Sections Nos. 5, 7, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, 37, 39, 41, 43, 45 and 47.

The following sections in Block 78—Township 3—T & P:

Sections Nos. 21, 25, 27, 29, 31, 33, 35, 39, 41, 43, 45 and 47.

The following sections in Block 78—Township 4—T & P:

Sections Nos. 3 and 5.

The following sections in Block 79—Township 3—T & P:

Sections Nos. 1, 3, 9, 11, 12, 13, 15, 17, 19, 21.

Leigh Clark Survey 291.

Leigh Clark Survey 296.

Public School Lands—Block 5—the land lying South of Highway 62 in the following sections:

Sections Nos. 19, 21, 22, 23 and 24.

Public School Lands—Block 6: The land lying South of Highway 62 in Section No. 24.

The following sections in Public School Lands, Block 7:

Sections Nos. 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 15, 16, 17, 18, 19, 20, 21, 22 and 23.

The following sections in Block 78, Township 2:

Sections 1, 12, 13, 19, 20, 21, 23 and 24.

The following sections in Block 77, Township 4:

Sections 2 and 12.

It is hereby found that all of the land thus included in said Authority will be benefited by the improvement to be acquired and constructed by said Authority. If there is any error or omission in the description of the boundaries of said Authority as set forth in this Section 2, the Commissioners Court of El Paso County, Texas, is hereby authorized and directed to redefine said boundaries and correct the error or supply the omission.

Sec. 2 amended by Acts 1969, 61st Leg., p. 2098, ch. 718, § 1, emerg. eff. June 12, 1969.

Sec. 3. (a) All powers of the Authority shall be exercised by a Board of five (5) directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be appointed and qualified. No person shall be a director unless he resides in the State of Texas. Such directors shall subscribe to the constitutional oath of office, and each shall give bond in the amount of Five Thousand Dollars (\$5,000.00) for the faithful performance of his duties, the cost of which shall be paid by the Authority. A majority shall constitute a quorum.

(b) The election or appointment of the existing members of the Board of Directors of El Paso County Water Authority, namely: Lewis C. Bishop, Antonio Romero, John B. Blake, James R. Brecheen and Harley J. Stephens, is in all things validated.

(c) After the effective date of this Act and prior to 30 days before the first election for Directors as herein provided the Board of Directors shall by lot divide themselves into two classes. Class I shall be composed of two Directors who shall serve until the second Tuesday in January, 1970, or until their successors are duly chosen and qualified, and Class II shall be composed of three supervisors who shall serve until the second Tuesday in January, 1971, or until their successors are duly chosen and qualified. An election shall be held on the second Tuesday in January, 1970, to elect two directors and on the second Tuesday in January, 1971, to elect three Directors. Thereafter all such Directors shall serve for a period of two years or until their successors are chosen

and qualified, and an election shall be held on the second Tuesday of January of each year to elect Directors to replace those whose terms are expiring.

(d) Vacancies occurring in the Board of Directors shall be filled for the unexpired term by the County Judge of El Paso County.

(e) Each director shall receive a fee of not to exceed Ten Dollars (\$10.00) for attending each meeting of the Board. Each director shall also be entitled to receive not to exceed Ten Dollars (\$10.00) per day devoted to the business of the Authority and to reimbursement for actual expenses incurred in attending to Authority business provided that such service and expense are expressly approved by the Board.

(f) To the extent not inconsistent with the terms hereof, such elections will be held in accordance with the Texas Election Code.

(g) The management and control of the Authority's facilities during the time they are encumbered pursuant to this Act, by terms of such encumbrance, may be placed in the hands of the Board of Directors, or may be placed in the hands of a Board of Trustees, to be named in the instrument creating the encumbrance. The office of such Board of Trustees, their powers and duties, the manner of exercising same, the election of their successors, and all matters pertaining to their organization and duties may be specified in such contract of encumbrance. The Board of Directors or Board of Trustees having such management and control shall have the power to make rules and regulations governing the furnishing of service to patrons and for the payment of the same, and providing for the discontinuance of such service failing to pay therefor when due until payment is made.

Sec. 3 amended by Acts 1969, 61st Leg., p. 2099, ch. 718, § 2, emerg. eff. June 12, 1969.

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Sec. 6.

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(c) The rights, powers, privileges, authority and functions herein granted to the District shall be subject to the continuing right of supervision of the state, to be exercised by and through the Texas Water Rights Commission.

Sec. 6(c) added by Acts 1969, 61st Leg., p. 2105, ch. 718, § 7, emerg. eff. June 12, 1969.

* * * * *

Sec. 8. (a) For the purpose of carrying out any one or more powers of the Authority, Authority may issue negotiable bonds of three (3) general classes:

- (1) Bonds secured by ad valorem taxes, when voted;
- (2) Bonds secured solely by a pledge of all or part of the revenues accruing to the Authority, including but without limitation those received from sale of water, rendition of services, tolls, charges and from all sources other than ad valorem taxes.

(3) Bonds secured by a combination pledge of revenues and taxes, to the end that taxes will be collected for such purpose only to the extent that the revenues are insufficient to provide the amount of money necessary to pay operating and maintenance expenses and to service the bonds as prescribed in the resolution authorizing, or the indenture securing, the bonds.

(b) The Authority has the power to issue bonds prescribed in subsection (a) paragraph (2) hereof by action of its Board of Directors and without the necessity of an election. Bonds to be issued pursuant to paragraphs (1) and (3) of this subsection (a) can be issued only after authorization at an election held for such purpose throughout the territory comprising the Authority. Such elections shall be conducted substantially in accordance with the procedure prescribed in Section 10 for

elections authorizing ad valorem taxes. The qualifications of voters at bond elections shall be the same as those prescribed in Section 10 for elections on the authorization of ad valorem taxes.

(c) Bonds of the Authority shall be authorized by resolution adopted by the Board and shall be signed by the President or Vice-President, attested by the Secretary, and the seal of the Authority shall be impressed thereon; but within the discretion of the Board, as evidenced by the resolution, bonds may be issued bearing the facsimile signature of the President or Vice-President and the seal of the Authority may be printed thereon, but the signature of the Secretary in such cases must be manually affixed. Bonds shall mature serially or otherwise within such period and at such times as may be prescribed in the resolution, not exceeding a maximum of fifty (50) years. The bonds shall bear such rates of interest and may be sold at prices and under terms determined by the Board to be most advantageous reasonably obtainable and within the limits prescribed by law. The bonds may be registrable as to principal, or as to both principal and interest. Appropriate provisions may be inserted in the resolution authorizing the execution and delivery of bonds for the conversion of registered bonds into bearer bonds and vice versa. Provisions may be made in the bond resolution or trust indenture for the substitution of new bonds for those lost or mutilated. When bonds shall have once been approved by the Attorney General and registered by the Comptroller as prescribed in subsection (1) of this Section 8 it shall not be necessary to obtain the approval of the Attorney General or registration by the Comptroller as to such converted or substituted bonds.

(d) Bonds secured wholly or in part by a pledge of the revenues of the Authority may be secured by all or that part of the revenues specified in the resolution authorizing the bonds or in the indenture securing the bonds. Within the discretion of the Board bonds may be secured further by a lien on all or any part of the physical property of the Authority. In making any such pledge of the revenues the right under the conditions therein specified to issue additional bonds which will be on a parity with, senior to or subordinate to the bonds then being issued, may be expressly reserved.

(e) Where bonds are issued payable wholly from ad valorem taxes it shall be the duty of the Board at the time of their authorization to levy a tax sufficient to pay the principal of and interest on the bonds as such interest and principal become due, and to provide the reserve funds if prescribed in the resolution authorizing or the trust indenture securing the bonds.

(f) Where the bonds are payable both from ad valorem taxes and from revenues of the Authority, an ad valorem tax shall be levied at the time of the authorization of the bonds sufficient to pay such principal and interest and create and maintain such reserve funds, but the rate of tax actually to be collected for any year, shall be so fixed as to take into consideration the money which shall have been in the interest and sinking fund from the pledged revenues and which will be available for payment of principal and interest and for the creation of such reserve funds, to the extent and in the manner permitted by the resolution authorizing or the trust indenture securing the bonds.

(g) Where bonds are payable wholly from revenues, it shall be the duty of the Board of Directors to fix, and from time to time to revise the rates, tolls, and charges for the sales and services rendered by the Authority, the revenues from which are pledged, to the end that such rates, tolls, and charges, will yield sufficient money to pay: designated expenses of the Authority, the principal of and interest on said bonds as such principal and interest matures, and to create, and maintain funds as prescribed in the resolution authorizing, or the trust indenture securing, the bonds. Where the bonds are payable both from ad valorem taxes and from revenues, it shall be the duty of the Board to fix, and from time to

time to revise, the rate of compensation for water sold, services rendered, tolls and charges levied, by the Authority, to the extent pledged, which will be sufficient to assure compliance with the resolution authorizing the bonds or the trust indenture securing them.

(h) From the proceeds of the sale of any issue of bonds the Authority may set aside an amount for the payment of interest anticipated to accrue for the period specified or during the construction period, not to exceed three years, and to provide for a deposit into reserves for the interest and sinking fund to the extent prescribed in the resolution authorizing or the trust indenture securing the bonds. Proceeds from the sale of the bonds shall be used for the purposes for which the bonds were authorized and may be used for the payment of all expenses necessarily incurred in accomplishing the purposes for which the Authority is created, including the expense of issuing and selling the bonds. But no expenditure of such proceeds shall be made in violation of provisions contained in the resolution authorizing or the trust indenture securing the bonds.

(i) In the event of a default or a threatened default in the payment of principal or interest on bonds payable wholly or partially from revenues, any court of competent jurisdiction may, upon petition of the holders of outstanding bonds, appoint a receiver with authority to collect and receive all income of the Authority except taxes, employ and discharge agents and employees of the Authority, take charge of funds on hand (except funds received from taxes unless commingled) and manage the proprietary affairs of the Authority without consent or hindrance by the Directors. Such receiver may also be authorized to sell or make contracts for the sale of water or renew such contracts with the approval of the court appointing him. The court may vest the receiver with such other powers and duties as the court may find necessary for the protection of the holders of the bonds. The resolution authorizing the issuance of the bonds or the trust indenture securing them may limit or qualify the rights of the holders of less than all of the outstanding bonds payable from the same source to institute or prosecute any litigation affecting the Authority's property or income.

(j) Pending the issuance of definitive bonds the Board may authorize the delivery of negotiable interim bonds or notes, eligible for exchange or substitution, by use of definitive bonds.

(k) The Authority is authorized to issue refunding bonds for the purpose of refunding any outstanding bonds and interest thereon, authorized by this Act or any other indebtedness which the Authority may lawfully assume. Such refunding bonds may be issued to refund more than one (1) series of outstanding bonds and may for the benefit of the refunding bonds combine the pledges securing such outstanding bonds and may inject additional security for the refunding issue. Refunding bonds shall be registrable by the Comptroller of Public Accounts upon surrender and cancellation of the bonds to be refunded, but in lieu of such procedure the resolution authorizing the issuance of the refunding bonds may provide that they shall be sold and the proceeds thereof deposited in the bank, or in one (1) or more of the banks where the original bonds are payable. In the latter case, the refunding bonds may be issued in an amount sufficient to pay the interest on the original bonds to their maturity date, or to the date on which the bonds are to be redeemed, and the amount of the call premium, if any, as to bonds called for redemption prior to maturity, and in such an event the Comptroller shall register the refunding bonds without the concurrent surrender and cancellation of the original bonds. No election shall be necessary in connection with the authorization and issuance of refunding bonds.

(l) No bonds shall be issued by the Authority until they shall have been approved by the Attorney General of the State of Texas. After the bonds shall have been approved by the Attorney General and registered by the Comptroller of Public Accounts of the State of Texas they shall be

negotiable and incontestable, provided that when the bonds of an issue shall have been thus approved and registered, the bonds thereafter delivered by the Authority in lieu thereof, pursuant to subsection (c) of this Section, in connection with the exchange or registered for unregistered bonds, or unregistered bonds for registered bonds, or in lieu of lost or mutilated bonds, need not be reapproved by the Attorney General or reregistered by the Comptroller of Public Accounts. Nevertheless, such bonds shall likewise be incontestable, and except for the limitations resulting from registration shall be negotiable.

(m) Any bonds (including refunding bonds) authorized by this Act, and not payable wholly from ad valorem taxes, may be additionally secured by a trust indenture under which the Trustee may be a bank having trust powers which may be situated either within or outside of the State of Texas. Such trust indenture may contain provisions prescribed by the Board for the security of the bonds and the preservation of its properties, contracts, and rights. It may contain a provision for the amendment or modification thereof in the manner therein prescribed. Without limiting the generality of the provisions which may be contained in the indenture, it may provide that the Authority shall comply with the requirements of designated consulting engineers for the proper maintenance and operation of Authority's properties and for the fixing of adequate tolls, charges and rates, to assure proper maintenance and operation, and to provide proper debt service for the outstanding bonds in the manner prescribed in the resolution authorizing the issuance of the bonds or in the trust indenture securing the bonds.

(n) Any bonds (including refunding bonds) authorized by this law may be additionally secured by a mortgage lien upon physical properties of the Authority and all franchises, easements, water rights and appropriation permits, leases and contracts and all rights appurtenant to such properties, vesting in the trustee power to sell the properties for payment of the indebtedness, power to operate the properties and all other powers and authority for the further security of the bonds. The trust indenture may contain any provisions prescribed by the Board of Directors for the security of the bonds and the preservation of the trust estate, and may make provision for amendment or modification thereof and the issuance of bonds to replace lost or mutilated bonds. Any purchaser under a sale under such trust indenture shall be the owner of the properties and facilities so purchased and shall have the right to maintain and operate the same.

(o) The District shall comply with the requirements of Article 7880—139, Vernon's Texas Civil Statutes.

Sec. 8 amended by Acts 1969, 61st Leg., p. 2100, ch. 718, § 3, emerg. eff. June 12, 1969.

Sec. 9. The Board of Directors of the Authority shall have the power to levy and collect ad valorem taxes for the maintenance of the Authority and its improvements, and for other lawful purposes, in such amounts as are voted in accordance with the procedure hereinafter set forth; provided that the maintenance tax shall not exceed the maximum rate voted, and said rate shall remain in effect until or unless changed by subsequent vote.

Sec. 9 amended by Acts 1969, 61st Leg., p. 2103, ch. 718, § 4, emerg. eff. June 12, 1969.

Sec. 10. No such maintenance tax shall be levied or collected and no bonds payable wholly or partially from ad valorem taxes shall be issued unless an election is held in the Authority and any such taxes or bonds are duly and favorably voted by a majority of the resident, qualified electors of the Authority who own taxable property therein and who have duly rendered the same for taxation, voting at said election. Each such elec-

tion shall be called by resolution of the Board of Directors. The election resolution shall set forth the date of the election, the proposition to be submitted and voted on, the polling places, and any other matters deemed advisable by the Board of Directors. Notice of said election shall be given by publishing a substantial copy of the resolution calling the election in a newspaper of general circulation in the Authority not less than twice in such newspaper, with the interval between such publications to be at least one week, and with the first of each of said publications to be at least 14 days prior to the date set for the election. To the extent not inconsistent with the provisions hereof, the elections herein provided for shall be held in accordance with the provisions of the Texas election code.

Sec. 10 amended by Acts 1969, 61st Leg., p. 2103, ch. 718, § 5, emerg. eff. June 12, 1969.

Sec. 11. The rendition and assessment of property for taxation, the equalization of values, and the collection of taxes for the benefit of the Authority shall be in accordance with the law applicable to counties, insofar as such law can be made applicable, and except as hereinafter specifically provided. The Board of Directors of the Authority may act as the Board of Equalization for the Authority, or may appoint a separate Board of Equalization to consist of five resident, qualified voters who own taxable property in the Authority. In either case, the Board of Equalization shall have the powers, functions and duties of the Commissioners Courts of counties in equalizing property values in accordance with law applicable to counties, insofar as such laws can be made applicable. The Board of Directors shall appoint a tax assessor and collector for the Authority and provide for his compensation, or the Board of Directors shall be empowered by resolution to authorize the assessor and collector of taxes for El Paso County, Texas, to assess and collect taxes for the Authority. It is provided, however, that renditions shall be made to the tax assessor and collector (or the County Tax Assessor and Collector of the county, as the case may be). If the County Tax Assessor and Collector is designated, it shall be his duty to cause to be placed on the county tax rolls such additional column or columns as are needed to show the taxes levied by the Authority and the amount thereof, based on the value of such property as approved finally by the Authority's Board of Equalization. The fee of the County Tax Assessor and Collector for assessing and collecting taxes shall be one percent (1%) of the taxes collected, such fee to be paid over and disbursed in each county as are other fees of office. All of the laws for the enforcement of state and county taxes shall be available to the Authority. The Authority shall have the right to cause the officers of the county to enforce and collect the taxes due to the Authority, as provided in the law for the enforcement of state and county taxes. Taxes assessed and levied for the benefit of the Authority shall be payable and shall become delinquent at the same time, in the same manner, and subject to the same discount for advance payment as taxes levied by and for the benefit of the county in which the property is taxable. The fee for collecting delinquent taxes through prosecution of suit shall be fifteen percent (15%) of the taxes collected by such suit, such fee to be paid over and disbursed as are other fees of office. Concurrently with the levy of county taxes by the Commissioners Courts, the Board of Directors shall levy the tax on all taxable property in the Authority which is subject to such taxation and, if the Tax Assessor and Collector of the county has been so designated by the Board, the Board shall immediately certify such tax rate to the said Tax Assessor and Collector. The foregoing notwithstanding, the first year in which property is rendered for taxation, the valuations are initially equalized, and taxes initially assessed, levied and collected such

need not occur at the respective times required for such by laws governing counties, but such rendition, equalization, assessment, levy and collection may occur at any times during such year set by the Board.

Sec. 11 amended by Acts 1969, 61st Leg., p. 2104, ch. 718, § 6, emerg. eff. June 12, 1969.

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Acts 1969, 61st Leg., p. 2098, ch. 718, which amended sections 2, 3, 6 and 8—11 of this article, provided in sections 8 and 9:

“Sec. 8. If any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act, and the application of such provision to other persons or circumstances shall not be affected thereby.

“Sec. 9. Proof of Publication of the Constitutional notice required in the enact-

ment hereof under the provisions of paragraph (d) of Section 59 of Article XVI of the Texas Constitution has been made in the manner provided therein and a copy of said notice and the bill as originally introduced have been delivered to the Governor of the State of Texas as required in such Constitutional provision, and such notice and delivery are hereby found and declared to be proper and sufficient to satisfy such requirements.”

Art. 8280—281. Dalby Springs Conservation District

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Sec. 2. The District shall have and exercise and is hereby vested with all the rights, powers, privileges, and duties conferred and imposed by the General Laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Section 59, Article XVI of the Constitution, and all amendments thereto, except as otherwise herein expressly provided; provided, however, that the District shall have no power of condemnation of property or of eminent domain outside of the geographical boundaries of the District. The District may construct, establish, operate, and maintain a community center in Bowie County. To the extent that the provisions of any General Law applying to water control and improvement districts, or other conservation districts, conflict with this Act, the provisions of this Act shall control.

In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipelines, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District.

Sec. 2 amended by Acts 1969, 61st Leg., p. 1266, ch. 396, § 1, emerg. eff. May 29, 1969.

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Art. 8280—284. Galveston West Bay Municipal Utility District of Galveston County

Section 1. Galveston West Bay Municipal Utility District of Galveston County, Texas, created by Chapter 241, page 655, Acts of the 58th Legislature, Regular Session, 1963 (Article 8280—284, Vernon's Texas Civil Statutes) is hereby converted from a fresh water supply district to a water control and improvement district. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and functions conferred and imposed by the general laws of this state now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article XVI, Section 59, Constitution of Texas, including without limitation those conferred by Chapter 3A, Title 128, Vernon's Texas Civil Statutes; but to the extent that the provisions of any such general laws may be in con-

flict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

Not by way of limitation, the district shall have and is hereby expressly granted the following rights, powers, privileges and functions:

(a) The power and authority to make, purchase, construct, lease, or otherwise acquire property, works, facilities and improvements (whether previously existing or to be made, constructed or acquired) within or without the boundaries of the district necessary to carry out the powers and authority granted by this Act and the general laws.

(b) The right, power and authority to enter into contracts of not exceeding 40 years duration with persons, corporations, public or private, municipal corporations, political subdivisions of the State of Texas, and others, on such terms and conditions as the board of directors may deem desirable, fair and advantageous for:

(1) the purchase and sale of water, or either;

(2) the transportation, treatment and disposal of its domestic, industrial or communal wastes or the transportation, treatment and disposal of domestic, industrial or communal wastes of others;

(3) the continuing and orderly development of the lands and property within the district through the purchase, construction or installation of facilities, works or improvements which the district may otherwise be empowered and authorized to do or perform so that, to the greatest extent reasonably possible, considering sound engineering and economic practices, all of such lands and property may be placed in a position to ultimately receive the services of such facilities, works or improvements; and

(4) the performance of any of the rights or powers granted in this Act and the general laws relating to water control and improvement districts.

(c) The right, power and authority to purchase, construct, maintain and operate navigable canals or waterways, including bulkheads therefor, and all navigational systems or facilities auxiliary thereto, necessary in the operations and the development of the districts ports and waterways or in aid of navigation thereon.

The rights, powers, privileges, authority and functions herein granted to the district shall be subject to the continuing right of supervision of the state, to be exercised by and through the Texas Water Rights Commission.

The powers and duties conferred on the district are granted subject to the policy of the state to encourage the development and use of integrated area-wide waste collection, treatment and disposal systems to serve the waste disposal needs of the citizens of the state, it being an objective of the policy to avoid the economic burden to the people and the impact on the quality of the waters in the state which result from the construction and operation of numerous small waste collection, treatment and disposal facilities to serve an area when an integrated area-wide waste collection, treatment and disposal system for the area can be reasonably provided.

Sec. 2. It shall not be necessary for the board of directors to call or hold an election to confirm the conversion of the district from a fresh water supply district to a water control and improvement district and such district shall be validly converted from and after the passage of this Act.

Sec. 3. It shall not be necessary for the board of directors to call or hold a hearing on the exclusions of land or other property from the district; provided, however, that the board shall hold such hearing upon the written petition of any landowner or other property owner within the

district filed with the secretary of the board prior to the calling of the first bond election for the district. The board may act on said petition in the same manner that it may act on a petition for the addition of land under Article 7880—75, Vernon's Texas Civil Statutes and no notice of hearing shall be required. The board on its own motion may call and hold an exclusions hearing or hearings in the manner provided by the general law.

Sec. 4. The ad valorem plan of taxation shall be used by the district and it shall not be necessary for the board of directors to call or hold a hearing on the adoption of a plan of taxation.

Sec. 5. Land may be added to or annexed to the district in the manner now or hereafter provided by Chapter 3A, Title 128, Vernon's Texas Civil Statutes, as amended; provided, however, that the board of directors may require the petitioners, if land is being added in the manner provided by Article 7880—75, Vernon's Texas Civil Statutes, to assume their pro rata share of the voted but unissued bonds of the district and authorize the board to levy a tax on their property in payment for such unissued bonds, when issued, or if land is being annexed in the manner provided by Article 7880—75b, Vernon's Texas Civil Statutes, the board may also submit a proposition to the property taxpaying voters of the area to be annexed on the question of the assumption by the area to be annexed of its part of the tax or tax-revenue bonds of the district theretofore voted but not yet issued or sold and the levy of an ad valorem tax on all taxable property within the area to be annexed along with the tax in the rest of the district for the payment thereof. If the petitioners consent or if the election results favorably, the district shall be authorized to issue its voted but unissued tax or tax-revenue bonds even though the boundaries of the district have been changed since the voting or authorization of such bonds.

Sec. 6. All powers of the district shall be exercised by a board of five directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. The present supervisors of the district or their duly appointed successor or successors shall serve as directors of the district until the second Tuesday of January, 1970. Succeeding directors shall be elected or appointed and shall serve for the term and in the manner provided by Article 7880—37, Vernon's Texas Civil Statutes. All vacancies in the office of director shall be filled in the manner provided by Article 7880—38, Vernon's Texas Civil Statutes; provided, however, if at any time the number of qualified directors shall be less than three because of the failure or refusal of one or more directors to qualify or serve, or because of his or their death or incapacitation, or for any other reason, then the county judge of the county in which the district is located shall appoint the necessary number of directors to fill all vacancies on the board. Three directors shall constitute a quorum of any meeting, and a concurrence of three shall be sufficient in all matters pertaining to the business of the district including the letting of construction contracts and the drawing of warrants in payment for construction work, the purchase of existing facilities, and matters relating to construction work. The board shall select from its number a president, vice president, secretary and such other officers as in the judgment of the board are necessary. The president may execute all contracts, construction or otherwise, entered into by the board of directors on behalf of the district. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. Any order adopted or other action taken at a meeting of the board of directors at which the president is absent may be signed by the vice president, or the board may authorize the president to sign such order or other action. The treasurer may be appointed

by the board, and shall give bond in such amount as may be required by the board and conditioned that he or it will faithfully account for all money which shall come into his or its custody as treasurer of the district.

Sec. 7. The district shall comply with the requirements of Article 7880—139, Vernon's Texas Civil Statutes as it presently exists or as it may be hereafter amended.

Sec. 8. The district is hereby authorized to issue its negotiable tax bonds, revenue bonds, or tax and revenue bonds to provide funds for any or all of the purposes set out or incorporated by reference herein, including the acquisition of land therefor, and said bonds shall be issued in the manner provided and as authorized by Article 7880—90a, Vernon's Texas Civil Statutes and Chapter 3A of Title 128, Vernon's Texas Civil Statutes, as presently or hereafter amended, provided, however, that bonds payable solely from net revenues may be issued by resolution or order of the board of directors and no election therefor shall be necessary.

The bonds issued hereunder may be payable from all or any designated part or parts of the revenues of the district's properties and facilities or under specific contracts, as may be provided in the orders or resolutions authorizing the issuance of such bonds; and, except as the same may be inconsistent or in conflict with the provisions of this Act, the provisions of said Chapter 3A, Title 128, Vernon's Texas Civil Statutes, as presently or hereafter amended, shall apply to all bonds issued under the provisions of this Act (the provisions of this Act to govern and take precedence in the event of any such inconsistency or conflict).

Such bonds, within the discretion of the board of directors, may be additionally secured by a deed of trust or mortgage lien upon part or all of the physical properties of the district, and franchises, easements, water rights and appropriation permits, leases, and contracts and all rights appurtenant to such properties, vesting in the trustee power to sell such properties for payment of the indebtedness, power to operate the properties and all other powers and authority for the further security of the bonds. Such trust indenture, regardless of the existence of the deed of trust or mortgage lien on the properties, may contain provisions prescribed by the board of directors for the security of the bonds and the preservation of the trust estate, and may make provisions for amendment or modification thereof and the issuance of bonds to replace lost or mutilated bonds, and may condition the right to expend district money or sell district property upon approval of a registered professional engineer selected as provided therein and may make provisions for investment of funds of the district. Any purchaser under a sale under the deed of trust or mortgage lien, where one is given, shall be absolute owner of the properties, facilities and rights so purchased and shall have the right to maintain and operate same.

In the orders or resolutions authorizing the issuance of any revenue, tax-revenue, revenue refunding, or tax-revenue refunding bonds authorized hereunder, the district's board of directors may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund or funds, reserve fund or funds, and other funds, and may make additional covenants with respect to the bonds and the pledged revenues and the operation and maintenance of those improvements and facilities (the revenues of which are pledged), including provisions for the operation or for the leasing of all or any part of said improvement and facilities and the use or pledge of moneys derived from such operation contracts and leases, as such board may deem appropriate. Such orders or resolutions may also prohibit the further issuance of bonds or other obligations payable from the pledged revenues, or may reserve the right to issue additional bonds to be secured by a pledge of and payable from said revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to such conditions as are set forth in such orders or resolutions. Such orders or resolutions may contain other

provisions and covenants, as the district's board may determine, not prohibited by the Constitution of Texas or by this Act, and said board may adopt and cause to be executed any other proceedings or instruments necessary and/or convenient in the issuance of any such bonds.

From the proceeds of sale of any bonds issued hereunder, the district may appropriate or set aside out of the bond proceeds an amount for the payment of interest, administrative and operating expenses expected to accrue during the period of construction (such period not to exceed three years), as may be provided in the bond orders or resolutions, and an amount necessary to pay all expenses incurred and to be incurred in the issuance, sale and delivery of the bonds. Moneys in the interest and sinking fund or funds and the reserve fund or funds, and in the other fund or funds established or provided for in the bond orders or resolutions may be invested in such manner and in such securities as may be provided in the bond order or orders or may be placed on interest-bearing time deposit. Until such time as the bond proceeds are needed to carry out the bond purpose, such proceeds may be invested in securities of the United States Government or any agency thereof or may be placed on interest-bearing time deposit, either or both. Any such revenue bonds, tax bonds, revenue refunding bonds, or tax-revenue refunding bonds hereinafter mentioned may be registrable as to principal, or as to both principal and interest.

By orders or resolutions adopted by its board of directors, said district shall have the power and authority to issue tax or revenue refunding bonds or tax-revenue refunding bonds to refund revenue bonds or tax-revenue bonds (either original bonds or refunding bonds) theretofore issued by such district. Said refunding bonds shall be approved by the attorney general as in the case of original bonds, and shall be registered by the comptroller of public accounts upon the surrender and cancellation of the bonds to be refunded, but in lieu thereof, the orders or resolutions authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the place or places where the underlying bonds are payable, in which case the refunding bonds may be issued provided an amount sufficient to pay the interests and principal on the underlying bonds to their maturity dates, or to their option dates if said bonds have been duly called for payment prior to maturity according to their terms, has been so deposited in the place or places where said underlying bonds are payable, and the comptroller of public accounts shall register them without the surrender and cancellation of the underlying bonds.

After any bonds have been authorized by the district hereunder, such bonds and the record relating to their issuance shall be submitted to the Attorney General of the State of Texas for his examination as to the validity thereof, and after said attorney general has approved the same, such bonds shall be registered by the Comptroller of Public Accounts of the State of Texas. When such bonds have been approved by the attorney general, registered by the comptroller of public accounts, and delivered to the purchasers, they shall thereafter be incontestable except for forgery or fraud. When any bonds recite that they are secured partially or otherwise by a pledge of the proceeds of a contract or contracts made between the district and another party or parties (private or public) a copy of such contract or contracts and the proceedings authorizing the same may or may not be submitted to the attorney general along with the bond record and, if so submitted, the approval by the attorney general of the bonds shall constitute an approval of such contract or contracts, and thereafter the contract or contracts shall be incontestable for any cause except for forgery or fraud.

Sec. 9. The power of eminent domain of the district shall be limited to the county in which the district is situated and to situations where the exercise of such power is necessary to carry out the purposes of creation.

In the event that the district, in the exercise of the power granted hereunder, makes necessary the relocation, raising, lowering, rerouting or changing the grade of or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, lowering, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the district. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 10. The board of directors of the district shall select any bank or banks in the State of Texas to act as depository or depositories for the funds of the district. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of county funds. Any director of the district may be a shareholder in said depository bank or banks.

A complete system of accounts shall be kept by the district and an audit of its affairs for each year shall be prepared by an independent certified public accountant, or a firm of independent certified public accountants, of recognized integrity and ability. The fiscal year of the district shall be from January 1 to December 31 of the same year, unless and until changed by the board of directors. A written report of the audit shall be delivered to each member of the board of directors not later than 90 days after the close of each fiscal year; and a copy of such audit report shall be delivered upon request to the holder or holders of at least 25 percent of the then outstanding bonds of the district; and at least five additional copies of said audit shall be delivered to the office of the district, one of which shall be kept on file, and shall constitute a public record open to inspection by any interested person or persons within normal office hours; and one copy of such audit report shall be filed with the Texas Water Rights Commission. The cost of such audit shall be paid for by the district.

Sec. 11. The board of directors shall designate, establish and maintain a district office as provided by Article 7880—44, Vernon's Texas Civil Statutes, and, in addition, may establish a second district office outside the district. Either or both district offices so established and maintained may be a private residence, office or dwelling in which event such private residence, office or dwelling is hereby declared a public place for matters relating to the district's business.

If the board of directors establishes a district office outside the district, it shall give notice of the location of that district office by filing a true copy of its resolution establishing the location of such district office with the Texas Water Rights Commission, by filing a true copy in the Water Control and Improvement District records of the county in which the district is located and also by publishing the location in a newspaper of general circulation in said county.

If the location of the district office outside the district is thereafter changed, notice of such change shall be given in the same manner.

Sec. 12. Bonds of the district may be sold at a price and upon the terms determined by the board of directors of the district, except that such bonds shall not be sold for a less amount than provided by law. No bonds shall be sold by the district until it has solicited bids therefor.

Sec. 13. All elections to authorize the issuance of bonds by the district shall be held pursuant to the general law applicable to water control and improvement districts; provided, however, that if the first bond election fails, Article 7880—77b, Vernon's Texas Civil Statutes, or any other provision of the general law pertaining to dissolution of the district when a bond election fails, shall not apply.

Sec. 14. Notice of all elections may be given under the hand of either the president or the secretary of the district. The returns of all elections shall be canvassed by the board of directors of the district as soon as reasonably practicable after an election.

Sec. 15. All bonds and refunding bonds of the district shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas and for all public funds of the State of Texas or its agencies, including the State Permanent School Fund. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 16. Except for its creation, the district is expressly made subject to all provisions of Article 970a, Vernon's Texas Civil Statutes, as amended. The district shall also be subject to the provisions of Article 1182c—1, Vernon's Texas Civil Statutes, as amended.

Sec. 17. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the district in carrying out the purposes of this Act will be performing an essential public function under the constitution, and the district shall not be required to pay any tax or assessment on its properties or any part thereof or on any purchases made by the district.

Sec. 18. All governmental acts and proceedings of the board of supervisors of the district which are not the subject of litigation are hereby in all things validated.

Sec. 19. Sections 2, 3, 4, 5 and 6 of Chapter 241, Acts of the 58th Legislature, Regular Session, 1963, are hereby repealed.

Sec. 20. If any word, phrase, clause, paragraph, sentence, part, portion or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion or provision.

Sec. 21. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Galveston County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article XVI, Section 59(d), Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Amended by Acts 1969, 61st Leg., p. 1878, ch. 631, emerg. eff. June 11, 1969.

Conversion of District

Acts 1969, 61st Leg., p. 1878, ch. 631, which amended Acts 1963, 58th Leg., p. 655, ch. 241, to convert Galveston West Bay Municipality Utility District of Galveston County from a fresh water supply district to a water control and improvement district, by section 19 repealed sections 2-6 of the act of 1963.

Art. 8280—293. Lake Dallas Municipal Utility Authority

* * * * *

Sec. 5a. Land may be added to an Authority and become a part thereof upon petition of the owner thereof in the following manner: The owner of the land shall file with the board of directors a petition praying that the lands described be added to and become a part of the established Authority. Said petition shall describe the land by metes and bounds and be signed and executed in the same manner provided by law for the conveyance of real estate. Such petition shall be heard and considered by the directors and may be granted and said land added to the district if same is considered to be to the advantage of the district and if the water supply or sewage system can be designed to serve same without injury to the lands of the Authority. Any such petition which may be granted adding lands to the Authority shall be filed for record and be recorded in the office of the county clerk of the county in which such land is situated.

Sec. 5a added by Acts 1969, 61st Leg., p. 366, ch. 136, § 1, eff. Sept. 1, 1969.

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Art. 8280—309. Timberlake Improvement District

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Sec. 18. Bonds of the District may be sold at a price and upon the terms determined by the Board of Directors of the District, except that such bonds shall not be sold for a less amount than provided by law.

Sec. 18 amended by Acts 1967, 60th Leg., p. 148, ch. 77, § 1, emerg. eff. April 24, 1967; Acts 1969, 61st Leg., p. 1745, ch. 578, § 1, emerg. eff. June 10, 1969.

* * * * *

Acts 1969, 61st Leg., p. 1745, ch. 578, which amended section 18 of this article, provided in sections 2 and 3:

“Sec. 2. The Legislature specifically finds and declares that the requirements of Article XVI, Section 59(d), Constitution of Texas, have been done and accomplished in due course and time, and in due order, and that the Legislature has the power and authority to enact this Act.

“Sec. 3. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.”

Art. 8280—311. Clear Creek Basin Authority

* * * * *

Sec. 12a. Territory may be added to the area of Clear Creek Basin Authority (“Authority”) in the manner hereinafter provided.

A petition for an annexation of such territory shall be signed by a majority of landowners therein or by 50 landowners, if the number of such landowners is more than 50. Such petition shall be filed with the Secretary of the Board of Directors. It shall be the duty of the Board to pass an order fixing a time and place at which such petition shall be heard, which date shall be not less than 30 days from date of such

order. The Secretary shall issue notice of such time and place of hearing and which notice shall describe the territory proposed to be annexed. The Secretary shall execute said notice by posting a copy thereof in one public place in the Authority, and one copy in a public place within the territory proposed to be annexed; said notices to be posted for 15 days prior to date of said hearing. Publication of copy of such notice shall be made in a newspaper of general circulation in the county of the Authority and the county or counties in which the lands proposed to be annexed lie, one time and at least 15 days prior to such hearing. If upon the hearing of such petition it is found that the proposed addition is to the advantage of the Authority, then the Board by resolution duly entered upon its minutes may receive such proposed territory as an addition to and to become a part of the Authority. The added territory shall bear its pro rata part of all indebtedness or taxes that may be owed, contracted, or authorized by said Authority. Such resolution need not include all of the land described in the petition if upon the hearing a modification or change is found necessary or desirable; provided, however, annexation of the territory shall not become final until ratified by a majority vote of a separate election held within the boundaries of the Authority, and by a majority vote of a separate election held within the territory to be added thereto. The manner of holding such election and the notice for such election, manner, and the time of giving such notice, and qualifications of voters therein shall be in all things governed by provisions of Chapter 25 of the Acts of 1925, relating to elections held for confirmation of water control and improvement districts. In the event the Authority has outstanding debts or taxes then at the same time and at the same election the proposition for assumption of its proportion of such debts or taxes by such territory if added shall also be submitted.

Sec. 12a added by Acts 1969, 61st Leg., p. 789, ch. 264, emerg. eff. May 21, 1969.

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Art. 8280—318a. Pirate’s Cove Municipal Utility District; addition of land

Section 1. There is hereby added to, and there shall hereby become a part of, Pirate’s Cove Municipal Utility District of Galveston County, Texas, hereinafter called “district,” the following described land:

Six tracts of land lying wholly within Galveston County, Texas, each being a part of the Trimble and Lindsey Survey of Galveston Island, totalling 690.70 acres, more or less, and described as follows:

Tract 1

Beginning at a point which is the southwest corner of lot 87 in Section 3, Trimble and Lindsey Survey of Galveston Island, Galveston County, Texas.

Thence N 65° E 685.00 feet to a point for corner, said corner being in the centerline of a 50 foot county road right-of-way (unopened).

Thence S 25° E 178.75 feet along the centerline of said county road to a point for corner.

Thence S 65° 52’ 43” W 685.00 feet to a point for corner, said corner being on the southwest line of lot 88 in Section 3, Trimble and Lindsey Survey.

Thence N 25° W 180.20 feet along said southwest line of lot 88 to the point of beginning.

Containing 2.82 acres, more or less.

Tract 2

Beginning at a point which is the southeast corner of lot 32 in Section 3, Trimble and Lindsey Survey of Galveston Island, Galveston County, Texas.

Thence S 65° W 1159.34 feet to a point for corner.

Thence N 25° 47' W 1277.10 feet to a point for corner, said point lying in the southerly right-of-way line of Stewart Road.

Thence N 65° 46' 28" E 767.09 feet along the southerly right-of-way line of Stewart Road to an angle point.

Thence N 63° 18' E 383.33 feet to a point for corner.

Thence S 25° 30' 43" E 461.50 feet to a point for corner.

Thence N 54° 30' 35" E 22.88 feet to a point for corner, said corner being on the northeast line of said lot 32.

Thence S 25° E 820.67 feet along the northeast line of said lot 32 to the point of beginning.

Containing 33.85 acres, more or less.

Tract 3

Beginning at a point which is S 65° W 165 feet from the southeast corner of lot 96 in Section 3, Trimble and Lindsey Survey of Galveston Island, Galveston County, Texas; said point also being a point on the northeast line of the herein described tract.

Thence S 25° E 15.42 feet to a point for corner.

Thence S 65° 47' W 115.77 feet to an angle point, said point being in the northerly right-of-way line of Stewart Road.

Thence S 59° 42' W 665.20 feet along said northerly right-of-way line of Stewart Road to a point for corner.

Thence N 36° 18' W 427.40 feet to a point for corner.

Thence S 57° 42' W 12.00 feet to a point for corner.

Thence N 36° 18' W 92.00 feet to a point for corner.

Thence N 57° 42' E 12.00 feet to a point for corner.

Thence N 36° 18' W 253.00 feet to a point for corner.

Thence N 59° 42' E 933.46 feet to a point for corner.

Thence S 25° E 768.37 feet to the point of beginning.

Containing 15.16 acres, more or less.

Tract 4

Beginning at a point which is the southwest corner of lot 93 in Section 3, Trimble and Lindsey Survey of Galveston Island, Galveston County, Texas.

Thence N 25° W 1670.00 feet along the southwest line of said lot 93 to a point for corner, said corner being on the southerly line of West Bay.

Thence commencing in a northeasterly direction along the meanders of said southerly line of West Bay as follows:

N 65° E	3220.00 feet
N 51° 22' 20" E	340.88 feet
N 46° 32' 51" E	346.53 feet
N 25° W	230.00 feet
N 81° W	170.00 feet
N 51° W	250.00 feet
N 33° W	675.00 feet
N 48° 30' W	791.29 feet
N 25° W	165.00 feet
N 37° 20' E	190.00 feet
N 36° 20' W	213.00 feet
N 67° 45' 19" E	123.20 feet
N 80° E	425.00 feet
N 25° W	75.00 feet
N 79° 25' W	421.70 feet
N 89° 54' 23" W	350.08 feet
S 72° 01' 08" W	50.37 feet
S 71° W	395.00 feet
S 66° 45' W	420.00 feet
N 30° W	230.00 feet
S 13° W	175.00 feet

N 62° W	845.00 feet
S 82° 45' W	210.00 feet
S 20° 45' W	250.00 feet
S 69° W	95.00 feet
N 16° 37' E	520.11 feet
N 44° 15' E	215.00 feet
N 84° E	285.00 feet
S 56° 30' E	160.00 feet
S 85° E	225.00 feet
N 44° 40' E	220.00 feet
N 30° 15' E	230.00 feet
S 66° 20' E	305.00 feet
S 35° 40' E	220.00 feet
S 51° E	120.00 feet
S 79° 22' 25" E	170.23 feet
N 87° 56' 07" E	54.29 feet to a point for

corner, said corner being on the southwest line of lot 37 in Section 3, Trimble and Lindsey Survey.

Thence N 25° W 671.15 feet along the southwest line of said lot 37 to a point for corner, said point being on the southerly line of West Bay.

Thence commencing in a northeasterly direction along the meanders of said southerly line of West Bay as follows:

N 65° E	710.01 feet
N 74° 12' 20" E	182.35 feet
N 32° 52' 48" E	389.64 feet
N 65° E	150.00 feet
N 76° 18' 36" E	50.99 feet
S 57° 55' 20" E	331.18 feet
S 78° 44' 47" E	186.01 feet to a point for

corner, said point being on the southwest line of lot 22 Section 3, Trimble and Lindsey Survey.

Thence, S 25° E 1490.00 feet along said southwest line of lot 22 to a point for corner, said corner being the southwest corner of lot 22.

Thence N 65° E 1040.00 feet to a point for corner, said corner being the northeast corner of lot 493 in Section 2 of the Trimble and Lindsey Survey.

Thence S 25° E 3960.00 feet along the northeast lines of lots 493, 492 and 491 in Section 2 of the Trimble and Lindsey Survey to a point for corner, said point being the southeast corner of said lot 491.

Thence N 65° E 580.00 feet to a point for corner.

Thence S 25° E 350.00 feet to a point for corner.

Thence S 85° 11' 43" E 587.84 feet to a point for corner.

Thence N 65° 02' 42" E 199.92 feet to a point for corner.

Thence S 25° E 1920.66 feet to a point for corner, said point being on the northerly right-of-way line of Stewart Road.

Thence S 65° W 2660.00 feet along said northerly line of Stewart Road to a point for corner, said corner being on the southwest line of lot 12 in Section 3 of the Trimble and Lindsey Survey.

Thence N 25° W 2563.00 feet along the southwest lines of lots 12 and 11 in Section 3 of the Trimble and Lindsey Survey to a point for corner, said point being the northwest corner of said lot 11.

Thence S 65° W 2510.00 feet to a point for corner, said point being the southwest corner of lot 63 in Section 3 of the Trimble and Lindsey Survey.

Thence N 25° W 1585.00 feet along the southwest line of said lot 63 to a point for corner.

Thence S 60° 40' W 330.95 feet to a point for corner, said corner being on the southwest line of lot 64 in Section 3 of the Trimble and Lindsey Survey.

Thence S 25° E 1560.00 feet along the southwest line of said lot 64 to a point for corner, said corner being the southwest corner of said lot 64.

Thence S 65° W 1800.00 feet to the point of beginning.

Containing 587.22 acres, more or less, save and except a 4.26 acre, more or less, tract described as follows:

Beginning at the southwest corner of lot 5 in Section 3 of the Trimble and Lindsey Survey of Galveston Island, Galveston County, Texas.

Thence N 25° W 303.80 feet along the southwest line of said lot 5 to a point for corner.

Thence N 65° E 355.00 feet to a point for corner.

Thence S 25° E 103.80 feet to a point for corner.

Thence N 65° E 330.00 feet to a point for corner.

Thence S 55° 06' 49" E 231.21 feet to a point for corner.

Thence S 65° W 801.00 feet to the point of beginning.

Containing 4.26 acres, more or less, leaving 582.96 net acres, more or less, in Tract 4.

Tract 5

Beginning at the southwest corner of lot 476 in Section 2, Trimble and Lindsey Survey of Galveston Island, Galveston County, Texas.

Thence, N 25° W 2640.00 feet along the southwest lines of lots 476 and 477 in the Trimble and Lindsey Survey, Section 2, to a point for corner, said corner being the northwest corner of said lot 477.

Thence N 65° E 380.00 feet to a point for corner, said corner being on the southwest line of lot 464 in the Trimble and Lindsey Survey, Section 2.

Thence N 25° W 650.00 feet along the southwest line of said lot 464 to a point for corner, said corner being on the southerly line of West Bay.

Thence S 61° 52' 12" E 550.00 feet along said southerly line of West Bay to a point for corner, said corner being on the northeast line of lot 464.

Thence S 25° E 2850.00 feet along the northeast line of lots 464 and 465 to a point for corner, said corner being the southeast corner of lot 465.

Thence S 65° W 710.00 feet to the point of beginning.

Containing 46.29 acres, more or less.

Tract 6

Beginning at the northwest corner of lot 28 in Section 3, Trimble and Lindsey Survey of Galveston Island, Galveston County, Texas.

Thence N 65° E 330.00 feet to a point for corner, said corner being the northeast corner of said lot 28.

Thence S 25° E 1270.00 feet along the northeast line of said lot 28 to a point for corner, said corner being in the northerly right-of-way line of Stewart Road.

Thence S 65° W 330.00 feet along said northerly right-of-way line of Stewart Road to a point for corner, said corner being on the southwest line of said lot 28.

Thence N 25° W 1270.00 feet along the southwest line of said lot 28 to the point of beginning.

Containing 9.62 acres, more or less.

The above six tracts contain 690.70 acres, more or less.

Sec. 2. It is expressly determined, and the Legislature hereby expressly finds, that the boundaries of said added land form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is found to have occurred in the field notes, it shall in no manner affect the existence or validity of said addition, nor shall it in any manner affect the right of the district as enlarged, to issue bonds or refunding bonds, or to pay the principal and interest

thereon, or the right to assess, levy and collect taxes, or in any other manner affect the legality or operation of the district as enlarged or its governing body.

Sec. 3. The area and boundary of the district, as same shall exist upon and immediately after the addition of land as provided in Section 1 hereof, are hereby redefined, declared, and described as follows:

Four tracts of land lying wholly within Galveston County, Texas, each being a part of the Trimble and Lindsey Survey of Galveston Island, totalling 1134.81 acres, more or less, and described as follows:

Tract 1

Beginning at a point which is S 65° W 25.0 feet from the southwest corner of lot 87 in Section 3, Trimble and Lindsey Survey of Galveston Island, and being the centerline of a 50 foot county right-of-way (unopened).

Thence N 25° W 1208.20 feet along the centerline of said 50 foot county road right-of-way to a point for corner, said point being in the southerly right-of-way line of Stewart Road.

Thence N 63° 36' 30" E 2349.04 feet along the south right-of-way line of Stewart Road to a point for corner.

Thence N 25° 47' W 11.74 feet to a point for corner.

Thence N 65° 46' 28" E 767.09 feet along the southerly right-of-way line of Stewart Road to an angle point.

Thence N 63° 18' E 383.33 feet along the southerly right-of-way line of Stewart Road to a point for corner.

Thence S 25° 30' 43" E 461.50 feet to a point for corner.

Thence N 54° 30' 35" E 22.88 feet to a point for corner, said corner being on the northeast line of said lot 32.

Thence S 25° E 820.67 feet along the northeast line of said lot 32 to a point for corner.

Thence N 65° E 760.00 feet to a point for corner, said corner being the northwest corner of lot 14.

Thence N 25° W 1020.00 feet to a point for corner.

Thence N 65° E 250.00 feet to a point for corner.

Thence N 25° W 263.13 feet to a point for corner, said point being in the southerly right-of-way line of Stewart Road.

Thence N 64° 38' E 1145.05 feet along the southerly right-of-way line of Stewart Road to a point for corner, said corner being in the centerline of a 50 foot county road right-of-way (unopened).

Thence S 25° E 3141.49 feet along the centerline of a 50 foot county road right-of-way (unopened) to a point for corner, said point being approximately the water's edge of the Gulf of Mexico.

Thence S 55° 58' W 3619.90 feet along the approximate water's edge of the Gulf of Mexico to an angle point.

Thence S 56° 47' W 1409.48 feet along the approximate water's edge of the Gulf of Mexico to a point for corner, said corner being in the centerline of a 50-foot county road right-of-way (unopened).

Thence N 25° W 2042.07 feet along the centerline of a 50-foot county road right-of-way (unopened) to a point for corner.

Thence S 64° 52' 43" W 685.00 feet to a point for corner, said corner being on the southwest line of lot 88 in Section 3, Trimble and Lindsey Survey.

Thence N 25° W 180.20 feet along said southwest line of lot 88 to a point for corner, said corner being the northwest corner of lot 88.

Thence S 65° W 25.00 feet to the point of beginning.

Containing 399.22 acres, more or less.

Tract 2.

Beginning at a point which is the southwest corner of lot 93 in Section 3, Trimble and Lindsey Survey of Galveston Island, Galveston County, Texas.

Thence N 25° W 1670.00 feet along the southwest line of said lot 93 to a point for corner, said corner being on the southerly line of West Bay.

Thence in a northeasterly direction along the meanders of said southerly line of West Bay as follows:

N 65° E	3220.00 feet
N 51° 22' 20" E	340.88 feet
N 46° 32' 51" E	346.53 feet
N 25° W	230.00 feet
N 81° W	170.00 feet
N 51° W	250.00 feet
N 33° W	675.00 feet
N 48° 30' W	791.29 feet
N 25° W	165.00 feet
N 37° 20' E	190.00 feet
N 36° 20' W	213.00 feet
N 67° 45' 19" E	123.20 feet
N 80° E	425.00 feet
N 25° W	75.00 feet
N 79° 25' W	421.70 feet
N 89° 54' 23" W	350.08 feet
S 72° 01' 08" W	50.37 feet
S 71° W	395.00 feet
S 66° 45' W	420.00 feet
N 30° W	230.00 feet
S 13° W	175.00 feet
N 62° W	845.00 feet
S 82° 45' W	210.00 feet
S 20° 45' W	250.00 feet
S 69° W	95.00 feet
N 16° 37' E	520.11 feet
N 44° 15' E	215.00 feet
N 84° E	285.00 feet
S 56° 30' E	160.00 feet
S 85° E	225.00 feet
N 44° 40' E	220.00 feet
N 30° 15' E	230.00 feet
S 66° 20' E	305.00 feet
S 35° 40' E	220.00 feet
S 51° E	120.00 feet
S 79° 22' 25" E	170.23 feet
N 87° 56' 07" E	54.29 feet to a point

for corner, said corner being on the southwest line of lot 37 in Section 3, Trimble and Lindsey Survey.

Thence N 25° W 671.15 feet along the southwest line of said lot 37 to a point for corner, said point being on the southerly line of West Bay.

Thence in a northeasterly direction along the meanders of said southerly line of West Bay as follows:

N 65° E	710.01 feet
N 74° 12' 20" E	182.35 feet
N 32° 52' 48" E	389.64 feet
N 65° E	150.00 feet
N 76° 18' 36" E	50.99 feet
S 57° 55' 20" E	331.18 feet
S 78° 44' 47" E	186.01 feet to a point

for corner, said point being on the southwest line of lot 22, Section 3, Trimble and Lindsey Survey.

Thence S 25° E 1490.00 feet along said southwest line of lot 22 to a point for corner, said corner being the southwest corner of lot 22.

Thence N 65° E 1040.00 feet to a point for corner, said corner being the northeast corner of lot 493 in Section 2 of the Trimble and Lindsey Survey.

Thence S 25° E 3960.00 feet along the northeast lines of lots 493, 492 and 491 in Section 2 of the Trimble and Lindsey Survey to a point for corner, said point being the southeast corner of said lot 491.

Thence N 65° E 580.00 feet to a point for corner.

Thence S 25° E 350.00 feet to a point for corner.

Thence S 85° 11' 43" E 587.84 feet to a point for corner.

Thence N 65° 02' 42" E 199.92 feet to a point for corner.

Thence S 25° E 1920.66 feet to a point for corner, said point being on the northerly right-of-way line of Stewart Road.

Thence S 65° W 2660.00 feet along said northerly right-of-way line of Stewart Road to a point for corner, said corner being on the southwest line of lot 12 in Section 3 of the Trimble and Lindsey Survey.

Thence N 25° W 2563.00 feet along the southwest lines of lots 12 and 11 in Section 3 of the Trimble and Lindsey Survey to a point for corner, said point being the northwest corner of said lot 11.

Thence S 65° W 1470.00 feet to a point for corner, said corner being the northeast corner of lot 50 in Section 3 of the Trimble and Lindsey Survey.

Thence S 25° E 197.10 feet along the northeast line of said lot 50 to a point for corner.

Thence S 65° W 94.20 feet to a point for corner.

Thence S 44° 52' W 660.00 feet to a point for corner.

Thence S 30° 05' W 730.00 feet to a point for corner.

Thence S 58° 38' W 730.00 feet to a point for corner.

Thence S 47° W 250.00 feet to a point for corner.

Thence S 65° 45' W 470.00 feet to a point for corner.

Thence S 13° 35' W 115.00 feet to a point for corner.

Thence S 09° 00' E 880.00 feet to a point for corner.

Thence S 65° W 275.04 feet to a point for corner.

Thence S 25° E 510.03 feet to a point for corner.

Thence N 65° E 675.00 feet to a point for corner.

Thence S 25° E 200.00 feet to a point for corner, said point being in the northerly right-of-way line of the Stewart Road.

Thence S 65° W 675.00 feet along the northerly right-of-way line of Stewart Road to a point for corner.

Thence S 25° E 15.42 feet to a point for corner.

Thence S 65° 47' W 115.77 feet to an angle point, said point being in the northerly right-of-way line of Stewart Road.

Thence S 59° 42' W 665.20 feet along said northerly right-of-way line of Stewart Road to a point for corner.

Thence N 36° 18' W 427.40 feet to a point for corner.

Thence S 57° 42' W 12.00 feet to a point for corner.

Thence N 36° 18' W 92.00 feet to a point for corner.

Thence N 57° 42' E 12.00 feet to a point for corner.

Thence N 36° 18' W 253.00 feet to a point for corner.

Thence N 59° 42' E 933.46 feet to a point for corner.

Thence N 25° W 1871.63 feet to a point for corner.

Thence N 65° E 165.00 feet to the point of beginning.

Containing 683.94 acres, more or less, save and except a 4.26-acre tract described as follows:

Beginning at the southwest corner of lot 5 in Section 3 of the Trimble and Lindsey Survey of Galveston Island, Galveston County, Texas.

Thence N 25° W 303.80 feet along the southwest line of said lot 5 to a point for corner.

Thence N 65° E 355.00 feet to a point for corner.

Thence S 25° E 103.80 feet to a point for corner.

Thence N 65° E 330.00 feet to a point for corner.

Thence S 55° 06' 49" E 231.21 feet to a point for corner.

Thence S 65° W 801.00 feet to the point of beginning.

Containing 4.26 acres, more or less, leaving 679.68 net acres, more or less in Tract 2.

Tract 3

Beginning at the southwest corner of lot 476 in Section 2, Trimble and Lindsey Survey of Galveston Island, Galveston County, Texas.

Thence N 25° W 2640.00 feet along the southwest lines of lots 476 and 477 in the Trimble and Lindsey Survey, Section 2, to a point for corner, said corner being the northwest corner of said lot 477.

Thence N 65° E 380.00 feet to a point for corner, said corner being on the southwest line of lot 464 in the Trimble and Lindsey Survey, Section 2.

Thence N 25° W 650.00 feet along the southwest line of said lot 464 to a point for corner, said corner being on the southerly line of West Bay.

Thence S 61° 52' 12" E 550.00 feet along said southerly line of West Bay to a point for corner, said corner being on the northeast line of lot 464.

Thence S 25° E 2850.00 feet along the northeast line of lots 464 and 465 to a point for corner, said corner being the southeast corner of lot 465.

Thence S 65° W 710.00 feet to the point of beginning.

Containing 46.29 acres, more or less.

Tract 4

Beginning at the northwest corner of lot 28 in Section 3, Trimble and Lindsey Survey of Galveston Island, Galveston County, Texas.

Thence N 65° E 330.00 feet to a point for corner, said corner being the northeast corner of said lot 28.

Thence S 25° E 1270.00 feet along the northeast line of said lot 28 to a point for corner, said corner being in the northerly right-of-way line of Stewart Road.

Thence S 65° W 330.00 feet along said northerly right-of-way line of Stewart Road to a point for corner, said corner being on the southwest line of said lot 28.

Thence N 25° W 1270.00 feet along the southwest line of said lot 28 to the point of beginning.

Containing 9.62 acres, more or less.

The above four tracts contain 1134.81 acres, more or less.

Sec. 4. It is expressly determined, and the Legislature hereby finds, that the boundaries of said district as redefined in Section 3 hereof form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is found to have occurred in the field notes, it shall in no way or manner affect the organization, existence or validity of said district as enlarged and redefined, or district's right to issue bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or in any other manner affect the legality or operation of the district or its governing body.

Sec. 5. It is determined and found that the land added herein to the district, the original area of the district, and all of the land and other property included within the area and boundaries of the district as herein enlarged will be benefited by the works and projects which are to be accomplished by the district pursuant to the powers conferred by the provisions of Article 16, Section 59, of the Constitution of Texas, and that said district was and is created, and enlarged as herein provided, to serve a public use and benefit.

Sec. 6. All proceedings and actions had and taken in the creation of the district and in the appointment or election of directors, all proceedings and actions had and taken by the board of directors of the district, and any and all proceedings or actions relating to any of the foregoing, are hereby in all things and all respects ratified, confirmed, approved, and validated, notwithstanding that any of the aforementioned proceedings and actions may not in all respects have been had in accordance with law or statutory provisions.

Sec. 7. This Act shall not be construed as validating any proceeding, the validity of which is being contested or is under attack in any suit or litigation pending at the time this Act becomes effective, if such suit or litigation is ultimately determined against the validity thereof.

Sec. 8. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in the county or counties in which this district or any part thereof is located; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Rights Commission, and said Texas Water Rights Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Rights Commission; and that all the requirements and provisions of Article 16, Section 59(d), of the Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 9. The land described in Section 1 hereof is hereby added to district notwithstanding any of the provisions of the Municipal Annexation Act, being Article 970a, Vernon's Texas Civil Statutes, as amended, and to the extent of such addition only, said Article 970a shall have no application. In all other respects, the district and the land hereby added is expressly made subject to the provisions of said Article 970a.

Sec. 10. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of this Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision.

Acts 1969, 61st Leg., p. 2110, ch. 722, emerg. eff. June 12, 1969.

Addition of Land

Acts 1969, 61st Leg., p. 2110, ch. 722, provided for addition of land to Pirate's Cove Municipal Utility District. See Article 8280-318a.

Title of Act:

An Act adding land to Pirate's Cove Municipal Utility District of Galveston County, Texas, describing the boundaries of such added land, finding the field notes and boundaries of the added land form a closure, and related matters; redefining the boundary of the district as enlarged, finding the field notes and boundaries of the redefined district form a closure, and related matters; finding a benefit to all land and other property within the district as enlarged; ratifying and validating all proceedings and actions had and taken by the governing body of the district, the or-

ganization and boundaries of the district, all notices and all proceedings relating thereto, and all purposes for which the district was created; providing a no-litigation clause; determining and finding the requirements of Article 16, Section 59(d), Constitution of the State of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing that the Municipal Annexation Act shall have no application to this addition of land; enacting other provisions relating to the aforementioned subjects; providing a saving clause; and declaring an emergency. Acts 1969, 61st Leg., p. 2110, ch. 722.

Art. 8280—324. Clear Woods Improvement District

* * * * *

Sec. 18. Bonds of the District may be sold at a price and upon the terms determined by the Board of Directors of the District, except that such bonds shall not be sold for a less amount than provided by law. Sec. 18 amended by Acts 1967, 60th Leg., p. 354, ch. 171, § 1, emerg. eff. May 12, 1967; Acts 1969, 61st Leg., p. 794, ch. 268, § 1, emerg. eff. May 21, 1969.

* * * * *

Acts 1969, 61st Leg., p. 794, ch. 268, which amended section 18 of this article, provided sections 2 and 3:

"Sec. 2. The Legislature specifically finds and declares that the requirements of Article XVI, Section 59(d), Constitution of Texas, have been done and accomplished in due course and time, and in due order, and that the Legislature has the power and authority to enact this Act.

"Sec. 3. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision."

Art. 8280—325. Inverness Forest Improvement District

* * * * *

Sec. 18. Bonds of the District may be sold at a price and upon the terms determined by the Board of Directors of the District, except that such bonds shall not be sold for a less amount than provided by law. Sec. 18 amended by Acts 1967, 60th Leg., p. 190, ch. 101, § 1, emerg. eff. April 29, 1967; Acts 1969, 61st Leg., p. 1746, ch. 579, § 1, emerg. eff. June 10, 1969.

* * * * *

Acts 1969, 61st Leg., p. 1746, ch. 579, which amended section 18 of this article, provided in sections 2 and 3:

"Sec. 2. The Legislature specifically finds and declares that the requirements of Article XVI, Section 59(d), Constitution of Texas, have been done and accomplished in due course and time, and in due order, and that the Legislature has the power and authority to enact this Act.

"Sec. 3. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision."

Art. 8280—326. Sequoia Improvement District

* * * * *

Sec. 18. Bonds of the District may be sold at a price and upon the terms determined by the Board of Directors of the District, except that such bonds shall not be sold for a less amount than provided by law. Sec. 18 amended by Acts 1967, 60th Leg., p. 294, ch. 139, § 1, emerg. eff. May 8, 1967; Acts 1969, 61st Leg., p. 666, ch. 223, § 1, emerg. eff. May 14, 1969.

* * * * *

Acts 1969, 61st Leg., p. 666, ch. 223, which amended section 18 of this article, provided in sections 2 and 3:

"Sec. 2. The Legislature specifically finds and declares that the requirements of Article XVI, Section 59(d), Constitution of Texas, have been done and accomplished in due course and time, and in due order, and that the Legislature has the power and authority to enact this Act.

vision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision."

"Sec. 3. If any word, phrase, clause, paragraph, sentence, part, portion, or pro-

Art. 8280—330. Wilcrest Improvement District

* * * * *

Sec. 18. Bonds of the District may be sold at a price and upon the terms determined by the Board of Directors of the District, except that such bonds shall not be sold for a less amount than provided by law.

Sec. 18 amended by Acts 1967, 60th Leg., p. 188, ch. 99, § 1, emerg. eff. April 28, 1967; Acts 1969, 61st Leg., p. 667, ch. 224, § 1, emerg. eff. May 14, 1969.

* * * * *

The amendatory Act of 1969, which amended section 18 of this article, provided in sections 2 and 3:

"Sec. 2. The Legislature specifically finds and declares that the requirements of Article XVI, Section 59(d), Constitution of Texas, have been done and accomplished in due course and time, and in due order, and that the Legislature has the power and authority to enact this Act.

"Sec. 3. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision."

Art. 8280—331. Briarwick Improvement District

* * * * *

Sec. 18. Bonds of the District may be sold at a price and upon the terms determined by the Board of Directors of the District, except that such bonds shall not be sold for a less amount than provided by law.

Sec. 18 amended by Acts 1967, 60th Leg., p. 297, ch. 141, § 1, emerg. eff. May 8, 1967; Acts 1969, 61st Leg., p. 791, ch. 265, § 1, emerg. eff. May 21, 1969.

* * * * *

Acts 1969, 61st Leg., p. 791, ch. 265, which amended section 18 of this article, provided in sections 2 and 3:

"Sec. 2. The Legislature specifically finds and declares that the requirements of Article XVI, Section 59(d), Constitution of Texas, have been done and accomplished in due course and time, and in due order, and that the Legislature has the power and authority to enact this Act.

vision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision."

"Sec. 3. If any word, phrase, clause, paragraph, sentence, part, portion, or pro-

Art. 8280—332. Bender Road Improvement District

* * * * *

Sec. 18. Bonds of the District may be sold at a price and upon the terms determined by the Board of Directors of the District, except that such bonds shall not be sold for a less amount than provided by law.

Sec. 18 amended by Acts 1967, 60th Leg., p. 202, ch. 114, § 1, emerg. eff. May 4, 1967; Acts 1969, 61st Leg., p. 1747, ch. 580, § 1, emerg. eff. June 10, 1969.

* * * * *

Acts 1969, 61st Leg., p. 1747, ch. 580, which amended section 18 of this article, provided in sections 2 and 3:

"Sec. 2. The Legislature specifically finds and declares that the requirements of Article XVI, Section 59(d), Constitution of Texas, have been done and accomplished in due course and time, and in due order, and that the Legislature has the power and authority to enact this Act.

"Sec. 3. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision."

Art. 8280—333. West Road Improvement District

* * * * *

Sec. 18. Bonds of the District may be sold at a price and upon the terms determined by the Board of Directors of the District, except that such bonds shall not be sold for a less amount than provided by law.

Sec. 18 amended by Acts 1967, 60th Leg., p. 296, ch. 140, § 1, emerg. eff. May 8, 1967; Acts 1969, 61st Leg., p. 793, ch. 267, § 1, emerg. eff. May 21, 1969.

* * * * *

Acts 1969, 61st Leg., p. 793, ch. 267, which amended section 18 of this article, provided in sections 2 and 3:

"Sec. 2. The Legislature specifically finds and declares that the requirements of Article XVI, Section 59(d), Constitution of Texas, have been done and accomplished in due course and time, and in due order, and that the Legislature has the power and authority to enact this Act.

"Sec. 3. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision."

Art. 8280—334. Bordersville Improvement District

* * * * *

Sec. 18. Bonds of the District may be sold at a price and upon the terms determined by the Board of Directors of the District, except that such bonds shall not be sold for a less amount than provided by law.

Sec. 18 amended by Acts 1967, 60th Leg., p. 191, ch. 102, § 1, emerg. eff. April 29, 1967; Acts 1969, 61st Leg., p. 792, ch. 266, § 1, emerg. eff. May 21, 1969.

* * * * *

Acts 1969, 61st Leg., p. 792, ch. 266, which amended section 18 of this article, provided in sections 2 and 3:

"Sec. 2. The Legislature specifically finds and declares that the requirements of Article XVI, Section 59(d), Constitution of Texas, have been done and accomplished in due course and time, and in due order, and that the Legislature has the power and authority to enact this Act.

"Sec. 3. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision."

Art. 8280—338. Braeburn West Utility District

* * * * *

Sec. 11. The District shall have the right, power and authority to enter into contracts with the United States of America, the State of Texas, or any subdivision thereof, municipal corporations, owners of land, developers or lessees of land and properties and others, as may be necessary or appropriate in connection with the facilities, works or improvements as the District may be authorized and empowered to perform so that, to the greatest extent reasonably possible, considering sound engineering and economic practices, the area may be placed in position ultimately to receive the services of such facilities, works or improvements. No election shall be required of any town or city for approval of contracts with the District, but such contracts may be entered into without the necessity of an election by any contracting party. Such contracts may be for any term not to exceed fifty (50) years.

The District shall have the power and authority to enter into a contract with the City of Houston with respect to compliance with the policy of the City on the formation of water control and improvement districts

within such City's extraterritorial jurisdiction, generally to the effect that:

(a) Bonds may be issued by the District only for the purpose of purchasing and constructing, or purchasing or constructing, or otherwise acquiring waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extensions, additions and repairs thereto, and to purchase or acquire all necessary land, right-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services within or without the boundaries of the District. Such bonds issued by the District, other than refunding bonds, shall only be sold after the taking of public bids therefor, and none of such bonds shall be sold for a less amount than provided by law.

(b) The District shall submit the plans and specifications for the construction of water, sanitary sewer and drainage facilities to serve such District to such City for approval and such District must obtain the approval thereof by such City before commencing construction thereof. The construction of the District's water, sanitary sewer and drainage facilities shall be in accordance with the approved plans and specifications and with applicable standards and specifications of the City of Houston, and during the progress of the construction and installation of such facilities, the Director of Public Works of the City of Houston, or an employee thereof, shall make periodic on the ground inspections, and no such construction shall be started or undertaken by the District unless it has in its possession the following:

(c) A certificate of the District's engineer, who shall be a registered professional engineer under the laws of the State of Texas, that, in his opinion, such construction conforms to said City's established standards and specifications; and a letter or certificate of the Director of the Department of Public Works of said City of Houston (or the successor, department, or agency of said Department of Public Works) that, in his opinion, such construction conforms to said City's established standards and specifications.

Sec. 11 amended by Acts 1967, 60th Leg., p. 1699, ch. 652, § 1, emerg. eff. June 16, 1967; Sec. 11(a) amended by Acts 1969, 61st Leg., p. 1773, ch. 592 § 1, emerg. eff. June 10, 1969.

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Acts 1969, 61st Leg., p. 1773, ch. 592, which amended section 11(a) of this article, provided in sections 2 and 3:

"Sec. 2. The Legislature specifically finds and declares that the requirements of Article XVI, Section 59(d), Constitution of Texas, have been done and accomplished in due course and time, and in due order, and that the Legislature has the power and authority to enact this Act.

"Sec. 3. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision."

Art. 8280—339. Galveston County Water Authority

* * * * *

Sec. 5a. From and after May 1, 1969, three (3) of the directors of the Galveston County Water Authority of Galveston County, Texas, shall be appointed by the Commissioners Court of Galveston County upon the recommendation of the City Council of the City of Galveston.

Sec. 5a added by Acts 1969, 61st Leg., p. 1295, ch. 399, § 1, emerg. eff. May 29, 1969.

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Art. 8280—355. Coastal Industrial Water Authority

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Sec. 4(a) The Authority shall have no power or authority to levy and collect taxes on any property, real, personal or mixed, nor shall the Authority have power and authority to issue bonds or create indebtedness which would in any way be payable from ad valorem taxes levied upon property within the Authority. The Authority shall have no power or authority to limit, regulate or control the pumping, withdrawal or use of subsurface ground water by any person, firm or corporation, nor shall the Authority be authorized to construct, acquire, own or operate facilities for the navigation of public waters.

The enactment of this law shall not have the effect of preventing the organization of conservation districts or of preventing boundary changes of such districts within the boundaries of the Authority as authorized in Article XVI, Section 59 and Article III, Section 52 of the Constitution of Texas.

(b) The Authority shall have and is hereby authorized, subject to the provisions contained herein, to exercise the powers, rights, privileges, and functions of establishing, acquiring, and extending a park or park system and the Authority shall be authorized to improve and equip its park or park system in any manner considered by its board to be appropriate including the construction, purchase, lease, and other acquisition of such park facilities as shall be desirable in the full and adequate development of the park or park system and once established and improved the Authority shall be authorized from time to time to improve, repair, extend, operate, and maintain such park or park system and the park facilities and other improvements situated thereon and relating thereto. "Park facilities," as used herein, means any and all improvements to, or equipment to be placed in, a park, which in the judgment of the board is or will be appropriate, necessary, or useful in the establishment and operation of a park or park system and which will be used or useful by the public in its enjoyment and use thereof, including without limitation, roads, paths, ornaments, public utilities and all types and all lines, systems, and facilities incident thereto, buildings of every type (including but not limited to those related to or useful in the accommodation, lodging, housing, and feeding of the members of the public who may frequent the park) and amusement equipment and facilities of all types. "Park," as used herein, means any area of land or interest therein which is now owned or may hereafter be acquired by the Authority and which is adjacent to the main or lateral canals of the Authority and which in the judgment of the board is or will be appropriate, necessary or useful as and which is or will be dedicated, used, and devoted by the board to use by the public as a playground or place of rest, resort, recreation, exercise, sport, pleasure, amusement, or enjoyment in connection with the beneficial use of the main or lateral canals to which it is adjacent. "Park system," as used herein, means more than one park whether or not contiguous.

The Authority shall be authorized to acquire property of any kind, or any interest therein, necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred pursuant to this Section 4(b); provided, however, that the authority shall not acquire such parks and/or park system by the exercise of eminent domain.

Each park and park system acquired or established under the provisions hereof shall be under and subject to the control and management of the board, and the board shall have the continuous general power to manage and operate the affairs of the same as it may consider appropriate, including without limitation the power to employ such personnel for management or policing purposes, or otherwise, to enter into such contracts and agreements extending over such periods of time, to provide for

the sale, rental, or use of such products in the park or park system as shall be considered necessary to the full, complete, proper, and efficient development, administration, and operation of the park or park system.

The Authority shall have the express general power and authority to make, grant, accept, and enter into all leases, and all concession, rental, operating, or other contracts and agreements covering or relating to any part or all of the land comprising any park, park system, or park facilities, which the board shall deem necessary or convenient to carry out any of the purposes and powers granted hereby, upon such terms and conditions and for such length or period of time as may be prescribed herein. Any such contract, lease, or agreement may be entered into with any person, real or artificial, any corporation, municipal or private, any governmental agency or bureau, including the United States government and the State of Texas, agencies and political subdivisions thereof, and the board may make contracts, leases, and agreements with any such persons, corporation, or entities for the acquisition, financing, construction, or operation of any park, park system, or park facilities or other improvements in or connected with or incident to any park or park system.

Any and all such contracts, leases, and agreements, to be effective, shall be authorized by order or resolution of the board, shall be executed by its president and attested by its secretary, or it may be executed by such other person or persons as the board may direct, and the same shall be binding upon the Authority without reference to any other statute or statutes.

The board shall be expressly authorized to adopt and enforce such rules and regulations relating to the use, operation, management, administration, and policing of its park or park system and related waters controlled by it as it may consider appropriate, including, without limitation, the zoning or dividing of each park or park system into such zones or divisions as it may consider appropriate and in the interest of such park or park system as a whole, and it may restrict and prescribe the activities that may be conducted in each such zone or division.

The board shall be authorized to fix, impose, and collect such fees, tolls, rents, rates, and charges for entry to, or use of, the park or park system and park facilities controlled by it as it may deem necessary, with other sources of funds available to it, to support the acquisition, maintenance, upkeep, repair, improvement, and operation of such park or park system.

The board is hereby authorized to accept grants, gratuities, advances, and loans in any form from any source approved by the board including the United States Government or any agency thereof, the State of Texas or any agency thereof, any private or public corporation, and any other person, for the purpose of promoting, establishing, and accomplishing the objectives and purposes and powers herein set forth, and to make and enter into such concessions, agreements, and covenants as the board considers appropriate in connection therewith.

Sec. 4 amended by Acts 1969, 61st Leg., p. 2277, ch. 767, § 1, emerg. eff. June 14, 1969.

Sec. 5(a) The management and control of the Authority is hereby vested in a board of seven (7) directors who shall be at least twenty-one (21) years of age and shall be residents and landowners of Harris County or that part of Chambers and Liberty Counties which are within the boundaries of the Authority. Four (4) of such directors and their successors, being positions numbered one (1) to four (4) inclusive, shall be appointed by the mayor of the City of Houston with the advice and consent of the governing body of such city. The remaining three (3) directors and their successors, being positions numbered five (5) to seven (7) inclusive shall be appointed by the Governor of Texas with the advice and consent of the Senate, one of whom shall be a resident of

Chambers County, one a resident of Liberty County and one a resident of Harris County. Vacancies in positions one (1) through four (4) shall be filled by appointment by the mayor of the City of Houston with the advice and consent of its governing body, and vacancies in positions five (5) through seven (7) shall be filled by appointment by the Governor of Texas with the advice and consent of the Senate. Any director appointed by the mayor or governor shall be entitled to serve as a director pending his approval by the said governing body or Senate.

The directors first appointed shall meet and organize as soon as practicable after the effective date of this Act, and shall file their official bonds and subscribe to the Constitutional oath of office. The directors first appointed shall serve until April 1, 1969, and all terms of office thereafter shall be for a period of two (2) years except for the first term of office after April 1, 1969, for positions one (1) two (2) and six (6) which shall be for a term of one (1) year. No member of the governing body of the City of Houston and no employee of the City of Houston shall be appointed as a director.

At its April, 1969, meeting the board shall reorganize and elect from its members a president, vice-president, secretary-treasurer and such other officers as it deems necessary. A person who is elected to a board office shall serve for two (2) years in that capacity or until he ceases to be a director, if this event occurs within two (2) years. At its April meeting of each year the board shall elect officers for the offices to be filled. If a vacancy occurs in a board office, the directors at the next regular board meeting shall elect a person to serve until the next April meeting of the board.

(b) The board shall employ an executive director for a term and at a salary to be fixed by the board. Under policies established by the board, the executive director is responsible to the board for:

- (1) administering the directives of the board;
 - (2) keeping the Authority's records, including minutes of the board's meetings;
 - (3) coordinating with state, federal, and local agencies;
 - (4) developing plans and programs for the board's approval;
 - (5) hiring, supervising, training, and discharging the Authority's employees;
 - (6) performing any other duties assigned to him by the board.
- (c) The board is empowered to adopt bylaws to govern:
- (1) the time, place and manner of conducting its meetings;
 - (2) the powers, duties and responsibilities of its officers and executive director;
 - (3) the disbursement of funds by checks, drafts and warrants;
 - (4) the appointment and authority of director committees; and
 - (5) the keeping of records and accounts.

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

(e) The board may by resolution designate one or more banks to serve as the Authority's depository, and all funds of said Authority shall be secured in the manner now provided for the security of county funds.

Such bank or banks shall serve until a successor has been appointed by the board and has qualified.

Sec. 5 amended by Acts 1969, 61st Leg., p. 2279, ch. 767, § 2, emerg. eff. June 14, 1969.

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Art. 8280—365. Blue Ridge Municipal Utility District

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Sec. 11. The district shall have the right, power and authority to enter into contracts with the United States of America, the State of Texas, or any political subdivision thereof, municipal corporations, private corporations, and persons, including but not limited to owners of land, developers or lessees of land and properties and others, as may be necessary or appropriate in connection with the facilities, works or improvements as the district may be authorized and empowered to perform including, but not by way of limitation, the transportation, treatment and disposal of its domestic, industrial or communal wastes or the transportation, treatment and disposal of domestic, industrial or communal wastes of others, to include, but not by way of limitation, the purposes of the Regional Waste Disposal Act (Article 7621g, Vernon's Texas Civil Statutes) the provisions of which are expressly made applicable to the district, and for the purchase and sale of water, or either. Such contracts shall be entered into so that, to the greatest extent reasonably possible, considering sound engineering and economic practices, the area may be placed in position ultimately to receive the services of such facilities, works or improvements, and, but not by way of limitation, to accomplish the purposes of the Regional Waste Disposal Act. The District shall have the power to levy, collect and pledge taxes for the payment of part or all obligations incurred under contracts to purchase water if said taxes are authorized at an election held for that purpose in the manner authorized by Article 7880—107, Vernon's Texas Civil Statutes, as amended, which election may be held in conjunction with an election authorizing tax bonds or authorizing a maintenance tax. No election shall be required of any city or town of the district for approval of contracts with or by the district, if such contracts are not payable from funds to be derived from taxation, but such contracts may be entered into without the necessity of an election by any contracting party. Such contracts may be for any term not to exceed 40 years. The rights, powers, privileges, authority, and functions conferred on the district are granted subject to the policy of the State to encourage the development and use of integrated area-wide waste collection, treatment and disposal systems to serve the waste disposal needs of the citizens of the State, it being an objective of the policy to avoid the economic burden to the people and the impact on the quality of the waters in the State which result from the construction and operation of numerous small waste collection, treatment and disposal facilities to serve an area when an integrated area-wide waste collection, treatment and disposal system for the area can be reasonably provided.

The district shall have the power and authority to enter into a contract with the City of Houston with respect to compliance with the policy of the city on the formation of water control and improvement districts within such city's extraterritorial jurisdiction, generally to the effect that:

- (a) Bonds may be issued by the district only for the purpose of purchasing and constructing, or purchasing or constructing, or otherwise acquiring waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extensions, additions and repairs thereto, and to purchase or acquire

all necessary land, right-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services within or without the boundaries of the district. Such bonds issued by the district, other than refunding bonds, shall only be sold after the taking of public bids therefor, and none of such bonds, other than refunding bonds, shall be sold for less than 100 percent of their face value and shall bear the rate of interest agreed upon by the city and the district, but not to exceed the maximum legal interest rate as prescribed by the Legislature in the general laws of this state applicable to water control and improvement district created under authority of Article XVI, Section 59, Constitution of Texas.

(b) The district shall submit the plans and specifications for the construction of water, sanitary sewer and drainage facilities to serve such district to such city for approval and such district must obtain the approval thereof by such city before commencing construction thereof. The construction of the district's water, sanitary sewer and drainage facilities shall be in accordance with the approved plans and specifications and with applicable standards and specifications of the City of Houston, and during the progress of the construction and installation of such facilities, the Director of Public Works of the City of Houston, or an employee thereof, shall make periodic on the ground inspections, and no such construction shall be started or undertaken by the district unless it has in its possession the following:

(c) A certificate of the district's engineer, who shall be a registered professional engineer under the laws of the State of Texas, that, in his opinion, such construction conforms to said city's established standards and specifications; and a letter or certificate of the Director of the Department of Public Works of the City of Houston (or the successor, department, or agency of said Department of Public Works) that, in his opinion, such construction conforms to said city's established standards and specifications.

Sec. 11 amended by Acts 1969, 61st Leg., p. 1246, ch. 392, § 5, emerg. eff. May 29, 1969.

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The 61st Legislature, 1969 Regular Session, created 84 additional districts, listed in the Tables below. The first table lists the new districts alphabetically by name, showing the Vernon's Annotated Texas Statutes classification and the citation of the act which created the district. The second table lists the districts by Vernon's Annotated Texas Statutes classification.

For full text of these acts consult Vernon's Texas Annotated Statutes or General and Special Laws of Texas, 61st Legislature, Regular Session 1969.

ALPHABETICAL TABLE

Name of District	V.A.T.S. Classification	Created by
Amigoland Utility District	8280-471	Acts 1969, 61st Leg., p. 2405, ch. 810.
Arroyo Estates Utility District	8280-450	Acts 1969, 61st Leg., p. 1776, ch. 594.
Bammel Utility District	8280-438	Acts 1969, 61st Leg., p. 1098, ch. 357.
Bay Ridge Utility District	8280-460	Acts 1969, 61st Leg., p. 2021, ch. 694.
Baytown Levee District	8280-393	Acts 1969, 61st Leg., p. 209, ch. 86.
Belleau Wood East Utility District	8280-435	Acts 1969, 61st Leg., p. 1066, ch. 351.
Boone Road Utility District	8280-427	Acts 1969, 61st Leg., p. 910, ch. 303.
Braes Utility District	8280-431	Acts 1969, 61st Leg., p. 963, ch. 309.
Brazoria County Conservation and Reclamation District No. 3	8280-476	Acts 1969, 61st Leg., p. 948, ch. 307.
Burleson County Water Control and Improvement District No. 1	8280-457	Acts 1969, 61st Leg., p. 1897, ch. 636.
Burlington Colony Municipal Utility District	8280-418	Acts 1969, 61st Leg., p. 726, ch. 256.

Name of District	V.A.T.S. Classification	Created by
Candlewood Utility District	8280-429	Acts 1969, 61st Leg., p. 929, ch. 305.
Cape Royale Utility District	8280-424	Acts 1969, 61st Leg., p. 796, ch. 270.
Casa Manana Utility District	8280-468	Acts 1969, 61st Leg., p. 2203, ch. 753.
Cedar Bayou Park Utility District	8280-422	Acts 1969, 61st Leg., p. 768, ch. 261.
Cherry Hill Municipal Utility District	8280-425	Acts 1969, 61st Leg., p. 889, ch. 300.
Chimney Rock Municipal Utility District	8280-439	Acts 1969, 61st Leg., p. 1190, ch. 384.
CNP Utility District	8280-466	Acts 1969, 61st Leg., p. 2182, ch. 751.
Collin-Denton County Water and Sanitation District	8280-400	Acts 1969, 61st Leg., p. 381, ch. 142.
Court Road Municipal Utility District	8280-420	Acts 1969, 61st Leg., p. 747, ch. 258.
Cypress Creek Utility District	8280-403	Acts 1969, 61st Leg., p. 411, ch. 146.
DeWitt County Countywide Conservation and Reclamation District	8280-475	Acts 1969, 61st Leg., p. 2577, ch. 859.
East Plantation Utility District	8280-451	Acts 1969, 61st Leg., p. 1789, ch. 600.
Fallbrook Utility District	8280-456	Acts 1969, 61st Leg., p. 1887, ch. 633.
Fairwood Utility District	8280-474	Acts 1969, 61st Leg., p. 2568, ch. 858.
Fondren Lake Municipal Utility District	8280-440	Acts 1969, 61st Leg., p. 1206, ch. 386.
Galveston County Flood Control District	8280-459	Acts 1969, 61st Leg., p. 1992, ch. 681.
Glenshire Municipal Utility District	8280-433	Acts 1969, 61st Leg., p. 1035, ch. 338.
Green Ridge Municipal Utility District	8280-421	Acts 1969, 61st Leg., p. 757, ch. 259.
Greenwood Utility District	8280-452	Acts 1969, 61st Leg., p. 1828, ch. 616.
Greenbriar Utility District	8280-449	Acts 1969, 61st Leg., p. 1749, ch. 582.
Gulfway Utility District	8280-436	Acts 1969, 61st Leg., p. 1080, ch. 355.
Harbor Utility District	8280-467	Acts 1969, 61st Leg., p. 2192, ch. 752.
Harris County Utility District No. 1	8280-405	Acts 1969, 61st Leg., p. 432, ch. 148.
Harris County Utility District No. 2	8280-423	Acts 1969, 61st Leg., p. 780, ch. 263.
Harris County Utility District No. 3	8280-406	Acts 1969, 61st Leg., p. 441, ch. 149.
Harris County Utility District No. 4	8280-416	Acts 1969, 61st Leg., p. 656, ch. 222.
Harris County Utility District No. 5	8280-407	Acts 1969, 61st Leg., p. 450, ch. 150.
Harris County Utility District No. 6	8280-442	Acts 1969, 61st Leg., p. 1232, ch. 391.
Harris County Utility District No. 7	8280-408	Acts 1969, 61st Leg., p. 459, ch. 151.
Harris County Water Control and Improvement District No. 132	8280-401	Acts 1969, 61st Leg., p. 392, ch. 144.
Hidalgo County Drainage District No. 2	8280-443	Acts 1969, 61st Leg., p. 1249, ch. 393.
Horsepen Bayou Municipal Utility District	8280-472	Acts 1969, 61st Leg., p. 2495, ch. 838.
Hueco Valley Utility District	8280-461	Acts 1969, 61st Leg., p. 2067, ch. 714.
Iowa Park Municipal District	8280-469	Acts 1969, 61st Leg., p. 2214, ch. 756.
Jackson County County-Wide Drainage District	8280-412	Acts 1969, 61st Leg., p. 587, ch. 200.
Kerrville South Utility District	8280-448	Acts 1969, 61st Leg., p. 1576, ch. 481.
Langhorn Creek Utility District	8280-430	Acts 1969, 61st Leg., p. 938, ch. 306.
Lavaca County Countywide Conservation and Reclamation District	8280-463	Acts 1969, 61st Leg., p. 2141, ch. 745.
Lake Tanglewood Utility District	8280-410	Acts 1969, 61st Leg., p. 521, ch. 182.
Louetta Road Utility District	8280-464	Acts 1969, 61st Leg., p. 2163, ch. 749.
Lynchburg Utility District	8280-396	Acts 1969, 61st Leg., p. 301, ch. 117.
Manning Utility District	8280-426	Acts 1969, 61st Leg., p. 901, ch. 302.
McHard Road Municipal Utility District	8280-419	Acts 1969, 61st Leg., p. 737, ch. 257.
Memorial Hills Utility District	8280-409	Acts 1969, 61st Leg., p. 468, ch. 152.
Memorial West Utility District	8280-428	Acts 1969, 61st Leg., p. 920, ch. 304.
North Belt Utility District	8280-399	Acts 1969, 61st Leg., p. 368, ch. 139.
Northgate Utility District	8280-434	Acts 1969, 61st Leg., p. 1057, ch. 350.
Palm Valley Estates Utility District	8280-397	Acts 1969, 61st Leg., p. 311, ch. 118.
Parkway Utility District	8280-453	Acts 1969, 61st Leg., p. 1837, ch. 617.
Pendleton Bridge Utility District	8280-394	Acts 1969, 61st Leg., p. 267, ch. 107.
Pinehurst Utility District	8280-398	Acts 1969, 61st Leg., p. 323, ch. 119.
Ponderosa Forest Utility District	8280-437	Acts 1969, 61st Leg., p. 1089, ch. 356.
Post Oak Road Municipal Utility District	8280-417	Acts 1969, 61st Leg., p. 715, ch. 255.
Quail Valley Utility District	8280-445	Acts 1969, 61st Leg., p. 1267, ch. 397.
Rayford Road Municipal Utility District	8280-402	Acts 1969, 61st Leg., p. 402, ch. 145.
Rhea Utility District	8280-458	Acts 1969, 61st Leg., p. 1912, ch. 639.
Rio Grande Valley Municipal Water Authority	8280-455	Acts 1969, 61st Leg., p. 1862, ch. 623.
Robards Utility District	8280-470	Acts 1969, 61st Leg., p. 2382, ch. 803.
Sageglen Municipal Utility District	8280-446	Acts 1969, 61st Leg., p. 1286, ch. 398.
San Patricio County Drainage District	8280-411	Acts 1969, 61st Leg., p. 561, ch. 187.
Spring Hill Utility District	8280-465	Acts 1969, 61st Leg., p. 2172, ch. 750.
Sulphur Springs Water District	8280-432	Acts 1969, 61st Leg., p. 972, ch. 310.

WATER

Name of District	V.A.T.S. Classification	Created by
Tattor Road Municipal District	8280-473.....	Acts 1969, 61st Leg., p. 2534, ch. 846.
Tehuacana Utility District	8280-415.....	Acts 1969, 61st Leg., p. 622, ch. 216.
Thompson Road Utility District	8280-395.....	Acts 1969, 61st Leg., p. 291, ch. 116.
Tigua-Hueco Utility District	8280-462.....	Acts 1969, 61st Leg., p. 2078, ch. 716.
Timber Lane Utility District	8280-444.....	Acts 1969, 61st Leg., p. 1256, ch. 395.
Timber Creek Utility District	8280-454.....	Acts 1969, 61st Leg., p. 1850, ch. 621.
Tomball Road Utility District	8280-404.....	Acts 1969, 61st Leg., p. 421, ch. 147.
White Bluff Water Control and Im-		
provement District of Hill County ..	8280-447.....	Acts 1969, 61st Leg., p. 1452, ch. 431.
Willacy County Drainage District No. 1 ..	8280-413.....	Acts 1969, 61st Leg., p. 22, ch. 10.
Willacy County Drainage District No. 2 ..	8280-414.....	Acts 1969, 61st Leg., p. 31, ch. 11.
Woodland North Utility District	8280-441.....	Acts 1969, 61st Leg., p. 1223, ch. 390.

CLASSIFICATION TABLE

V.A.T.S.

Classification	Name of District—Citation of Act
8280-393.....	Baytown Levee District—Acts 1969, 61st Leg., p. 209, ch. 86.
8280-394.....	Pendleton Bridge Utility District—Acts 1969, 61st Leg., p. 267, ch. 107.
8280-395.....	Thompson Road Utility District—Acts 1969, 61st Leg., p. 291, ch. 116.
8280-396.....	Lynchburg Utility District—Acts 1969, 61st Leg., p. 301, ch. 117.
8280-397.....	Palm Valley Estates Utility District—Acts 1969, 61st Leg., p. 311, ch. 118.
8280-398.....	Pinehurst Utility District—Acts 1969, 61st Leg., p. 323, ch. 119.
8280-399.....	North Belt Utility District—Acts 1969, 61st Leg., p. 368, ch. 139.
8280-400.....	Collin-Denton County Water and Sanitation District—Acts 1969, 61st Leg., p. 381, ch. 142.
8280-401.....	Harris County Water Control and Improvement District No. 132—Acts 1969, 61st Leg., p. 392, ch. 144.
8280-402.....	Rayford Road Municipal Utility District—Acts 1969, 61st Leg., p. 402, ch. 145.
8280-403.....	Cypress Creek Utility District—Acts 1969, 61st Leg., p. 411, ch. 146.
8280-404.....	Tomball Road Utility District—Acts 1969, 61st Leg., p. 421, ch. 147.
8280-405.....	Harris County Utility District No. 1—Acts 1969, 61st Leg., p. 432, ch. 148.
8280-406.....	Harris County Utility District No. 3—Acts 1969, 61st Leg., p. 441, ch. 149.
8280-407.....	Harris County Utility District No. 5—Acts 1969, 61st Leg., p. 450, ch. 150.
8280-408.....	Harris County Utility District No. 7—Acts 1969, 61st Leg., p. 459, ch. 151.
8280-409.....	Memorial Hills Utility District—Acts 1969, 61st Leg., p. 468, ch. 152.
8280-410.....	Lake Tanglewood Utility District—Acts 1969, 61st Leg., p. 521, ch. 182.
8280-411.....	San Patricio County Drainage District—Acts 1969, 61st Leg., p. 561, ch. 187.
8280-412.....	Jackson County County-Wide Drainage District—Acts 1969, 61st Leg., p. 587, ch. 200.
8280-413.....	Willacy County Drainage District No. 1—Acts 1969, 61st Leg., p. 22, ch. 10.
8280-414.....	Willacy County Drainage District No. 2—Acts 1969, 61st Leg., p. 31, ch. 11.
8280-415.....	Tehuacana Utility District—Acts 1969, 61st Leg., p. 622, ch. 216.
8280-416.....	Harris County Utility District No. 4—Acts 1969, 61st Leg., p. 656, ch. 222.
8280-417.....	Post Oak Road Municipal Utility District—Acts 1969, 61st Leg., p. 715, ch. 255.
8280-418.....	Burlington Colony Municipal Utility District—Acts 1969, 61st Leg., p. 726, ch. 256.
8280-419.....	McHard Road Municipal Utility District—Acts 1969, 61st Leg., p. 737, ch. 257.
8280-420.....	Court Road Municipal Utility District—Acts 1969, 61st Leg., p. 747, ch. 258.
8280-421.....	Green Ridge Municipal Utility District—Acts 1969, 61st Leg., p. 757, ch. 259.
8280-422.....	Cedar Bayou Park Utility District—Acts 1969, 61st Leg., p. 768, ch. 261.
8280-423.....	Harris County Utility District No. 2—Acts 1969, 61st Leg., p. 780, ch. 263.
8280-424.....	Cape Royale Utility District—Acts 1969, 61st Leg., p. 796, ch. 270.
8280-425.....	Cherry Hill Municipal Utility District—Acts 1969, 61st Leg., p. 889, ch. 300.
8280-426.....	Manning Utility District—Acts 1969, 61st Leg., p. 901, ch. 302.
8280-427.....	Boone Road Utility District—Acts 1969, 61st Leg., p. 910, ch. 303.
8280-428.....	Memorial West Utility District—Acts 1969, 61st Leg., p. 920, ch. 304.
8280-429.....	Candlewood Utility District—Acts 1969, 61st Leg., p. 929, ch. 305.
8280-430.....	Langhorn Creek Utility District—Acts 1969, 61st Leg., p. 938, ch. 306.
8280-431.....	Braes Utility District—Acts 1969, 61st Leg., p. 963, ch. 309.
8280-432.....	Sulphur Springs Water District—Acts 1969, 61st Leg., p. 972, ch. 310.
8280-433.....	Glenshire Municipal Utility District—Acts 1969, 61st Leg., p. 1035, ch. 338.
8280-434.....	Northgate Utility District—Acts 1969, 61st Leg., p. 1057, ch. 350.
8280-435.....	Belleau Wood East Utility District—Acts 1969, 61st Leg., p. 1066, ch. 351.
8280-436.....	Gulfway Utility District—Acts 1969, 61st Leg., p. 1080, ch. 355.
8280-437.....	Ponderosa Forest Utility District—Acts 1969, 61st Leg., p. 1089, ch. 356.
8280-438.....	Bammel Utility District—Acts 1969, 61st Leg., p. 1098, ch. 357.
8280-439.....	Chimney Rock Municipal Utility District—Acts 1969, 61st Leg., p. 1190, ch. 384.
8280-440.....	Fondren Lake Municipal Utility District—Acts 1969, 61st Leg., p. 1206, ch. 386.
8280-441.....	Woodland North Utility District—Acts 1969, 61st Leg., p. 1223, ch. 390.
8280-442.....	Harris County Utility District No. 6—Acts 1969, 61st Leg., p. 1232, ch. 391.
8280-443.....	Hidalgo County Drainage District No. 2—Acts 1969, 61st Leg., p. 1249, ch. 393.

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Classification	Name of District—Citation of Act
8280-444.....	Timber Lane Utility District—Acts 1969, 61st Leg., p. 1256, ch. 395.
8280-445.....	Quall Valley Utility District—Acts 1969, 61st Leg., p. 1267, ch. 397.
8280-446.....	Sageglen Municipal Utility District—Acts 1969, 61st Leg., p. 1286, ch. 398.
8280-447.....	White Bluff Water Control and Improvement District of Hill County—Acts 1969, 61st Leg., p. 1452, ch. 431.
8280-448.....	Kerrville South Utility District—Acts 1969, 61st Leg., p. 1576, ch. 481.
8280-449.....	Greenbriar Utility District—Acts 1969, 61st Leg., p. 1749, ch. 582.
8280-450.....	Arroyo Estates Utility District—Acts 1969, 61st Leg., p. 1776, ch. 594.
8280-451.....	East Plantation Utility District—Acts 1969, 61st Leg., p. 1789, ch. 600.
8280-452.....	Greenwood Utility District—Acts 1969, 61st Leg., p. 1828, ch. 616.
8280-453.....	Parkway Utility District—Acts 1969, 61st Leg., p. 1837, ch. 617.
8280-454.....	Timber Creek Utility District—Acts 1969, 61st Leg., p. 1850, ch. 621.
8280-455.....	Rio Grande Valley Municipal Water Authority—Acts 1969, 61st Leg., p. 1862, ch. 623.
8280-456.....	Fallbrook Utility District—Acts 1969, 61st Leg., p. 1887, ch. 633.
8280-457.....	Burleson County Water Control and Improvement District No. 1—Acts 1969, 61st Leg., p. 1897, ch. 636.
8280-458.....	Rhea Utility District—Acts 1969, 61st Leg., p. 1912, ch. 639.
8280-459.....	Galveston County Flood Control District—Acts 1969, 61st Leg., p. 1992, ch. 681.
8280-460.....	Bay Ridge Utility District—Acts 1969, 61st Leg., p. 2021, ch. 694.
8280-461.....	Hueco Valley Utility District—Acts 1969, 61st Leg., p. 2067, ch. 714.
8280-462.....	Tigua-Hueco Utility District—Acts 1969, 61st Leg., p. 2078, ch. 716.
8280-463.....	Lavaca County Countywide Conservation and Reclamation District—Acts 1969, 61st Leg., p. 2141, ch. 745.
8280-464.....	Louetta Road Utility District—Acts 1969, 61st Leg., p. 2163, ch. 749.
8280-465.....	Spring Hill Utility District—Acts 1969, 61st Leg., p. 2172, ch. 750.
8280-466.....	CNP Utility District—Acts 1969, 61st Leg., p. 2182, ch. 751.
8280-467.....	Harbor Utility District—Acts 1969, 61st Leg., p. 2192, ch. 752.
8280-468.....	Casa Manana Utility District—Acts 1969, 61st Leg., p. 2203, ch. 753.
8280-469.....	Iowa Park Municipal District—Acts 1969, 61st Leg., p. 2214, ch. 756.
8280-470.....	Robards Utility District—Acts 1969, 61st Leg., p. 2382, ch. 803.
8280-471.....	Amigoland Utility District—Acts 1969, 61st Leg., p. 2405, ch. 810.
8280-472.....	Horsepen Bayou Municipal Utility District—Acts 1969, 61st Leg., p. 2495, ch. 838.
8280-473.....	Tattor Road Municipal District—Acts 1969, 61st Leg., p. 2534, ch. 846.
8280-474.....	Fairwood Utility District—Acts 1969, 61st Leg., p. 2568, ch. 853.
8280-475.....	DeWitt County Countywide Conservation and Reclamation District—Acts 1969, 61st Leg., p. 2577, ch. 859.
8280-476.....	Brazoria County Conservation and Reclamation District No. 3—Acts 1969, 61st Leg., p. 948, ch. 307.

TITLE 130—WORKMEN'S COMPENSATION LAW

PART 4

Art.
8309e—2. Municipal employees [New].

PART 1

Art. 8306. Damages and compensation for personal injuries

Art. 8306, sec. 7c. Attorneys' fees regulated by the board

Sec. 7c. All fees of attorneys for representing claimants before the Board under the provisions of this law shall be subject to the approval of the Board. No attorneys' fees for representing claimants before the Board shall be allowed or approved against any party or parties not represented by such attorney, nor exceeding an amount equal to twenty-five per cent (25%) of the total recovery, in addition to the reasonable expenses incurred by the attorney in the preparation and presentation of the said claim before the Board, such expenses to be allowed by the Board. Where an attorney represents only a part of those interested in the allowance of a claim before the Board and his services in prosecuting such claim and obtaining an award there inures to the benefit of others jointly interested therein, then the Board may take these facts into consideration and allow the attorney a reasonable charge, to be assessed against the interest of those receiving benefits from the service of such attorney. The attorneys' fees herein provided for may be redeemed by the association by the payment of a lump sum or may be commuted by the agreement of the parties subject to the approval of the Board, but not until the claim represented by said attorney has been finally determined by the Board and recognized and accepted by the association. After the approval, as first above provided for, if the association be notified in writing of such claim or agreement for legal services, the same shall be a lien against any amount thereafter to be paid as compensation; provided, that where the employee's compensation is payable by the association in periodical installments, the Board shall fix at the time of approval the proportion of each installment to be paid on account of said legal services.

Sec. 7c amended by Acts 1969, 61st Leg., p. 48, ch. 18, § 6, emerg. eff. May 18, 1969.

Section 1 of the amendatory act of 1969 stated its purpose; section 13 was a savings clause; section 14 was a severability provision; and section 15 was a repealer. For provisions, see note under sec. 8 of this article.

Art. 8306, sec. 7d. Attorneys' fees regulated by the court

Sec. 7d. For representing the interest of any claimant in any manner carried from the Board into the courts, it shall be lawful for the attorney representing such interest to contract with any beneficiary under this law for an attorneys' fee for such representation, not to exceed twenty-five per cent (25%) of the amount recovered, such fee for services so rendered to be fixed and allowed by the trial court in which such matter may be heard and determined.

In fixing and allowing such attorneys' fees the court must take into consideration the benefit accruing to the beneficiary as a result of such services. No attorneys' fees (other than the amount which the Board may have approved) shall be allowed for representing a claimant in the trial court unless the court finds that benefits have accrued to the claimant by virtue of such representation, and then such attorneys' fees may be allowed only on a basis of services performed and benefits accruing to the beneficiary.

For Annotations and Historical Notes, see V.A.T.S.

Provided, however, that in all cases involving fatal injuries where the Association admits liability on all issues involved and tenders payments of maximum benefits in writing under this Act while the death benefits claim of such beneficiaries is pending before the Board, then no attorney fee shall be allowed.

Sec. 7d amended by Acts 1969, 61st Leg., p. 48, ch. 18, § 7, emerg. eff. May 18, 1969.

Section 1 of the amendatory act of 1969 stated its purpose; section 13 was a savings clause; section 14 was a severability provision; and section 15 was a repealer. For provisions, see note under sec. 8 of this article.

Art. 8306, sec. 7—e. Artificial appliances

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Sec. 7—e. (a) In all cases where liability for compensation exists for an injury sustained by an employee in the course of his employment where artificial appliances of any kind would materially and beneficially improve the future usefulness and occupational opportunities of such injured employee, the association shall furnish such employee with the artificial appliance or appliances needed by him for such occupational opportunities and shall continue to furnish the needed artificial appliance or appliances until a satisfactory fit is obtained in the judgment of the attending physician or physicians. The association shall not be liable for replacing or repairing any artificial appliances so furnished. The cost of such artificial appliances so furnished to any such employee shall be in keeping with the salary or wages received by such employee.

Sec. 7—e(a) amended by Acts 1969, 61st Leg., p. 499, ch. 165, § 1, eff. Sept. 1, 1969.

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Art. 8306, sec. 8. Death benefit

Sec. 8. If death should result from the injury, the association hereinafter created shall pay the legal beneficiaries of the deceased employee a weekly payment equal to sixty per cent (60%) of his average weekly wages, but not more than Forty-nine Dollars (\$49) nor less than Twelve Dollars (\$12) per week, for a period of three hundred and sixty (360) weeks from the date of the injury.

Sec. 8 amended by Acts 1969, 61st Leg., p. 48, ch. 18, § 2, emerg. eff. May 18, 1969.

The Workmen's Compensation Administrative Reform Bill of 1969

Section 1 of Acts 1969, 61st Leg., p. 48, ch. 18, provided: "This Act shall be entitled "The Workmen's Compensation Administrative Reform Bill of 1969." The purpose of this Act is to provide prompt and fair workmen's compensation payments for injured workers, to minimize the expense and delay of court action and the resulting drain on the resources of the claimant; to provide for equitable administration of the law with the goal of channeling the largest possible amount of the premium dollar into the pocket of the injured worker."

Sections 3 to 8 of the act of 1969 amended secs. 7c, 7d, 10, 11, 12 and 12c—2 of this article; sections 9 and 10 amended art. 8307, §§ 3, 10; section 11 amended art. 8309, § 4; and section 12 amended art. 8309a.

Sections 13 to 15 of the amendatory act of 1969 provided:

"Sec. 13. As respects claims for injury sustained prior to the effective date of this

Act, no inchoate, vested, matured, existing or other rights, remedies, powers, duties, or authority, either of any employee or legal beneficiary, or of the Board, or of the association, or of any other person shall be in any way affected by any of the amendments or repeals herein made to the original law hereby amended or repealed, but all such rights, remedies, powers, duties, and authority shall remain and be in force as under the original law just as if the amendments or repeals hereby adopted had never been made, and to that end it is hereby declared that as respects such injuries occurring prior to the effective date of this Act, said original law is not repealed, but the same is, and shall remain in full force and effect as to all such rights, remedies, powers, duties, and authority; and further this Act insofar as it adopts the law of which it is an amendment is a continuation thereof, and only in other respects a new enactment.

"Sec. 14. If any Section, paragraph or provision of this Act be declared unconsti-

tutional or invalid for any reason, such holding shall not in any manner affect the remaining Sections, paragraphs or provisions of this Act, but the same shall remain in full force and effect.

"Sec. 15. All laws or parts of laws in conflict herewith are expressly repealed to the extent of such conflict."

Section 16 of Acts 1969, 61st Leg., p. 48, ch. 18, an emergency provision, was amended by Acts 1969, 61st Leg., p. 334, ch. 121, § 1, to provide that Chapter 18 "shall take effect and be in force at 12:01 A.M., May 18, 1969."

Art. 8306, sec. 10. Total incapacity

Sec. 10. While the incapacity for work resulting from the injury is total, the association shall pay the injured employee a weekly compensation equal to sixty per cent (60%) of his average weekly wages, but not more than Forty-nine Dollars (\$49) nor less than Twelve Dollars (\$12) and in no case shall the period covered by such compensation be greater than four hundred and one (401) weeks from the date of injury. Sec. 10 amended by Acts 1969, 61st Leg., p. 48, ch. 18, § 3, emerg. eff. May 18, 1969.

Section 1 of the amendatory act of 1969 stated its purpose; section 13 was a savings clause; section 14 was a severability

provision; and section 15 was a repealer. For provisions, see note under sec. 8 of this article.

Art. 8306, sec. 11. Partial incapacity

Sec. 11. While the incapacity for work resulting from the injury is partial, the association shall pay the injured employee a weekly compensation equal to sixty per cent (60%) of the difference between his average weekly wages before the injury and his average weekly wage earning capacity during the existence of such partial incapacity, but in no case more than Forty-nine Dollars (\$49) per week. The period covered by such compensation shall be in no case greater than three hundred (300) weeks; provided that in no case shall the period of compensation for total and partial incapacity exceed four hundred and one (401) weeks from the date of injury. Compensation for all partial incapacity resulting from a general injury shall be computed in the manner provided in this Section, and shall not be computed on a basis of a percentage of disability.

Sec. 11 amended by Acts 1969, 61st Leg., p. 48, ch. 18, § 4, emerg. eff. May 18, 1969.

Section 1 of the amendatory act of 1969 stated its purpose; section 13 was a savings clause; section 14 was a severability

provision; and section 15 was a repealer. For provisions, see note under sec. 8 of this article.

Art. 8306, sec. 12. Specific compensation

Sec. 12. For the injuries enumerated in the following schedule the employee shall receive in lieu of all other compensation except medical aid, hospital services and medicines as elsewhere herein provided, a weekly compensation equal to sixty per cent (60%) of the average weekly wages of such employee, but not less than Twelve Dollars (\$12) per week nor exceeding Forty-nine Dollars (\$49) per week, for the respective periods stated herein, to wit:

For the loss of a thumb, sixty per cent (60%) of the average weekly wages during sixty (60) weeks.

For the loss of a first finger, commonly called the index finger, sixty per cent (60%) of the average weekly wages during forty-five (45) weeks.

For the loss of a second finger, sixty per cent (60%) of the average weekly wage during thirty (30) weeks.

For the loss of a third finger, sixty per cent (60%) of the average weekly wages during twenty-one (21) weeks.

For the loss of a fourth finger, commonly known as the little finger, sixty per cent (60%) of the average weekly wages during fifteen (15) weeks.

The loss of the second or distal phalange of the thumb shall be considered to be equal to the loss of one-half ($\frac{1}{2}$) of such thumb; the loss of more than one-half ($\frac{1}{2}$) of such thumb shall be considered to be equal to the loss of the whole thumb.

The loss of the third or distal phalange of any finger shall be considered to be equal to the loss of one-third ($\frac{1}{3}$) of such finger.

The loss of more than the middle and distal phalange of any finger shall be considered to be equal to the loss of the whole finger, provided that in no case shall the amount received for the loss of a thumb and more than one (1) finger on the same hand exceed the amount provided in this schedule for the loss of a hand.

For the loss of the metacarpal bone (bone or palm) for the corresponding thumb, finger or fingers above, add ten (10) weeks to the number of weeks as above subject to the limitation that in no case shall the amount received for the loss or injury to any one (1) hand be more than for the loss of the hand.

For ankylosis (total stiffness of) or contracture (due to scars or injuries) which make the fingers useless, the same number of weeks shall apply to such finger or fingers or parts of fingers (not thumb) as given above.

For the loss of a hand, sixty per cent (60%) of the average weekly wage during one hundred and fifty (150) weeks.

For the loss of an arm at or above the elbow, sixty per cent (60%) of the average weekly wage during two hundred (200) weeks.

For the loss of one (1) of the toes other than the great toe, sixty per cent (60%) of the average weekly wages during ten (10) weeks.

For the loss of the great toe, sixty per cent (60%) of the average weekly wages during thirty (30) weeks.

The loss of more than two-thirds of any toe shall be considered to be equal to the loss of the whole toe.

The loss of less than two-thirds of any toe shall be considered to be equal to the loss of one-half ($\frac{1}{2}$) of the toe.

For the loss of a foot, sixty per cent (60%) of the average weekly wages during one hundred and twenty-five (125) weeks.

For the loss of a leg, at or above the knee, sixty per cent (60%) of the average weekly wages during two hundred (200) weeks.

For the total and permanent loss of the sight of one (1) eye, sixty per cent (60%) of the average weekly wages during one hundred (100) weeks.

In the foregoing enumerated cases of permanent, partial incapacity, it shall be considered that the permanent loss of the use of a member shall be equivalent to and draw the same compensation as the loss of that member.

For the complete and permanent loss of the hearing in both ears, sixty per cent (60%) of the average weekly wages during one hundred and fifty (150) weeks.

For the loss of an eye and leg above the knee, sixty per cent (60%) of the average weekly wages during a period of three hundred and fifty (350) weeks.

For the loss of an eye and an arm above the elbow, sixty per cent (60%) of the average weekly wages during a period of three hundred and fifty (350) weeks.

For the loss of an eye and a hand, sixty per cent (60%) of the average weekly wages during a period of three hundred and twenty-five (325) weeks.

For the loss of an eye and a foot, sixty per cent (60%) of the average weekly wages during a period of three hundred (300) weeks.

Where the employee sustains concurrent injuries resulting in concurrent incapacities, he shall receive compensation only for the injury which

produces the longest period of incapacity; but this Section shall not affect liability for the concurrent loss or the loss of the use thereof of more than one (1) member, for which member compensation is provided in this schedule, compensation for specific injuries under this law shall be cumulative as to time and not concurrent.

In all cases of permanent partial incapacity it shall be considered that the permanent loss of the use of the member is equivalent to, and shall draw the same compensation as the loss of that member; but the compensation in and by said schedule provided shall be in lieu of all other compensation in such cases.

In all other cases of partial incapacity, including any disfigurement which will impair the future usefulness or occupational opportunities of the injured employee, compensation shall be determined according to the percentage of incapacity, taking into account among other things any previous incapacity, the nature of the physical injury or disfigurement, the occupation of the injured employee, and the age at the time of the injury. The compensation paid therefor shall be calculated by first determining a basic figure amounting to sixty per cent (60%) of the average weekly wages of the employee, but which basic figure shall not exceed Forty-nine Dollars (\$49); such basic figure shall then be multiplied by the percentage of incapacity caused by the injury, and the result shall be the weekly compensation which shall be paid for such period not exceeding three hundred (300) weeks as the Board may determine. Whenever the weekly payments under this paragraph would be less than Three Dollars (\$3) per week, the period may be shortened, and the payments correspondingly increased by the Board.

Sec. 12 amended by Acts 1969, 61st Leg., p. 48, ch. 18, § 5, emerg. eff. May 18, 1969.

Section 1 of the amendatory act of 1969 stated its purpose; section 13 was a savings clause; section 14 was a severability

provision; and section 15 was a repealer. For provisions, see note under sec. 8 of this article.

Art. 8306, sec. 12c-2. Second Injury Fund—how created

Sec. 12(c)-2. The special fund known as the "Second Injury Fund" shall be created in the following manner:

(a) In every case of the death of an employee under this Act where there is no person entitled to compensation surviving said employee, the association shall pay to the Industrial Accident Board the sum of Four Thousand Two Hundred Dollars (\$4,200) to be deposited with the Treasurer of the State for the benefit of said Fund and the Board shall direct the distribution thereof.

(b) When the total amount of all such payments into the Fund, together with the accumulated interest thereon, equals or exceeds One Hundred Forty Thousand Dollars (\$140,000) in excess of existing liabilities, no further payments shall be required to be paid to said Fund; but whenever thereafter the amount of such Fund shall be reduced below Seventy Thousand Dollars (\$70,000) by reason of payments from such Fund, the payments to such Fund shall be resumed forthwith, and shall continue until such Fund again amounts to One Hundred Forty Thousand Dollars (\$140,000) including accumulated interest thereon.

Sec. 12c-2 amended by Acts 1969, 61st Leg., p. 48, ch. 18, § 8, emerg. eff. May 18, 1969.

Section 1 of the amendatory act of 1969 stated its purpose; section 13 was a savings clause; section 14 was a severability

provision; and section 15 was a repealer. For provisions, see note under sec. 8 of this article.

PART 2

Art. 8307, sec. 3. Secretary; pre-hearing officers; clerical services; expenses

Sec. 3. The Board may appoint a Secretary, pre-hearing officers and other employees as may be necessary to properly administer this Act. It shall also be allowed a reasonable sum, the amount to be determined by the Legislature, for pre-hearing officers, clerical and other services, office equipment, traveling expenses and all other expenses necessary."

Sec. 3 amended by Acts 1969, 61st Leg., p. 48, ch. 18, § 10, emerg. eff. May 18, 1969.

Section 1 of the amendatory act of 1969 stated its purpose; section 13 was a savings clause; section 14 was a severability provision; and section 15 was a repealer. For provisions, see art. 8306, § 8 note.

Art. 8307, sec. 10. Hearings; investigations; appearance of claimants; pre-hearing conferences and officers; rules and regulations

Sec. 10. (a) Said Board or any member thereof may hold hearings or take testimony or make investigations at any point within this state, reporting the result thereof, if the same is made by one member, to the Board. The Board shall also employ and use the assistance of a sufficient number of pre-hearing officers for the purpose of adjusting and settling claims for compensation; provided, however, that pre-hearing officers shall not be empowered to take testimony.

Notwithstanding any provision of this Act, no claimant shall be required to appear before the Board or Board Member within a distance greater than one hundred (100) miles from the courthouse of the county of the claimant's residence or within a greater distance than one hundred (100) miles of the courthouse of the county where the injury occurred.

(b) The Board shall examine and review all controverted claims and shall schedule and hold pre-hearing conferences on such claims as the Board may designate. It shall have the power to direct the parties, their attorneys or the duly authorized agents of the parties to appear before the Board, any member thereof or a pre-hearing officer for pre-hearing conferences to attempt to adjust and settle the claim amicably and to take such other action other than taking of testimony that may aid in the disposition of the claim. Provided, however, that no matter occurring during, or fact developed in, a pre-hearing conference shall be deemed as admissions or evidence or impeachment against the association, employee or the subscriber in any proceedings before the Board, or elsewhere in a contested case where the facts involved therein or in any one of them is sought to be contradicted by the association, employee or the subscriber. The Board shall promulgate procedural rules and regulations not inconsistent with this law to govern such pre-hearing conferences and provided further, such rules and regulations shall not affect nor change any substantive portion of this law.

Sec. 10 amended by Acts 1969, 61st Leg., p. 48, ch. 18, § 9, emerg. eff. May 18, 1969.

Section 1 of the amendatory act of 1969 stated its purpose; section 13 was a savings clause; section 14 was a severability provision; and section 15 was a repealer. For provisions, see art. 8306, § 8 note.

PART 4

Art. 8309. Definitions and general provisions

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Art. 8309, sec. 4. Advance payments of compensation

Sec. 4. (a) In cases of emergency or impending necessity the association may make advanced payments of compensation to any employee during the period of his incapacity or to his beneficiaries within the terms of this law, and when the same is either directed or approved by the Board it shall be credited as against any unaccrued compensation due said employee or beneficiaries.

(b) In the event the association does not initiate payments of compensation, the employer may for the purpose of this Section voluntarily initiate weekly payments as they accrue to the employee in the amount desired and may continue said weekly payments as they accrue for a period not to exceed ten (10) weeks or until the settlement is approved or the award made by the Board, whichever occurs first. The employer shall notify the Board and association on forms supplied by the Board of the date of the initiation of such payments and the weekly amount thereof. At the time of any settlement, award or judgment for compensation, such payment previously made by the employer in a sum not to exceed the weekly benefit amount under this Act received by the employee multiplied by the number of weeks, including fractions thereof, for which payments were made and not to exceed ten (10) weeks, during which the employee earned no wages from the employer, shall be construed as employer compensation under this law and such payments of employer compensation shall be paid by the association directly to the employer. Such employer payments of employer compensation shall not be construed as an admission of liability. The payments of employer compensation provided for herein shall in no way affect the payment of benefits from any other source.

Sec. 4 amended by Acts 1969, 61st Leg., p. 48, ch. 18, § 11, emerg. eff. May 18, 1969.

Section 1 of the amendatory act of 1969 stated its purpose; section 13 was a savings clause; section 14 was a severability provision; and section 15 was a repealer. For provisions, see art. 8306, § 8 note.

Art. 8309a. Hearing of claim by Industrial Accident Board; postponement of hearing

When an injured employee of a subscriber under the Workmen's Compensation Act has sustained an injury in the course of employment and filed claim for compensation and given notice as required by law, the Industrial Accident Board shall hear his claim for compensation within a reasonable time.

Provided, however, the Industrial Accident Board may, in its discretion, delay or postpone the hearing of such claim under the following circumstances and no appeal shall be taken from any such order of the Board:

(a) When such injured employee is being paid compensation as provided in the Workmen's Compensation Act, and the Insurance Association is furnishing either hospitalization, chiropractic service or medical treatment to such employee.

(b) When the parties have failed to file all written medical reports that are available from a duly licensed physician or chiropractor covering the injury after being directed to do so in writing by the Board.

Amended by Acts 1969, 61st Leg., p. 48, ch. 18, § 12, emerg. eff. May 18, 1969.

Section 1 of the amendatory act of 1969 stated its purpose; section 13 was a savings clause; section 14 was a severability provision; and section 15 was a repealer. For provisions, see art. 8306, § 8 note.

For Annotations and Historical Notes, see V.A.T.S.

Art. 8309b. Texas A & M University Directors, Workmen's Compensation Insurance for employees under

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Laws governing

Sec. 7. Unless otherwise provided herein, Sections 1, 6, 7, 7b, 7c, 7d, 7e, 8, 8a, 8b, 9, 10, 11, 11a, 12, 12a, 12b, 12c, 12d, 12e, 12f, 12i, 13, 15, 15a, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, and 27 of Article 8306, Revised Civil Statutes of Texas, 1925, as amended, and Article 8306a, Acts 1931, 42nd Legislature, as amended, and Sections 4a, 6a, 11, 12, 13, and 14 of Article 8307, of the Revised Civil Statutes of Texas, 1925, as amended, and Sections 4, and 5, of Article 8309, of the Revised Civil Statutes of Texas, 1925, as amended, are hereby adopted and shall govern insofar as applicable under the provisions of this law. Provided that whenever in the above adopted Sections of Articles 8306, 8307, and 8309 of the Revised Civil Statutes of Texas, 1925, as amended, or herein amended, the word "association," "subscriber," or "employer," or their equivalents appear in such Articles, they shall be construed to and shall mean "the institution."

Sec. 7 amended by Acts 1969, 61st Leg., p. 586, ch. 199, § 1, emerg. eff. May 14, 1969.

Sec. 8. Repealed by Acts 1969, 61st Leg., p. 586, ch. 199, § 3, emerg. eff. May 14, 1969.

Payment of compensation; exhaustion of earned annual and sick leave

Sec. 9. It is the purpose of this Act that the compensation herein provided for shall be paid from week to week and as it accrues and directly to the person entitled thereto, unless the liability is redeemed as in such cases provided elsewhere herein; except that the institution may provide that an injured workman may remain on the payroll until his earned annual and sick leave is exhausted, during which time the services provided in Section 7, Article 8306, as amended, will remain available to the workman but no workmen's compensation payment will accrue or become due and payable to the injured workman.

Sec. 9 amended by Acts 1969, 61st Leg., p. 586, ch. 199, § 2, emerg. eff. May 14, 1969.

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Art. 8309c. County employees

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Adoption of General Workmen's Compensation Laws

Sec. 6(a) The following laws as amended or as they may hereafter be amended are adopted except to the extent that they are inconsistent with this Act:

(1) Sections 1, 3, 3a, 3b, 4, 5, 6, 7, 7a, 7b, 7c, 7d, 7e, 8, 8a, 8b, 9, 10, 11, 11a, 12, 12a, 12b, 12c, 12c-1, 12c-2, 12d, 12e, 12f, 12g, 12h, 12i, 13, 14, 15, 15a, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 27, of Article 8306, Revised Civil Statutes of Texas, 1925, as amended;

(2) Section 1 of Chapter 248, Acts of the 42nd Legislature, 1931, Regular Session as last amended by Acts, 1955, 54th Legislature, page 36, Chapter 26, Section 2, codified in Vernon's as Article 8306a, Vernon's Civil Statutes;

(3) Sections 4a, 6a, 11, 12, 13 and 14 of Article 8307, Revised Civil Statutes of Texas, 1925, as amended;

(4) Section 2 of Chapter 261, Acts of the 45th Legislature, 1937, codified in Vernon's as Article 8307b, Vernon's Civil Statutes;

(5) Sections 4 and 5 of Article 8309, Revised Civil Statutes of Texas, 1935, as amended; and

(6) Article 8309a, Revised Civil Statutes of Texas, 1925, as amended.

(b) Provided that whenever in the above adopted Sections of Articles 8306, 8306a, 8307, 8307b, 8309 and 8309a of the Revised Civil Statutes of Texas, as amended the words "association," "subscriber," or "employer" or their equivalents appear in such Articles, they shall be construed to and shall mean "the county."

Sec. 6 amended by Acts 1969, 61st Leg., p. 2303, ch. 778, § 1, eff. Sept. 1, 1969.

Sec. 7. Repealed by Acts 1969, 61st Leg., p. 2303, ch. 778, § 2, eff. Sept. 1, 1969.

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Art. 8309d. University of Texas employees

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Applicability of existing laws

Sec. 7. The following sections are adopted and shall govern as applicable under the provisions of this Act: Sections 1, 6, 7, 7b, 7c, 7d, 7e, 8, 8a, 8b, 9, 10, 11, 11a, 12, 12a, 12b, 12c, 12d, 12e, 12f, 12i, 13, 15, 15a, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, and 27 of Article 8306, Revised Civil Statutes of Texas, 1925, as amended, and as may be hereafter amended; Section 1, Chapter 248, Acts of the 42nd Legislature, Regular Session, 1931 (Article 8306a, Vernon's Texas Civil Statutes), as last amended by Section 2, Chapter 26, Acts of the 54th Legislature, Regular Session, 1955, and as may be hereafter amended; Sections 4a, 6a, 10, 11, 12, 13, and 14 of Article 8307, Revised Civil Statutes of Texas, 1925, as amended, and as may be hereafter amended; Sections 4 and 5, Article 8309, Revised Civil Statutes of Texas, 1925, as amended, and as may be hereafter amended; Section 1, Chapter 179, Acts of the 42nd Legislature, Regular Session, 1931 (Article 8309a, Vernon's Texas Civil Statutes), as amended by Section 7, Chapter 178, Acts of the 53rd Legislature, Regular Session, 1953, and as may be hereafter amended.

Wherever the words "association," "subscriber," or "employer," or the equivalent of any of these words, are used in Article 8306, 8307, or 8309, Revised Civil Statutes of Texas, as amended, or as may be hereafter amended, and in Section 1, Chapter 179, Acts of the 42nd Legislature, Regular Session, 1931 (Article 8309a, Vernon's Texas Civil Statutes), as amended by Section 7, Chapter 178, Acts of the 53rd Legislature, Regular Session, 1953, and as may be hereafter amended, for the purpose of this Act they mean "the institution."

Sec. 7 amended by Acts 1969, 61st Leg., p. 2311, ch. 781, § 1, emerg. eff. June 14, 1969.

Sec. 8. Repealed by Acts 1969, 61st Leg., p. 2311, ch. 781, § 3, emerg. eff. June 14, 1969.

Weekly payments; annual and sick leave

Sec. 9. It is the purpose of this Act that compensation herein provided for shall be paid from week to week and as it accrues and directly to the person entitled thereto, unless the liability is redeemed as in such cases provided elsewhere herein; except that the institution may provide that an injured workman may remain on the payroll until his earned annual and sick leave is exhausted, during which time the services in Section 7, Article 8306, Revised Civil Statutes of Texas, 1925, as amended, and as may be hereafter amended, will remain available to the workman, but no workmen's compensation payment will accrue or become due and payable to the injured employee.

Sec. 9 amended by Acts 1969, 61st Leg., p. 2311, ch. 781, § 2, emerg. eff. June 19, 1969.

* * * * *

Acts 1969, 61st Leg., p. 2311, ch. 781, §§ 4, 5 provided:

"Sec. 4. As respects claims for injury sustained prior to the effective date of this

Act, no inchoate, vested, matured, existing or other rights, remedies, powers, duties, or authority, either of any employee or legal beneficiary, or of the Board, or of the

For Annotations and Historical Notes, see V.A.T.S.

institution, or of any other person shall be in any way affected by any of the amendments or repeals herein made to the original law hereby amended or repealed, but all such rights, remedies, powers, duties, and authority shall remain and be in force as under the original law just as if the amendments or repeals hereby adopted had never been made, and to that end it is hereby declared that as respects such injuries occurring prior to the effective date of this Act, the original law is not repealed, but remains in full force and effect as to all

such rights, remedies, powers, duties, and authority; and further this Act insofar as it adopts the law of which it is an amendment is a continuation thereof, and only in other respects a new enactment.

"Sec. 5. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Art. 8309e. Repealed by Acts 1969, 61st Leg., 2nd C.S., p. 143, ch. 22, § 15, eff. Sept. 19, 1969

Art. 8309e—2. Municipal employees

Constitutional authority

Section 1. By virtue of the provision of Section 61, Article III, Constitution of the State of Texas, granting the Legislature power to pass such laws as may be necessary to enable all cities, towns, and villages of this state to provide for workmen's compensation insurance, including the right to provide its own insurance risk, for all city, town, and village employees as in its judgment is necessary or required, and to provide for the administration of such insurance in the cities, towns, and villages, of this state, and to provide for the payment of all costs, charges, and premiums on such policies of insurance and the benefits to be paid thereunder, provision is made as hereinafter set forth.

Definitions

Sec. 2. The following words and phrases as used in this Act shall unless a different meaning is plainly required by the context, have the following meanings, respectively:

(1) "City" whenever used in this Act shall be held to mean any duly and legally incorporated city in the State of Texas.

(2) "Town" whenever used in this Act shall be held to mean any duly and legally incorporated town in the State of Texas.

(3) "Village" whenever used in this Act shall be held to mean any duly and legally incorporated village in the State of Texas.

(4) "Employee" shall mean every person in the service of the city, town, or village who has been appointed in accordance with the provisions of the Act. No person in the service of the city, town, or village who is paid on a piecework basis or on a basis other than by the hour, day, week, month or year shall be considered an employee and entitled to compensation under terms of the provisions of this Act.

(5) "Insurance" shall mean workmen's compensation insurance.

(6) "Board" shall mean the Industrial Accident Board of the State of Texas.

(7) "Legal beneficiaries" shall mean the relatives named in Section 8a of Article 8306, of Revised Civil Statutes of Texas, 1925, adopted in Section 4 of this Act.

(8) "Average weekly wages" shall be as defined in Section 1, Article 8309 of Revised Statutes of Texas, 1925, as amended or as it may hereafter be amended.

(9) The terms "injury" or "personal injuries" shall be as defined in Section 20 of Article 8306 of Revised Civil Statutes of Texas as amended or as it may be hereafter amended. The term "injury sustained in the course of employment" shall be as defined in Section 1 of Article 8309 of Revised Civil Statutes of Texas, 1925, as amended or as it may be hereafter amended.

(10) Any reference to an employee herein who has been injured shall, when the employee is dead, also include the legal beneficiaries as that term is herein used, of the employee to whom compensation may be payable. Whenever in this Act the singular is used, the plural shall be included; whenever the masculine gender is used, the feminine and neuter shall be included.

**Authorization to municipalities; adoption of Act; notice; acceptance
by employees; public utilities**

Sec. 3. Cities, towns, and villages are hereby authorized to become either self-insurers or provide insurance under workmen's compensation insurance contracts or policies, extending workmen's compensation benefits to their employees. The provisions of this Act authorizing cities, towns, and villages to provide workmen's compensation benefits or to take out workmen's compensation insurance is permissive only and the provision hereof with respect to either self-insurance or insurance under a policy of insurance is not mandatory. Workmen's compensation benefits, as provided in this Act, may be provided for all of the employees of a city, town, or village, or may be provided only for one or more departments of the city, or for one or more groups of employees engaged in similar or related lines of work. All, or as a classified group or groups of employees engaged in the operation, maintenance, extension, and improvement of a municipally owned public utility system or systems of any kind may be treated as a separate group or groups of employees for the purpose of extending workmen's compensation benefit is under this Act. The governing body of any city, town or village may by ordinance or resolution adopt the provisions of this Act and make the same applicable to all or a department or group of employees paid out of funds subject to the appropriation or use of such governing body, and the ordinance shall specify whether the city elects to become a self-insurer under the provisions hereof or to take out a policy of workmen's compensation insurance with a qualified insurance company. Upon taking action, notice shall be given to the Board stating the effective date of the self-insurance or the insurance policy and the departments or general group or groups of employees to be covered, and the approximate number of employees to be covered in each and the estimated amount of the payroll or payrolls. Notice shall also be given to the employees of the city, town, or village of the provision so made for workmen's compensation benefits and the effective date thereof; and employees of the city, town, or village shall be conclusively deemed to have accepted the compensation provisions in lieu of common-law or statutory liability or cause of action, if any, for injuries received in the course of employment or death resulting from injuries so received. In cities, towns, or villages in which a public utility or utilities is operated by a board of trustees set up and appointed in accordance with Article 1115, Revised Civil Statutes, 1925, or any similar law, such board of trustees shall have all of the powers and authority of the governing body of the city with reference to the adoption of a program of self-insurance under this Act or in the taking out of a policy or policies of workmen's compensation insurance hereunder, and all funds set aside or expended for such purposes shall be considered operating expenses of the municipal utilities. All funds set aside or paid by such boards of trustees in connection with self-insurance or for premiums on policies of insurance shall be paid out of the revenues of the utilities operated by the board of trustees and neither the provisions for self-insurance nor the obligations incurred under insurance policies shall be general liabilities of the city, town, or village, but shall constitute only obligations payable out of the revenues. The boards of trustees shall be authorized to adopt all resolutions, give all notices and to do all things concerning workmen's compensation under this Act with reference to employees employed by the boards of trustees which the governing body of the city, town, or village would be authorized to do with reference to other city employees, or groups of employees.

For Annotations and Historical Notes, see V.A.T.S.

Adoption of laws

Sec. 4. (a) The following laws as amended or as they may hereafter be amended are adopted except to the extent that they are inconsistent with this Act:

(1) Sections 1, 3, 3a, 3b, 5, 6, 7, 7a, 7b, 7c, 7d, 7e, 8, 8a, 8b, 9, 10, 11, 11a, 12, 12a, 12b, 12c, 12c-1, 12c-2, 12d, 12e, 12f, 12g, 12h, 12i, 13, 14, 15, 15a, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26 and 27, of Article 8306, Revised Civil Statutes of Texas, 1925, as amended;

(2) Section 1, Chapter 248, General Laws, Acts of the 42nd Legislature, Regular Session, 1931, as amended (Article 8306a, Vernon's Texas Civil Statutes);

(3) Sections 4a, 6a, 11, 12, 13 and 14 of Article 8307, Revised Civil Statutes of Texas 1925, as amended;

(4) Article 8307b, Revised Civil Statutes of Texas, 1925, as added by Section 2, Chapter 261, Acts of the 45th Legislature, Regular Session, 1937;

(5) Sections 4 and 5, Article 8309, Revised Civil Statutes of Texas, 1925, as amended; and

(6) Article 8309a, Vernon's Texas Civil Statutes, as amended.

(b) Provided that whenever in the above adopted sections of Articles 8306, 8306a, 8307, 8307b, 8309 and 8309a of the Revised Civil Statutes of Texas, 1925, as amended the words "association," "subscriber," or "employer," or their equivalents appear in such articles, they shall be construed to and shall mean "city," "town," or "village."

Purpose

Sec. 5. It is the purpose of this Act that the compensation herein provided for shall be paid from week to week and as it accrues and directly to the person entitled thereto, unless the liability is redeemed as in such cases provided elsewhere herein.

Examination and treatment of claimants; refusal to submit; effect upon compensation; expenses; summary procedure

Sec. 6. (a) The Board may require any employee claiming to have sustained injury to submit himself for examination before the Board or someone acting under its authority at some reasonable time and place within the state, and as often as may be reasonably ordered by the Board to a physician or physicians, chiropractor or chiropractors, authorized to practice under the laws of this state. If the employee of the city, town, or village requests, he or it shall be entitled to have a physician or physicians, chiropractor or chiropractors, of his or its own selection present to participate in such examination. Refusal of the employee to submit to an examination shall deprive him of his right to compensation during the continuance of such refusal. When a right to compensation is thus suspended, no compensation shall be payable in respect to the period of suspension. If any employee shall persist in insanitary or injurious practices which tend to either imperil or retard his recovery, or shall refuse to submit to such medical, surgical, chiropractic, or other remedial treatment recognized by the state, as is reasonably essential to promote his recovery, the Board may in its discretion order or direct the city, town or village to reduce or suspend the compensation of any such injured employee. No compensation shall be reduced or suspended under the terms of this section without reasonable notice to the employee and an opportunity to be heard.

With the consent of the Association, an employee may at any time have treatment for his injuries or occupational disease by prayer or spiritual means through the application or use of the principles, tenets, or teachings of any established church without the use of any drug or material remedy, provided sanitary and quarantine laws and regulations are complied with; and provided further, that all those so ministering or offering to minister to the injured or sick employee are bona fide members of such

church. An employee having treatment by prayer or spiritual means shall be compensated for his injuries, occupational disease, and time, and allowed payment for treatment and necessary services in connection therewith, as fully as if any other form of treatment had been employed. Such employee, however, shall submit to all physical examinations as required by law or as may be directed by the Board or that may be requested by the Association.

(b) The city, town, or village shall have the privilege of having any injured employee examined by a physician or physicians, chiropractor or chiropractors, of its own choice, at reasonable times, at a place or places suitable to the condition of the injured employee and convenient and accessible to him. The city, town, or village shall pay for the examination and the reasonable expense incident to the injured employee in submitting thereto. The injured employee shall have the privilege to have a physician or chiropractor of his own selection present to participate in the examination. Provided, when the examination is directed by the Board or the city, town, or village, the city, town, or village shall pay the fee of the physician or chiropractor selected by the employee, the fee to be fixed by the Board.

(c) Process and procedure shall be as summary as may be under this Act. The Board or any member thereof shall have the power to subpoena witnesses, administer oaths, inquire into matters of fact, and examine such parts of the books and records of the parties to a proceeding as relate to questions in dispute. All rulings and decisions of the Board relating to disputed claims shall be upon questions of fact and in accord with the provisions of this Act.

Determination of Board; notice not to abide by decision; suit; venue; maximum recovery; failure to comply with Board's order or prosecute suit; penalties

Sec. 7. (a) All questions arising under this Act, if not settled by agreement of the parties interested therein and within the provisions of this Act, shall, except as otherwise provided, be determined by the Board. Any interested party who is not willing and does not consent to abide by the final ruling and decision of the Board shall within 20 days after the rendition of said final ruling and decision by the Board, file with the Board notice that he will not abide by the final ruling and decision. And he shall within 20 days after giving notice bring suit in the county where the injury occurred to set aside the final ruling and decision and the Board shall proceed no further toward the adjustment of such claim, other than hereinafter provided. Whenever suit is brought, the rights and liability of the parties thereto shall be determined by the provision of this Act and the suit of the injured employee or person suing on account of the death of the employee shall be against the city, town or village. If the final order of the Board is against the city, town, or village, then the city, town, or village shall bring suit to set aside the final ruling and decision of the Board, if it so desires, and the court shall in either event determine the issues in the cause instead of the Board upon trial de novo and the burden of proof shall be upon the party claiming compensation. The Board shall furnish any interested party in the claim pending in court upon request, free of charge, with a certified copy of the notice of the city, town, or village becoming an insurer filed with the Board and the same when properly certified to shall be admissible in evidence in any court in this state upon trial of the claim therein pending and shall be prima facie proof of all facts stated in the notice in the trial of the cause unless same is denied under oath by the opposing party therein.

(b) In case of recovery the same shall not exceed the maximum compensation allowed under the provisions of this Act. If any party to any such final ruling and decision of the Board, after having given notice as above provided, fails within 20 days to institute and prosecute a suit to set the same aside, then the final ruling and decision shall be binding upon

For Annotations and Historical Notes, see V.A.T.S.

all parties thereto, and, if the same is against the city, town, or village, it shall at once comply with the final ruling and decision.

(c) In all cases where the Board shall make a final order, ruling, or decision, as provided in the preceding Section and against the city, town, or village and the city, town, or village shall fail or refuse to obey or comply with the same and shall fail or refuse to bring suit to set the same aside as in said Section is provided, then in that event the claimant in addition to the rights and remedies given him and the Board in said Section may bring suit in a court of competent jurisdiction, upon the order, ruling, or decision. If he secures a judgment sustaining the order, ruling, or decision in whole or in part, he shall also be entitled to recover the further sum of 12 percent as damages upon the amount of compensation so recovered in said judgment, together with a reasonable attorney's fee for the prosecution and collection of such claim.

(d) Where the Board has made an award against the city, town, or village requiring the payment to an injured employee or his beneficiaries of any weekly or monthly payments, under the terms of this Act, and the city, town, or village should thereafter fail or refuse, without justifiable cause, to continue to make the payments promptly as they mature, then the injured employee or his beneficiaries, in case of his death, shall have the right to mature the entire claim and to institute suit thereon to collect the full amount thereof, together with 12 percent penalties and attorney's fees as herein provided for. Suit may be brought under provisions of this section, either in the county where the accident occurred, or in any county where the claimants reside, or where one or more of such claimants may have his place of residence at the time of the institution of the suit.

Record of injuries; reports to Board

Sec. 8. The city, town, or village shall hereafter keep a record of all injuries fatal or otherwise, sustained by its employees in the course of their employment. Within eight days after the occurrence of an accident resulting in an injury to an employee, causing his absence from work for more than one day, a written report thereof shall be made to the Board on blanks to be procured from the Board for that purpose. Upon the termination of the incapacity of the injured employee, or if the incapacity extends beyond a period of 60 days, the department shall make a supplemental report upon blanks to be procured for that purpose. The report shall contain the name, age, sex, and occupation of the injured employee and the character of work in which he was engaged at the time of the injury, and shall state the place, date, and hour of receiving such injury and the nature and cause of the injury and other information as the Board may require. The city, town, or village shall be responsible for the submission of the reports in the time specified in this section.

Rules and regulations; forms

Sec. 9. The city, town, or village is authorized to promulgate and publish rules and regulations and to prescribe and furnish forms as may be necessary to the effective administration of this Act, and the city, town, or village shall have authority to make and enforce rules for the prevention of accidents and injuries as may be deemed necessary.

Orders, etc. of Board; admissibility as evidence; certified copies; fees

Sec. 10. (a) Any order, award, or proceeding of the Board when duly attested by any member of the Board or its secretary shall be admissible as evidence of the act of the Board in any court of this state.

(b) Upon the written request and payment of the fees therefor, which fees shall be the same as those charged for similar services in the secretary of state's office, the Board shall furnish to any person entitled thereto a certified copy of any order, award, decision, or paper on file in the office of the Board and the fees so received for such copies shall be

paid into the State Treasury and credited to the general revenue fund. No fee or salary shall be paid to any person on the Board for making the copies in excess of the fees charged for such copies.

Notice of suit to Board; venue; transfer of cases

Sec. 11. Any interested party who is not willing and does not consent to abide by the final ruling and decision of the Board shall, in the manner and within the time provided by Section 7 of this Act file notice with the Board, and bring suit in the county where the injury occurred to set aside said final ruling and decision; however, in the event such suit is brought in any county other than the county where the injury occurred, the court in which same is filed shall upon ascertaining that it does not have jurisdiction to render judgment upon the merit, transfer the case to the proper court in the county where the injury occurred. Provided, however, that notice of the transfer shall be given to the parties and the suit when filed in the court to which the transfer is made, shall be considered for all purposes, the same as if originally filed in that court.

Appropriations for disbursements; separate account; report

Sec. 12. (a) The city, town, or village is hereby authorized to set aside from available appropriations, other than itemized salary appropriations, in an amount not to exceed five percent of the annual employee payroll of the city, town, or village for the payment of all costs, administrative expenses, charges, benefits, insurance, and awards authorized by this Act.

(b) The amount so set aside shall be set up in a separate account in the records of the city, town, or village which account shall show the disbursements authorized by this Act; provided the amount so set aside shall not exceed five percent of the annual employee payroll at any one time. A statement of the amount set aside for the disbursements from the account shall be included in an annual report made to the city, town, or village treasurer and the duly and legally constituted governing body of the city, town, or village.

Suits and proceedings; representation of municipalities; public utilities

Sec. 13. The city, town, or village attorney or his assistants, shall represent the city, town, or village in the bringing of defense or suits and proceedings in connection with workmen's compensation benefits provided by the city, town, or village, as a self-insurer, except in cases where municipal utilities are operated by boards of trustees set up and appointed in accordance with Article 1115, Revised Civil Statutes, 1925, and similar statutes, and in such instances the regularly employed attorneys for the boards of trustees shall represent the city in all cases and proceedings involving workmen's compensation for the employees employed under the jurisdiction of the boards of trustees and for whom benefits have been provided by the Board on a self-insurer basis.

**Appeal to district or county court; notice and copy of judgment to Board;
duty of clerk of court**

Sec. 14. That in every case appealed from the Board to the district or county court, the clerk of such court shall, within 20 days after the filing thereof, mail to the Board a notice giving the style, number, and date of the filing of the suit, and shall, within 20 days after judgment is rendered in the suit, mail to the Board a certified copy of the judgment. The duty devolved upon the district and county clerks under this Act shall constitute a part of their regular duties and for the services they shall not be entitled to any fee. In every case the attorney preparing the judgment shall file the original and a copy of the same with the clerk of the court. However, the failure of the attorney to comply with this provision shall not excuse the failure of the clerk of a district or county court to mail a certified copy of the judgment to the Board as above provided. Any county or district clerk who fails to comply with the provisions of this Act shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than \$250.

For Annotations and Historical Notes, see V.A.T.S.

Repealer

Sec. 15. Chapter 327, Acts of the 53rd Legislature, 1953, as last amended by Acts, 1955, 54th Legislature, page 466, Chapter 131, Sections 1, 2 and 3 codified in Vernon's as Article 8309e, Vernon's Texas Civil Statutes is hereby repealed.

Acts 1969, 61st Leg., p. 87, ch. 22, emerg. eff. Sept. 19, 1969.

Title of Act:

An Act relating to workmen's compensation coverage for municipal employees; repealing Chapter 327, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 8309e, Vernon's Texas Civil Stat-

utes); providing for severability; and declaring an emergency. Acts 1969, 61st Leg., p. 87, ch. 22.

Section 16 of the act of 1969 was a severability provision.

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PENAL CODE

TITLE 1—GENERAL PROVISIONS

CHAPTER THREE—PERSONS PUNISHABLE, AND THE CIRCUMSTANCES WHICH EXCUSE, EXTENUATE, OR AGGRAVATE AN OFFENSE

Art. 36. Intoxication and use of narcotics or dangerous drugs as a defense

Neither intoxication nor temporary insanity of mind produced by the voluntary recent use of ardent spirits, intoxicating liquor, narcotics, or dangerous drugs, or a combination thereof, shall constitute any excuse for the commission of crime. Evidence of temporary insanity produced, however, by such use of ardent spirits, intoxicating liquor, narcotics, or dangerous drugs, or a combination thereof, may be introduced by the defendant in mitigation of the penalty attached to the offense for which he is being tried.

When temporary insanity is relied upon as a defense and the evidence tends to show that such insanity was brought about by the immoderate use of intoxicating liquor, narcotics, or dangerous drugs, or by a combination thereof, the judge shall charge the jury in accordance with the provisions of this Article.

Amended by Acts 1969, 61st Leg., p. 1656, ch. 521, § 1, eff. Sept. 1, 1969.

**TITLE 4—OFFENSES AGAINST THE STATE, ITS TERRITORY,
AND REVENUE****CHAPTER TWO—MISAPPLICATION OF PUBLIC MONEY**

Art. 97. Repealed by Acts 1969, 61st Leg., p. 3024, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

CHAPTER SIX—PERSONAL PROPERTY OF THE STATE

Arts. 147a to 147b—2. Repealed by Acts 1969, 61st Leg., 2nd C.S., p. 98, ch. 2, § 22

Repealed article 147b—1 made it unlawful to damage or remove archeological or vertebrate paleontological sites, and was derived from Acts 1963, 58th Leg., p. 434, ch. 153.

ture, marker or artifact, and was derived from Acts 1963, 58th Leg., p. 519, ch. 193.

See, now, Vernon's Ann.Civ.St. art. 6145—9.

Repealed article 147b—2 made it unlawful to destroy or remove any historical struc-

For Annotations and Historical Notes, see V.A.T.S.

TITLE 7—RELIGION AND EDUCATION

CHAPTER THREE—TEACHERS AND SCHOOLS

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| <p>Art.
292a. Traffic in diplomas or other documents of educational achievement [New].</p> | <p>Art.
295a. Disruptive activities on campus or property of educational institutions [New].</p> <p>295b. Firearms; interference with normal campus activities [New].</p> |
|--|---|

Art. 288. Repealed by Acts 1969, 61st Leg. p. 871, ch. 289, § 4, eff. May 22, 1969; Acts 1969, 61st Leg. p. 3024, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Arts. 289 to 292. Repealed by Acts 1969, 61st Leg. p. 3024, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these articles, enacts the Texas Education Code.

Art. 292a. Traffic in diplomas or other documents of educational achievement

Section 1. No person may buy, sell, create, duplicate, alter, give, or obtain, or attempt to buy, sell, create, duplicate, alter, give, or obtain a diploma, certificate, academic record, certificate of enrollment, or other instrument which purports to signify merit or achievement conferred by an institution of education in this state with the intent to use fraudulently such document or to allow the fraudulent use of such document.

Sec. 2. A person who violates this Act or who aids another in violating this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$1,000, and/or confinement in the county jail for a period not to exceed one year.

Acts 1969, 61st Leg., p. 1985, ch. 675, emerg. eff. June 12, 1969.

Title of Act:
An Act relating to the acquisition, disposition, creation, or alteration of certain documents and instruments used or conferred by institutions of education; providing for a penalty; and declaring an emergency. Acts 1969, 61st Leg., p. 1985, ch. 675.

Arts. 293 to 293b. Repealed by Acts 1969, 61st Leg. p. 3024, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Art. 294. Repealed by Acts 1969, 61st Leg. p. 3024, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Art. 294a. Repealed by Acts 1969, 61st Leg., p. 179, ch. 75, § 4, eff. Sept. 1, 1969; Acts 1969, 61st Leg. p. 3024, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Art. 295. Repealed by Acts 1969, 61st Leg. p. 3024, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Art. 295a. Disruptive activities on campus or property of educational institutions

Section 1. No person or group of persons acting in concert may willfully engage in disruptive activity or disrupt a lawful assembly on the campus or property of any private or public school or institution of higher education or public vocational and technical school or institute.

Sec. 2. (a) For the purposes of this Act, "disruptive activity" means:

(1) obstructing or restraining the passage of persons in an exit, entrance, or hallway of any building without the authorization of the administration of the school;

(2) seizing control of any building or portion of a building for the purpose of interfering with any administrative, educational, research, or other authorized activity;

(3) preventing or attempting to prevent by force or violence or the threat of force or violence any lawful assembly authorized by the school administration;

(4) disrupting by force or violence or the threat of force or violence a lawful assembly in progress; or

(5) obstructing or restraining the passage of any person at an exit or entrance to said campus or property or preventing or attempting to prevent by force or violence or by threats thereof the ingress or egress of any person to or from said property or campus without the authorization of the administration of the school.

(b) For the purposes of this Act, a lawful assembly is disrupted when any person in attendance is rendered incapable of participating in the assembly due to the use of force or violence or due to a reasonable fear that force or violence is likely to occur.

Sec. 3. A person who violates any provision of this Act is guilty of a misdemeanor and upon conviction is punishable by a fine not to exceed \$200 or by confinement in jail for not less than 10 days nor more than 6 months, or both.

Sec. 4. Any person who is convicted the third time of violating this Act shall not thereafter be eligible to attend any school, college, or university receiving funds from the State of Texas for a period of two years from such third conviction.

Sec. 5. Nothing herein shall be construed to infringe upon any right of free speech or expression guaranteed by the Constitutions of the United States or the State of Texas.

Acts 1969, 61st Leg., p. 56, ch. 21, eff. Sept. 1, 1969.

Title of Act:

An Act prohibiting the engaging in certain disruptive activities or disrupting a lawful assembly on the campus or property

of private or public schools or institutions of higher education or public vocational and technical schools or institutes; pre-

For Annotations and Historical Notes, see V.A.T.S.

scribing certain penalties; and declaring an emergency. Acts 1969, 61st Leg., p. 56, ch. 21.

Section 6 of the act of 1969 provided: "If any provision of this Act or the application thereof to any person or circumstance is

held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are declared to be severable."

Art. 295b. Firearms; interference with normal campus activities

Section 1. It shall be unlawful to interfere with the normal activities, the normal occupancy, or normal use of any building or portion of a campus of any private or public school or institution of higher education or public vocational and technical school or institute by exhibiting or using or threatening to exhibit or use a firearm.

Sec. 2. A person who violates Section 1 of this Act is guilty of a felony and upon conviction is punishable by a fine of up to \$1,000 or by imprisonment in jail for a period not to exceed six months, or by both fine and imprisonment, or by imprisonment in the state penitentiary for a period not to exceed five years.

Acts 1969, 61st Leg., p. 2136, ch. 740, eff. Sept. 1, 1969.

Title of Act:

An Act relating to the prohibition of exhibiting or threatening to exhibit firearms

under certain circumstances; providing penalties; and declaring an emergency. Acts 1969, 61st Leg., p. 2136, ch. 740.

Art. 296. Repealed by Acts 1969, 61st Leg. p. 3024, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Prior to repeal article 296 had been amended by Acts 1953, 53rd Leg., p. 839, ch. 339, § 3.

Art. 298. Repealed by Acts 1969, 61st Leg., p. 871, ch. 289, § 4, emerg. eff. May 22, 1969

See, now, Vernon's Ann.Civ.St. art. 2893.

Art. 299. Repealed by Acts 1969, 61st Leg. p. 3024, ch. 889, § 2, eff. Sept. 1, 1969

1969 Amendment

This article was both amended and repealed at the 1969 Regular Session. Chapter 551 does the amending, and Chapter 889 which does the repealing enacts the the Texas Education Code and provides that any conflicting act passed at the same session prevails. Hence, the amended text, including other earlier amendments is set out, post, for possible use and application.

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Prior to repeal article 299 was amended by Acts 1969, 61st Leg., p. 1696, ch. 551, § 1, eff. Sept. 1, 1969, to read as follows:

"If any parent or person standing in parental relation to a child within the compulsory school attendance ages who is not properly excused from attendance upon school for some exemption provided by law willfully fails to require such child to attend school regularly for such period as is required by law, it shall be the duty of the attendance officer who has jurisdiction in the territory where said parent or person standing in parental relation resides, to warn, in writing, such parent or person standing in parental relation that this law must be immediately complied

with, and upon the willful failure of said parent or person standing in parental relation to immediately comply with this law after such warning has been given, the official discharging the duties of the attendance officer shall forthwith file complaint against such parent or person standing in parental relation to said child, which complaint shall be filed in the County Court, or in the Justice Court in the precinct where such parent or guardian resides. Any parent or other person standing in parental relation upon conviction for willful failure to comply with the provisions of this law shall be fined for the first offense not less than \$5 nor more than \$25, and upon a second conviction not less than \$10 nor more than \$50, and upon a subsequent conviction not less than \$25 nor more than \$100. Each day that said

child remains out of said school after said warning has been given or after said child has been ordered in school by the Juvenile Court, may constitute a separate offense. At the trial of any person charged with

violating the provisions of this Act, the attendance records of the child or ward may be presented in court by any authorized employee of the school district."

Arts. 300, 301. Repealed by Acts 1969, 61st Leg., p. 3024, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

Arts. 301b to 301d. Repealed by Acts 1969, 61st Leg. p. 3024, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

TITLE 8—OFFENSES AGAINST PUBLIC JUSTICE**CHAPTER FOUR—ARREST AND CUSTODY OF PRISONERS****Art. 341. Accused resisting arrest**

(a) If the party against whom a legal warrant of arrest is directed in any criminal case, resists its execution when attempted by any person legally authorized to execute the same, he shall be fined not exceeding Five Hundred Dollars.

(b) A person who uses or exhibits a firearm in resisting any lawful arrest, apprehension, or investigation by a peace officer is guilty of a felony and upon conviction is punishable by imprisonment in the penitentiary for not less than two nor more than ten years. If the resistance is made in such a manner that the person is guilty of assault to commit murder, he shall receive the highest penalty affixed by law for the commission of such offense in ordinary cases.

Amended by Acts 1969, 61st Leg., p. 2004, ch. 683, § 1, eff. Sept. 1, 1969.

CHAPTER SEVEN—FAILURE OF DUTY

Art. 404. Repealed. Acts 1969, 61st Leg., p. 2707, ch. 888, § 6, eff.

Jan. 1, 1970

Acts 1969, 61st Leg., p. 2707, ch. 888, repealing this Article, enacts the Texas Family Code.

Art. 406. Repealed. Acts 1969, 61st Leg., p. 2707, ch. 888, § 6, eff.

Jan. 1, 1970

Acts 1969, 61st Leg., p. 2707, ch. 888, repealing this Article, enacts the Texas Family Code.

Art. 424. Repealed by Acts 1969, 61st Leg. p. 3024, ch. 889, § 2,

eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

TITLE 9—OFFENSES AGAINST THE PUBLIC PEACE**CHAPTER TWO—RIOTS**

Art.

472a. Interference with firemen, peace officers, or medical service personnel during riots, etc. [New].

Art. 472a. Interference with firemen, peace officers, or medical service personnel during riots, etc.

Section 1. "Interfere" as that term is used herein shall mean to intervene and thereby obstruct passage or free movement, materially delay, or prohibit, by direct or devious means.

Sec. 2. It shall be unlawful for any person to willfully interfere with any fireman, policeman, or other peace officer in the lawful discharge of his duties, or with any doctor, nurse, or ambulance attendant while any such persons are in the exercise of functions intended to control, reduce or contain injury to persons or property during a riot, civil disturbance, or other public disaster.

Sec. 3. Any person who shall violate the provisions hereof shall be guilty of a felony and upon conviction shall be confined in the state penitentiary for not less than two nor more than 10 years.

Sec. 4. The provisions of this Act shall be cumulative of all other penal laws of this state.

Sec. 5. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions and applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Acts 1969, 61st Leg., p. 1952, ch. 654, eff. Sept. 1, 1969.

Title of Act:

An Act making it unlawful for any person to willfully interfere with any fireman, policeman, or other peace officer in the lawful discharge of his duties, or with any doctor, nurse or ambulance attendant while any such persons are in the exercise of functions intended to control, reduce or contain injury to persons or property during

a riot, civil disturbance, or other public disaster; defining terms; providing penalty for violation; providing that provisions of this Act are cumulative of all other penal laws of this state; providing for severance of any portion of this Act that is held invalid; and declaring an emergency. Acts 1969, 61st Leg., p. 1952, ch. 654.

CHAPTER THREE—AFFRAYS AND DISTURBANCES OF THE PEACE

Art.

482a. Parking area; use and conduct [New].

Art. 474. Disorderly conduct

Section 1. No person, acting alone or in concert with others, may engage in disorderly conduct. Disorderly conduct consists of any of the following:

(1) behavior of a boisterous and tumultuous character in a residential area or a public place such that there is a clear and present danger of alarming persons where no legitimate reason for alarm exists; or

(2) interfering with the peaceful and lawful conduct of persons in or about their homes or public places under circumstances in which such conduct tends to cause or provoke a disturbance; or

(3) violent and forceful behavior at any time in or near a public place, such that there is a clear and present danger that free movement of

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other persons will be arrested or restrained, or other persons will be incapacitated in the lawful exercise of business or amusement; or

(4) behavior involving personal abuse or assault when such behavior creates a clear and present danger of causing assaults or affrays; or

(5) in a public or private place engages in violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct under circumstances in which such conduct tends to cause or provoke a disturbance; or

(6) wilful and malicious behavior that interrupts the speaker of any lawful assembly or impairs the lawful right of others to participate effectively in such assembly or meeting when such conduct tends to cause or provoke a disturbance; or

(7) behavior near a courthouse or other public building wherein judicial proceedings are being held, designed or having the effect of interfering with the administration of justice, whether by disrupting the courts or by intimidating the judges, witnesses, jurors, or other persons having business with the courts; or

(8) behavior near any public building wherein matters affecting the public are being considered or deliberated, designed or having the effect of interfering with such proceedings under circumstances in which such conduct tends to cause or provoke a disturbance; or

(9) wilful and malicious behavior which obstructs or causes the obstruction of any doorway, hall, or any other passageway in a public building to such an extent that the employees, officers, and other persons, including visitors and tourists, having business with the government are denied entrance into, exit from, or free passage in such building; or

(10) behavior involving the display of any deadly weapon in a public place in such a manner as to alarm or frighten other persons present; or

(11) enters upon the property of another and for a lewd or unlawful purpose deliberately looks into a dwelling on the property through any window or other opening in it.

Sec. 2. Any person who violates any of the provisions of Section 1 of this Article shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than Two Hundred Dollars (\$200). For any second or subsequent conviction of any of the provisions of Section 1 of this Article such person shall be punished by a fine of not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000), or by imprisonment in the county jail for not more than thirty (30) days or by both such fine and imprisonment.

Amended by Acts 1969, 61st Leg., p. 1510, ch. 454, § 1, emerg. eff. June 10, 1969.

Acts 1969, 61st Leg., p. 1510, ch. 454, § 2
was a severability provision.

Art. 480a. Shooting on public road

Any person who shoots or discharges any gun, pistol, or firearm in, on, along, or across any public road in this state shall be fined not less than \$50 and not more than \$200. This Act is enforceable by peace officers or Game Warden who is an employee of and paid by the Parks and Wildlife Department.

Amended by Acts 1965, 59th Leg., p. 378, ch. 182, § 1, eff. Aug. 30, 1965; Acts 1969, 61st Leg., p. 1591, ch. 485, § 1, emerg. eff. June 10, 1969.

Art. 482a. Parking area; use and conduct

Definition

Section 1. In this Act, "parking area" means a privately-owned or publicly-owned access way or parking area commonly used by the general

public without charge, maintained for the convenience of customers, clients, or patrons of one or more business establishments or public offices.

Prohibited uses of motor vehicles in parking areas

Sec. 2. No person in control or possession of a motor vehicle in a parking area may:

(1) Accelerate or race the motor of a vehicle so as to cause a loud noise in a manner calculated to disturb the person or persons present;

(2) Bring a motor vehicle to a sudden start or stop or blow the horn of the vehicle when there is no necessity for the protection of a person or property, in such a manner calculated to disturb the person or persons present; or

(3) Hold a race or contest for speed with another motor vehicle or vehicles, without the written consent of the parking area owner or his authorized representative.

Prohibited acts in parking areas

Sec. 3. No person in a parking area may:

(1) Fight with another person;

(2) Use loud, obscene, vulgar, indecent language, swear, curse, yell, or shriek in such a manner calculated to disturb the person or persons present;

(3) Throw any object capable of causing bodily harm or property damage at another person or property with intent to injure or damage;

(4) Congregate with another person or persons or loiter after entering the premises, and wilfully refuse to leave after having been notified to leave by the owner or the person in possession and control of the premises or his agent.

Littering parking areas

Sec. 4. No person may throw or deposit any trash, litter, or other waste on a parking area.

Penalty

Sec. 5. A person who violates any provision of this Act is guilty of a misdemeanor and upon conviction is punishable by a fine not exceeding \$200.

Severability clause

Sec. 6. If any provision, sentence, subsection, clause, phrase or word of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect the validity of the remaining provisions of this Act, and the Legislature hereby declares that it would have passed the remaining portions irrespective of such invalidity.

Acts 1969, 61st Leg., p. 1661, ch. 525, eff. Sept. 1, 1969.

Title of Act:

An Act prohibiting the use of motor vehicles in parking areas to race the motor to cause a loud noise, to hold a contest for speed, to disturb the peace; prohibiting fighting, use of loud, vulgar or indecent

language, littering or loitering without consent, by individuals in parking areas; providing a penalty; a severability clause; and declaring an emergency. Acts 1969, 61st Leg., p. 1661, ch. 525.

For Annotations and Historical Notes, see V.A.T.S.

CHAPTER FOUR—UNLAWFULLY CARRYING ARMS

Art.
489d. Outstate purchases of firearms
[New].

Art. 489c. Possession of prohibited weapons by persons convicted of certain felonies

Section 1. No person who has been convicted of a felony involving an act of violence may possess away from the premises upon which he lives a prohibited weapon, or a firearm having a barrel of less than 12 inches in length. "Prohibited weapon" means any weapon specified by Article 483, Penal Code of Texas, 1925, as amended.

Sec. 2. A person who violates any provision of this Act is guilty of a felony and upon conviction is punishable by imprisonment in the penitentiary for not less than two nor more than 10 years.

Amended by Acts 1957, 55th Leg., p. 50, ch. 28, § 1, eff. Aug. 22, 1957; Acts 1969, 61st Leg., p. 1951, ch. 653, § 1, eff. Sept. 1, 1969.

Art. 489d. Outstate purchases of firearms

A resident of Texas may, if not otherwise precluded by law, purchase firearms, rifles, shotguns, ammunition, reloading components, or firearms accessories in states contiguous to Texas. This authorization is enacted in conformance with Section 922(b) (3) (A), Public Law 90-618, 90th Congress.¹

Acts 1969, 61st Leg., p. 42, ch. 13, § 1, emerg. eff. March 13, 1969.

1. 18 U.S.C.A. § 922(b) (3) (A).

Title of Act:

An Act relating to the purchase of certain firearms and accessories by residents of

Texas in states contiguous to Texas; and declaring an emergency: Acts 1969, 61st Leg., p. 42, ch. 13.

TITLE 10—OFFENSES AGAINST MORALS, DECENCY AND CHASTITY

CHAPTER ONE—UNLAWFUL MARRIAGES

Arts. 492, 493 Repealed. Acts 1969, 61st Leg., p. 2707, ch. 888, § 6, eff. Jan. 1, 1970

Acts 1969, 61st Leg., p. 2707, ch. 888, repealing these Articles, enacts the Texas Family Code.

Title 1 of the Family Code is published in a separate Special Pamphlet for convenient

reference pending publication of a fully annotated edition in bound volume form as a unit of Vernon's Texas Codes Annotated.

CHAPTER TWO—INCEST

Art. 495. 486, 349 Punishment for Incest

Persons who are forbidden to marry by Section 2.21 of the Family Code who intermarry or carnally know each other shall be confined in the penitentiary for not less than two years nor more than ten years. Amended by Acts 1969, 61st Leg., p. 2707, ch. 888, § 2, eff. Jan. 1, 1970.

Acts 1969, 61st Leg., p. 2707, ch. 888, amending this Article, enacts the Texas Family Code.

Title 1 of the Family Code is published in a separate Special Pamphlet for con-

venient reference pending publication of a fully annotated edition in bound volume form as a unit of Vernon's Texas Codes Annotated.

Arts. 496, 497 Repealed. Acts 1969, 61st Leg., p. 2707, ch. 888, § 6, eff. Jan. 1, 1970

Acts 1969, 61st Leg., p. 2707, ch. 888, repealing these Articles, enacts the Texas Family Code.

Title 1 of the Family Code is published in a separate Special Pamphlet for con-

venient reference pending publication of a fully annotated edition in bound volume form as a unit of Vernon's Texas Codes Annotated.

CHAPTER FIVE—BAWDY AND DISORDERLY HOUSES

Art. 513. 496 "Disorderly house"

Section 1. A disorderly house is any assignation house, or any house to which persons resort for the purpose of smoking or in any manner using opium, or other narcotics or the illegal use of dangerous drugs.

Sec. 2. (a) A disorderly house is any house, building, theater or other structure where obscene motion pictures are displayed, exhibited or shown to persons under twenty-one (21) years of age.

(b) "Theater" as used in the next preceding subsection shall include drive-in or open air theaters as well as theaters located within buildings.

(c) For the purposes of this article the words "obscene motion pictures" means motion pictures (1) the dominant theme of which, taken as a whole, appeal to a prurient interest; (2) which are patently offensive because they affront contemporary community standards relating to the description or representation of sexual matters; provided, for the purposes of this Act, the term "contemporary community standards" shall in no case involve a territory or geographic area less than the State of Texas; and (3) which are utterly without redeeming social value.

For Annotations and Historical Notes, see V.A.T.S.

(d) "Prurient interest" means a shameful or morbid interest in nudity, sex, or excretion, which goes substantially beyond customary limits of candor in description or representation of such matters. If it appears from the character of the material or the circumstances of its dissemination that the subject matter is designed for a specially susceptible audience, the appeal of the subject matter shall be judged with reference to such audience.

Amended by Acts 1969, 61st Leg., p. 2057, ch. 711, § 1, eff. Sept. 1, 1969.

Art. 514. 500, 361, 341 Keeping bawdy or disorderly house

Any person who shall directly, as agent for another, or through an agent, keep or be concerned in keeping, or aid or assist or abet, in keeping a bawdy or disorderly house in any house, building, edifice or tenement, or shall knowingly permit the keeping of a bawdy or disorderly house in any house, building, edifice or tenement owned, leased, occupied or controlled by him or her, directly, as agent for another or through any agent, shall be fined Two Hundred Dollars and confined in jail for twenty days for each day he or she shall keep, be concerned in keeping or knowingly permit to be kept such bawdy or disorderly house.

The provisions of this Act shall not apply to a moving picture machine operator, or assistant operator, who is employed in a motion picture theater in connection with a motion picture film or show exhibited in said theater if such operator or assistant operator has no financial interest in the motion picture theater wherein he is so employed other than his wages received or owed.

Amended by Acts 1969, 61st Leg., p. 2057, ch. 711, § 2, eff. Sept. 1, 1969.

CHAPTER SEVEN—MISCELLANEOUS OFFENSES

Art.
534b. Protection of minors from harmful materials [New].

Art. 526. Repealed by Acts 1969, 61st Leg., p. 1547, ch. 468, § 3, emerg. eff. June 10, 1969

Art. 527. Obscene articles

Definitions

Section 1. As used in this Article:

(A) "Obscene" material means material (a) the dominant theme of which, taken as a whole, appeals to a prurient interest; (b) which is patently offensive because it affronts contemporary community standards relating to the description or representation of sexual matters; and (c) which is utterly without redeeming social value.

(B) "Prurient interest" means a shameful or morbid interest in nudity, sex, or excretion, which goes substantially beyond customary limits of candor in description or representation of such matters. If it appears from the character of the material or the circumstances of its dissemination that the subject matter is designed for a specially susceptible audience, the appeal of the subject matter shall be judged with reference to such audience.

(C) "Matter" means any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statue or other figure, or any

recording, transcription, or mechanical, chemical or electrical reproduction, or any other articles, equipment, machines or materials.

(D) "Person" means any individual, partnership, firm, association, corporation or other legal entity, or any agent or servant thereof.

(E) "Distribute" means to transfer possession of, whether with or without consideration.

(F) "Knowingly" means having actual or constructive knowledge of the subject matter. A person shall be deemed to have constructive knowledge of the contents if he has knowledge of facts which would put a reasonable and prudent man on notice as to the suspect nature of the material.

Affirmative defense

Sec. 2. It is not innocent but calculated purveyance which is prohibited. This article shall not apply to persons who may possess or distribute obscene matter or participate in conduct otherwise prescribed by this article when such possession, distribution, or conduct occurs in the course of law enforcement activities or in the course of bona fide scientific, educational, or comparable research or study, or like circumstances of justification where the possession, distribution, or conduct is not related to the subject matter's appeal to prurient interest.

General sale or distribution, etc., of obscene matter: penalty

Sec. 3. Every person who knowingly: sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state prepares for distribution, publishes, prints, exhibits, distributes, or offers to distribute, or has in his possession with intent to distribute or to exhibit or offer to distribute, any obscene matter is guilty of a misdemeanor.

Distribution to minors; law governing

Sec. 4. Notwithstanding any of the provisions of this bill, the distribution of obscene matter to minors shall be governed by Senate Bill 661¹ enacted by the 61st Legislature and approved by the Governor. In case of any conflict between the provisions of this bill and said Senate Bill 661, the provisions of the latter shall prevail.

Hiring, employing, etc., minor to engage in acts described in Section 3: penalty

Sec. 5. Every person who, with knowledge that a person is a minor under 18 years of age, or who, while in possession of such facts that he should reasonably know that such person is a minor under 18 years of age, hires, employs, or uses such minor to do or assist in doing any of the acts described in Section 3, is guilty of a misdemeanor.

Conspiracy

Sec. 6. A conspiracy of two or more persons to commit any of the crimes prescribed by this Act is punishable as a felony. Any court having jurisdiction of the conspiracy crime has concurrent jurisdiction to try all misdemeanor crimes committed in furtherance of the conspiracy.

Special verdict

Sec. 7. The jury, or the court, if a jury trial is waived, shall render a general verdict, and must also render a special verdict as to whether the matter named in the charge is obscene. The special verdict or findings on the issue of obscenity may be: "We find the _____"

For Annotations and Historical Notes, see V.A.T.S.

(title or description of matter) to be obscene," or "We find the _____ (title or description of matter) not to be obscene," as they may find each item is or is not obscene. A special verdict shall not be admissible as evidence in any other proceeding, nor shall it be res judicata of any question in any other proceeding.

Punishment for violation of Sections 3, 5, and 6

Sec. 8. (A) Every person who violates Section 3 is punishable by a fine of not more than \$1,000 plus \$5 for each additional unit of material coming within the provisions of this Act, which is involved in the offense, not to exceed \$10,000, or by confinement in the county jail for not more than six months plus one day for each additional unit of material coming within the provisions of this chapter, and which is involved in the offense, such basic maximum and additional days not to exceed 360 days in the county jail, or by both fine and confinement. If such person has previously been convicted of a violation of this Act, a violation of Section 3 is punishable as a felony and by a fine of not more than \$2,000 plus \$5 for each additional unit of material coming within the provisions of this Act, which is involved in the offense, not to exceed \$25,000, or by imprisonment in the penitentiary for not exceeding five years or both fine and imprisonment.

(B) Every person who violates Section 5 is punishable by a fine of not more than \$2,000 or by confinement in the county jail for not more than one year, or by both fine and confinement. If such person has been previously convicted of a violation of this Act, a violation of Section 5 is punishable as a felony and by a fine of not more than \$5,000, or by imprisonment in the penitentiary not exceeding five years, or both fine and imprisonment.

(C) Every person who violates Section 6 is punishable by a fine of not more than \$5,000, or by imprisonment in the penitentiary not exceeding five years, or by both such fine and imprisonment.

Seizure of obscene matter authorized

Sec 9. Where possible and practical, obscene matter upon which prosecutions are based under the provisions of this article, should be obtained by peace officers or prosecuting attorneys without resorting to seizure of such matter pursuant to a search warrant. Where seizure of alleged obscene matter is necessary and practical, a search warrant to search for and seize such matter is expressly authorized. Moreover, no peace officer shall seize any obscene matter from the possession of any person except under the authority of a search warrant issued under the provisions of the Code of Criminal Procedure of Texas. Where practical, the matter alleged to be obscene shall be attached to the complaint to afford the issuing magistrate the opportunity to examine such materials to assist him in deciding whether the warrant shall issue. Where the alleged obscene matter is not available to present to the magistrate, the affiant or affiants to the complaint shall describe the alleged obscene materials in detail so as to assist the magistrate in deciding whether the warrant should issue. Moreover, where alleged obscene matter is not attached to the complaint, as in the case of motion pictures or statues, the magistrate to whom the complaint is presented shall, where practical, personally view the matter alleged to be obscene before issuing the warrant. Where a search warrant is issued under the provisions of this section, only that matter described in the complaint shall be seized by the executing peace officer or officers. Nothing contained in this section shall prevent the obtaining of alleged obscene matter under injunction proceedings as authorized by this Act or by any other statute of the State of Texas.

Destruction of matter or advertisement upon conviction of accused

Sec. 10. Upon the conviction of the accused, the court may, when the conviction becomes final, order any matter or advertisement, in respect whereof the accused stands convicted, and which remains in the possession or under the control of the district attorney or any law enforcement agency, to be destroyed, and the court may cause to be destroyed any such material in its possession or under its control.

Preparing, etc., obscene matter or advertising elsewhere for sale or distribution in this state: extradition

Sec. 11. Every person, whether or not he is a citizen of or present in this state, who knowingly prepares, publishes, or prints obscene matter for sale or distribution in this state, or who knowingly sends or causes to be sent into this state for sale or distribution any obscene matter or any advertising promoting the sale or distribution of obscene matter, shall be subject to the penalties of this Act, and the executive authority of this state shall demand extradition of such person from the executive authority of the state in which such person is found.

Policy (local regulation)

Sec. 12. No city, county or other political subdivision may enact any regulation of obscene material which conflicts with the provisions of this Act; however, a city, county, or other political subdivision is authorized to regulate further the means and manner of distribution and exhibition of matter.

Enforcement by injunction, etc.

Sec. 13. The district courts of this state and the judges thereof shall have full power, authority, and jurisdiction, upon application by any district or county attorney within their respective jurisdictions, or the attorney general to issue any and all proper restraining orders, temporary and permanent injunctions, and any other writs and processes appropriate to carry out and enforce the provisions of this article. Such restraining orders or injunctions may issue to prevent any person from violating any of the provisions of this article. However, no restraining order or injunction shall issue except upon notice to the person sought to be enjoined. Such person shall be entitled to a trial of the issues within one day after joinder of issue and a decision shall be rendered by the court within two days of the conclusion of the trial. In the event that a final order or judgment of injunction be entered against the person sought to be enjoined, such final order or judgment shall contain a provision directing the person to surrender to the sheriff of the county in which the action was brought any obscene matter in his possession and such sheriff shall be directed to seize and destroy such matter.

Amended by Acts 1955, 54th Leg., p. 386, ch. 107, § 1; Acts 1957, 55th Leg., p. 425, ch. 203, § 1; Acts 1961, 57th Leg., p. 1041, ch. 461, § 1, eff. June 16, 1961; Acts 1969, 61st Leg., p. 1547, ch. 468, § 1, emerg. eff. June 10, 1969.

1. Acts 1969, 61st Leg., p. 850, ch. 284, §§ 1 to 16, codified as Vernon's Ann.P.C. art. 534b.

Acts 1969, 61st Leg., p. 1547, ch. 468, §§ 2, 3 provided:

"Sec. 2. Severability. If any provisions, clause, sentence, paragraph, section, phrase or part of this Act, or the application thereof to any person or circumstance, is held invalid, that invalidity shall not affect any other provisions, clauses, sentences, paragraphs, sections, phrases, parts or applications of this Act which can be given

effect without the invalid provisions, clause, sentence, paragraph, section, phrase, part or application. To this end the provisions, clauses, sentences, paragraphs, sections, phrases and parts of this Act are declared to be severable.

"Sec. 3. Repeal and saving clause. All Acts and parts of Acts inconsistent or in conflict with this Act are, to the extent of their inconsistency or conflict, hereby

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repealed, expressly repealing Articles 526 and 527b. This section shall not be construed to affect any suits pending or rights existing or any liability or penalty incurred under those Acts at the time this Act shall take effect."

Art. 527b. Repealed by Acts 1969, 61st Leg., p. 1547, ch. 468, § 3, emerg. eff. June 10, 1969

Repealed article prohibited display or sale of lewd or corruptive comic books, and was derived from Acts 1955, 54th Leg., p. 444, ch. 120. See, now, art. 527.

Art. 534b. Protection of minors from harmful materials

Short Title

Section 1. This Act shall be known as Texas Law on the Protection of Minors from Harmful Materials, and may be referred to by that designation.

Purpose and intent of act

Sec. 2. During the past several years the sale or distribution of harmful materials to minors has become a matter of increasingly grave concern to the people of this state. The elimination of such sales and the consequent protection of minors from harmful materials are in the best interests of the morals and general welfare of the citizens of this state, in general, and of minors in this state, in particular. The accomplishment of these ends can best be achieved by providing public prosecutors (a) with a speedy civil remedy for obtaining a judicial determination of the character and contents of publications, (b) with an effective power to enjoin promptly the sale of harmful materials to minors, and (c) with an effective power to commence criminal proceedings against persons who regularly engage in the sale of harmful materials to minors.

Definitions

Sec. 3. (a) "Minor" means any person under the age of eighteen years.

(b) "Nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernible turgid state.

(c) "Sexual conduct means acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person be a female, breast.

(d) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(e) "Sado-masochistic abuse" means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

(f) "Harmful to minors" means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sado-masochistic abuse, when it:

(i) predominantly appeals to the prurient, shameful or morbid interest of minors, and

(ii) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for

(iii) is utterly without redeeming social importance for minors, and minors, and

- (g) "Knowledge of the nature of the material" means:
- (i) knowledge of the character and content of any material described herein, or
 - (ii) knowledge of information that the material described herein has been adjudged to be harmful to minors in a proceeding instituted pursuant to Section 4 or Section 12 of this Act, or is the subject of a pending proceeding instituted pursuant to Section 4 or Section 12 of this Act.
- (h) "Knowledge of the minor's age" means:
- (i) knowledge or information that the person is a minor, or
 - (ii) reason to know, or a belief or ground for belief which warrants further inspection or inquiry of the age of the minor.
- (i) "Person" means any individual, partnership, firm, association, corporation or other legal entity.
- (j) "Harmful material" means:
- (i) any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct or sado-masochistic abuse, and which is harmful to minors, or
 - (ii) any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains (A) any matter enumerated in the preceding Subsection (3 (j) (i)) hereof, or (B) explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sado-masochistic abuse, and which, taken as a whole, is harmful to minors.

Commencement of civil proceeding

Sec. 4. (a) Whenever the Attorney General of this state or the district or county attorney within their respective jurisdictions has reasonable cause to believe that any person (i) is engaged in selling harmful material to minors, or (ii) may become engaged in selling harmful material to minors, the Attorney General or the district or county attorney within their respective jurisdiction in which such material is offered for sale shall institute an action in the District Court for that jurisdiction for adjudication of the question of whether such material is harmful to minors.

(b) The provisions of the Texas Rules of Civil Procedure and all existing and future amendments of said Texas Rules of Civil Procedure and modifications thereof, and the rules now or hereafter adopted pursuant to said Texas Rules of Civil Procedure, shall apply to all proceedings herein except as otherwise provided in this Act.

Filing and form of petition

Sec. 5. The action authorized by Section 4 shall be commenced by the filing of a verified petition. If the allegedly harmful material is written or printed, a true copy shall be attached to the petition as an exhibit. If the allegedly harmful material is not written or printed, an affidavit describing such material shall be attached to the petition as an exhibit. The petition shall:

- (a) be directed against the allegedly harmful material by name or description;
- (b) allege that the alleged material is harmful to minors;
- (c) designate as respondents and list the names and addresses, if known, of any person in this state preparing, selling or commercially distributing the allegedly harmful material to minors, or giving away or offering to give away the allegedly harmful material to minors, or possession of such allegedly harmful material with the apparent intent to sell

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or commercially distribute or give away or offer to give away such allegedly harmful material to minors;

(d) seek an adjudication that the alleged material is harmful to minors; and

(e) seek a permanent injunction against any respondent prohibiting him from selling, commercially distributing or giving away such allegedly harmful material to minors or from permitting minors to inspect such allegedly harmful material.

Examination by the court

Sec. 6. (a) Upon the filing of the petition described in Section 5, the Attorney General or district or county attorney within their respective jurisdiction, as the case may be, shall present the same, together with the material attached thereto, as soon as practicable to the court for its examination and reading.

(b) If after such examination and reading the court finds no probable cause to believe such material to be harmful to minors, the court shall cause an endorsement to that effect to be placed and dated upon the petition and shall thereupon dismiss the action.

(c) If after such examination and reading the court finds probable cause to believe such material to be harmful to minors, the court shall cause an endorsement to that effect to be placed and dated upon the petition whereupon it shall be the responsibility of the Attorney General or the district or county attorney within the respective jurisdictions, as the case may be, promptly to request the clerk of the court to issue citation and to copy such endorsement upon such number of duplicates of such petition as are needed for the service of citation, to each copy of which citation shall be attached a copy of such petition as so endorsed. Service of such citation and endorsed petition shall be made upon the respondents thereto in any manner provided by law.

Appearance, answer and trial date

Sec. 7. (a) On or before the return date specified in the citation issued pursuant to Section 6, or within ten days after receiving notice of the issuance of such citation, the author, publisher or any person interested in sending or causing to be sent, bringing or causing to be brought, into this state for sale or commercial distribution, or any person in this state preparing, selling, exhibiting or commercially distributing, or possessing with intent to sell or commercially distribute or exhibit, the material exhibited to the endorsed petition, may appear and may intervene as a respondent and file an answer.

(b) If, after service of citation has been effected upon all respondents, no person appears and files an answer on or before the return date specified in the citation, the court may forthwith adjudge whether the material so exhibited to the endorsed petition is harmful to minors and enter an appropriate final judgment.

(c) Upon the expiration of the time for filing answers by all respondents, the court shall, upon its own motion, or upon the application of any party who has appeared and filed an answer, set a date for the trial of the issues joined.

Public policy, procedure and evidence

Sec. 8. (a) The public policy of this state requires that all proceedings prescribed in this Act, other than criminal actions under Section 12, be heard and disposed of with the maximum promptness and dispatch commensurate with constitutional requirements, including due process, freedom of the press and freedom of speech. The rules of civil procedure per-

taining to equity cases shall be applicable, except as hereinafter provided, to the trial of the issues framed by the petition and answers.

(b) Every person appearing and answering shall be entitled, upon application and payment of fee or affidavit, to a trial of any fact issue by a jury whose verdict shall have the same effect as in cases at law as to any issue of fact.

Judgment

Sec. 9. In the event that the court or jury, as the case may be, finds the material exhibited to the petition not to be harmful to minors, the court shall enter judgment accordingly and shall dismiss the petition. In the event that the court or jury, as the case may be, finds the material exhibited to the petition to be harmful to minors, the court shall enter judgment to such effect and may, in such judgment or in subsequent orders of enforcement thereof, enter a permanent injunction against any respondent prohibiting him from selling, commercially distributing or giving away the material exhibited to the petition to minors or from permitting minors to inspect the material exhibited to the petition.

Injunctions

Sec. 10. (a) In any action in which an injunction is sought under this Act, any respondent named in the petition, or any person who becomes a respondent by virtue of intervention pursuant to Section 7 hereof, shall be entitled to a trial of the issues within one day after joinder of issue, and a decision shall be rendered by the court or jury, as the case may be, within two days of the trial, exclusive of Saturday, Sunday and holidays. If the issues are being tried before a jury and the jury shall not be able to render a decision within two days of the conclusion of the trial, then with the consent of all parties and notwithstanding any other provision of this Act, the jury shall be dismissed and a decision shall be rendered by the court within two days of the conclusion of the trial.

(b) No preliminary injunction shall be issued without at least two days' notice to the respondents.

(c) If the court, pursuant to Section 6, finds probable cause to believe the exhibited material to be harmful to minors, and so endorses the petition, the court may, upon the motion of the Attorney General or the district or county attorney within their respective jurisdictions, as the case may be, issue a temporary restraining order against any respondent prohibiting him from selling, commercially distributing or giving away such exhibited material to minors or from permitting minors to inspect such exhibited material. No temporary restraining order shall be granted without notice to the respondents unless it clearly appears from specific facts shown by affidavit or by the verified petition that one or more of the respondents are engaged in the sale of harmful material to minors and that immediate and irreparable injury to the morals and general welfare of minors in this state will result before notice can be served and a hearing had thereon. Every temporary restraining order shall be endorsed with the date and hour of issuance; shall be filed forthwith in the clerk's office and entered of record; shall define the injury and state why it is irreparable and why the order was granted without notice; and shall expire by its own terms within such time after entry, not to exceed three days, as the court fixes unless within the time so fixed the respondent against whom the order is directed consents that it may be extended for a longer period. In the event that a restraining order is granted without notice, a motion for a preliminary injunction shall be set down for hearing within two days after the granting of such order and shall take precedence over all matters except older matters of the same character; and when the motion comes on for hearing, the Attorney General or the district or county at-

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torney within the respective jurisdictions, as the case may be, shall proceed with the application for a preliminary injunction and, if he does not do so, the court shall dissolve the temporary restraining order.

Contempt

Sec. 11. Any respondent, or any officer, agent, servant, employee or attorney of such respondent, or any person in active concert or participation by contract or arrangement with such respondent, who receives actual notice, by personal service or otherwise, of any injunction or restraining order entered pursuant to Sections 9 or 10, and who shall disobey any of the provisions thereof, shall be guilty of contempt of court and after notice and a hearing the court may punish such person by a fine not to exceed One Thousand Dollars (\$1,000.00) or by imprisonment not to exceed two (2) years, or both.

Criminal provisions concerning regular sales of harmful material to minors

Sec. 12. (a) Subject to the provisions of the following Subsection hereof (12(b)), every person who, with knowledge of the nature of the material, and with knowledge of the minor's age, sells or loans for monetary consideration to a minor any material which is harmful to minors shall be fined not more than Two Thousand Five Hundred and no/100 Dollars (\$2,500.00) nor imprisoned in the county jail more than two (2) years or both.

(b) No criminal proceeding shall be commenced against any person pursuant to the provisions of the preceding Subsection hereof (12(a)) unless, prior to the sale or loan which is the subject of such proceeding, such person

(i) has written notice from the Attorney General or the district or county attorney within their respective jurisdictions, as the case may be, that the material which is the subject of such proceeding has been adjudged harmful to minors pursuant to the provisions of this Section (12) or of Section 9, or

(ii) has been subject to an order entered pursuant to Section 9 prohibiting such person from selling, commercially distributing or giving away to minors, or from permitting minors to inspect (A) the harmful material which is the subject to such criminal proceeding, or (B) any other harmful material.

Defenses and exceptions

Sec. 13. No person shall be guilty of a contempt pursuant to the provisions of Section 11 or shall be subject to prosecution pursuant to the provisions of Section 12:

(a) for any sale to a minor where such person had reasonable cause to believe that the minor involved was eighteen years old or more, and such minor exhibited to such person a draft card, driver's license, birth certificate or other official or apparently official documents purporting to establish that such minor was eighteen years old or more;

(b) for any sale where a minor is accompanied by a parent or guardian, husband or wife, or accompanied by an adult and such person has no reason to suspect that the adult accompanying the minor is not the minor's parent or guardian, husband or wife;

(c) where such person is a bona fide school, museum or public library or is acting in his capacity as an employee of such organization or as a retail outlet affiliated with and serving the educational purposes of such organization.

(d) for any sale of any material which is on any approved school list or which is available in public or school libraries.

(e) for any sale if such matter shall be regularly in use in any bona fide religious, educational or scientific institution or the subject of a bona fide scientific investigation.

Extradition

Sec. 14. In the event that any person who is found guilty of a contempt pursuant to the provisions of Section 11 or guilty of a misdemeanor pursuant to the provisions of Section 12 cannot be found in this state, the executive authority of this state, being the Governor or any person performing the functions of Governor by authority of the law of this state, shall, unless such person shall have appealed from the judgment of contempt or conviction, as the case may be, and such appeal has not been finally determined, demand his extradition from the executive authority of the state in which said person may be found, pursuant to the law of this state.

Severability

Sec. 15. If any provisions, clause, sentence, paragraph, section, phrase or part of this Act, or the application thereof to any person or circumstance, is held invalid, that invalidity shall not affect any other provisions, clauses, sentences, paragraphs, sections, phrases, parts or applications of this Act which can be given effect without the invalid provisions, clause, sentence, paragraph, section, phrase, part or application. To this end the provisions, clauses, sentences, paragraphs, sections, phrases and parts of this Act are declared to be severable.

Repeal and savings clause

Sec. 16. All Acts and parts of Acts inconsistent or in conflict with this Act are, to the extent of their inconsistency or conflict, hereby repealed. This Section shall not be construed to affect any suits pending or rights existing or any liability or penalty incurred under those Acts at the time this Act shall take effect.

Acts 1969, 61st Leg., p. 850, ch. 284, emerg. eff. May 22, 1969.

Title of Act:

An Act relating to the sale or distribution of harmful materials to minors; providing for severability; repeal and savings

clauses; and declaring an emergency. Acts 1969, 61st Leg., p. 850, ch 284.

TITLE 11—OFFENSES AGAINST PUBLIC POLICY AND ECONOMY

CHAPTER ONE—BANKING

Art. 567b. Giving check, draft or order without sufficient funds

* * * * *

Payment of wages or salaries for personal services

Sec. 1a. It shall be unlawful for any person or persons to make, draw, utter or deliver, or to cause or direct the making, drawing, uttering, or delivering of any check, draft or order for the payment of money on any bank, person, firm or corporation, in payment of wages or salaries for personal services rendered, knowing that the maker, drawer or payor does not have sufficient funds in or on deposit with such bank, person, firm or corporation, for the payment in full of such check, draft or order, as well as all other then outstanding checks, drafts or orders upon such funds, and with no good reason to believe the check, draft, or order would be paid upon presentation to the bank, person, firm, or corporation upon which same was drawn.

Sec. 1a added by Acts 1969, 61st Leg., p. 1930, ch. 642, § 1, eff. Sept. 1, 1969.

* * * * *

Section 1a, as added by Acts 1969, 61st Leg., p. 1930, ch. 642, § 1, is substantially the same as former section 1a, which was added by Acts 1957, 55th Leg., p. 69, ch. 33, § 1, and omitted in a restatement of the article by Acts 1963, 58th Leg., p. 729, ch. 268.

Acts 1969, 61st Leg., p. 1930, ch. 642, § 2 provided: "If any provision of this Act or

the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

CHAPTER TWO—INSURANCE

Art. 570b. Penalty for acting as, or assisting, aiding or conspiring with anyone,	whose license to act as insurance agent or insurance solicitor has been revoked or suspended [New].
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Art. 570b. Penalty for acting as, or assisting, aiding or conspiring with anyone, whose license to act as insurance agent or insurance solicitor has been revoked or suspended

Section 1. It shall be unlawful for any person, whose license as an insurance agent or insurance solicitor has been suspended or revoked, to do or perform any of the acts of an insurance agent or insurance solicitor. Any person violating this section shall be guilty of a felony and upon conviction shall be punished by a fine of not more than Five Thousand Dollars (\$5,000) or be imprisoned for not more than two years, or be punished by both fine and imprisonment.

Sec. 2. It shall be unlawful for any insurance agent or insurance solicitor with a license to engage in the business of soliciting and writing insurance to assist, aid or conspire with a person, whose license as an insurance agent or insurance solicitor has been suspended or revoked, to engage in any acts as an insurance agent or insurance solicitor. Any person violating this section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than One Thousand

Dollars (\$1,000) or confined in jail for not more than six months, or be punished by both fine and confinement in jail.

Added by Acts 1969, 61st Leg., p. 2053, ch. 708, § 1, emerg. eff. June 12, 1969.

Acts 1969, 61st Leg., p. 2053, ch. 708, § 2 or all other sanctions imposed by the Texas provided: "This Act shall not preclude any Penal Code."

CHAPTER FIVE—PRIZE FIGHTING, ROPING CONTESTS, ETC.

Art. 614—11. Matters prohibited

No individual, firm, club, copartnership, association, company or corporation shall:

(a) Hold or conduct any fistic combat match, boxing, sparring or wrestling contest or exhibition on Sunday; or,

(b) Knowingly permit any person under the age of eighteen (18) years to participate in any professional fistic combat match, boxing, sparring or wrestling contest or exhibition; or,

(c) Knowingly permit any person under the age of twenty-one (21) years to participate in any professional championship fistic combat match, boxing, sparring or wrestling contest or exhibition; or,

(d) Permit any gambling or betting or wagering of any character on the result of, or any contingency in connection with any fistic combat match, boxing, sparring or wrestling contest or exhibition, either before or during any such contests; or,

(e) Knowingly conduct or give or participate in or permit any sham or fake fistic combat match, boxing, sparring or wrestling contest or exhibition except it be as a burlesque; or,

(f) Permit any contestant for or participant in any fistic combat match, boxing, sparring or wrestling contests or exhibition to enter the same unless such contestant first shall have been examined, within two (2) hours prior to entering the ring, by a duly licensed and practicing physician who is a bona fide inhabitant and citizen of the State of Texas, nor then, if such physician finds the facts to be that such contestant is physically unfit to engage in such contest, and such physician shall so certify in writing if he finds the fact so to be, and the promoter of such contest shall deliver such report of examination to the Commissioner of Labor Statistics with the gross receipts tax report, and a duly licensed and practicing physician who is a bona fide inhabitant of the State of Texas shall remain in attendance during the entire time of such match, contest or exhibition; provided, in the event of an emergency in the nature of one or more of the contestants failing, refusing or otherwise being unable to perform as scheduled or agreed, nothing herein shall be construed to prevent the substitution of another contestant or contestants in place of those failing or refusing or being unable to perform as scheduled and any physical examination of a contestant required by this Act may thus be waived by such contestant upon the latter stating in writing that he is physically fit; or,

(g) Permit any fistic combat match, boxing or sparring contest or exhibition for more than ten (10) rounds duration, except in a championship match which shall not exceed fifteen (15) rounds; or,

(h) Permit one round of such match, contest or exhibition to extend for a longer period than three (3) minutes; or,

(i) Permit less than one minute intermission between each round; or,

(j) Permit any fistic combat match, boxing or sparring contest or exhibition without the use of padded gloves of standard make, weighing at least six (6) ounces each, or permit such gloves worn by each of the opposing contestants to be of other than equal weight; or,

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(k) Knowingly sell or cause to be sold or issued for any fistic combat match, boxing, sparring or wrestling contest or exhibition more tickets or invitations or passes purporting to admit anyone to such match, contest or exhibition, or otherwise to admit to the same more persons than are admissible according to the authorized capacity of the building or the part thereof actually used for such purpose.

Amended by Acts 1969, 61st Leg., p. 535, ch. 183, § 1, eff. Sept. 1, 1969.

CHAPTER EIGHT—TEXAS LIQUOR CONTROL ACT

I. INTOXICATING LIQUORS

- Art. 666—5b. Change of name; Texas Liquor Control Board to Texas Alcoholic Beverage Commission [New].
- 666—7d. Appeal to board; representation for compensation; affidavit and disclosure [New].
- 666—12b. Cancellation or suspension of permit or license for underage sales; notice and hearing [New].
- 666—15(f). Private club late hours permit [New].
- 666—17b. Anti-tied house restrictions; applications for permits; investigation; enforcement; exceptions [New].
- 666—21½. Tax payment by reporting system under bond or special order [New].
- 666—25b. Repealed.
- 666—41b. Assessment of suspension or cancellation penalty against permit

Art. or license of retail dealer; discretion of board or administrator; reinstatement; disposition of fees [New].

II. MALT LIQUORS

- 667—5C. On-premise licenses and permits; name and photograph of holder [New].
- 667—5D. On-premise license or permit applicants; fingerprints; criminal record check; certification [New].
- 667—5E. On-premise license or permit applications; notices and hearings; attendance by applicant [New].
- 667—5F. On-premise license or permit applications; refusal for criminal convictions [New].
- 667—19E. Display of sign on penalty for carrying weapons in premises [New]

Change of Name

The name of the Texas Liquor Control Board was changed in 1969 to Texas Alcoholic Beverage Commission. See art. 666—5b.

I. INTOXICATING LIQUORS

Art. 666—4. Manufacture, sale or possession of liquor unlawful; consumption in public place

* * * * *

(b-1) Anything in this Act to the contrary notwithstanding, it shall not be unlawful for any person in any area wet for the limited purpose of the sale of beer, or the sale of beer and wine to apply for and be issued a Wholesaler's Permit, as described in Section 15, subsection (6) of Article I of this Act, and to exercise all rights and privileges of such permit holders.

Subsec. b-1 added by Acts 1969, 61st Leg., p. 1697, ch. 552, § 1, emerg. eff. June 10, 1969.

(c)

* * * * *

(1) It shall be unlawful for any person in a county of less than 300,000 population, according to the last preceding federal census, to consume any alcoholic beverage in any public place or for any person to possess any alcoholic beverage in any public place for the purpose of consuming the same in such public place at any time on Sunday between the hours of 1:15 a. m. and 12 noon, and on all other days at any time between the hours of 12:15 a. m. and 7 a. m.; except that the commissioners court of any county under 300,000 population, according to the last preceding federal census, may by order adopt for the unincorporated areas of that county the hours prescribed hereafter for counties of more than 300,000 population, according to the last preceding federal census, and the governing body of any incorporated city or town in any such county under 300,000 population, according to the last preceding federal census, may by ordinance adopt the hours prescribed hereafter for counties of more than 300,000 population, according to the last preceding federal census; violation of a commissioners court order or a city ordinance made under this subsection is punishable as a violation of this Act. It shall be unlawful for any person in a county of 300,000 or more population, according to the last preceding federal census, to consume any alcoholic beverage in any public place or for any person to possess any alcoholic beverage in any public place for the purpose of consuming the same in such public place at any time on Sunday between the hours of 2:15 a. m. and 12 noon, and on all other days at any time between the hours of 2:15 a. m. and 7 a. m.

Par. (c) (1) amended by Acts 1969, 61st Leg., p. 1535, ch. 466, § 1, eff. Sept. 1, 1969.

* * * * *

Acts 1969, 61st Leg., p. 1535, ch. 466, which amended this article and articles 666—15(e), 667—3, 667—10 and added article 666—15(f), provided in section 6: "If any provision of this Act or the application thereof to any person or circumstances is

held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Art. 666—5. Liquor Control Board

Change of Name

The name of the Texas Liquor Control Board was changed in 1969 to Texas Alcoholic Beverage Commission. See art. 666—5b.

Art. 666—5b. Change of name; Texas Liquor Control Board to Texas Alcoholic Beverage Commission

Effective January 1, 1970, the name of the Texas Liquor Control Board is changed to the Texas Alcoholic Beverage Commission. Whenever, in the Texas Liquor Control Act or in any other statute, a reference is made to the "Texas Liquor Control Board" or "Board," the reference shall be construed to mean the Texas Alcoholic Beverage Commission.

Added by Acts 1969, 61st Leg., p. 1048, ch. 341, § 1, eff. Jan. 1, 1970.

Title of Act:

An Act changing the name of the Texas Liquor Control Board to the Texas Alco-

holic Beverage Commission; and declaring an emergency. Acts 1969, 61st Leg., p. 1048, ch. 341.

For Annotations and Historical Notes, see V.A.T.S.

Art. 666—7d. Appeal to board; representation for compensation; affidavit and disclosure

No person including members of the Legislature at any time during his term of office may appear for compensation before the Liquor Control Board on an appeal to the Board in any representative capacity for any person, firm or corporation being heard by the Board unless and until he files an affidavit supplied by the Board to this effect and makes a full disclosure of whom he is representing and that he is being compensated for same. The Board shall provide such forms and these records shall be a matter of public record with the Board.

Added by Acts 1969, 61st Leg., p. 80, ch. 38, § 17E, eff. Sept. 1, 1969.

Art. 666—12a. Hearing as to cancellation or suspension of permit; notice; procedure

* * * * *

(5). Records of all violations of this Act by holders of licenses and permits and records introduced and made public at hearings, and decisions resulting therefrom relating to such violations shall be kept on file at the office of the Liquor Control Board at Austin, Texas, and such records shall be open to the public. The private records of any person, permittee or licensee (which shall be any records except the name, proposed location, and type of permit or license sought in any application for a permit or license or any renewal thereof, any periodic report covering the importation, distribution, or sale of any alcoholic beverages required by the Board to be regularly filed by a permittee or licensee) which are required or obtained by the Liquor Control Board or its agents in connection with any investigation, or otherwise, shall be privileged, unless introduced in evidence in a hearing before the Board or any court in this state or the United States. In all suits by the state or Board or in which the state or Board is a party or parties, a transcript from the papers, books, records, and proceedings of the Board purporting to contain a true statement of accounts between the Board or the state and any person, and all rules, regulations, orders, audits, bonds, contracts, or other instruments relating to or connected with any transaction had between the Board and any person, when certified by the Administrator or Chairman of the Board to be true copies of the originals on file with the Board and authenticated under the seal of the Board shall be admitted as prima facie evidence of their existence and validity and shall be entitled to the same degree of credit that would be due to the original papers if produced and proved in court; but when any suit is brought upon a bond or other written instrument, executed by any person and he shall by plea under oath deny the execution of such instrument, the court shall require the production and proof of the same.

In the event the Attorney General shall file suit or claim for taxes and attach or file as an exhibit any report or audit of said permittee or licensee, and an affidavit made by the Administrator or his representative that the taxes shown to be due by said report or audit are past due and unpaid, that all payments and credits have been allowed, then, unless the party resisting the same shall file an answer in the same form and manner as required by Article 3736, Revised Civil Statutes of Texas, of 1925, as amended by Chapter 239, Acts of the Regular Session of the 42nd Legislature,¹ said audit or report shall be taken as prima facie evidence thereof, and the proceedings of said Article are hereby made applicable to suits to collect taxes hereunder.

A certificate under the seal of the Board executed by any member or the Administrator setting forth the terms of any order, rule, regulation, bond, or other instrument referred to in this Section and that the same

has been adopted, promulgated, and published or executed and filed with the Board and was in force and effect at any date or during any period specified in such certificate, shall be prima facie evidence of all such facts, and such certificate shall be admitted in evidence in any action, civil or criminal, involving such order, rule, and regulation and the publication thereof, without further proof of such promulgation, adoption, or publication and without further proof of its contents and the same provision shall apply to any bond or other instrument referred to in this Section.

Subsec. (5) amended by Acts 1969, 61st Leg., p. 80, ch. 38, § 1, eff. Sept. 1, 1969.

1. Repealed. See, now, Vernon's Ann.Rules Civ.Proc., rule 185.

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Art. 666—12b. Cancellation or suspension of permit or license for underage sales; notice and hearing

Regardless of any other provision of the Texas Liquor Control Act, the Board or Administrator may, for a first offense, cancel, or suspend for a period of time not to exceed sixty (60) days, after notice and hearing, any retail permit or license or any private club registration permit granted under the provisions of the Texas Liquor Control Act upon finding that the Permittee or Licensee, his agent, servant, or employee, has knowingly sold, served, dispensed, or delivered any alcoholic beverages to any person under the age of twenty-one (21) years, or has permitted any person under the age of twenty-one (21) years, who is not accompanied by his parent, legal guardian, or adult spouse, to possess (unless such underaged person is an employee of a Licensee or Permittee as permitted in the Texas Liquor Control Act) or consume any alcoholic beverage on his licensed premises. For the second such offense such permit or license may be cancelled, or suspended for a period of time not to exceed three (3) months. For a third such offense within a period of thirty-six (36) consecutive months, such permit or license may be cancelled or suspended for a period of time not to exceed twelve (12) months.

Provided, however, that if, at a hearing held for such purpose, such Permittee or Licensee establishes to the satisfaction of the Board or Administrator that the violation complained of occurred under such circumstances as could not have reasonably been prevented by such Permittee or Licensee with the exercise of due diligence or that the Permittee or Licensee was entrapped, or that an agent, servant, or employee of such Permittee or Licensee has violated the provisions of this Section without the knowledge of the Permittee or Licensee, then the Board or Administrator shall have the authority to relax the provisions of this Section concerning suspension and cancellation of the permit or license and to assess such sanctions as the Board or Administrator may deem just under the circumstances.

Added by Acts 1969, 61st Leg., p. 80, ch. 38, § 2, eff. Sept. 1, 1969.

Art. 666—15. Classification of permits

Permits shall be of the following classes:

* * * * *

(21) (a) Nothing in the Texas Liquor Control Act shall be deemed to prohibit the selling or serving of alcoholic beverages in or from any size container on a commercial passenger airplane operating in compliance with a valid license, permit, or certificate issued under the authority of the United States or the State of Texas, notwithstanding the fact that it may, during the course of its flight, traverse an area in which the sale of such alcoholic beverages is prohibited; provided, however, that a

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special Airline-Beverage Permit shall be obtained annually from the Board.

(b) The Board or Administrator is authorized to issue an Airline-Beverage Permit to each corporation operating a commercial airline in or through the State of Texas. The annual fee for an Airline-Beverage Permit shall be One Thousand Dollars (\$1,000). The provisions of Sections 15a1 and 18 of this Article shall not apply to Airline-Beverage Permits. Application and payment of the fee shall be made directly to the Board.

(c) Under rules and regulations promulgated by the Board, the holder of an Airline-Beverage Permit may store alcoholic beverages in sealed containers of any size within the boundaries of any airport served by the holder on a regular basis.

(d) As to all alcoholic beverages on board any commercial passenger aircraft departing from any airport in this state, the taxes imposed by the Texas Liquor Control Act shall be paid as prescribed by rules and regulations of the Board.

(e) Neither the preparation nor the serving of alcoholic beverages by the holder of an Airline-Beverage Permit to its passengers shall be considered as a sale for consideration but shall be completely exempt from the provisions of the Limited Sales, Excise and Use Tax Act, as amended. In lieu of that tax, there is hereby imposed a special airline-beverage service fee in the amount of five cents (\$.05) for each individual serving of an alcoholic beverage served by such permit holder within the boundaries of this state. Such fee shall be imposed at the time of the delivery to the passenger of the container containing any alcoholic beverage, and the permit holder may absorb the cost of the fee or may collect the fee from the passenger. The fees shall be remitted monthly by the permit holder to the Board under a reporting system prescribed by rules and regulations of the Board.

(f) Only the holder of a Package Store Permit shall be authorized to sell liquor to the holder of an Airline-Beverage Permit; and for the purposes of this Act, any sale of liquor to the holder of an Airline-Beverage Permit shall be considered a sale at retail to a consumer. Notwithstanding any other provision of the Texas Liquor Control Act, the holder of a Package Store Permit may sell liquor in any size container to holders of Airline-Beverage Permits only, and may purchase liquor in any size container for resale from the holders of a Wholesaler's Permit who may import, sell, offer for sale or possess for purpose of resale liquor in any size container for resale only to holders of Airline-Beverage Permits, subject to any reasonable rules and regulations promulgated by the Board to insure proper enforcement of the Texas Liquor Control Act. Anyone who knowingly violates the provisions of this subsection will forfeit his permit as Package Store Permittee and/or an Airline-Beverage Permittee.

Subsec. 21 added by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 6, § 3, eff. Oct. 1, 1969.

Art. 666—15(e). Private club registration; regulations; permits; licensing fees; violations; penalties

Sec. 1.

1. For purposes of this Act, the following definition of words and terms shall apply:

* * * * *

(c) "Pool System" shall mean that system of liquor storage where all members of the pool participate equally in the purchase of all alcoholic

beverages and the replacement of all alcoholic beverages is paid for by moneys assessed and collected in advance from each member equally. Such pool system shall be legal only in an area which has been voted "wet" for alcoholic beverages by the majority of voters at an election held under local option.

Subsec. 1(c) amended by Acts 1969, 61st Leg., p. 1659, ch. 524, § 1, eff. Sept. 1, 1969.

* * * * *

6a. It shall be unlawful for any private club, irrespective of location and irrespective of system of storage of alcoholic beverages, to allow or permit any person to remove any alcoholic beverages from the club premises; and any such removal shall constitute a ground for suspension or cancellation of the private club registration permit pursuant to Section 7 hereof.

Subsec. 6a added by Acts 1969, 61st Leg., 2nd C.S., p. 5, ch. 1, art. 6, § 6, eff. Oct. 1, 1969.

6b. Neither the preparation and/or serving of alcoholic beverages by a private club to its members and guests, nor the collection of gratuities from members and guests shall be considered as a sale for consideration and shall be completely exempt from the provisions of the Limited Sales, Excise and Use Tax Act, as amended. In lieu of the tax imposed by the Limited Sales, Excise and Use Tax Act, as amended, there is hereby imposed a special private club service fee in the amount of five cents (\$0.05) for each individual serving of an alcoholic beverage by such club. Such fee shall be imposed at the time of the delivery to the member or guest of the container containing any of said beverages. The special private club service fee shall be added to the club's other charges for service of the alcoholic beverage and shall be an obligation of and collected from the person receiving the service. The Board shall have power to make such rules and regulations as are necessary for the collection of this service fee.

Subsec. 6b added by Acts 1969, 61st Leg., 2nd C.S., p. 5, ch. 1, art. 6, § 1, eff. Oct. 1, 1969.

7. The Board or Administrator may cancel or suspend for a period of time not exceeding sixty (60) days, after notice and hearing, any Private Club Registration Permit or any renewal of such Private Club Registration Permit, upon finding that the permittee club has:

(a) Sold, offered for sale, purchased or held title to any liquor whatsoever so as to constitute an open saloon as defined in Section 3 of the Texas Liquor Control Act.

(b) Refused to allow any authorized agent or representative of the Texas Liquor Control Board or any peace officer to come upon the club premises for the purposes of inspecting alcoholic beverages stored on said premises or investigating compliance with this Act or any provision of the Texas Liquor Control Act.

(c) Refused to furnish the Board or its agent or representatives when requested any information pertaining to the storage, possession, serving or consumption of alcoholic beverages upon club premises.

(d) Permitted or allowed any alcoholic beverages stored on club premises to be served or consumed at any place other than on the club premises.

(e) Failed to maintain an adequate building at the address for which said Private Club Registration Permit was issued.

(f) Caused, permitted or allowed any member of a club in a dry area to store any liquor on club premises except under the locker system.

(g) Caused, permitted or allowed any person to consume or be served any alcoholic beverages on the club premises at any time on Sunday between the hours of 1:15 a. m. and 12:00 noon, or on any other day at any time between the hours of 12:15 a. m. and 7:00 a. m.; provided,

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however, that a permittee club holding a Private Club Late Hours Permit shall be entitled to cause, permit and allow service and consumption of alcoholic beverages on the club premises during the additional hours authorized by such permit.

(h) Violated any provision of the Texas Liquor Control Act or this Act.

Subsec. 7 amended by Acts 1969, 61st Leg., p. 1535, ch. 466, § 3, eff. Sept. 1, 1969.

7a. An appeal from any order of the Board or Administrator under this section refusing, cancelling or suspending a permit or license must be taken to the District Court of the county in which the private club permit is sought. The proceeding on appeal shall be de novo under the same rules as ordinary civil suits, with the following exceptions, which shall be considered literally, viz.:

(a) All appeals shall be perfected and filed within thirty (30) days after the effective date of the order, decision or ruling of the Board or Administrator.

(b) Such proceedings shall have precedence over all other causes of a different nature.

(c) All such causes shall be tried before the judge within ten (10) days from the filing thereof, and neither party shall be entitled to a jury.

(d) The order, decision or ruling of the Board or Administrator may be suspended or modified by the District Court pending a trial on the merits, but the final judgment of the District Court shall not be modified or suspended pending appeal.

(e) The District Court may consider any evidence and only such evidence as would be proper if the case were one appearing in the first instance in the District Court and it shall arrive at its decision independently of the proceedings below. The Substantial Evidence Rule shall have no application in the proceedings of the District Court.

Subsec. 7a amended by Acts 1969, 61st Leg., p. 1959, ch. 659, § 1, emerg. eff. June 12, 1969.

* * * * *

[12] Nothing in Section 15e of Article 1, Texas Liquor Control Act, as amended, shall apply to any fraternal organization or veterans' organization any part of whose property is exempt, or would be exempt, from taxation under Article 7150, Revised Civil Statutes of Texas, 1925, as now or later amended.

Added Acts 1961, 57th Leg., p. 559, ch. 262, §§ 1, 1A, eff. Sept. 1, 1961. Amended by Acts 1969, 61st Leg., 2nd C.S., p. 5, ch. 1, art. 6, § 4, eff. Oct. 1, 1969.

13. Section 15a of this article shall not be applicable to any fees imposed or collected under this Section 15e.

Subsec. 13 added by Acts 1969, 61st Leg., 2nd C.S., p. 5, ch. 1, art. 6, § 2, eff. Oct. 1, 1969.

For severability clause of Acts 1969, 61st Leg., p. 1535, ch. 466, see note under art. 666—4.

Art. 666—15(f). Private club late hours permit

A Private Club Late Hours Permit shall authorize the holder thereof to permit persons to consume or be served alcoholic beverages on club premises on Sunday between the hours of 1:00 a. m. and 2:00 a. m. and on any day except Sunday between the hours of 12:00 p. m. and 2:00 a. m. if the premises covered by such permit are in an area where consumption or service of alcoholic beverages in a public place during such hours is authorized by this Act. All sections of this Act which apply to the Pri-

vate Club Registration Permit shall also apply to the Private Club Late Hours Permit. The annual State fee for a Private Club Late Hours Permit shall be Five Hundred Dollars (\$500).

Added by Acts 1969, 61st Leg., p. 1537, ch. 466, § 5, eff. Sept. 1, 1969.

For severability clause of Acts 1969, 61st Leg., p. 1535, ch. 466, see note under art. 666—4.

Art. 666—16. Surety company bond required; amount

All bonds required by this Act shall be executed by a surety company duly authorized and qualified to do business in this state. The Board shall not cancel any surety bond until said surety company shall have paid and discharged in full all of its liability upon said bond to the state to the date of said cancellation. The holders of all permits, except carriers and wine and beer retailers, shall be required to make bonds in sums of not less than One Thousand Dollars (\$1,000) and not exceeding Twenty-Five Thousand Dollars (\$25,000).

The Board in its discretion may fix the amount of bond which shall be required for each class of permittees. All bonds required of permittees shall be payable to the State of Texas conditioned that so long as the applicant holds such permit unrevoked he will not violate any of the laws of this state relative to the traffic in, transportation, sale, or delivery of liquor or any of the valid rules or regulations of the Board, and in the case of such permittees as are required to account for taxes and fees that such permittees will account for and pay all permit fees and taxes levied by this Act. All bonds required of permittees shall be payable in Travis County, Texas. In all instances where other permits are required, incidental to the operation of a business for which a basic permit is procured, the Board may in its discretion accept one bond to support all such permits and in such amounts as it may require. No bond shall be required of any retail licensee or retail permittee who is not responsible for the primary payment of any alcoholic beverage excise tax to the State of Texas.

Amended by Acts 1969, 61st Leg., p. 80, ch. 38, § 3, eff. Sept. 1, 1969.

Art. 666—17. Unlawful acts of permittees and others enumerated

* * * * *

(5) It shall be unlawful for any person to employ anyone under twenty-one (21) years of age to sell, handle, transport, or dispense or to assist in selling, handling, transporting or dispensing any liquor, except malt liquor and ale, which employees shall be at least eighteen (18) years of age; provided further that any person eighteen (18) years of age or over may be employed by the holder of any type of Wholesaler's Permit to work in any capacity, except as the holder of an agent's permit, either on or off the licensed premises; and provided further that any person sixteen (16) years of age or over may be employed by the holder of a Wine Only Package Store Permit to work in any capacity on the licensed premises. Except as to the age of employees, the holder of a Wine Only Package Store Permit shall be subject to all other restrictions and penalties set out in Section 17(b)¹ of Article I of the Texas Liquor Control Act which are applicable to the holder of a package store permit.

Subsec. (5) amended by Acts 1969, 61st Leg., p. 80, ch. 38, § 4, eff. Sept. 1, 1969.

1. See subsec. (14) (b) of this article.

Subsec. (6). Repealed by Acts 1969, 61st Leg., p. 80, ch. 38, § 14, eff. Sept. 1, 1969.

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(14) (a) It shall be unlawful for any person under the age of twenty-one (21) years to purchase any alcoholic beverage, and upon conviction thereof shall be fined in a sum of not less than Twenty-Five Dollars (\$25) or more than Two Hundred Dollars (\$200); and for the second and all subsequent offenses, not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500). It shall further be unlawful for any person under the age of twenty-one (21) years to possess, unless such person under the age of twenty-one (21) years be a bona fide employee, as permitted elsewhere in this Act, on the licensed premises where such alcoholic beverage is possessed, or to consume any alcoholic beverage unless at the time of such possession or consumption such person under the age of twenty-one (21) years is accompanied by his or her parent, guardian, adult husband or adult wife, or other adult person into whose custody he or she has been committed for the time by some court, who is actually, visibly and personally present at the time such alcoholic beverage is possessed or consumed by such person under the age of twenty-one (21) years, and upon conviction thereof shall be fined in a sum of not less than Twenty-Five Dollars (\$25) nor more than Two Hundred Dollars (\$200); provided that for a second and all subsequent offenses such persons upon conviction thereof, shall be fined in a sum of not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500).

(b) It shall be unlawful to purchase an alcoholic beverage for or give, or knowingly make available, an alcoholic beverage to a person under the age of twenty-one (21) years unless the purchaser, person making available, or giver is the parent, legal guardian, adult husband or adult wife of the person for whom the alcoholic beverage is purchased, made available, or to whom it is given. A person who violates a provision of this paragraph is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500).

(c) It shall be further unlawful for any parent, legal guardian, adult husband, or adult wife of a person under twenty-one (21) years of age to purchase for, or knowingly make available to, or give to, any person under twenty-one (21) years of age any alcoholic beverage except for consumption in the actual, visible and personal presence of said parent, legal guardian, or adult husband, or adult wife. A person who violates a provision of this paragraph is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500).

(d) It shall be further unlawful for any person under the age of twenty-one (21) years to make a false statement to the effect that he or she is twenty-one (21) years old or older, or to present any identification or document indicating that he or she is twenty-one (21) or older, to any person engaged in the selling or serving of alcoholic beverages. A person who violates a provision of this paragraph is guilty of misdemeanor and upon conviction is punishable by a fine of not less than Twenty-Five Dollars (\$25) nor more than Two Hundred Dollars (\$200); provided that for second and all subsequent offenses such persons upon conviction thereof, shall be fined in a sum of not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500).

(e) No person under twenty-one (21) years of age may plead guilty to any offense described in Subdivision (a) of this Subsection except in open court before the judge. No such minor shall be convicted of such an offense or fined as provided in Subdivision (a) except in the presence of his parent or guardian having legal custody of the minor. The court shall cause the parent or guardian residing within its jurisdictional limits to be summoned to appear in court and shall require the parent or guardian to be present during all proceedings in the case. However, the court may waive the requirement of the presence of the parent or guardian in any

case in which, after diligent effort, the court is unable to locate them or compel their presence. The court shall give written notice of such offense to the parent or guardian having legal custody of such minor who resides outside the jurisdictional limits of the court.

(f) Upon attaining the age of twenty-one (21) years, any person who during his minority was convicted of not more than one violation of the Texas Liquor Control Act is eligible to have the conviction expunged from his record upon making application to the judge of the court in which he was convicted. The application shall contain the applicant's sworn statement that during his minority he was not convicted of any violation of the Texas Liquor Control Act other than that sought to be expunged from his record. If it appears to the court that applicant's statement is true and correct, the court shall order the conviction expunged from his record along with all complaints, verdicts, sentences and other documents relating thereto. After the court has entered the order, the applicant is released from all disabilities resulting from the conviction, and the fact of the conviction shall not be shown or inquired into for any purpose. Subsec. 14(a) amended by Acts 1955, 54th Leg., p. 1149, ch. 433, § 1; Subsec. 14(b), (c) amended by Acts 1965, 59th Leg., p. 1570, ch. 681, § 1, eff. Aug. 30, 1965; Subsec. 14(a)–(c) amended by Acts 1969, 61st Leg., p. 80, ch. 38, § 5, eff. Sept. 1, 1969; Subsec. 14(d)–(f) added by Acts 1969, 61st Leg., p. 80, ch. 38, § 5, eff. Sept. 1, 1969.

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Art. 666—17b. Anti-tied house restrictions; applications for permits; investigation; enforcement; exceptions

(1) In considering any original application or renewal application for any permit authorized to be issued under the terms of Article I of the Texas Liquor Control Act, except such permits as are specifically excluded by subparagraph (4) of this Section, the Board or Administrator may make such investigation or request such additional information as may be deemed necessary to enforce the provisions of this Section and to provide strict adherence to a general policy prohibiting the "tied house" and related practices hereinafter declared to constitute unfair competition and unlawful trade practices. The term "tied house" as used herein shall mean any overlapping ownership or other prohibited relationship between those engaged in the alcoholic beverage industry at different levels, that is, between a manufacturer and a wholesaler or retailer, or between a wholesaler and a retailer, as the words wholesaler, retailer, and manufacturer are generally used and understood, regardless of the specific designations used in Article I of the Texas Liquor Control Act for the various types of permits herein authorized to be issued.

(2) In furtherance of the general anti-tied house and anti-subterfuge policy, it is specifically declared that:

(a) It shall be unlawful for any person owning or having any interest in any permit issued under the terms of Article I of the Texas Liquor Control Act to secure or to hold, either directly or indirectly, any ownership or ownership interest in the business or stocks (including stock options, convertible debentures, or other similar interests) in a permit or the business of a permittee of a different level which maintains licensed premises in Texas.

(b) It shall be unlawful for any person to act or serve as officer, director, or employee of the businesses of permittees of a different level.

(c) It shall be unlawful for any permittee to own the premises, fixtures, or equipment of a permittee of a different level.

(d) It shall be unlawful for any permittee to secure or in any manner to obtain the use of any premises, fixtures, or equipment on the credit of a permittee of a different level.

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(e) It shall be unlawful for any permittee to loan to, or by means of his credit to secure a loan for, any permittee of a different level. In the event that any permittee secures a loan from any out-of-state source, there shall be a presumption of tied house or subterfuge, and the permittee securing such loan shall have the burden of showing that he has been guilty of no violation of this Section of the Texas Liquor Control Act.

(f) It shall be unlawful for any permittee to enter, with any other permittee of a different level or with any other person or legal entity, into any conspiracy or agreement to control or manage, financially or administratively, directly or indirectly, in any form or degree, the business or interests of any other permittee of a different level.

(g) It shall be unlawful for any permittee to enter, with any other permittee, into any profit-sharing agreement of any kind or any agreement relating to the repurchase of any assets or any agreement attempting to effectuate the shipment or delivery of any alcoholic beverage or beverages on consignment.

(3) The Board or Administrator, upon the finding of any violation of law specified in any subparagraph of Subsection (2) above, shall cancel or suspend for a period of time not less than six (6) months the permit of the permittee or permittees involved. Any person who has held or who has had any interest of any kind in any permit which has been cancelled under the terms of this provision shall thereafter for a period of one (1) year be ineligible to hold or to have any interest of any kind in any permit which is authorized to be issued under the terms of this Act.

(4) The provisions of this Section shall not be applied to any application for the renewal of any permit held by an applicant who was engaged in the legal alcoholic beverage business in this state under charter or permit prior to August 24, 1935, or to any application for renewal of either a Non-Resident Seller's Permit or a Wholesaler's Permit held by an applicant who was the holder of the same type of permit on January 1, 1941, and who has continuously since that date been the holder of such a permit.

Added by Acts 1969, 61st Leg., p. 80, ch. 38, § 16, eff. Sept. 1, 1969.

Art. 666—18. Qualifications of permittees; scope of permits; subterfuge ownership; premises and control of permittees; package store permits; application to hotels; civil remedies

No person who has not been a citizen of Texas for a period of three (3) years immediately preceding the filing of his application therefor shall be eligible to receive a permit under this Act. No permit except a Brewer's Permit, and such other licenses and permits as are necessary to the operation of a Brewer's Permit, shall be issued to a corporation unless the same be incorporated under the laws of the state and unless at least fifty-one percent (51%) of the stock of the corporation is owned at all times by citizens who have resided within the state for a period of three (3) years and who possess the qualifications required of other applicants for permits; provided, however, that the restrictions contained in the preceding clause shall not apply to domestic or foreign corporations that were engaged in the legal alcoholic beverage business in this state under charter or permit prior to August 24, 1935. Partnerships, firms, and associations applying for permits shall be composed wholly of citizens possessing the qualifications above enumerated. Any corporation (except carrier) holding a permit under this Act which shall violate any provisions hereof, or any rule or regulation promulgated hereunder, shall be subject to forfeiture of its charter and it shall be the duty of the Attorney General, when any such violation is called to his attention, to file a suit for such cancellation in a District Court of Travis County. Such provisions of this section as require Texas citizenship or require incorporation in Texas shall not apply to the holders of agent's,

industrial, medicinal and carrier's permits. No person shall sell, warehouse, store or solicit orders for any liquor in any wet area without first having procured a permit of the class required for such privilege, or consent to the use of or allow his permit to be displayed by or used by any person other than the one to whom the permit was issued. It is the intent of the Legislature to prevent subterfuge ownership of or unlawful use of a permit or the premises covered by such permit; and all provisions of the Texas Liquor Control Act shall be liberally construed to carry out this intent, and it shall be the duty of the Board or the Administrator to provide strict adherence to the general policy of preventing subterfuge ownership and related practices hereinafter declared to constitute unlawful trade practices. No applicant for a Package Store Permit or a renewal thereof shall have authority to designate as "premise" and the Board or Administrator shall not approve a lesser area than that specifically defined as "premise" in Section 3-a(7)¹ of Article I of the Texas Liquor Control Act as enacted by the 44th Legislature, 2nd Called Session, 1935, as amended. Every permittee shall have and maintain exclusive occupancy and control of the entire licensed premises in every phase of the storage, distribution, possession, and transportation and sale of all alcoholic beverages purchased, stored or sold on the licensed premises. Any device, scheme or plan which surrenders control of the employees, premises or business of the permittee to persons other than the permittee shall be unlawful. No person under the age of twenty-one (21) years, unless accompanied by his or her parent, guardian, adult husband or adult wife, or other adult person into whose custody he or she has been committed for the time by some court, shall knowingly be allowed on the premises of the holder of a Package Store Permit. Any Package Store permittee who shall be injured in his business or property by another Package Store permittee by reason of anything prohibited in this section may institute suit in any district court in the county wherein the violation is alleged to have occurred to require enforcement by injunctive procedures and/or to recover threefold the damages by him sustained; plus costs of suit including a reasonable attorney's fee. The provision prohibiting the licensing of only a portion of a building as premise for a package store permit shall not apply to hotels as already defined in the Texas Liquor Control Act.

Amended by Acts 1967, 60th Leg., p. 161, ch. 85, § 2, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 2451, ch. 819, § 1, eff. Sept. 1, 1969.

1. Article 666—3a(7).

Amendment by Acts 1969, 61st Leg., p. 80, ch. 38, § 16A, see article 666—18, post.

Art. 666—18. Qualifications of permittees; scope of permits; subterfuge ownership; premises and control of permittees; package store permits; civil remedies

No person who has not been a citizen of Texas for a period of three (3) years immediately preceding the filing of his application therefor shall be eligible to receive a permit under this Act. No permit except a Brewer's Permit, and such other licenses and permits as are necessary to the operation of a Brewer's Permit, shall be issued to a corporation unless the same be incorporated under the laws of the state and unless at least fifty-one percent (51%) of the stock of the corporation is owned at all times by citizens who have resided within the state for a period of three (3) years and who possess the qualifications required of other applicants for permits; provided, however, that the restrictions contained in the preceding clause shall not apply to domestic or foreign corporations that were engaged in the legal alcoholic beverage business in this state under charter or permit prior to August 24, 1935. Partnerships, firms, and

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associations applying for permits shall be composed wholly of citizens possessing the qualifications above enumerated. Any corporation (except carrier) holding a permit under this Act which shall violate any provisions hereof, or any rule or regulation promulgated hereunder, shall be subject to forfeiture of its charter and it shall be the duty of the Attorney General, when any such violation is called to his attention, to file a suit for such cancellation in a District Court of Travis County. Such provisions of this section as require Texas citizenship or require incorporation in Texas shall not apply to the holders of agent's, industrial, medicinal and carrier's permits. No person shall sell, warehouse, store or solicit orders for any liquor in any wet area without first having procured a permit of the class required for such privilege, or consent to the use of or allow his permit to be displayed by or used by any person other than the one to whom the permit was issued. It is the intent of the Legislature to prevent subterfuge ownership of or unlawful use of a permit or the premises covered by such permit; and all provisions of the Texas Liquor Control Act shall be liberally construed to carry out this intent, and it shall be the duty of the Board or the Administrator to provide strict adherence to the general policy of preventing subterfuge ownership and related practices hereinafter declared to constitute unlawful trade practices. No applicant for a Package Store Permit or a renewal thereof shall have authority to designate as "premise" and the Board or Administrator shall not approve a lesser area than that specifically defined as "premise" in Section 3-a(7)¹ of Article I of the Texas Liquor Control Act as enacted by the 44th Legislature, 2nd Called Session, 1935. Every permittee shall have and maintain exclusive occupancy and control of the entire licensed premises in every phase of the storage, distribution, possession, and transportation and sale of all alcoholic beverages purchased, stored or sold on the licensed premises. Any device, scheme or plan which surrenders control of the employees, premises or business of the permittee to persons other than the permittee shall be unlawful. No person under the age of twenty-one (21) years, unless accompanied by his or her parent, guardian, adult husband or adult wife, or other adult person into whose custody he or she has been committed for the time by some court, shall knowingly be allowed on the premises of the holder of a Package Store Permit. Any permittee who shall be injured in his business or property by reason of anything prohibited in this section may institute suit in any district court in the county wherein the violation is alleged to have occurred to require enforcement by injunctive procedures and/or to recover threefold the damages by him sustained; plus costs of suit including a reasonable attorney's fee.

Amended by Acts 1967, 60th Leg., p. 161, ch. 85, § 2, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 80, ch. 38, § 16A, eff. Sept. 1, 1969.

1. Article 666—3a(7).

Amendment by Acts 1969, 61st Leg., p. 2451, ch. 819, § 1, see art. 666—18, ante.

Art. 666—21¹/₈. Tax payment by reporting system under bond or special order

A. The power granted to the Texas Liquor Control Board by Section 21, Article I, Texas Liquor Control Act, as heretofore amended, the same being that provision codified as Article 666—21 of Vernon's Texas Penal Code, to relax the provisions requiring the affixing of a stamp or stamps on each bottle or container of liquor at the time of "first sale" as means of payment of the taxes levied, is hereby clarified and restricted to the extent that such power shall hereafter be exercised in conformity with the following provisions:

1. Unless the Board by specific order requires the payment of taxes by the affixing of stamps to bottles or containers, any holder of a permit authorizing the importation into this state of any liquor, other than ale or

malt liquor, shall pay the tax or taxes levied thereon by the laws of this state by the reporting system under bond in compliance with the following provisions:

(a) The Board shall require of each holder of a permit authorizing the importation into this state of liquor a bond or bonds executed by the permit holder as principal and a surety company duly qualified and doing business in this state as surety, and said bond or bonds shall be made payable to the State of Texas and conditioned as the Board may require and approved by the Attorney General of Texas as to form. Said bond or bonds shall be in such amount as will adequately protect the State of Texas against the anticipated tax liability of the principal during any six (6) weeks' period.

(b) The tax on liquor, other than ale or malt liquor, imported into this state, shall become due and payable and shall be paid by the permit holder on or before the 15th day of the month following the "first sale," which term, for the purpose of this section, shall mean the first actual sale by the holder of any wholesalers' permit to the holder of any other permit authorizing the retail sale of the beverage to be taxed.

(c) The tax shall be computed in accordance with the applicable provision or provisions in Section 21, Article I, Texas Liquor Control Act, and remittance therefor made payable to the State Treasurer shall be due at the office of the Texas Liquor Control Board in Austin, Travis County, Texas, on or before the 15th day of the month due less two per cent (2%) of the amount due which shall be withheld by the permit holder for the keeping of records, furnishing of bonds, and properly accounting for the remittance of the tax due; provided, however, that no allowance shall be granted or permitted when the tax is delinquent at the time of payment.

(d) Such sworn statements of taxes due as may be required by the Board, and remittances therefor made payable to the State Treasurer, shall be forwarded to the Board each month not later than the due date set out herein. All such remittances shall be turned over by the Board to the State Treasurer for allocation in conformity with the terms of Section 46,¹ Article I, Texas Liquor Control Act.

(e) If any permit holder, in computing and paying the tax due, through oversight, mistake, error, or miscalculation, has paid more tax than is legally due, the permit holder who paid such excess tax shall be entitled to a refund thereof, and a claim for such refund may be made at the time and in the manner prescribed by the Board or Administrator, and such excess tax shall be refunded to the permit holder who has paid the same, or credit may be allowed on future tax payment. Refunds for overpayments of tax may be made by the Board from the revenues derived from the collection of the tax before the same has been allocated, and so much of such funds as may be necessary is hereby appropriated for that purpose.

(f) The permit holder shall report to the Board each receipt of shipment of liquor, other than ale and malt liquor, for sale within this state, under the provisions of this Act, and shall prepare and furnish any such further information and such reports as may be required by rules and regulations of the Board.

(g) In any suit brought to enforce the collection of any tax owed by a permit holder, a certificate by the Board or Administrator showing the deficiency shall be prima facie evidence of the levy of tax or the delinquency of the amount of tax and penalty set forth therein and compliance by the Board with all provisions of this Act in relation to the computation and levy of the tax.

2. It is not intended that the tax levied in Section 21 of Article I of the Texas Liquor Control Act shall be collected on liquor shipped out of this state for consumption outside this state or sold aboard ship for ship's supplies, and the Board shall provide forms for obtaining exemp-

For Annotations and Historical Notes, see V.A.T.S.

tion from or credit for such taxes and shall provide by rule and regulation for equitable and final disposition of any tax credit brought about by such payment of any such unintended or excess tax.

3. Every Wholesaler's Permit holder converting to payment of taxes by the reporting system under bond as specified in paragraph 1 above, shall on the effective date of this Act or at such date as may be specified by the Board, render and submit to the Texas Liquor Control Board at Austin, Travis County, Texas, a true and correct inventory of all liquors, other than ale or malt liquor, within his possession, setting forth in detail the size of the containers and the quantity thereof and stating therein whether or not stamps have been affixed to the containers. The inventory shall also contain a statement as to the number of stamps which the permit holder may have on hand which have not been affixed to bottles or containers. The sworn inventory shall be rendered upon a form to be prescribed and furnished by the Texas Liquor Control Board. The value of any unused stamps may be refunded by the Board in the same manner as refunds are made under the circumstances specified in Section 45(d)² of Article I of the Texas Liquor Control Act.

B. The Board may, in any situation deemed by it to create an emergency or other circumstance which in its judgment would make it impractical to require the affixing of stamps, by order prescribe special rules for the payment of the tax in the specific situation under consideration.

C. The tax levied and assessed on ale and malt liquor in accordance with the applicable provisions of Section 21, Article I, Texas Liquor Control Act, and as computed under the provisions of Section 33,³ Article II, Texas Liquor Control Act, and the tax levied and assessed in accordance with the applicable provisions of Section 23,⁴ Article II, Texas Liquor Control Act, and as computed under the provisions of Section 23-¹/₄,⁵ Article II, Texas Liquor Control Act, shall be paid by a remittance therefor made payable to the State Treasurer and forwarded to the office of the Texas Liquor Control Board in Austin, Travis County, Texas, on or before the due date, as provided in the Texas Liquor Control Act, less two (2%) per cent of the amount due which shall be withheld by the permit or license holder for the keeping of records, furnishing of bonds, and properly accounting for the remittance of the tax due; provided, however, that no allowance shall be granted or permitted when the tax is delinquent at the time of payment.

Added by Acts 1969, 61st Leg., p. 80, ch. 38, § 17, eff. Sept. 1, 1969.

1. Article 666—46.
2. Article 666—45(d).
3. Article 667—33.
4. Article 667—23.
5. Article 667—23¹/₄.

Art. 666—25. Sale regulations

It shall be unlawful for any person to sell or deliver any liquor:

(a) Between 9:00 o'clock p. m. of any day and 10:00 o'clock a. m. of the following day of any day except Sunday, provided, however, that nothing in this Section shall prevent a wholesaler from making sales and deliveries to retailers between the hours of 7:00 o'clock a. m. and 9:00 o'clock p. m. Provided further, that any person holding more than one Package Store Permit shall be privileged to transfer alcoholic beverages between any of his licensed premises in the same county under such rules and regulations as may be prescribed by the Board, at any time between the hours of 7:00 o'clock a. m. and 9:00 o'clock p. m. on any day when the sale of such alcoholic beverage is legal, provided that he be the holder of a Local Cartage Permit.

(b) On Christmas Day.

(c) On Sundays.

Amended by Acts 1967, 60th Leg., p. 162, ch. 85, § 3, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 80, ch. 38, § 6, eff. Sept. 1, 1969.

Art. 666—25b. Repealed by Acts 1969, 61st Leg. p. 3024, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Repealed article 666—25b was enacted by Acts 1955, 54th Leg., p. 592, ch. 200, eff. May 12, 1955.

The Article made it unlawful to bring intoxicating beverages into any area where public school athletic events were being held.

Art. 666—26. Sale by and to minors; exception; penalties

(a) It shall be unlawful for the holder of any permit under this Act to employ anyone to sell liquor except malt liquor and ale who is under the age of twenty-one (21) years.

(b) It shall further be unlawful for any person knowingly to sell any liquor or beer to any person under twenty-one (21) years of age, or to any person who is intoxicated, or to any habitual drunkard, or to any insane person. If any person under the age of twenty-one (21) years falsely represents his or her age to be twenty-one (21) years or older at the time of such purchase by displaying an apparently valid Texas Operator's License containing a physical description consistent with the appearance of said person under the age of twenty-one (21) years for the purpose of inducing the sale of such alcoholic beverage, the person making such sale shall not be guilty of a violation under any provision of the Texas Liquor Control Act. Any person who violates any provision of this paragraph shall be deemed guilty of a misdemeanor and upon conviction for a first offense shall be punished by a fine of not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500), or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment, and for a second or subsequent offense shall be punished by a fine of not less than Five Hundred Dollars (\$500) nor more than One Thousand Dollars (\$1,000), or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

Amended by Acts 1969, 61st Leg., p. 80, ch. 38, § 7, eff. Sept. 1, 1969.

Art. 666—30. Sale or destruction of beverages and property seized; ceiling prices during emergency; disposition of proceeds; forfeiture; reports; penalties; illegal seizures; reimbursement

(a) All alcoholic beverages and the containers thereof, and any device in which the alcoholic beverage is packaged, which have been seized by an agent or employee of the Texas Liquor Control Board, or by any peace officer as provided in Section 42,¹ shall be turned over to the Board for immediate public or private sale in such place or manner as it may deem best; provided further, that any bill of sale executed by the Board or Administrator shall convey a good and valid title to the purchaser as to any such property sold. No alcoholic beverages unfit to be sold for public consumption, or of illicit manufacture, may be sold by the Board, but may be destroyed by the Board.

Any property or equipment forfeited to the state as provided in Section 42¹ may also be sold by the Board at public or private sale in such place or manner as it may deem best.

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Provided, however, any beer, its containers or original packages which may be seized under the terms of the Texas Liquor Control Act shall be disposed of as follows:

Upon being notified that any beer has been seized, the Board shall immediately notify a holder of a General or Local Distributor's or Branch Distributor's License who handles the brand of beer seized and who operates in the county where said beer was seized. If the beer was seized in a dry area, either the Distributor or Branch Distributor operating nearest said area handling the brand or the Manufacturer brewing said beer shall be notified. The Board and the Distributor or Branch Distributor or Manufacturer so notified shall jointly determine and agree as to whether or not said seized beer is in a salable condition. If said beer is determined not to be in a salable condition it shall be immediately destroyed by the Board. If said beer is determined to be in a salable condition it shall be offered for sale to the Distributor or Branch Distributor or Manufacturer so notified. If offered to a Distributor or Branch Distributor, it shall be at the Distributor's or Branch Distributor's cost price less any state taxes if theretofore paid on such beer, F.O.B. its place of business, or if offered to a Manufacturer the price shall be the cost price to its nearest Distributor or Branch Distributor, less any state taxes if theretofore paid on such beer, F.O.B. said nearest Distributor's or Branch Distributor's place of business, but the storage or warehousing charges necessarily incurred as a result of the seizure shall in all cases be added to such cost price.

Should said Distributor or Branch Distributor or Manufacturer not exercise the right to purchase any salable beer or any returnable bottles, containers or packages at their deposit price within ten (10) days, then the Board shall proceed to sell same at public or private sale as hereinabove provided.

Any liquor, its containers or original packages which may be seized under the terms of the Texas Liquor Control Act shall be disposed of as follows:

Upon being notified that any liquor has been seized, the Board shall immediately notify a holder of a Wholesaler's Permit or a General Class B or Local Class B Wholesaler's Permit who handles the brand of liquor seized and who operates in the county where said liquor was seized. If the liquor was seized in a dry area, the Wholesaler operating nearest said area handling the brand shall be notified. The Board and the Wholesaler so notified shall jointly determine and agree as to whether or not said seized liquor is in a salable condition. If said liquor is determined not to be in a salable condition, it shall be immediately destroyed by the Board. If said liquor is determined to be in a salable condition, it shall first be offered for sale to the Wholesaler so notified. If offered to a Wholesaler, it shall be at the Wholesaler's cost price, F.O.B. its place of business, plus any storage or warehousing charges necessarily incurred as a result of the seizure.

Should said Wholesaler not exercise the right to purchase any salable liquor, containers or packages at the price specified above within ten (10) days, then the Board shall proceed to sell same at public or private sale as hereinabove provided.

The provisions hereinabove contained shall not prevent the Board from exercising its discretion in the event that illicit alcoholic beverages have been seized as the result of an accidental shipment or other reasonable mistake; under such circumstances the Board may issue such orders and make such disposition of the alcoholic beverages as to it seems just and reasonable.

In the event the United States Government shall provide any plan or method whereby illicit alcoholic beverages and other property seized or belonging to or forfeited to the state shall be sold at ceiling prices during a national emergency, the Board shall have the right to comply with Fed-

eral law or regulations in the sale or disposal of such illicit alcoholic beverages or other property, even to the extent of partially or wholly abrogating any provisions hereof which may be in conflict with the Federal law or regulations.

(b) The proceeds of the sale of seized alcoholic beverages, containers thereof, and devices in which the alcoholic beverages are packaged shall be placed in escrow in a suspense account set up by the Board for such purpose pending the outcome of the forfeiture suit as provided in Section 42, Article I. Proceeds in escrow which are not forfeited to the state as the result of suit shall be refunded to the alleged violator.

The proceeds from any forfeiture sale and any proceeds held in escrow by the Board upon entry of a judgment forfeiting same to the state shall be disposed of as follows:

Thirty-five percent (35%) of all moneys derived from the sale of alcoholic beverages, containers, any device in which said alcoholic beverages are packaged, or property, as authorized in this Act shall be placed in a separate fund in the State Treasury to be designated as the Confiscated Liquor Fund, and thereafter all moneys in said fund shall be available to the Board to defray the expenses, and it is hereby appropriated for said purpose of purchasing and accumulating evidence as to violations of the provisions of this Act, and to defray the expenses incurred in assembling, storing, transporting, selling and accounting for said confiscated alcoholic beverages, containers, devices and property and for any other purpose deemed necessary by the Board in administering and enforcing the provisions of the Texas Liquor Control Act. Any unexpended portion of said fund at the end of each biennium shall remain in said fund subject to further appropriation for such purposes. Sixty-five percent (65%) of all moneys derived from the sale herein referred to shall be deposited in the General Fund of the State of Texas.

As to liquors confiscated by representatives of the Board, or any peace officer, it shall be incumbent upon the officer making the seizure to list each and every item or items so confiscated and the place and name of owner, operator, or person from whom such seizure is made. Such report shall be made in quadruplicate, two (2) copies of which shall be verified by oath; one (1) verified copy shall be retained in the permanent files of the Texas Liquor Control Board or other agency making the seizure, and one (1) verified copy shall be filed with the Comptroller of the State of Texas, which shall constitute a permanent file, and both of which shall be subject to inspection by any member of the Legislature or any duly authorized law enforcement agency of the State of Texas, and one (1) copy shall be delivered to the owner, operator, or person from whom such seizure is made. A false statement of said confiscated alcoholic beverage, or other personal property shall be punishable as now provided for false swearing. Any failure on the part of the peace officer making such seizures to file said reports shall constitute a misdemeanor and upon conviction thereof he shall be fined not more than One Hundred Dollars (\$100) nor less than Fifty Dollars (\$50) or shall be confined in jail not less than ten (10) days nor more than ninety (90) days or by both such fine and imprisonment. It shall be the duty of the Texas Liquor Control Board and its agents to see that said reports are made by said peace officers. Should the state illegally seize and sell any alcoholic beverages, the person legally entitled to possession of the alcoholic beverages at the time of the illegal seizure shall be entitled to recover from the state the fair market value of the alcoholic beverages illegally seized and sold; such reimbursement shall be paid out of the proceeds held in escrow from the sale of such illegally seized alcoholic beverages, and to the extent further necessary from the Confiscated Liquor Fund.

Amended by Acts 1969, 61st Leg., p. 80, ch. 38, § 8, eff. Sept. 1, 1969.

1. Article 666—42.

For Annotations and Historical Notes, see V.A.T.S.

Art. 666—31. Enforcement by peace officers

It shall be the duty of all peace officers of this state, including city, county and state, to enforce all provisions of the Texas Liquor Control Act and to cooperate with and assist the Board in detecting violations of the Texas Liquor Control Act and apprehending offenders, and of county courts, in cases of violation to make recommendations to the Board for revocation or suspension of permits and licenses. Any person who violates any provision of the Texas Liquor Control Act may be arrested without a warrant by any representative of the Board or any peace officer of this state who has observed the violation. Whenever any officer or representative of the Board shall arrest any person for violation of any provision of the Texas Liquor Control Act or of any rule or regulation of the Board, such officer shall take into his possession all illicit beverages which the person so arrested has in his possession or on his premises.

Amended by Acts 1969, 61st Leg., p. 80, ch. 38, § 9, eff. Sept. 1, 1969.

Art. 666—41b. Assessment of suspension or cancellation penalty against permit or license of retail dealer; discretion of board or administrator; reinstatement; disposition of fees

The penalty of any suspension or cancellation against a Retail Dealer provided for in the Texas Liquor Control Act shall be assessed against the permit or license covering the premises where the offense was committed, except as to a violation of the credit or cash law.

If any holder of a permit or retail off-premise license under the Texas Liquor Control Act establishes to the satisfaction of the Texas Liquor Control Board or the Administrator that any violation of the Texas Liquor Control Act complained of occurred under such circumstances as could not reasonably have been prevented by such permittee or licensee with the exercise of due diligence, or that such permittee or licensee was entrapped, or that an agent, servant, or employee of such permittee or licensee has violated any provision of the Texas Liquor Control Act without the knowledge of such permittee or licensee, or the violation complained of was a technical violation, or that such permittee or licensee did not knowingly violate the provisions of the Texas Liquor Control Act, then the Board or Administrator shall have the authority to relax any provision concerning suspension or cancellation of the permit or retail off-premise license and to assess such sanction as the Board or Administrator may deem just under the circumstances, and such permit or retail off-premise license may, in the discretion of the Board or Administrator be reinstated at any time during the period of suspension upon payment by such offending permittee or licensee of a fee of not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500). Any money received by the Board under this Section shall be deposited in the Confiscated Liquor Fund, authorized in Section 30¹ of Article I.

Added by Acts 1969, 61st Leg., p. 80, ch. 38, § 10, eff. Sept. 1, 1969.

1. Article 666—30.

Art. 666—42. Seizures; replevin; suit for forfeiture; intervention by lienholders; sale; liens on proceeds

(a) All illicit beverages as defined by this Act¹ together with the containers and any device in which the beverage is packaged, and any wagon, buggy, automobile, water or aircraft, or any other vehicle, used for the transportation of any illicit beverage, or any equipment designed to be used or which is used for illicit manufacturing of beverages, or any material of any kind which is to be used in the manufacturing of illicit beverages, may be seized with or without a warrant by an agent or em-

ployee of the Texas Liquor Control Board, or by any peace officer, and any person found in possession or in charge thereof may be arrested without a warrant. No alcoholic beverages, containers, or any device in which such beverage is packaged so seized shall be replevied, but shall be delivered to the Board, to be held for the sale and deposit of proceeds in escrow as provided in Section 30² of Article I. Any such wagon, buggy, automobile, water or aircraft or any other vehicle so seized may be replevied by the owner thereof or lawful lienholder thereon upon execution by him of a good and valid bond with sufficient surety in a sum double the appraised value of the property replevied, which said bond shall be approved by said officer and shall be conditioned to return said property to the custody of said officer on the day of trial of any suit for the forfeiture of such property to abide the judgment of the court. In any such suit where the owner of the vehicle or the lienholder appears and contests the suit, the burden shall be on the state to prove that such owner or lienholder knowingly violated some provision of this Act; otherwise the court shall enter judgment for such owner or lienholder.

(b) It shall be the duty of the Attorney General, the District Attorney, and the County Attorney, or any of them, when notified by the officer making the seizure, or by the Texas Liquor Control Board, that such seizure has been made, to institute a suit for forfeiture of the property seized and of the proceeds of the sale of the alcoholic beverages, containers, and devices in which such alcoholic beverages are packaged (referred to hereinafter as "proceeds in escrow"), such suit to be brought in the name of the State of Texas against such property and proceeds in escrow in any court of competent jurisdiction in the county wherein such seizure was made. Notice of pendency of such suit shall be served on any person found in possession of the beverages or property at the time of seizure in the manner prescribed by law and the case shall proceed to trial as other civil cases. If no person be found in possession of the beverages or property, or if at the time suit is filed the whereabouts of those in possession is unknown, notice shall be posted at the courthouse door in the county wherein the property was seized for a period of twenty (20) days. If upon the trial of such suit it is found that the alcoholic beverages were illicit, or that the vehicle was used for the transportation of illicit beverages, or that the equipment is designed to be used or is used for illicit manufacturing of beverages, or the material is to be used in the manufacturing of illicit beverages, then the court trying said cause shall render judgment forfeiting the property and proceeds in escrow to the State of Texas and ordering the same disposed of as provided for by Section 30 of this Article, or if in the opinion of the Board or Administrator any such property, except the proceeds in escrow, is needed for the use of the Board, then the same may be retained and so used until such time as such property is sold by the Board as provided herein. The costs of such proceedings shall be paid by the Board, out of funds derived under the provisions of said Section 30, or from any other fund available to the Board for such purpose.

(c) As to any property or articles upon which there may be a lien, by a bona fide lienholder, the holder of such may intervene to establish his rights and shall be required to show such lien to have been granted in a bona fide manner and without knowledge of the fact at the time of creation of the lien, that any article or property upon which such lien exists has been used or was to be used in violation of this Act. If the holder of any such lien shall intervene, then the court trying said cause shall render judgment forfeiting the same to the State of Texas, and if such lien is established to the satisfaction of the court, said court shall authorize the issuance of an order of sale directed to the sheriff or any constable of the county wherein the property was seized, commanding such officer to sell said property in the same manner as personal property is sold under execution. The court may order such property sold in whole or in part as it may deem proper and the sale shall be conducted at the

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courthouse door. The money realized from the sale of such property shall be applied first to the payment of the costs of suit and expenses incident to the sale and after such expenses have been approved and allowed by the court trying the case, then the further proceeds of such sale shall be used to pay all such liens according to priorities, and any remaining proceeds shall be paid to the Board to be allocated as provided in Section 30 hereof. All such liens against property sold under this Section shall be transferred from the property to the proceeds of its sale. In case such lien is not established to the satisfaction of the court the judgment shall be entered ordering same disposed of as provided in Subsection (b) of this Section.

A lien on alcoholic beverages, containers thereof, and devices in which the alcoholic beverages are packaged will attach to the proceeds of their sale, which have been placed in escrow as provided in Section 30 of this Article I. The lien must be established as provided by this Subsection. Upon establishment of liens on the proceeds in escrow to the satisfaction of the court, the proceeds in escrow will be used to pay all such liens according to priorities. The remaining proceeds shall be disposed of as provided in Subsection (b) of Section 30 of this Article I.

The sheriff, constable, or Texas Liquor Control Board executing said sale shall issue a bill of sale or certificate to the purchaser of said property, and such bill of sale or certificate shall convey valid and unimpaired title to such property.

Amended by Acts 1969, 61st Leg., p. 80, ch. 38, § 11, eff. Sept. 1, 1969.

1. Article 666—3a(4).
2. Article 666—30.

II. MALT LIQUORS

Change of Name

The name of the Texas Liquor Control Board was changed in 1969 to Texas Alcoholic Beverage Commission. See art. 666—5b.

Art. 667—2a. Manufacture of beer in areas where sale prohibited by local option

Regardless of any other provision of the Texas Liquor Control Act, no person who has theretofore been issued a Manufacturer's License or a Distiller's Permit shall subsequently be denied a Manufacturer's License or a Distiller's Permit or any renewal of a Manufacturer's License or a Distiller's Permit for the same location on the grounds that the sale of beer or distilled spirits has been prohibited by local option election in the area in which said manufacturer is located; and any Manufacturer's License or Distiller's Permit so previously held, or issued under this provision, shall authorize its holder to do all things which a manufacturer or a distiller is authorized to do under any other provision of the Texas Liquor Control Act including but not limited to manufacture, possession, storage, packaging, bottling, and transportation to areas wherein the sale of beer or distilled spirits is legal.

Acts 1935, 44th Leg., 2nd C.S. p. 1795, ch. 467, art. 2, § 2a, added by Acts 1957, 55th Leg., p. 108, ch. 52, § 1, eff. Aug. 22, 1957. Amended by Acts 1969, 61st Leg., p. 1494, ch. 445, § 1, eff. Sept. 1, 1969.

Art. 667—3. License required

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(a-1). Nonresident Manufacturer's License. A Nonresident Manufacturer's License shall authorize the holder thereof to have his beer re-

ceived in Texas only by holders of Importer's Licenses; such beer may be transported to any holder of an Importer's License by those carriers and vehicles authorized in Section 23-1/4,¹ Article II, Texas Liquor Control Act, or in motor vehicle equipment owned or leased by Nonresident Manufacturers; and no holder of an Importer's License shall import beer into this state except from the holder of a Nonresident Manufacturer's License; provided that no beer shall be imported into this state except in accordance with the provisions of this Act, that is, in barrels, or other containers, and shall at no time be shipped into this state in tank cars; provided that the Texas Liquor Control Board shall have the same functions, powers and duties to adopt and enforce a standard of quality, purity and identity of malt-beverages, and to promulgate all rules and regulations as shall be deemed necessary to fully safeguard the public health and to insure sanitary conditions in the manufacturing, purifying, bottling and re-bottling of beer under a Nonresident Manufacturer's License as apply to Manufacturers located within the State of Texas. The holder of a Nonresident Manufacturer's License is hereby made subject to the provisions of the Texas Liquor Control Act and to all rules and regulations of the Texas Liquor Control Board applicable to holders of Manufacturer's Licenses, and the Texas Liquor Control Board shall have the same power to suspend and cancel such Nonresident Manufacturer's License and otherwise levy and enforce penalties for infractions of the law or of the rules and regulations of the Board as is granted with respect to holders of Manufacturer's Licenses under the Texas Liquor Control Act. Any holder of a Nonresident Manufacturer's License desiring to transport beer into Texas to the holder of an Importer's License in motor vehicle equipment owned or leased by him shall not be primarily responsible for the payment of the tax thereon, which shall continue to remain the responsibility of the holder of the Importer's License, but nevertheless said Nonresident Manufacturer shall furnish to the Liquor Control Board whatever bond is required by the Board, in the manner that is required of the holder of an Importer's License, in whatever amount would, in the judgment of the Board, protect the revenue of the state as to the payment of the tax due thereon over any six week period. Any beer imported into this state for sale in this state in violation of this paragraph is hereby declared to be an illicit beverage.

Annual state fee for a Nonresident Manufacturer's License shall be Five Hundred Dollars (\$500), and no county or city shall be entitled to a fee for the issuance thereof.

Subsec. (a-1) added by Acts 1961, 57th Leg., p. 1126, ch. 511, § 2, eff. May 29, 1961. Amended by Acts 1969, 61st Leg., p. 80, ch. 38, § 13, eff. Sept. 1, 1969.

1. Article 667—23 1/4.

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(e-1) Retail Dealer's On-Premise Late Hours License. A Retail Dealer's On-Premise Late Hours License shall authorize the holder thereof to sell beer on Sunday between the hours of 1:00 a. m. and 2:00 a. m. and on any day except Sunday between the hours of 12:00 p. m. and 2:00 a. m. if the premises covered by such license are in an area where the sale of beer during such hours is authorized by this Act. All sections of this Act which apply to the Retail Dealer's On-Premise License shall also apply to the Retail Dealer's On-Premise Late Hours License. The annual State fee for a Retail Dealer's On-Premise Late Hours License shall be One Hundred Dollars (\$100).

Subsec. (e-1) added by Acts 1969, 61st Leg., p. 1535, ch. 466, § 4, eff. Sept. 1, 1969.

(e-2) Notwithstanding any other provision of the Texas Liquor Control Act, the holder of a Retail Dealer's On-Premise Late Hours Li-

For Annotations and Historical Notes, see V.A.T.S.

license shall be limited to selling authorized alcoholic beverages for on-premise consumption during extended hours.

Subsec. (e-2) added by Acts 1969, 61st Leg., 2nd C.S., p. 61, ch. 1, art. 6, § 5, eff. Oct. 1, 1969.

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Art. 667—5C. On-premise licenses and permits; name and photograph of holder

Every Retail Dealer's On-Premise License and Wine and Beer Retailer's Permit shall contain the name of the individual natural person holding such license or permit; or, if the holder not be an individual natural person, such license or permit shall designate the name of the individual partner, officer, trustee or receiver who is primarily responsible for the management of the premises. Every such license and permit shall contain a photograph of the individual natural person holding such license or permit; or, if the holder not be an individual natural person, the designated natural person named therein. Such photograph shall be not more than two years old and shall be furnished by the licensee or permittee. The Board is hereby vested with the power to prescribe the size and nature of such photograph, the manner of furnishing same, and the method of affixing such photograph to the license or permit.

Added by Acts 1969, 61st Leg., p. 80, ch. 38, § 17A, eff. Sept. 1, 1969.

Art. 667—5D. On-premise license or permit applicants; fingerprints; criminal record check; certification

Every applicant for an original Retail Dealer's On-Premise License or Wine and Beer Retailer's Permit shall submit to the County Judge of the county in which the applicant desires to engage in such business a complete set of fingerprints of the individual natural person applying for such license or permit; or, if the applicant is not an individual natural person, a complete set of fingerprints of the individual partner, officer, trustee or receiver who is to be primarily responsible for the management of the premises. Said County Judge shall no later than the next calendar day after receiving said prints forward same by U. S. Mail to the Texas Department of Public Safety who shall cause same to be classified and checked against those in their fingerprint files. The Department of Public Safety shall forthwith certify their findings concerning the criminal record of the applicant or the lack of same, as the case may be, to said County Judge. No such license or permit shall be issued until said certification is made to said County Judge by the Texas Department of Public Safety. The Sheriff of any county in Texas, or any district office of the Texas Liquor Control Board, shall take the fingerprints of any applicant for an original Retail Dealer's On-Premise License or Wine and Beer Retailer's Permit without charge on forms approved by and furnished by the Texas Department of Public Safety and forthwith deliver same to the County Judge of the county where the applicant desires to engage in such business.

Added by Acts 1969, 61st Leg., p. 80, ch. 38, § 17B, eff. Sept. 1, 1969.

Art. 667—5E. On-premise license or permit applications; notices and hearings; attendance by applicant

Upon original application being made for a Retail Dealer's On-Premise License or a Wine and Beer Retailer's Permit the County Judge shall notify the Texas Liquor Control Board, the Sheriff, and the Chief of Police of the incorporated city in which, or nearest which, the premises are to be located under such license or permit, of all hearings before the judge concerning such application. The individual natural person applying for

such license or permit; or, if the applicant not be an individual natural person, the individual partner, officer, trustee or receiver who is to be primarily responsible for the management of the premises, shall be required to attend any hearing involving the application.

Added by Acts 1969, 61st Leg., p. 80, ch. 38, § 17C, eff. Sept. 1, 1969.

Art. 667—5F. On-premise license or permit applications; refusal for criminal convictions

(a) The County Judge shall refuse any original application for a Retail Dealer's On-Premise License or a Wine and Beer Retailer's Permit if he finds that the individual applicant, or the spouse of such applicant, has at any time during the three years next preceding the filing of such application been finally convicted of a felony, or any of the following offenses:

- (1) prostitution;
- (2) vagrancy convictions involving moral turpitude;
- (3) bookmaking;
- (4) gambling (gaming);
- (5) any offense involving narcotics or other dangerous drugs;
- (6) violations of the Texas Liquor Control Act resulting in the cancellation of a license or permit, or a fine of not less than Five Hundred Dollars (\$500);
- (7) more than three violations of the Texas Liquor Control Act relating to minors;
- (8) bootlegging;
- (9) violation of penal law involving firearms or other deadly weapons or if he finds that three years has not elapsed since the termination of any sentence, parole or probation served by the applicant, or the spouse of such applicant, as the result of a felony prosecution, or prosecution for any type of offense named herein.

(b) The Texas Liquor Control Board shall refuse to issue any renewal of a Retail Dealer's On-Premise License or a Wine and Beer Retailer's Permit if it finds that the individual applicant, or the spouse of such applicant, has at any time during the three years next preceding the filing of application for such renewal been finally convicted of a felony, or any of the offenses listed in Subsection (a) of this Section, or if it finds that three years has not elapsed since the termination of any sentence, parole or probation served by the applicant, or the spouse of such applicant, as the result of a felony prosecution, or prosecution for any type of offense named in Subsection (a) of this Section.

(c) The word 'applicant' as used in this Section shall mean the individual natural person, if any, holding or applying for such license or permit; or, if the holder or applicant not be an individual natural person, the individual partner, officer, trustee or receiver who is primarily responsible for the management of the premises.

Added by Acts 1969, 61st Leg., p. 80, ch. 38, § 17D, eff. Sept. 1, 1969.

Art. 667—10. Prohibited hours

(a) In any county of 300,000 or more population, according to the last preceding federal census, it shall be unlawful for any person to sell beer or offer same for sale:

- (1) On Sunday at any time between the hours of 2 a. m. and 12 noon.
- (2) On any day except Sunday at any time between the hours of 2 a. m. and 7 a. m.

(b) In any county in this State not having a population of 300,000 or more, according to the last preceding federal census, it shall be unlawful for any person to sell beer or offer same for sale:

- (1) On Sunday at any time between the hours of 1:00 a. m. and 12 noon.

For Annotations and Historical Notes, see V.A.T.S.

(2) On any day except Sunday at any time between the hours of 12 midnight and 7 a. m.

(3) Regardless of the provisions of paragraphs (1) and (2) of this section, the commissioners court of any county under 300,000 population, according to the last preceding federal census, may by order adopt for the unincorporated areas of that county the hours prescribed above for counties having a population of 300,000 or more, according to the last preceding federal census, during which the sale or offering of beer for sale are made unlawful; and the governing body of any incorporated city or town in any county under 300,000 population, according to the last preceding federal census, may by ordinance adopt the hours prescribed above for counties having a population of 300,000 or more, according to the last preceding federal census, during which the sale or offering of beer for sale are made unlawful; violation of a commissioners court order or a city ordinance made under this subsection is punishable as a violation of this Act.

(c) It shall be unlawful for any person to sell beer on Sunday between the hours of 1:00 a. m. and 2:00 a. m., and on all other days between the hours of 12:00 midnight and 2:00 a. m., unless he shall hold a Retail Dealer's On-Premise Late Hours License.

Amended by Acts 1969, 61st Leg., p. 1535, ch. 466, § 2, eff. Sept. 1, 1969.

For severability clause of Acts 1969, 61st Leg., p. 1535, ch. 466, see note under Art. 666—4.

Art. 667—13. Repealed by Acts 1969, 61st Leg., p. 80, ch. 38, § 14, eff. Sept. 1, 1969.

Art. 667—19. Cancellation or suspension of license

The Board or Administrator may cancel or suspend for a period of time not exceeding sixty (60) days, after notice and hearing, any license or any renewal of such license, upon finding that the licensee has:

A. If a Retail Dealer's Off-Premise License or Retail Dealer's On-Premise License:

* * * * *

(11) Repealed by Acts 1969, 61st Leg., p. 80, ch. 38, § 14, eff., Sept. 1, 1969.

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B. If a General Distributor's License, Local Distributor's License or a Branch Distributor's License:

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(14). Repealed by Acts 1969, 61st Leg., p. 80, ch. 38, § 14, eff. Sept. 1, 1969.

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Art. 667—19E. Display of sign on penalty for carrying weapons in premises

(a) Each holder of a license issued under the provisions of the Texas Liquor Control Act shall display in a prominent place on his premise a sign, at least 6 inches high and 14 inches wide, stating:

FELONY. STATE LAW PRESCRIBES A MAXIMUM PENALTY OF FIVE YEARS' IMPRISONMENT FOR CARRYING WEAPONS WHERE ALCOHOLIC BEVERAGES ARE SOLD, SERVED, OR CONSUMED.

(b) A licensee who violates this section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$25.

Added by Acts 1968, 60th Leg., 1st C.S., p. 12, ch. 3, § 2, eff. July 19, 1968.

Art. 667—22. Appeal; suit to restrain suspension; evidence; effect of cancellation or suspension

Any order of the Board or Administrator cancelling a license shall have the effect that it shall immediately be unlawful, after notice thereof given, for the holder of such cancelled license to sell beer for a period of one year thereafter except during the period that the order of cancellation is superseded pending trial, or unless he shall prevail in any final judgment, rendered upon appeal as herein provided. Appeals from decisions or orders of the Board or Administrator cancelling, suspending or refusing a license may be had under the same conditions and provisions prescribed in Section 14¹ of Article I of this Act.

No appeal shall lie from an order suspending a retail dealer's license, except a license issued to the holder of a retail permit at the same location. No suit of any nature shall be maintained in any court in the state seeking to restrain the Board or Administrator or any other officer from enforcing any order of suspension issued by the Board or Administrator; and if at any hearing thereon it be shown to the satisfaction of the Board or Administrator that any alcoholic beverage was sold on or from the premises covered by a license during the period of suspension, then such proof shall be sufficient to warrant cancellation of the license.

The cancellation or suspension of any license shall not excuse nor relieve the violator from the penalties provided in this Article.

Amended by Acts 1969, 61st Leg., p. 80, ch. 38, § 12, eff. Sept. 1, 1969.

Art. 667—24a. Outdoor advertising

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2. All outdoor advertising as herein defined is hereby prohibited within the State of Texas except as herein expressly provided:

(a) The use of billboards or electric signs as herein defined having a surface of not less than one hundred and eighty (180) square feet is hereby authorized unless located or to be located in a manner contrary to the limitations imposed by this Act.

(b) The holders of Retailer's Licenses or Permits are authorized to erect or maintain at their respective places of business one (1) sign only containing the words:

If a Beer Retailer, the word "Beer."

If a Beer Off-Premise Retailer, the word or words "Beer" or "Beer to go."

If a Wine and Beer Retailer, the word or words "Beer," "Beer and Wine," or "Beer, Wine and Ale."

If a Wine and Beer Off-Premise Retailer, the word or words "Beer," "Beer to go," "Beer and Wine," "Beer and Wine to go," "Beer, Wine and Ale" or "Beer, Wine and Ale to go."

If the holder of a Package Store Permit, the word or words "Package Store," "Liquors," or "Wines and Liquors," and if also the holder of a Retail Dealer's Off-Premise License, the word or words "Package Store," "Wines, Liquors and Beer," or "Wines, Liquors and Beer to go."

If the holder of a Wine Only Package Store Permit, the word "Wine" or "Wines," and if also the holder of a Retail Dealer's Off-Premise License, the words "Wines and Beer," or "Wine and Beer," or "Wine and Beer to go."

Such sign may be placed within or without the place of business so as to be visible to the general public. No such signs shall contain letters of greater height than twelve (12) inches, and no such sign shall contain any wording, insignia or device representative of the brand or name of any

For Annotations and Historical Notes, see V.A.T.S.

alcoholic beverage. The Board or Administrator is hereby authorized to expand this provision to the extent of permitting a licensee to erect or maintain one (1) such sign at each entrance or side of a building occupied by a licensee and facing more than one street or highway.

(c) The use of billboards, electric display signs or other signs to designate the firm name or business of any holder of a permit or license authorizing the manufacture, rectification, bottling or wholesaling of alcoholic beverages, when displayed at the place of business of such person is hereby authorized.

(d) The use of alcoholic beverages or printed or lithographed material advertising alcoholic beverages inside a premise where there exists a permit or license to sell alcoholic beverages, when used as a part of a display, is hereby authorized, provided such alcoholic beverages or advertising material so used may not be placed within six (6) inches of any window or opening facing upon a street, alley or highway, and provided further that the term "advertising material" as used in this Section shall not be construed to mean or include any card or certificate of membership in any association or organization, if such card or certificate is not larger than eighty (80) square inches.

(e) The Board shall have the power and authority, and it is hereby made its duty, to adopt rules and regulations permitting and regulating the use of business cards, menu cards, stationery, and service vehicles and equipment and delivery vehicles and equipment bearing advertisement of alcoholic beverages, and permitting and regulating the use of insignia advertising beer by brand name on caps, regalia or uniforms worn by employees of a Manufacturer or Distributor or by participants in any game, sport or athletic contest or revue when said participants are sponsored by a Manufacturer or Distributor.

Subsec. 2 amended by Acts 1969, 61st Leg., p. 80, ch. 38, § 15, eff. Sept. 1, 1969.

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TITLE 12—PUBLIC HEALTH

CHAPTER ONE—ACTS INJURIOUS TO HEALTH

Art.

698c. Water pollution [New].

698d. Air pollution [New].

Article 695. [694] [423] Nuisances

This article is repealed to the extent that it makes an act or omission a criminal offense, which act or omission also constitutes a criminal offense under article 698c relating to water pollution and article 698d relating to air pollution. See sections 2 and 14(b) of article 698c and sections 2 and 13 of article 698d.

Art. 698c. Water pollution

Definitions

Section 1. In this article:

(1) "Water" or "water in the state" means groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico within the territorial limits of the State of Texas, and all other bodies of surface water, natural or artificial, inland or coastal, navigable or non-navigable, that are wholly or partially within or bordering the state or within its jurisdiction.

(2) "Water pollution" means the alteration of the physical, chemical, or biological quality of, or the contamination of, any of the water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to public health, safety, or welfare, or impairs the usefulness or public enjoyment of the water for any lawful or reasonable purpose.

(3) "To discharge" includes to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of.

(4) "Person" means an individual or private corporation.

(5) "Waste" means sewage, industrial waste, municipal waste, recreational waste, agricultural waste, and other waste, or any of them, as hereinbelow defined.

(6) "Sewage" means the water-carried human or animal wastes from residences, buildings, industrial establishments, cities, towns, or other places, together with such ground water infiltration and surface water with which it may be commingled.

(7) "Municipal waste" means any waterborne liquid, gaseous, solid, or other waste substance, or a combination thereof, resulting from any and all discharges within or emanating from within, or subject to the control of, any municipality, city, town, village, or any type of municipal corporation.

(8) "Recreational waste" means any waterborne liquid, gaseous, solid, or other waste substance, or a combination thereof, arising within or emanating from within any public park, beach, or recreational area of any kind, public or private.

(9) "Agricultural waste" means any waterborne liquid, gaseous, solid, or other waste substance arising from any type of agricultural pursuit, public or private, including but not limited to, poisons and insecticides used in such pursuits.

(10) "Industrial waste" means any waterborne liquid, gaseous, solid, or other waste substance, or a combination thereof, resulting from any process of industry, manufacturing, trade, or business.

For Annotations and Historical Notes, see V.A.T.S.

(11) "Other waste" means garbage, refuse, decayed wood, sawdust, shavings, bark, sand, lime, cinders, ashes, offal, oil, tar, dyestuffs, acids, chemicals, salt water, and all other substances not sewage, industrial waste, municipal waste, recreational waste or agricultural waste, that may cause impairment of the quality of the water in the state.

Discharge of waste

Sec. 2. No person may discharge, or cause or permit the discharge of, any waste into or adjacent to any water in the state which causes or which will cause water pollution unless the waste is discharged in compliance with a permit or other order issued by the Texas Water Quality Board, the Texas Water Development Board, or the Texas Railroad Commission.

Violation of permit

Sec. 3. No person to whom the Texas Water Quality Board has issued a permit or other order authorizing the discharge of any waste at a particular location may discharge, or cause or permit the discharge of, the waste in violation of the requirements of the permit or order.

Punishment

Sec. 4. Any person who violates any of the provisions of Section 2 or 3 of this article is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$1,000. Each day that a violation occurs constitutes a separate offense.

Parks and wildlife department employees; peace officers

Sec. 5. For purposes of this article, the authorized agents and employees of the Parks and Wildlife Department are constituted peace officers. Such agents and employees are empowered to enforce the provisions of this article, the same as any other peace officers, and for such purpose shall have the powers and duties of peace officers as set forth in the Code of Criminal Procedure.

Exceptions

Sec. 6. Any waste discharge otherwise punishable under this article which is caused by an act of God, war, riot, or other catastrophe, is not a violation of this article.

Venue

Sec. 7. Venue for prosecution of any alleged violation is in the county court, the county criminal court, or the county court-at-law of the county in which the violation is alleged to have occurred.

Complaint against private corporation; allegation of name

Sec. 8. In alleging the name of a defendant private corporation, it is sufficient to state in the complaint, indictment, or information, the corporate name, or to state any name or designation by which the corporation is known or may be identified. It is not necessary to allege that the defendant was lawfully incorporated.

Complaint against private corporation; issuance and form of summons; arrest of individuals

Sec. 9. (a) When a complaint is filed or an indictment or information presented against a private corporation under the provisions of this article, the court or clerk shall issue a summons to the corporation. The summons shall be in the same form as a *capias* except that:

- (1) it shall summon the corporation to appear before the court named at the place stated in the summons;
- (2) it shall be accompanied by a certified copy of the complaint, indictment, or information; and
- (3) it shall provide that the corporation appear before the court named at or before 10 a. m. of the Monday next after the expiration of 20

days after it is served with summons, except when service is made upon the secretary of state, in which instance the summons shall provide that the corporation appear before the court named at or before 10 a. m. of the Monday next after the expiration of 30 days after the Secretary of State is served with summons.

(b) No individual may be arrested upon a complaint, indictment, or information against a private corporation.

Service of summons on private corporation

Sec. 10. (a) A peace officer shall serve a summons on a private corporation by personally delivering a copy of it to the corporation's registered agent for service. However, if a registered agent has not been designated, or cannot with reasonable diligence be found at the registered office, then the peace officer shall serve the summons by personally delivering a copy of it to the president or a vice-president of the corporation.

(b) If the peace officer certifies on the return that he diligently but unsuccessfully attempted to effect service under Subsection (a) of this section, or if the corporation is a foreign corporation that has no certificate of authority, then he shall serve the summons on the Secretary of State by personally delivering a copy of it to him, or to the assistant Secretary of State, or to any clerk in charge of the corporation department of his office. On receipt of the summons copy, the Secretary of State shall immediately forward it by certified or registered mail, return receipt requested, addressed to the defendant corporation at its registered office or, if it is a foreign corporation, at its principal office in the state or country under whose law it was incorporated.

(c) The Secretary of State shall keep a permanent record of the date and time of receipt and his disposition of each summons served under Subsection (b) of this section together with the return receipt.

**Criminal actions against private corporation; arraignment;
time for pleadings**

Sec. 11. In all criminal actions instituted against a private corporation under the provisions of this article,

- (1) appearance is for the purpose of arraignment; and
- (2) the corporation has 10 full days after the day the arraignment takes place and before the day the trial begins to file written pleadings.

**Appearance of private corporation; failure to appear or plead, or
absence from proceedings; effect**

Sec. 12. (a) A defendant private corporation appears through counsel or its representative.

(b) If a private corporation does not appear in response to summons, or appears but fails or refuses to plead,

- (1) it is deemed to be present in person for all purposes;
- (2) the court shall enter a plea of not guilty in its behalf; and
- (3) the court may proceed with trial, judgment, and sentencing.

(c) If, having appeared and entered a plea in response to summons, a private corporation is absent without good cause at any time during later proceedings,

- (1) it is deemed to be present in person for all purposes; and
- (2) the court may proceed with trial, judgment, or sentencing.

Conviction of private corporation; enforcement of fine as civil judgment

Sec. 13. If a private corporation shall be found guilty of a violation of this article and a fine imposed, the fine shall be entered and docketed by the clerk of the court as a judgment against the corporation, and it shall be of the same force and effect and be enforced against the corporation in the same manner as if the judgment were recovered in a civil action.

Repealer

Sec. 14. (a) Article 1362, Penal Code of Texas, 1925, is repealed.

(b) To the extent that any other general or special law, including Article 695, Penal Code of Texas, 1925, makes an act or omission a criminal offense, which act or omission also constitutes a criminal offense under this article, such other general or special law is repealed, but only to that extent.

Cumulative effect

Sec. 15. Nothing in this Act repeals or amends, nor shall be construed to repeal or amend, either expressly or impliedly, any of the provisions of the Texas Water Quality Act of 1967 (Article 7621d—1, Vernon's Texas Civil Statutes); Chapter 82, Acts of the 57th Legislature, Regular Session, 1961 (Article 7621b, Vernon's Texas Civil Statutes); or Article 6029a, Revised Civil Statutes, 1925, as added; but this Act is cumulative of those Acts and they remain in full force and effect.

Added by Acts 1969, 61st Leg., p. 483, ch. 154, § 1, eff. Sept. 1, 1969.

Section 2 of the act of 1969 provided: "If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act

which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Art. 698d. Air pollution**Definitions**

Section 1. In this article:

(1) "Air contaminant" means particulate matter, dust, fumes, gas, mist, smoke, vapor, or odor, or any combination thereof, produced by processes other than natural.

(2) "Person" means an individual or a private corporation.

(3) "Air pollution" means the presence in the atmosphere of one or more air contaminants or combinations thereof, in such concentration and of such duration as are or may tend to be injurious to or to adversely affect humans, animal life, vegetation or property, or as to interfere with the normal use and enjoyment of animal life, vegetation or property.

(4) "Source" means any point of origin of an air contaminant, whether privately or publicly owned or operated.

Emission of air contaminants

Sec. 2. No person may cause or permit the emission of any air contaminant which causes or which will cause air pollution unless the emission is made in compliance with a variance or other order issued by the Texas Air Control Board.

Violation of variance order

Sec. 3. No person to whom the Texas Air Control Board has issued a variance or other order authorizing the emission of any air contaminant from a source may cause or permit the emission of the air contaminant in violation of the requirements of the variance or order.

Punishment

Sec. 4. Any person who violates any of the provisions of Sections 2 or 3 of this article is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$1,000. Each day that a violation occurs constitutes a separate offense.

Exceptions

Sec. 5. The emission of any air contaminant otherwise punishable under this article which is caused by an act of God, war, riot, or other catastrophe, is not a violation of this article.

Venue

Sec. 6. Venue for prosecution of any alleged violation is in the county court, the county criminal court, or the county court-at-law of the county in which the violation is alleged to have occurred.

Complaint against private corporation; allegation of name

Sec. 7. In alleging the name of a defendant private corporation, it is sufficient to state in the complaint, indictment, or information, the corporate name, or to state any name or designation by which the corporation is known or may be identified. It is not necessary to allege that the defendant was lawfully incorporated.

Complaint against private corporation; issuance and form of summons; arrest of individuals

Sec. 8. (a) When a complaint is filed or an indictment or information presented against a private corporation under the provisions of this article, the court or clerk shall issue a summons to the corporation. The summons shall be in the same form as a *capias* except that:

(1) it shall summon the corporation to appear before the court named at the place stated in the summons;

(2) it shall be accompanied by a certified copy of the complaint, indictment, or information; and

(3) it shall provide that the corporation appear before the court named at or before 10 a. m. of the Monday next after the expiration of 20 days after it is served with summons, except when service is made upon the Secretary of State, in which instance the summons shall provide that the corporation appear before the court named at or before 10 a. m. of the Monday next after the expiration of 30 days after the Secretary of State is served with summons.

(b) No individual may be arrested upon a complaint, indictment, or information against a private corporation.

Service of summons on private corporation

Sec. 9. (a) A peace officer shall serve a summons on a private corporation by personally delivering a copy of it to the corporation's registered agent for service. However, if a registered agent has not been designated, or cannot with reasonable diligence be found at the registered office, then the peace officer shall serve the summons by personally delivering a copy of it to the president or a vice-president of the corporation.

(b) If the peace officer certified on the return that he diligently but unsuccessfully attempted to effect service under Subsection (a) of this section, or if the corporation is a foreign corporation that has no certificate of authority, then he shall serve the summons on the Secretary of State by personally delivering a copy of it to him, or to the assistant Secretary of State, or to any clerk in charge of the corporation department of his office. On receipt of the summons copy, the Secretary of State shall immediately forward it by certified or registered mail, return receipt requested, addressed to the defendant corporation at its registered office or, if it is a foreign corporation, at its principal office in the state or country under whose law it was incorporated.

(c) The Secretary of State shall keep a permanent record of the date and time of receipt and his disposition of each summons served under Subsection (b) of this section together with the return receipt.

Criminal actions against private corporation; arraignment; time for pleadings

Sec. 10. In all criminal actions instituted against a private corporation under the provisions of this article,

(1) appearance is for the purpose of arraignment; and

(2) the corporation has 10 full days after the day the arraignment takes place and before the day the trial begins to file written pleadings.

For Annotations and Historical Notes, see V.A.T.S.

Appearance of private corporation; failure to appear or plead, or absence from proceedings; effect

Sec. 11. (a) A defendant private corporation appears through counsel or its representative.

(b) If a private corporation does not appear in response to summons, or appears but fails or refuses to plead,

- (1) it is deemed to be present in person for all purposes;
- (2) the court shall enter a plea of not guilty in its behalf; and
- (3) the court may proceed with trial, judgment, and sentencing.

(c) If, having appeared and entered a plea in response to summons, a private corporation is absent without good cause at any time during later proceedings,

- (1) it is deemed to be present in person for all purposes; and
- (2) the court may proceed with trial, judgment, or sentencing.

Conviction of private corporation; enforcement of fine as civil judgment

Sec. 12. If a private corporation shall be found guilty of a violation of this article and a fine imposed, the fine shall be entered and docketed by the clerk of the court as a judgment against the corporation, and it shall be of the same force and effect and be enforced against the corporation in the same manner as if the judgment were recovered in a civil action.

Partial repealer

Sec. 13. To the extent that any other general or special law, including Article 695, Penal Code of Texas, 1925, makes an act or omission a criminal offense, which act or omission also constitutes a criminal offense under this article, such other general or special law is repealed, but only to that extent.

Cumulative effect; Clean Air Act

Sec. 14. Nothing in this article repeals or amends nor shall be construed to repeal or amend, either expressly or impliedly, any of the provisions of the Clean Air Act of Texas, 1967 (Article 4477—5, Vernon's Texas Civil Statutes), but this article is cumulative of that Act, which remains in full force and effect.

Added by Acts 1969, 61st Leg., p. 480, ch. 153, § 1, eff. Sept. 1, 1969.

Motor Vehicle Emissions

This act and the 1969 act regulating motor vehicle emissions are mutually exclusive. See note.

Section 2 of the act of 1969 provided: "If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Acts 1969, 61st Leg., p. 811, ch. 271, which added section 2A and amended sections 134, 140-142 of Vernon's Ann.Civ.St. art. 6701d

to regulate motor vehicle exhaust and crankcase emissions, provided in section 5A: "Senate Bill No. 5, Acts of the 61st Legislature, Regular Session, 1969 (Article 698d, Penal Code of Texas, 1925), pertaining to the offense of air pollution, shall not apply to any act or omission covered by this Act, and any act or omission which constitutes a criminal offense under this Act shall not constitute or be punishable as a criminal offense under said Senate Bill No. 5."

CHAPTER THREE—DRUGS, NARCOTICS AND POISONS

Art. 725b. Narcotic drug regulations

* * * * *

Penalties

Sec. 23. (a) Except as provided in Subsections (b) and (c) of this section, any person who violates any provision of this Act is guilty of a felony and upon a first conviction is punishable by imprisonment

in the penitentiary for not less than two years nor more than life; and upon a second or subsequent conviction, he is punishable by imprisonment in the penitentiary for not less than 10 years nor more than life. Suspended sentence or probation under the Adult Probation and Parole Law¹ is not available to a person upon a second or subsequent conviction.

(b) Except as provided in Subsection (c) of this section, any person who unlawfully furnishes, sells, barter, trades, administers, or gives, or offers to furnish, sell, barter, trade, administer, or give to another person any narcotic drug, is guilty of a felony and upon a first conviction is punishable by imprisonment in the penitentiary for not less than five years nor more than life; and upon a second or subsequent conviction, he is punishable by imprisonment in the penitentiary for not less than 10 years nor more than life. Suspended sentence or probation under the Adult Probation and Parole Law is not available to a person upon a second or subsequent conviction.

(c) Any person 21 years of age or older who unlawfully furnishes, sells, barter, trades, administers, or gives, or offers to furnish, sell, barter, trade, administer, or give to a person under the age of 21 years any narcotic drug, or who unlawfully hires, employs, or uses a person under the age of 21 years in unlawfully transporting, carrying, selling, giving away, preparing for sale, or peddling any narcotic drug, is guilty of a felony and upon a first conviction is punishable by imprisonment in the penitentiary for not less than five years nor more than life; and upon a second or subsequent conviction, he is punishable by imprisonment in the penitentiary for not less than 10 years nor more than life, or by death. Suspended sentence or probation under the Adult Probation and Parole Law is not available to a person upon a second or subsequent conviction.

Sec. 23 amended by Acts 1961, 57th Leg., p. 315, ch. 167, § 1, emerg. eff. May 17, 1961; Acts 1969, 61st Leg., p. 703, ch. 242, § 1, emerg. eff. May 21, 1969.

¹ Article 718b.

Art. 726d. Dangerous drugs

* * * * *

Definitions

Sec. 2. For the purposes of this Act:

(a) The term "dangerous drug" means any drug unsafe for self-medication, except preparations of drugs defined in Subdivisions (a) (6), (a)(7), (a)(9), and (a)(10) hereof, designed for the purpose of feeding or treating animals (other than man) or poultry, and so labeled, and includes the following:

(1) Any barbiturate or its compounds, mixtures or preparations or other hypnotic drugs. "Barbiturates" include malonylurea derivatives and barbituric acid derivatives. Other "hypnotic drugs" include but are not limited to the following: chloral, paraldehyde, sulfonmethane derivatives, or any other compounds or mixtures or preparations that may be used for producing hypnotic effects.

(2) Amphetamines including but not limited to the following: methamphetamine, desoxyephedrine, or compounds or mixtures thereof.

(3) Hallucinogens including but not limited to the following: lysergic acid; lysergic acid diethylamide; LSD-25; LSD; 2,5-Dimethoxy-4-methylamphetamine; dimethyltryptamine; psilocybin; phencyclidine; bufotenine; peyote; mescaline; and their salts and derivatives, or any compounds, mixtures or preparations which are chemically identical with such substances; provided, however, that the provisions of this subdivision shall not apply to unharvested peyote growing in its natural state. The listing of peyote in this subparagraph does not apply to its

For Annotations and Historical Notes, see V.A.T.S.

use in bona fide religious ceremonies of the Native American Church; however, persons who supply the produce to the church are required to register and maintain appropriate records of receipts and disbursements of the article in accordance with regulations promulgated by the State Board of Pharmacy. The State Board of Pharmacy may likewise cancel, suspend or revoke such registration for violations of this Act. The exemption granted hereunder to members of the Native American Church shall have no application to any member thereof with less than 25 percent Indian blood.

(4) Aminopyrine, or compounds or mixtures thereof.

(5) Cantharidin or a compound related structurally to cantharidin; or cinchophen, neocinchophen, or compounds or mixtures thereof.

(6) Diethyl-stilbestrol, or compounds or mixtures thereof.

(7) Ergot, cotton root, or their contained or derived active compounds or mixtures thereof.

(8) Oils of croton, rue, savin or tansy or their contained or derived compounds or mixtures thereof.

(9) Sulfanilamide or substituted sulfanilamides, or compounds or mixtures thereof, except preparations for topical application only containing not more than five percent (5%) strength.

(10) Thyroid and its contained or derived active compounds or mixtures thereof.

(11) Phenylhydantoin derivatives.

(12) Thallium or any compound thereof.

(13) Any drug which bears the legend: Caution: federal law prohibits dispensing without prescription.

(b) The term "delivery" means sale, dispensing, giving away, or supplying in any other manner.

(c) The term "patient" means, as the case may be:

(1) The individual for whom a dangerous drug is prescribed or to whom a dangerous drug is administered; or

(2) The owner or the agent of the owner of the animal for which a dangerous drug is prescribed or to which a dangerous drug is administered.

(d) The term "person" includes individual, corporation, partnership, and association.

(e) The term "practitioner" means a person licensed by the State Board of Medical Examiners, State Board of Dental Examiners, State Board of Chiropractic Examiners, and State Board of Veterinary Medical Examiners to prescribe and administer dangerous drugs.

(f) The term "pharmacist" shall mean a person licensed by the State Board of Pharmacy to practice the profession of pharmacy and to prepare, compound, and dispense physicians' prescriptions, drugs, medicines, and poisons.

(g) The term "prescription" means a written order, and in cases of emergency, a telephonic order, by a practitioner to a pharmacist for a dangerous drug for a particular patient, which specifies the date of its issue, the name and address of the patient (and, if such dangerous drug is prescribed for an animal, the species of such animal), the name and quantity of the dangerous drug prescribed, and the directions for use of such drug.

(h) The term "manufacturer" means persons other than pharmacists who manufacture dangerous drugs, and includes persons who prepare such drugs in dosage forms by mixing, compounding, encapsulating, enteric coating, or other process.

(i) The term "wholesaler" means persons engaged in the business of distributing dangerous drugs to persons included in any of the classes named in Subdivisions (1) to (6) inclusive of Section 4.

(j) The term "warehouseman" means persons who store dangerous drugs for others and who have no control over the disposition of such dangerous drugs except for the purpose of such storage.

(k) The term "Board" means Texas State Board of Pharmacy. Sec. 2, subsec. (a) amended by Acts 1965, 59th Leg., p. 971, ch. 466, § 1, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 1847, ch. 720, § 1, eff. Aug. 28, 1967. Sec. 2 amended by Acts 1969, 61st Leg., p. 1474, ch. 437, § 1, emerg. eff. June 4, 1969.

Unlawful acts and omissions

Sec. 3. The following acts, the failure to act as hereinafter set forth, and the causing of any such act or failure are hereby declared unlawful, except as provided in Section 4:

(a) The delivery of any dangerous drug unless:

(1) Such dangerous drug is delivered by a pharmacist, upon an original prescription, and there is affixed to the immediate container in which such drug is delivered a label bearing the name and address of the owner of the establishment from which such drug was delivered; the date on which the prescription for such drug was filled; the number of such prescription as filed in the prescription files of the pharmacist who filled such prescription; the name of the practitioner who prescribed such drug; the name and address of the patient, and if such drug was prescribed for an animal, a statement showing the species of the animal; and the directions for use of the drug as contained in the prescription; or

(2) Such dangerous drug is delivered by a practitioner in the course of his practice and the immediate container in which such drug is delivered bears a label on which appears the directions for use of such drug, the name and address of such practitioner, the name and address of the patient, and, if such drug is prescribed for an animal, a statement showing the species of the animal.

(b) The refilling of any prescription for a dangerous drug, unless and as designated on the prescription by the practitioner, or through authorization by the practitioner at the time of refilling.

(c) The delivery of a dangerous drug upon prescription unless the pharmacist who filled such prescription files and retains it as required in Section 6.

(d) The possession of a barbiturate or hypnotic drug, as well as those drugs set forth in Section 2(a) hereof, by any person unless such person obtained the drug under the specific provision of Section 3(a) (1) and (2) of this Act and possesses the drug in the container in which it was delivered to him by the pharmacist or practitioner selling or dispensing the same; and any other possession of a barbiturate or hypnotic drug, as well as those drugs set forth in Section 2(a) hereof, shall be prima facie evidence of illegal possession.

(e) The refusal to make available and to accord full opportunity to check any record or file as required by Section 6 and Section 7.

(f) The failure to keep records as required by Section 5 and Section 7.

(g) The using of any person to his own advantage, or revealing, other than to an officer or employee of the State Board of Pharmacy, or to a court when relevant in a judicial proceeding under this Act, any information required under the authority of Section 6, concerning any method or process which as a trade secret is entitled to protection.

Sec. 3, subsec. (d) amended by Acts 1967, 60th Leg., p. 1848, ch. 720, § 2, eff. Aug. 28, 1967. Sec. 3 amended by Acts 1969, 61st Leg., p. 1474, ch. 437, § 2, emerg. eff. June 4, 1969.

For Annotations and Historical Notes, see V.A.T.S.

Files or records; inspection; inventory of drugs

Sec. 6. Persons required to keep files and records relating to barbiturates or other hypnotic drugs, as well as those drugs set forth in Section 2(a) (2) hereof, by Section 5 shall

(1) make such files or records available for inspection by any public official or employee engaged in the enforcement of this Act, at all reasonable hours, for inspection and copying; and

(2) accord to such officer or employee full opportunity to make inventory of all stocks of barbiturates or other hypnotic drugs; as well as those drugs set forth in Section 2(a) (2) hereof, on hand; and it shall be unlawful for any such person to fail to make such files or records available or to accord such opportunity to check their correctness.

Sec. 6 amended by Acts 1969, 61st Leg., p. 1474, ch. 437, § 3, emerg. eff. June 4, 1969.

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Sec. 14. Every person who forges or increases the quantity of dangerous drugs in any prescription, or who issues a prescription bearing a forged or fictitious signature for any dangerous drug, or who obtains or attempts to obtain any dangerous drug by any forged, fictitious, or altered prescription, or who obtains or attempts to obtain any dangerous drug by means of fictitious or fraudulent telephone calls, or who has in his possession any dangerous drug secured by such forged, fictitious, or altered prescription or through the means of a fictitious or fraudulent telephone call, shall be deemed in violation of this Act and subject to the penalties prescribed for the violation of provisions of this Act.

Sec. 14 amended by Acts 1969, 61st Leg., p. 1474, ch. 437, § 4, emerg. eff. June 4, 1969.

Penalties

Sec. 15. (a) Any person possessing in violation of Section 3 of this Act any dangerous drug defined in Section 2(a) of this Act shall be fined an amount not to exceed Three Thousand Dollars (\$3,000) or confined in jail for a period of not less than thirty (30) days nor more than two (2) years, or by both such fine and imprisonment. For any second or subsequent violation, any person shall be guilty of a felony and shall be confined in the penitentiary not less than two (2) years nor more than ten (10) years. Notwithstanding the penalties hereinabove set out in this Section, any person possessing in violation of Section 3 of this Act methamphetamine, as defined in Section 2(a) (2) of this Act shall be guilty of a felony and shall be confined in the penitentiary not less than two (2) years nor more than ten (10) years.

(b) Any person who sells or delivers in violation of this Act any dangerous drug defined in this Act, shall be guilty of a felony and upon conviction is punishable by confinement in the penitentiary for not less than two (2) nor more than ten (10) years.

(c) Any person violating any other provision of this Act not set out in Subsection (a) or (b) of this section shall be fined an amount not exceeding Three Thousand Dollars (\$3,000) or confined in jail for a period of not less than thirty (30) days nor more than two (2) years, or by both such fine and imprisonment. For any second or subsequent violation any person shall be guilty of a felony and shall be confined in the penitentiary not less than two (2) years nor more than ten (10) years.

(d) Any person over twenty-one (21) years of age who hires, employs, or uses a person under twenty-one (21) years of age in unlawfully transporting, carrying, selling, giving away, preparing for sale, or peddling any dangerous drug, or who unlawfully sells, gives, furnishes, administers, or offers to sell, give, furnish or administer any dangerous drug to a person under twenty-one (21) years of age shall, upon conviction, be punished by confinement in the penitentiary for life or for any term of years not less than ten (10).

Sec. 15 amended by Acts 1967, 60th Leg., p. 1848, ch. 720, § 3, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 1474, ch. 437, § 5, emerg. eff. June 4, 1969.

Search warrant

Sec. 15A. Any peace officer may apply for a search warrant in accordance with the provisions of the Code of Criminal Procedure, 1965, as amended, to search for any drugs unlawfully possessed under this Act. The application for the issuance of and execution of any such warrant issued hereunder shall comply with the terms and provisions of the Code of Criminal Procedure, 1965, as amended.

Sec. 15A added by Acts 1969, 61st Leg., p. 1744, ch. 437, § 6, emerg. eff. June 4, 1969.

Section 7 of Acts 1969, 61st Leg., p. 1474, ch. 437, which amended sections 2, 3, 6, 14, 15 and added section 15A of this article, was a severability clause.

CHAPTER FOUR—BARBER SHOPS AND BEAUTY PARLORS

Art. 734b. Hairdressers and cosmetologists

* * * * *

Meetings and examinations; issuance of certificate or license; display; health certificates

Sec. 4.

(a) The Board shall hold regular meetings for the examination of applicants in Austin, Texas, beginning on the first Tuesday in May, and on the first Tuesday in August and November during the calendar year of 1953, and on and after January 1, 1954, it shall hold regular meetings for the examination of applicants on the first Tuesday of each month thereafter, provided that if such Tuesday shall be a legal holiday, such examination shall be held on the following day. Applicants for license to engage in the occupation of hairdresser and cosmetologist, or manicurist, shall be required to satisfactorily pass an examination given by the Board at its meetings above provided for. The application for examination shall be accompanied by the following, and shall be filed at least ten (10) days prior to such examination:

(1) Birth certificate, or other evidence suitable to the Board, showing that the applicant is sixteen (16) years of age or over;

(2) Evidence that such applicant is a graduate of a beauty culture school which has been licensed by the Board and has completed the hours and months of instruction in a licensed beauty culture school or schools required by this Act, or certification that such applicant has successfully completed one thousand (1,000) hours of beauty culture courses prescribed by the State Board of Hairdressers and Cosmetologists, taken in a public vocational school or schools approved by or for the state board of education, and five hundred (500) hours of related high school courses taken concurrently or not concurrently, or evidence that such applicant holds either a current or expired license of this state or any other state having requirements similar to the provisions of this Act; all school hours shall count up to the time of examination;

(3) A certificate of health issued and personally signed by a licensed doctor of medicine showing the applicant to be free from any contagious or infectious disease as determined by an examination which shall include a Wasserman blood test. No public vocational cosmetology student shall be required to present more than two (2) doctor's health certificates and Wasserman blood tests during completion of the course, provided attendance is continuous except for summer vacation;

(4) Cashier's check or Post Office Money Order in the amount of Fifteen Dollars (\$15) payable to the Board.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 4 amended by Acts 1965, 59th Leg., p. 1229, ch. 564, § 1, eff. Aug. 30, 1965; Acts 1969, 61st Leg., p. 1947, ch. 650, § 1, emerg. eff. June 12, 1969.

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CHAPTER FIVE—OPTOMETRY

Chapter 5, Optometry, which consisted of articles 735 to 738a, was repealed by Acts 1969, 61st Leg., p. 1298, ch. 401, § 6.03.

Arts. 735 to 738a. Repealed. Acts 1969, 61st Leg., p. 1298, ch. 401, § 6.03, eff. Sept. 1, 1969

See, now Vernon's Ann.Civ.St. art. 4552—101 et seq.

CHAPTER SEVEN—DENTISTRY

Art. 753. Exceptions

The definition of dentistry as contained in Chapter 7, of Title 12, of the Revised Penal Code of Texas, as amended, shall not apply to: (1) members of the faculty of a reputable dental college or school where such faculty members perform their services for the sole benefit of such school or college; or to (2) students of a reputable dental college who perform their operations without pay except for actual cost of materials, in the presence of and under the direct personal supervision of a demonstrator or teacher who is a member of the faculty of a reputable dental college; or to (3) persons doing laboratory work on inert matter only, and who do not solicit or obtain work, by any means, from a person or persons not a licensed dentist actually engaged in the practice of dentistry and who do not act as the agents or solicitors of, or have any interest whatsoever in, any dental office, practice or the receipts therefrom; or to (4) physicians and surgeons legally authorized to practice medicine as defined by the law of this state; or to (5) dental hygienists legally authorized to practice dental hygiene in this state and who practice dental hygiene in strict conformity with the laws of Texas regulating the practice of dental hygiene; or to (6) those persons who as members of an established church practice healing by prayer only; or to (7) employees of a dentist who make dental x-rays in the dental office and under the supervision of such dentist or dentists legally engaged in the practice of dentistry in this state; or to (8) Dental Health Service Corporations legally chartered under Subsection (1) of Article 2.01, of the Texas Nonprofit Corporation Act; or to (9) dental interns, dental residents and dental assistants as defined and regulated by the Texas State Board of Dental Examiners in its rules and regulations. Nothing in this Act applies to one legally engaged in the practice of dentistry in this state at the time of the passage of this law, except as hereinbefore provided.

Added by Acts 1961, 57th Leg., p. 959, ch. 418, § 2, eff. Aug. 28, 1961. Amended by Acts 1969, 61st Leg., 2nd C.S., p. 56, ch. 7, § 3, eff. Sept. 19, 1969.

TITLE 13—OFFENSES AGAINST PUBLIC PROPERTY

CHAPTER ONE—HIGHWAYS AND VEHICLES

Art.
802f. Chemical tests for intoxication; im-
plied consent; evidence [New].

Art. 802f. Chemical tests for intoxication; implied consent; evidence

Section 1. Any person who operates a motor vehicle upon the public highways of this state shall be deemed to have given consent, subject to the provisions of this Act, to a chemical test, or tests, of his breath for the purpose of determining the alcoholic content of his blood if arrested for any offense arising out of acts alleged to have been committed while a person was driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor. Any person so arrested may consent to the taking of any other type of chemical test, or tests, to determine the alcoholic content of his blood, but he shall not be deemed, solely on the basis of his operation of a motor vehicle upon the public highways of this state, to have given consent to any type of chemical test other than a chemical test, or tests, of his breath. The test, or tests, shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor.

Sec. 2. If a person under arrest refuses, upon the request of a law enforcement officer, to submit to a chemical breath test designated by the law enforcement officer as provided in Section 1, none shall be given, but the Texas Department of Public Safety, upon the receipt of a sworn report of the law enforcement officer that he had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor and that the person had refused to submit to the breath test upon the request of the law enforcement officer, shall set the matter for a hearing as provided in Section 22(a), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941, as amended (Article 6687b, Vernon's Texas Civil Statutes). If, upon such hearing, the court finds that probable cause existed that such person was driving or in actual physical control of a motor vehicle on the highway while under the influence of intoxicating liquor at the time of the arrest by the officer, the Director of the Texas Department of Public Safety shall suspend the person's license or permit to drive, or any nonresident operating privilege for the period ordered by the court, but not to exceed one (1) year. If the person is a resident without a license or permit to operate a motor vehicle in this state, the Texas Department of Public Safety shall deny to the person the issuance of a license or permit for a period ordered by the court, but not to exceed one (1) year. Provided, however, that should such person be found "not guilty" of the offense of driving while under the influence of intoxicating liquor or if said cause be dismissed, then the Director of the Texas Department of Public Safety shall in no case suspend such person's driver's license; or, in the event that proceedings had been instituted resulting in the suspension of such person's driver's license, then the Director of the Texas Department of Public Safety shall immediately reinstate such license upon notification of such acquittal or dismissal by the county clerk of the county in which the case was pending. Notification to the Director of the Texas Department of Public Safety shall be made by certified mail.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 3. (a) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a motor vehicle and while under the influence of intoxicating liquor, evidence of the amount of alcohol in the person's blood at the time of the act alleged as shown by chemical analysis of his blood, breath, urine, or any other bodily substance, shall be admissible.

(b) Chemical analysis of the person's breath, to be considered valid under the provisions of this section, must be performed according to methods approved by the Texas Department of Public Safety and by an individual possessing a valid certificate issued by the Texas Department of Public Safety for this purpose. The Texas Department of Public Safety is authorized to approve satisfactory techniques or methods, to ascertain the qualifications and competence of individuals to conduct such analysis, and to issue certificates certifying such fact. These certificates shall be subject to termination or revocation, for cause, at the discretion of the Texas Department of Public Safety.

(c) When a person shall submit to a blood test at the request of a law enforcement officer under the provisions of this Act, only a physician, qualified technician, chemist, registered professional nurse, or licensed vocational nurse under the supervision or direction of a licensed physician may withdraw blood for the purpose of determining the alcoholic content therein. The sample must be taken by a physician or in a physician's office or hospital licensed by the Texas Department of Health. This limitation shall not apply to the taking of breath specimens. The person drawing blood at the request of a law enforcement officer under the provisions of this Act, or hospital where that person is taken for the purpose of securing the specimen, shall not be held liable for damages arising from the request of the law enforcement officer to take the specimen as provided herein, provided the blood was withdrawn according to recognized medical procedures, and provided further that the foregoing shall not relieve any such person from liability for negligence in the withdrawing of any blood sample. Breath specimens must be taken and analysis made under such conditions as may be prescribed by the Texas Department of Public Safety, and by such persons as the Texas Department of Public Safety has certified to be qualified.

(d) The person tested may, upon request and within a reasonable time not to exceed two hours after the arrest, have a physician, qualified technician, chemist, or registered professional nurse of his own choosing administer a chemical test, or tests, in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test, or tests, taken at the direction of the law enforcement officer.

(e) Upon the request of a person who has submitted to a chemical test, or tests, at the request of a law enforcement officer, full information concerning the test, or tests, shall be made available to him or his attorney.

(f) If for any reason the person's request to have a chemical test for intoxication is refused by the officer or any other person acting for or on behalf of the state, such fact may be introduced into evidence on the trial of such person.

Sec. 4. Appeals from all actions of the department under this Act in suspending, denying, or refusing to issue a license shall be governed by Chapter 173, Acts of the 47th Legislature, Regular Session, 1941, as amended (Article 6687b, Vernon's Texas Civil Statutes).

Sec. 5. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given

effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Acts 1969, 61st Leg., p. 1468, ch. 434, eff. Sept. 1, 1969.

Title of Act:

An Act authorizing and regulating the use and performing of chemical tests under certain conditions on motor vehicle drivers to determine intoxication; providing for suspension or denial of the driver's license upon refusal of an arrested person to submit

to certain chemical testing; providing for an administrative hearing and judicial review; providing for admissibility of test results as evidence; providing a severability clause; and declaring an emergency. Acts 1969, 61st Leg., p. 1468, ch. 434.

Art. 821. Inscription on State vehicle

There shall be printed upon each side of every automobile, truck or other motor vehicle owned by the State of Texas the word "Texas," followed in letters of not less than two (2) inches high by the title of the department, bureau, board, commission or official having the custody of such car, and such inscription shall be in a color sufficiently different from the body of the car so that the lettering shall be plainly legible at a distance of not less than one hundred (100) feet, and the official having control thereof shall have such wording placed thereon as prescribed herein, and whoever drives any automobile, truck or other motor vehicle belonging to the state upon the streets of any town or city or upon a highway without such inscription printed thereon shall be fined not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00). Provided, however, state-owned vehicles under control and custody of the Texas Department of Mental Health and Mental Retardation, the Department of Public Safety, the Department of Corrections, and the Texas Youth Council may be exempt from the requirements of this Act by rule and regulation of the governing bodies of these state agencies. Such rules and regulations shall specify the primary use to which vehicles exempt from the requirements of this Act are devoted, the purpose to be served by not printing on them the inscriptions required by this Act and such rules and regulations shall not be effective until filed with the Secretary of State. Whoever drives a vehicle exempted from the requirements of this Act as authorized by this provision shall not be subject to the penalties prescribed in this Act.

Amended by Acts 1969, 61st Leg., p. 569, ch. 188, § 1, eff. Sept. 1, 1969.

Art. 827a. Regulating operation of vehicles on highways

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Art. 827a, sec. 3. Width, length and height

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(c) No motor vehicle shall exceed a length of forty (40) feet. It shall be lawful for any combination of vehicles to be coupled together including, but not limited to, a truck and semi-trailer, truck and trailer, truck-tractor and semi-trailer and trailer, truck-tractor and two trailers, provided such combination of vehicles shall not exceed a length of sixty-five (65) feet, unless such vehicle or combination of vehicles is operated exclusively within the limits of an incorporated city or town; and unless, in the case of any combination of such vehicles, same be operated by municipal corporations in adjoining suburbs wherein said municipal corporation has heretofore been using such or like equipment in connection with an established service to such suburbs of the municipality; provided, however, that no passenger car (defined as any motor vehicle designed for carrying ten (10) passengers or less and used for the transportation of persons) can be coupled with more than one other vehicle at any one time; provided, however, that the provisions of this Subsection shall not apply to any disabled vehicle being towed by another vehicle to the nearest intake place for repairs; provided further, that motor buses as defined in Acts of the 41st Legislature, 2nd Called Session, 1929, Chapter

For Annotations and Historical Notes, see V.A.T.S.

88, as amended,¹ exceeding thirty-five (35) feet in length, but not exceeding forty (40) feet in length, may be lawfully operated over the highways of this state if such motor buses are equipped with air brakes and have a minimum of four (4) tires on the rear axle; and provided further, that the above limitations shall not apply to any mobile home or to any combination of a mobile home and a motor vehicle, but no mobile home and motor vehicle combination shall exceed a total length of fifty-five (55) feet. "Mobile home" as used herein means a living quarters equipped and used for sleeping and eating and which may be moved from one location to another over a public highway by being pulled behind a motor vehicle. No mobile home, as the same is defined herein, shall be entitled to the exemption contained in this Subsection unless the owner thereof shall have paid all taxes, including ad valorem taxes, and fees due and payable under the laws of this state, levied on said mobile home.

Sec. 3(c)

Amended by Acts 1965, 59th Leg., p. 123, ch. 50, § 1, eff. Sept. 1, 1965; Acts 1969, 61st Leg., p. 219, ch. 87, § 1, eff. April 18, 1969.

1. Vernon's Ann.Civ.St. art. 6675a—1 et seq.

* * * * *

Acts 1969, 61st Leg., p. 219, ch. 87, which amended section 3(c) of this article, provided in sections 2 and 3:

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

"Sec. 3. If any provision, sentence, clause, phrase or word of this Act or the

application thereof to any person or circumstance is held invalid, such holding shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares that it would have passed such remaining portions irrespective of such invalidity."

Art. 827e—1. Traffic signs at highway and street intersections

* * * * *

Secs. 2, 3. Repealed by Acts 1969, 61st Leg., p. 2342, ch. 793, § 2, eff. Sept. 1, 1969.

See, now, Vernon's Ann.Civ.St. art. 6701d, § 71.

CHAPTER SIX—GAME, FISH AND OYSTERS

Art.

897a. Seizure and sale of unlawfully possessed marine life [New].

941—3. Trotline tags [New].

978f—5b. Fish farms; licenses [New].

978f—5c. Department employees as peace officers [New].

Art.

978j—2. Fish farm; taking fish without consent of owner [New].

978j—3. Protection of alligators [New].

978l—8. Lower Colorado River Authority; hunting; archery or rifle ranges [New].

Art. 874. Protection of nongame birds

(a) No person may catch, kill, injure, pursue, or have in his possession, either dead or alive, or purchase, sell, expose for sale, transport, or ship to a point within or without the state, or receive or deliver for transportation, any bird other than a game bird, or have in his possession any part of the plumage, skin, or body of any bird other than a game bird, except as permitted by Article 913, Penal Code of Texas, 1925, or disturb or destroy the eggs, nest, or young of such a bird.

(b) European starlings, English sparrows, grackles, ravens, red-winged blackbirds, cowbirds, and crows may be killed at any time, and their nests or eggs may be destroyed at any time.

(c) Providing that nothing in this Act shall prevent the purchase and sale of canaries and parrots, or other exotic nongame birds, or the keeping of same as domestic pets.

(d) A person who violates any provision of this Article is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$200. Each bird or any part thereof taken or had in possession contrary to this Article constitutes a separate offense." Amended by Acts 1969, 61st Leg., p. 1650, ch. 514, § 1, eff. Sept. 1, 1969.

Protection from predators. Acts 1969, 61st Leg., p. 1650, ch. 514, provided in section 3; "Nothing in this Act shall prevent a person from defending and protecting his domestic animals from predators."

Art. 875. Repealed by Acts 1969, 61st Leg., p. 1650, ch. 514, § 2, eff. Sept. 1, 1969

Prior to repeal, this article was amended by Acts 1967, 60th Leg., p. 108, ch. 52, § 1.

This article was also amended by Acts 1969, 61st Leg., p. 1563, ch. 472, § 1, to read:

"English sparrows, crows, ravens, vultures or buzzards, 'ricebirds' identified as harmful, blackbirds, and the goshawk, the Cooper's hawk or blue darter, the sharp-shinned hawk, jaybird, sapsuckers, wood-

peckers, butcher-birds or shrike, the great horned owl and the starling are not included among the birds protected by this Chapter; and providing, further, that nothing in this Section shall prevent the purchase and sale of canaries and parrots, or the keeping of same in cages as domestic pets."

See, now, art. 874.

Art. 897a. Seizure and sale of unlawfully possessed marine life

(a) When an enforcement officer of the parks and wildlife department believes that a person has unlawful possession of any fish, oysters, shrimp, or other marine life, he shall seize the marine life and deliver it to a court of competent jurisdiction in the county in which it was seized.

(b) The court shall order the marine life sold to the highest bidder, provided, however, that said sale shall not be for less than the prevailing market price, and the proceeds of the sale deposited with the court pending the outcome of the action taken against the person charged with the illegal possession. Upon the conclusion of the action the court shall order the proceeds of the sale either deposited in the state treasury to the credit of the special game and fish fund or paid to the owner of the marine life, as determined by the court.

Added by Acts 1969, 61st Leg., p. 714, ch. 254, § 1, emerg. eff. May 21, 1969.

Art. 913. Propagation and scientific purposes

Permits; application; requirements

Section 1. The Parks and Wildlife Department is empowered to permit qualified persons to take protected wildlife or fish for propagation, zoological gardens or scientific purposes. Permits may be granted upon application made under oath indicating the particular species and purpose of collection. No permit may be granted for the taking of any species unless the application is endorsed by two recognized specialists in the biological field concerned, who are residents of the United States and who have known the applicant for at least five years. No permit may be granted for the taking of any migratory birds unless the applicant has obtained from the United States Government a permit to collect such birds.

Permits; expiration; authority

Sec. 2. All permits shall expire at the end of the calendar year of issuance. Such permits shall authorize the holder thereof to take, possess, and transport the number and species of individuals specified therein.

Rules and regulations

Sec. 3. The Parks and Wildlife Department may prescribe reasonable rules and regulations concerning the taking and possessing of wild animals, wild birds and fish for scientific purposes or for the operation of zoological gardens. Said department may cancel any permit granted pursuant to this Act for violation of such rules and regulations.

Reports

Sec. 4. Each person who receives a permit pursuant to this Act shall file a written report not later than 10 days after the expiration date of the permit with the Parks and Wildlife Department indicating the number and disposition of specimens taken pursuant to such permit and the results of any research conducted by him during the year.

Powers of department

Sec. 5. The Parks and Wildlife Department at all times shall have the power to take, transport, release or manage any of the wildlife and fish of this state for investigation, propagation, distribution or scientific purposes.

Defenses

Sec. 6. It shall be no defense in any prosecution for violation of any of the wildlife or fishing laws of this state that the taking or transporting of wildlife or fish was done for scientific purposes unless such defense is offered on behalf of a person holding a Parks and Wildlife Department permit which was valid at the time of the alleged offense, or on behalf of an employee of the Parks and Wildlife Department acting within the scope of his authority.

Penalties

Sec. 7. Any person violating any provision of this article shall be deemed guilty of a misdemeanor and upon conviction, shall be punished by a fine of not less than \$25 nor more than \$200; and each bird, fowl, animal, quadruped, nest, egg or fish taken or possessed in violation of this article shall constitute a separate offense.

Amended by Acts 1969, 61st Leg., p. 1595, ch. 490, emerg. eff. June 10, 1969.

Art. 924a. Electricity producing apparatus to shock fish

It shall be unlawful for any person at any time of the year to catch or attempt to catch or obtain fish by the aid of what is commonly known as "telephoning" or by using any other electricity-producing apparatus designed for shocking fish. Any person violating any of the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine in any sum of not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200). The possession of any such equipment in any boat or along any bank or shore of any of the rivers, creeks, lakes and bays of this State shall be prima-facie evidence that the person found in possession of such electrical equipment is violating the provisions of the Act. Provided, however, that it shall be lawful for a duly licensed Commercial Gulf Shrimp Boat as such term "Commercial Gulf Shrimp Boat" is defined in Section 3(f), Chapter 340, Acts of the Regular Session of the Fifty-eighth Legislature of Texas, 1963, as amended,¹ to use an electricity-producing apparatus, with applied voltage not to exceed three (3) volts, connected to a trawl or not otherwise conforming to the provisions of Section 7(f), of Chapter 340, Acts of the Regular Session of the Fifty-eighth Legislature of Texas, 1963, as amended,¹ to catch shrimp in the outside waters of the State of Texas, having a depth of more than seven (7) fathoms, as such term "outside waters" is defined by Section 3(a), of Chapter 340, Acts of the

Regular Session of the Fifty-eighth Legislature of Texas, 1963, as amended,¹ such trawl or net thus electrically equipped being herein designated as an "electro-trawl"; and the possession of such electro-trawl on board a Commercial Gulf Shrimp Boat in any of the waters of the State of Texas shall not be unlawful, but, except as specifically provided herein, such electric trawl, and the use thereof, shall in all other respects conform with all of the provisions of the Texas Shrimp Conservation Act, Chapter 340, Acts of the Regular Session of the Fifty-eighth Legislature of Texas, 1963, as amended.¹

Amended by Acts 1967, 60th Leg., p. 1796, ch. 686, § 1, emerg. eff. June 17, 1967; Acts 1969, 61st Leg., p. 712, ch. 253, § 1, emerg. eff. May 21, 1969.

¹ See Vernon's Ann.Civ.St. art. 4075b.

Sections 2 and 3 of the 1969 amendatory act provided:

"Sec. 2. All laws or parts of laws in conflict with provisions of this Act are repealed to the extent of such conflict only.

"Sec. 3. It is hereby declared to be the legislative intent to enact each separate provision of this Act independent of all other provisions, and the fact that any section, word, clause, sentence, or part of this

Act shall be declared unconstitutional shall in no event affect any other section, word, clause, sentence, or part thereof; and it is hereby declared to be the intent of the Legislature to have passed each sentence, section, part or clause hereof irrespective of the fact that any other section, sentence, clause, or part thereof may be declared invalid."

Art. 941—3. Trotline tags

Section 1. The Parks and Wildlife Department is authorized and directed to issue numbered tags for trotlines in salt waters of the State of Texas. It shall be unlawful for any person to use or to place in the salt waters of the state any trotline that does not have attached thereto numbered tags issued by the Parks and Wildlife Department or its agent. The Parks and Wildlife Department or its agent is authorized to charge a fee of \$1 for each numbered tag issued for trotlines. Each numbered tag shall be attached to each 300 feet, or fraction thereof, of trotline in use or placed in the salt waters of the state. The Parks and Wildlife Commission is authorized to adopt any necessary safety rules and regulations to implement this program.

Sec. 2. This Act shall be effective on the first day of September, 1969.

Sec. 3. Any person who shall violate any of the provisions of this Act shall be deemed guilty of a misdemeanor, and on conviction, shall be fined in a sum of not less than \$25, not more than \$200; and provided that the Parks and Wildlife Department or its authorized agent shall have the right and the power to seize and hold trotlines in their possession as evidence until after the trial of the defendant and no suit shall be maintained against them or their authorized agent therefor.

Acts 1969, 61st Leg., p. 1597, ch. 491, eff. Sept. 1, 1969.

Title of Act:

An Act authorizing and directing the Parks and Wildlife Department to issue numbered tags for trotlines in salt waters of the state; authorizing a fee for each

numbered tag; establishing an effective date; providing a penalty for violation; and declaring an emergency. Acts 1969, 61st Leg., p. 1597, ch. 491.

Art. 952l—12. Taking of fish from Espiritu Santo Bay and other bays and lakes

Taking fish by means other than hook and line; fines

Section 1. It is hereby made unlawful for any person to take or catch fish from the waters of Espiritu Santo Bay or in those portions of San Antonio Bay south or southeast of the Intracoastal Waterway, including all bays, bayous, lagoons, lakes, and inlets located between the Intracoastal Waterway and the Gulfward shoreline of Matagorda Island,

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or within one mile of Pass Caballo, as described in Article 941—2 of the Penal Code, or within one mile of any other pass leading from the above-described waters to any other bay or into the Gulf, located in Calhoun County, Texas, by any other means than hook and line, rod and reel, or trotline, or flounder gig and light, or by the use of a cast net or minnow seine, used in catching bait, not exceeding twenty (20) feet in length. Any person drawing a seine or setting a net for the purpose of taking fish in the waters of Espiritu Santo Bay or in those portions of San Antonio Bay south or southeast of the Intracoastal Waterway, or any of the waters between the Intracoastal Waterway, and the Gulfward shoreline of Matagorda Island, or within one mile of any pass located in Calhoun County, Texas, or any person catching or taking fish in such waters by any other means than by hook and line, rod and reel, or trotline, or flounder gig and light, or by the use of cast net or minnow seine not exceeding twenty (20) feet in length shall be deemed guilty of a misdemeanor, and shall be fined in a sum of not less than Twenty-five Dollars (\$25.00) nor more than Two Hundred Dollars (\$200.00). Sec. 1 amended by Acts 1967, 60th Leg., p. 1154, ch. 511, § 1, emerg. eff. June 14, 1967; Acts 1969, 61st Leg., p. 1820, ch. 611, § 1, emerg. eff. June 11, 1969.

* * * * *

Art. 978f—3d. State system of scientific areas

Section 1. The Parks and Wildlife Commission, hereafter called the commission, is hereby authorized to promote and establish a state system of scientific areas for the purposes of education, scientific research, and/or preservation of flora or fauna of scientific or educational value.

Sec. 2. To the extent necessary to carry out the purposes of this Act, the commission shall have the following powers and authorities:

- (a) To determine the acceptance or rejection of state scientific areas proposed for incorporation into a state system of scientific areas;
- (b) To make and publish all rules and regulations necessary for the management and protection of such scientific areas;
- (c) To cooperate and contract with any agencies, organizations, or individuals for purposes of this Act;
- (d) To accept gifts, grants, devises, and bequests of money, securities, or property to be used in accordance with the tenor of such gift, grant, devise, or bequest;
- (e) To formulate policies for the selection, acquisition, management, and protection of state scientific areas;
- (f) To negotiate for and approve the dedication of state scientific areas as part of the system;
- (g) To advocate research, investigations, interpretive programs, and publication and dissemination of information pertaining to state scientific areas and related areas of scientific value;
- (h) To acquire interest in real property by purchase, and to hold and manage the same within the system.

Sec. 3. All departments, agencies, and instrumentalities of the state, including counties, municipalities, public corporations, districts, boards, commissions, universities and colleges are empowered and are urged to acquire, administer, and dedicate as state scientific areas within the system under the policies established by the commission for purposes of this Act. Nothing contained in this Act shall be construed as interfering with the purposes stated in the establishment of or pertaining to any state or local park, preserve, wildlife refuge, or other area or the proper management and development thereof except that any agency administering any area designated as a state scientific area under the system shall be respon-

sible for preserving the natural character of the area in accordance with the policies established by the commission. Designation of an area as a state scientific area within the system or allowance by the commission of an intrusion, easement or taking therein shall not void or replace any protected status under law which the area would have were it not so designated.

Sec. 4. The Parks and Wildlife Commission shall not use any funds available to it for the acquisition of scientific areas unless the funds are specifically appropriated for the purposes of this Act.

Acts 1967, 60th Leg., p. 1794, ch. 684, emerg. eff. June 17, 1967. Sec. 2 amended by Acts 1969, 61st Leg., p. 1574, ch. 479, § 1, eff. Sept. 1, 1969.

Art. 978f—5. Wildlife management areas; powers of Commission to manage; regulation of hunting and fishing

* * * * *

Special permit to hunt

Sec. 3. Any special permit that may be issued for the hunting of wildlife species on any lands described in Section 1 of this Act shall be made available to applicants in such way as to give all applicants an impartial opportunity to obtain such a permit to the extent of the total number issued. No person may receive a special permit for two (2) consecutive years unless all applications from persons who applied but did not receive a special permit in the preceding year are filled. The provisions of this Section shall not be construed to waive the hunting license requirements as provided by law, but shall be cumulative thereof.

Sec. 3 amended by Acts 1969, 61st Leg., p. 1021, ch. 332, § 1, eff. Sept. 1, 1969.

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Art. 978f—5b. Fish farms; licenses

Issuance; necessity

Section 1. The Parks and Wildlife Department is authorized and directed to issue numbered licenses to fish farmers operating a business on private lands. It shall be unlawful for any person, firm, or corporation to engage in the business of fish farming as defined in this Act without first obtaining the required license.

Definitions

Sec. 2. Definitions:

(a) A "Fish Farmer" is any person, firm, or corporation engaged in the business of production, propagation, transportation, possession and sale of fish except fish propagated for bait purposes, raised in private ponds or reservoirs.

(b) "Private Ponds" are defined as ponds or reservoirs located wholly within the enclosed lands of an owner or lessor which is not connected to any stream carrying public waters nor subject to overflow from any public waters.

(c) "Owner" is defined as any person, partnership, corporation or firm or several persons licensed as "Fish Farmers" by the Parks and Wildlife Department.

Time to secure license; fees; term; vehicles

Sec. 3. Before any owner in this state shall engage in the business of fish farming for the purpose of sale, barter, or exchange, a "Fish Farm" license shall first be procured from the Parks and Wildlife Department. The annual fee for a Fish Farm license or Fish Farm Vehicle license shall be \$25 and the license shall be on a form provided by the

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Parks and Wildlife Department. Such license shall be valid from September 1 or issuance date whichever is later and shall expire August 31 following the date of issuance. A license shall be required for each separate premise on which Fish Farms are located. A "Fish Farm vehicle license" shall be required for each vehicle transporting fish from Fish Farms for the purpose of sale from the vehicle. Vehicles transporting fish from Fish Farms when no sales are made from the vehicle shall carry a bill of lading reflecting the species of fish, number, Fish Farm owner's name, location, and license number of Fish Farm and the destination of the cargo, but said vehicle shall not be required to obtain a Fish Farm vehicle license.

Records

Sec. 4. Each "Fish Farm" shall maintain records reflecting sales and shipments of fish and such records shall be open for inspection by designated personnel of the Parks and Wildlife Department.

Harvest and sale

Sec. 5. Fish from "Fish Farms" may be harvested by any means, may be of any size, and may be sold at any time of the year, and in any county of the state.

Sales; restrictions

Sec. 6. Bass and crappie propagated under the terms of this Act may be sold only for stocking purposes and shall not be sold for resale except to another licensed Fish Farm. Bass and crappie may not be sold for consumption by individuals, cafes and restaurants, or sale by Retail Fish Dealers, and Wholesale Dealers. All other fish propagated on "Fish Farms" may be sold for any purpose.

Repealer

Sec. 7. Chapter 630, 59th Legislature, Regular Session, 1965, is hereby repealed, all other laws and parts of laws in conflict herewith are repealed to the extent of conflict only.

Violations

Sec. 8. Any person, firm or corporation who fails to obtain the required license herein or who violates any provisions of this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$50 nor more than \$200.

Acts 1969, 61st Leg., p. 884, ch. 298, eff. Sept. 1, 1969.

Title of Act:

An Act authorizing and directing the Parks and Wildlife Department to issue fish farm and fish farm vehicle licenses for various purposes to the certain operators of fish farms; providing certain limitations;

authorizing a fee for each license; providing a penalty for violation; and declaring an emergency. Acts 1969, 61st Leg., p. 884, ch. 298.

Art. 978f—5c. Department employees as peace officers

The Executive Director of the Parks and Wildlife Department, in order to insure the adequate enforcement of all laws in state parks and in state historical sites under the jurisdiction of the Parks and Wildlife Department, is authorized to commission as peace officers any of the employees provided for under the General Appropriation Bill; and when so commissioned, said employees are vested with all of the powers, privileges, and immunities of peace officers while on state parks or on state historical sites or in fresh pursuit of those violating the law in such state parks or state historical sites.

Acts 1969, 61st Leg., p. 1988, ch. 677, § 1, eff. Sept. 1, 1969.

Section 2 of act of 1969 repealed conflicting laws.

Title of Act:

An Act providing for Commissioning of State Parks and Wildlife Department employees as peace officers, on state parks or on state historical sites, or in fresh pur-

suit of law violators; vesting them with the powers of peace officers; repealing all laws and parts of laws in conflict herewith; and declaring an emergency. Acts 1969, 61st Leg., p. 1988, ch. 677.

Art. 978j—1. Uniform Wildlife Regulatory Act

Title; application of act

Section 1. This Act shall be referred to for all purposes as "The Uniform Wildlife Regulatory Act." This Act shall apply only to Anderson, Andrews, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Bowie, Brazoria, Brazos, Brewster, Briscoe, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Carson, Castro, Childress, Clay, Cochran, Coke, Coleman, Collingsworth, Colorado, Comal, Comanche, Cooke, Coryell, Cottle, Crockett, Crosby, Culberson, Dallam, Dallas, Dawson, Deaf Smith, Denton, DeWitt, Dimmit, Donley, Duval, Eastland, Ector, Edwards, Ellis, El Paso, Erath, Falls, Fayette, Fisher, Floyd, Fort Bend, Franklin, Freestone, Frio, Gaines, Garza, Gillespie, Glasscock, Goliad, Gonzales, Gray, Grimes, Guadalupe, Hale, Hall, Hamilton, Hansford, Hardeman, Hardin, Harris, Harrison, Hartley, Haskell, Hays, Hemphill, Henderson, Hidalgo, Hill, Hockley, Hood, Houston, Howard, Hudspeth, Hunt, Hutchinson, Irion, Jack, Jackson, Jasper, Jeff Davis, Jefferson, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kent, Kerr, Kimble, Kinney, Knox, Lamar, Lamb, Lampasas, Lavaca, Lee, Liberty, Limestone, Lipscomb, Live Oak, Llano, Lubbock, Lynn, Madison, Martin, Mason, Matagorda, Maverick, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Moore, Motley, McCulloch, McLennan, Navarro, Newton, Nolan, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Pecos, Polk, Potter, Presidio, Randall, Reagan, Real, Red River, Reeves, Roberts, Robertson, Runnels, Rusk, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Sherman, Smith, Somervell, Starr, Stephens, Sterling, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terrell, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upton, Uvalde, Val Verde, Victoria, Walker, Waller, Ward, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Wise, Yoakum, Young and Zavala Counties; and to all of the water area of Lake Tawakoni located within Rains, Van Zandt, and Kaufman Counties; and to all of the water area of the Joe B. Hogsett Reservoir known as the Cedar Creek Reservoir, located within Henderson and Kaufman Counties; and to the land and water area of the Somerville Reservoir located in Burleson, Lee and Washington Counties; and to that portion of Lake Texoma in Cooke and Grayson Counties; and to all of the water area of the Sam Rayburn Reservoir in Angelina, Nacogdoches, Sabine and San Augustine Counties; and to all the water area of Toledo Bend Reservoir in Sabine and Shelby Counties; and to all of the water area of Lake Palestine located in Anderson, Smith, Cherokee, and Henderson Counties; and to all the water area of Falcon Reservoir located in Zapata County.

Sec. 1 amended by Acts 1969, 61st Leg., p. 380, ch. 141, § 1, eff. Sept. 1, 1969; Acts 1969, 61st Leg., p. 251, ch. 98, § 1, eff. Sept. 1, 1969; Acts 1969, 61st Leg., p. 620, ch. 215, § 1, eff. Sept. 1, 1969; Acts 1969, 61st Leg., p. 709, ch. 249, § 1, eff. Sept. 1, 1969; Acts 1969, 61st Leg., p. 900, ch. 301, § 1, emerg. eff. May 22, 1969; Acts 1969, 61st Leg., p. 1109, ch. 359, § 1, emerg. eff. May 27, 1969; Acts 1969, 61st Leg., p. 1565, ch. 474, § 1, emerg. eff. June 10, 1969; Acts 1969, 61st Leg., p. 1618, ch. 499, § 1, eff. Sept. 1, 1969; Acts 1969, 61st Leg., p. 1668, ch. 531, § 1, emerg. eff. June 10, 1969; Acts 1969, 61st Leg., p. 1717, ch. 566, § 1, emerg. eff. June 10, 1969; Acts 1969, 61st Leg., p. 1732, ch. 570, § 1, emerg. eff. June 10, 1969.

Definitions

Sec. 3.

* * * * *

c. For the purpose of this Act, the wildlife resources of the State of Texas are defined to be all the game birds and game animals, fur-bearing animals of all kinds, alligators, fish and other aquatic life and marine animals of all kinds; provided however that the following limitations apply in the counties herein mentioned:

(1.) In Aransas, Jefferson, Matagorda, and Orange Counties shrimp are not included in the term "wildlife resources."

(2.) In Austin and Waller Counties, only deer, quail, and turkeys are included in the term "wildlife resources."

(3.) In Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Pecos, Presidio, Reeves, and Terrell Counties fish are not included in the term "wildlife resources."

(4.) In Burleson County fish are not included in the term "wildlife resources," except in the Somerville Reservoir.

(5.) In Duval County antlerless deer are not included in the term "wildlife resources."

(6.) In Calhoun, Harris and Victoria Counties salt water species of marine life are not included in the term "wildlife resources."

(7.) In Goliad and Live Oak Counties, only wild deer, wild turkey, wild quail and alligators, are included in the term "wildlife resources."

(8.) In Jasper, Newton and Tyler Counties, fox are not included in the term "wildlife resources."

(9.) In Bowie, San Patricio and Victoria Counties, quail are not included in the term "wildlife resources."

Text of paragraph (9) as appearing in Acts 1969, 61st Leg., p. 1110, ch. 360, § 1, see paragraph (9), post.

(9.) In Bowie, Lamb, San Patricio and Victoria Counties, quail are not included in the term "wildlife resources."

Text of paragraph (9) as amended by Acts 1969, 61st Leg., p. 1143, ch. 369, § 1, see paragraph (9), ante.

(10.) Omitted by Acts 1969, 61st Leg., p. 1110, ch. 360, § 1.

(11.) In the Sam Rayburn Reservoir in Angelina, Nacogdoches, Sabine, and San Augustine Counties, only fresh water fish are included in the term "wildlife resources."

(12.) In the Falcon Reservoir in Zapata County, only freshwater fish are included in the term "wildlife resources."

Paragraph (12) added by Acts 1969, 61st Leg., p. 1109, ch. 359, § 2, see paragraph (12), post.

(12.) In that part of Toledo Bend Reservoir in Sabine and Shelby Counties only fish are included in the term "wildlife resources."

Paragraph (12) added by Acts 1969, 61st Leg., p. 1618, ch. 499, § 2, see paragraph (12), ante.

(13.) In Colorado County, deer are not included in the term "wildlife resources."

Paragraph (13) added by Acts 1969, 61st Leg., p. 1732, ch. 570, § 1A, see paragraph (13), post.

(13.) In Smith County only quail and deer are included in the term "wildlife resources."

Paragraph (13) added by Acts 1969, 61st Leg., p. 1497, ch. 448, § 1, see paragraph (13), ante.

d. For the purposes of this Act the following limitations apply within the Counties named in this subsection.

(1.) In Aransas County this Act does not apply to the part of San Antonio Bay lying within the northeast part of Aransas County, nor to the Aransas River where it forms the boundary with Refugio County, nor to Copano Creek where it forms the boundary with Calhoun County.

(2.) In Cameron County this Act applies to the waters of the Laguna Madre and its abutting waters but does not apply to the waters of the Gulf of Mexico.

Sec. 3, subsec. c amended by Acts 1969, 61st Leg., p. 1109, ch. 359, § 2, emerg. eff. May 27, 1969; Acts 1969, 61st Leg., p. 1110, ch. 360, § 1, emerg. eff. May 27, 1969; Acts 1969, 61st Leg., p. 1143, ch. 369, § 1, emerg. eff. May 29, 1969; Acts 1969, 61st Leg., p. 1497, ch. 448, § 1, eff. Sept. 1, 1969; Acts 1969, 61st Leg., p. 1618, ch. 499, § 2, eff. Sept. 1, 1969; Acts 1969, 61st Leg., p. 1732, ch. 570, § 1A, emerg. eff. June 10, 1969. Sec. 3, subsec. d amended by Acts 1969, 61st Leg., p. 1618, ch. 499, § 2A, eff. Sept. 1, 1969.

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Special Provisions

Sec. 13.

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b. In Bandera, Coke, Crockett, Edwards, Hays, Kerr, Kimble, Kinney, Lampasas, Medina, Menard, Reagan, Real, San Saba, Schleicher, Sutton, and Val Verde Counties, orders, rules and regulations adopted in accordance with Section 8 of this Act shall not be effective as provided in Section 9 unless and until they have been approved by the Commissioners Court of each of such counties. The Commissioners Court in each county named in this subsection shall approve or disapprove the Commission's rule, regulation or order and any order or part of order at its next regular meeting occurring more than five (5) days after adoption by the Commission. If approved, the rule, regulation or order becomes effective at the time specified in the proclamation by the Commission. If disapproved, for any of the above named counties, no public hearing on a similar proposal for the county may be held for a period of six (6) months unless a majority of said Commissioners Court certifies to the Commission that there has been some material change in the surrounding circumstances which necessitates the holding of a public hearing within the six month period. If the Commissioners Court disapproves the rules, regulations or orders promulgated by the Commission, then the taking of the wildlife resources of the county is regulated by the general law until such time as the Commissioners Court approves rules, regulations, or orders subsequently promulgated by the Commission.

Subsec. b as amended by Acts 1969, 61st Leg., p. 1143, ch. 369, § 2, see subsec. b, post.

b. In Bandera, Coke, Crockett, Edwards, Hays, Kerr, Kimble, Kinney, Lampasas, Medina, Menard, Reagan, Real, Schleicher, Sutton, and Val Verde Counties, and in Lamb County with regard to quail season only, orders, rules and regulations adopted in accordance with Section 8 of this Act shall not be effective as provided in Section 9 unless and until they have been approved by the Commissioners Court of each of such counties. The Commissioners Court in each county named in this subsection shall approve or disapprove the Commission's rule, regulation or order or in Lampasas any order or part of order, at its next regular meeting occurring more than five (5) days after adoption by the Commission. If approved, the rule, regulation or order becomes effective at the time specified in the proclamation by the Commission.

For Annotations and Historical Notes, see V.A.T.S.

If disapproved, for any of the above named counties, no public hearing on a similar proposal for the county may be held for a period of six (6) months unless a majority of said Commissioners Court certifies to the Commission that there has been some material change in the surrounding circumstances which necessitates the holding of a public hearing within the six month period. If the Commissioners Court disapproves the rules, regulations or orders promulgated by the Commission, then the taking of the wildlife resources of the county is regulated by the general law until such time as the Commissioners Court approves rules, regulations, or orders subsequently promulgated by the Commission.

Subsec. b as amended by Acts 1969, 61st Leg., p. 1110, ch. 360, § 2, see subsec. b, ante.

Sec. 13, subsec. b amended by Acts 1969, 61st Leg., p. 1110, ch. 360, § 2, emerg. eff. May 27, 1969; Acts 1969, 61st Leg., p. 1143, ch. 369, § 2, emerg. eff. May 29, 1969.

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Repealer

Sec. 15.¹ It being the intent of the Legislature in this Act to "codify" all previous Acts of the Legislature of a similar nature into a single Act and thereby reduce the bulk of such legislation and to produce a greater degree of uniformity, the following Acts are hereby specifically repealed: Chapter 23, Acts of the 42nd Legislature, Second Called Session, 1931, codified as Article 4026a Vernon's Civil Statutes and Article 978i Vernon's Penal Code; Chapter 25, Special Laws, Acts of the 44th Legislature, Regular Session, 1935; Chapters 209 and 213, Acts of the 48th Legislature, Regular Session, 1943; Chapter 25, Acts of the 49th Legislature, Regular Session, 1945; Chapter 36, Acts of the First Called Session of the 51st Legislature, 1950; Chapter 125, Acts of the 52nd Legislature, Regular Session, 1951; Chapter 11, 96, and 499, Acts of the 54th Legislature, Regular Session, 1955; Chapters 50, 115, and 181, Acts of the 55th Legislature, Regular Session, 1957; Chapter 40, Acts of the 55th Legislature, First Called Session, 1957; Chapter 19, Acts of the 55th Legislature, Second Called Session, 1957; Chapters 12, 109, 121, 125, 246, 276, and 278, Acts of the 56th Legislature, Regular Session, 1959; Chapters 9 and 20, Acts of the 56th Legislature, Third Called Session, 1959; Chapters 40, 47, 59, 86, 99, 106, 176, 241, 245, 250, 340, 354, 360, 492, 510, 521 and 534, Acts of the 57th Legislature, Regular Session, 1961; Chapters 7, 44, 48, and 55, Acts of the 57th Legislature, First Called Session, 1961; Chapter 76, Acts of the 57th Legislature, Third Called Session, 1962; Chapters 18, 141, 252, 271, 287, 376, 408, and 421, Acts of the 58th Legislature, Regular Session, 1963, except that Sec. 15 of Chapter 252 protecting alligators in Refugio County is not repealed; and Chapters 156, 166, 169, 228, 244, 374, 393, 395, 411, 421, 422, 424, 499, 508, 566, 574, 590, and 636, Acts of the 59th Legislature, Regular Session, 1965, except that Section 4 of Chapter 228 regulating sale of fish from Lake Towakoni is not repealed; provided further that: (a) Sections 15A, and 14(a), 16 and 20 of Chapter 508 relating to shrimping and penalty in Matagorda County shall not be repealed but shall remain in full force and effect; and, (b) that Chapter 428, Acts of the 59th Legislature, Regular Session, 1965, shall not be affected or repealed; and, (c) in Calhoun and Victoria Counties Chapter 321, Acts of the 54th Legislature, Regular Session, 1955; Chapter 197, Acts of the 55th Legislature, Regular Session, 1957; Chapter 447, Acts of the 57th Legislature, Regular Session, 1961; and Chapter 230, Acts of the 58th Legislature, Regular Session, 1963, and any other laws relating to netting for fish in Calhoun or Victoria Counties shall not be altered or affected; and (d) in Cameron County Chapter 80, Acts of the 54th Legislature, Regular Session, 1955 and Chapter 187, Acts of the 56th Legislature, Regular Session, 1959 commonly known as the Texas Shrimp Conservation Act in-

sofar as it relates to any shrimping activities in outside waters of the Gulf of Mexico, shall not be repealed, altered or affected; and (e) in Colorado County the provisions of Article 888, Penal Code of Texas, 1925, shall not be affected; and (f) in Webb County Articles 901, 902, and 924a of the Penal Code of the State of Texas shall not be affected; and (g) in Bowie County the provisions of Chapter 336, Acts of the 58th Legislature, Regular Session, 1963, as amended, shall not be repealed; and (h) in Falls and Limestone Counties the provisions of Chapter 70, Acts of the 55th Legislature, Regular Session, 1957, shall not be repealed; and, (i) in Hardin, Jasper, Newton, Orange, Polk and Tyler Counties the provisions of Chapter 510, Acts of the 58th Legislature, Regular Session, 1963, are not repealed; and (j) in Harrison and Rusk Counties the provisions of Chapter 493, Acts of the 52nd Legislature, Regular Session, 1951, as amended, are not repealed; and (k) in Hidalgo County the provisions of Chapter 327, Acts of the 54th Legislature, Regular Session, 1955, as amended, are not repealed; and (l) in Liberty County, the provisions of Chapter 574, Acts of the 59th Legislature, Regular Session, 1965, are not repealed; and (m) in Limestone County the provisions of Chapter 429, Acts of the 59th Legislature, Regular Session, 1965, are not repealed; and (n) in Jefferson and Orange Counties the provisions of Chapter 339, Acts of the 58th Legislature, Regular Session, 1963, are not repealed; and (o) in Rusk County the provisions of Chapter 415, Acts of the 59th Legislature, Regular Session, 1965, shall not be repealed. Sections 1 and 3 of House Bill 50, Sections 1, 2 and 4 of House Bill 289, all of House Bill 429, Sections 2 and 3 of House Bill 944, all of House Bills 1261, 1274, and 1335, which bills of the present session would affect counties concerned in this Act are hereby specifically saved from repeal. However it is the intent of the Legislature to incorporate within this Act applicable provisions of the following bills of the 60th Legislature: House Bills 4, 50, 277, 289, 432, 500, 519, 522, 529, 560, 583, 590, 597, 645, 679, 725, 817, 912, 918, 944, 962, 964, 983, 1001, 1053, 1311, 1327, and Senate Bill 555.² Any and all laws, general and special, and not specifically saved from repeal in this section, but in conflict with the provisions of this Act are repealed to the extent of such conflict only. In the event any county now regulated by this Act is hereafter removed by any Act of the Legislature, the general game laws of this state in effect at the time of such removal shall apply to such county.

Sec. 15 amended by Acts 1969, 61st Leg., p. 1805, ch. 609, § 1, emerg. eff. June 10, 1969.

¹ For allocation of laws affected by this section see Tables Volume, Vernon's Ann. Statutes.

² See articles 978j notes, 978l—2 note and 978n—1 note.

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Art. 978j—2. Fish farm; taking fish without consent of owner

Section 1. It shall be unlawful for any person, other than the owner or operator thereof, to fish or to take any fish from any fish farm, except with the consent of the owner or operator thereof.

Sec. 2. Any person violating Section 1 hereof, shall upon conviction thereof, be guilty of a misdemeanor and subject to a fine of not less than \$25 nor more than \$200. Any person violating Section 1 of this Act, who shall take fish of a value in excess of \$200 from any such fish farm shall upon conviction thereof, be guilty of a felony and punished by imprisonment in the state penitentiary for a term of not more than 10 years.

Acts 1969, 61st Leg., p. 769, ch. 260, emerg. eff. May 21, 1969.

Section 3 of Act of 1969 repealed conflicting laws and section 4 was a severability provision.

Title of Act:

An Act to make it unlawful for any person to fish or to take fish from any fish

farm without the consent of the owner; to provide a penalty for the violation of this Act; and declaring an emergency. Acts 1969, 61st Leg., p. 767, ch. 260.

For Annotations and Historical Notes, see V.A.T.S.

Art. 978j—3. Protection of alligators

Section 1. No person may take, catch, kill, buy, or sell, or attempt to take, catch, kill, buy, or sell, alligators or alligator hides, or may possess an alligator or its hide, in this state, except that nothing in this law shall prohibit the possession of such alligator hide in the form of a final processed and manufactured product.

Sec. 2. This Act does not prohibit the taking and possession of alligators or hides as provided by Article 913, Penal Code of Texas, 1925.

Sec. 3. Any person who shall have in his possession or control any live alligators or hides at the effective date of this Act shall have until January 1, 1970 to legally dispose of the same.

Sec. 4. A person who violates this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$25 nor more than \$200.

Sec. 5. Chapter 94, Acts of the 52nd Legislature, 1951; Chapter 206, Acts of 56th Legislature, Regular Session, 1959; Chapter 144, Acts of the 57th Legislature, Regular Session, 1961, as amended by Chapter 418, Acts of the 59th Legislature, Regular Session, 1965; Chapter 68, Acts of the 57th Legislature, 3rd Called Session, 1962; Chapter 401, Acts of the 58th Legislature, 1963, as amended by Chapter 517, Acts of the 60th Legislature, Regular Session, 1967; and Section 15, Chapter 252, Acts of the 58th Legislature, 1963, are repealed.¹

Acts 1969, 61st Leg., p. 1957, ch. 657, eff. Sept. 1, 1969.

¹ Article 978, notes.

Title of Act:

An Act protecting alligators in this state; providing a penalty for violation; repealing Chapter 94, Acts of the 52nd Legislature, 1951; Chapter 206, Acts of the 56th Legislature, Regular Session, 1959; Chapter 144, Acts of the 57th Legislature, Regular

Session, 1961, as amended; Chapter 68, Acts of the 57th Legislature, 3rd Called Session, 1962; Chapter 401, Acts of the 58th Legislature, 1963, as amended; and Section 15, Chapter 252, Acts of the 58th Legislature, 1963; and declaring an emergency. Acts 1969, 61st Leg., p. 1957, ch. 657.

Art. 978l—8. Lower Colorado River Authority; hunting; archery or rifle ranges.

Section 1. (a) Except as provided in this Section, it shall be unlawful for a person to carry, transport, shoot, discharge, or hunt with a bow, crossbow, slingshot, gun, firearms or any other type of weapon in, on, over, across or upon the lands of the Lower Colorado River Authority, an agency of the State of Texas.

(b) The Board of Directors of the Lower Colorado River Authority may lease land owned by the authority to be used exclusively for an archery range or rifle range and operated by the lessee on a nonprofit basis, provided that no hunting shall be allowed on any of such ranges.

(c) On lands owned by the authority and leased to or used with the consent of the authority by the Boy Scouts or Girl Scouts of America or other organized nonprofit public service groups or organizations, persons who are members of such groups or organizations may carry, transport, shoot, or discharge any bow, crossbow, or firearm on or over the land only for target practice or instructional purposes, but not for hunting, and only on ranges, designated by the Lower Colorado River Authority and only under the supervision of a qualified instructor duly registered and approved by the Lower Colorado River Authority.

(d) The Lower Colorado River Authority shall maintain in its Austin office a current listing of approved and registered instructors and a map indicating designated ranges available upon request to enforcement officers and county attorneys.

Acts 1963, 58th Leg., p. 1145, ch. 443, eff. Aug. 23, 1963. Amended by Acts 1969, 61st Leg., p. 162, ch. 61, § 1, emerg. eff. April 3, 1969.

TITLE 14—TRADE AND COMMERCE

CHAPTER ONE—OFFENSES AFFECTING
WRITTEN INSTRUMENTS

Art. 994. Repealed by Acts 1969, 61st Leg., p. 3024, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts the Texas Education Code.

Art. 995. Penalty for forgery

Any person guilty of forgery shall be confined in the penitentiary not less than two nor more than seven years.

Reenacted Acts 1969, 61st Leg., 2nd C.S., p. 107, ch. 5, § 1, emerg. eff. Sept. 11, 1969.

This article was repealed by Texas Education Code, Acts 1969, 61st Leg., p. 2735, ch. 889, § 2.

Acts 1969, 61st Leg., 2nd C.S., p. 107, ch. 5, reenacting this article, provided in section 2: "The fact that in the enactment of the Texas Education Code Article 995 of the Penal Code was inadvertently repealed, and the crowded condition of the calendars in

both houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and this Rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted."

CHAPTER ELEVEN—GASOLINE AND
PETROLEUM PRODUCTS

Art.
1111c—1. Flammable liquids; storage, etc.,
at service stations [New].

Art. 1111c—1. Flammable liquids; storage, etc., at service stations

Definitions

Section 1. As used in this Act and in the rules and regulations promulgated pursuant to this Act:

(1) "Person" means individual, firm, association, corporation, or other private entity.

(2) "Board" means the State Board of Insurance.

(3) "Flammable liquid" means any liquid having a flash point below 140° Fahrenheit and having a vapor pressure not exceeding 40 pounds per square inch (absolute) at 100° Fahrenheit, but does not include liquefied petroleum gases.

(4) "Retail service station" means that portion of property where flammable liquids used as motor fuels are stored and dispensed from fixed equipment into the fuel tanks of motor vehicles and where such dispensing is an act of retail sale.

(5) "Bulk plant" means that portion of a property operated in conjunction with a retail service station where flammable liquids are received by tank vessel, tank car, or tank vehicle, and are stored or blended in bulk for the purpose of distributing such liquids by tank car, tank vehicle, or container.

Rules and regulations

Sec. 2. (a) The State Board of Insurance shall formulate, adopt, and promulgate rules and regulations for the safe storage, handling and use of flammable liquids at retail service stations within the scope provided by Sections 4, 5 and 6 of this Act.

(b) The rules and regulations shall be in substantial conformity with applicable provisions of the published standards of the National Fire Protection Association, in effect as of the effective date of this Act, covering the storage, handling, and use of flammable liquids at retail service stations.

(c) Nothing in this Act or the rules and regulations promulgated pursuant to this Act shall in any manner be interpreted as prohibiting, or permitting the prohibition of, self-service gasoline station operations, so long as such stations require an attendant to be on the premises.

Enforcement

Sec. 3. The state fire marshal, county fire marshals, and city fire marshals shall enforce the provisions of this Act and the rules and regulations adopted by the State Board of Insurance under the supervision of the board.

Storage tanks

Sec. 4. (a) Flammable liquids shall not be stored at retail service stations in tanks of more than 60 gallons gross capacity above the surface of the ground. Underground flammable liquid tanks at retail service stations shall not be limited in individual or combined capacities or sizes.

(b) Retail service stations may be operated in conjunction with bulk plants having aboveground storage tanks provided there are separate underground tanks of not less than 550 gallons capacity each for final storage and dispensing of flammable liquids into fuel tanks of motor vehicles, and provided further that any piping connecting bulk plant storage tanks with underground tanks at the retail service station is equipped with a valve kept closed and locked other than when filling the underground tanks and within control of the operator of the retail service station. Aboveground tanks at bulk plants operated in conjunction with retail service stations on the same or contiguous properties shall be equipped with emergency vents of types and capacities provided by standards of the National Fire Protection Association.

Transitional rules

Sec. 5. The rules and regulations shall be made allowing reasonable provision under which facilities in service prior to the effective date of the rules and regulations and not in strict conformity therewith may be continued in service provided they do not constitute a distinct hazard to life or property. For guidance in enforcement, the rules and regulations may delineate those types of nonconformities that should be considered distinctly hazardous and those nonconformities which should be evaluated in the light of local conditions. The rules and regulations shall provide that reasonable notice be given to the person owning the facility affected of intention to evaluate the need for compliance and the time and place at which he may appear and offer evidence thereon.

Hearings on rule changes

Sec. 6. (a) No rule or regulation shall be promulgated, amended, or repealed until after a public hearing.

(b) Written notice shall be given at least 20 days in advance of the hearing by certified mail to any interested person having registered his name and mailing address with the state fire marshal. The notice shall

include the text or a summary of the substance of each rule or regulation to be considered.

(c) No rule or regulation may be made effective until a certified copy of the rule or regulation has been filed with the secretary of state.

(d) The board shall make copies of the rules and regulations available to interested persons on payment of a reasonable fee to cover the cost of publication.

Vehicle regulations

Sec. 7. The size and weight of and load carried by vehicles used in the transportation or delivery of flammable liquids from any point of origin to any point of destination shall not be limited other than in accordance with applicable provisions of the motor vehicle and highway laws of the state and any municipal or county ordinance, rule or regulation in force and effect on the effective date of this Act.

Inconsistent local regulations

Sec. 8. The provisions of this Act and the rules and regulations promulgated under this Act shall have uniform force and effect throughout the state and no municipality or county shall hereinafter enact or enforce any ordinances, rules or regulations inconsistent with the provisions of this Act or rules and regulations promulgated pursuant to this Act. Provided, however, that any municipal or county ordinances, rules or regulations in force and effect on the effective date of this Act shall not be invalidated because of any provision of this Act.

Declaratory relief to test validity of rules

Sec. 9. A person affected or aggrieved by any rule or regulation promulgated under this Act may sue in a district court of Travis County for a declaratory judgment as to the validity of the rule or regulation or the validity of its application to him. Process shall be served on the attorney general and the commissioner of insurance. The provisions of the Uniform Declaratory Judgments Act (Article 2524-1, Vernon's Texas Civil Statutes) apply to the extent they may be made applicable.

Provided that no provision of this Act shall prevent any person affected or aggrieved by any municipal or county ordinance, rule or regulation referred to hereinabove in force and effect on the effective date of this Act from seeking a judicial determination as to the validity or constitutionality of such ordinance, rule or regulation or the validity of this application to such person under the rules of this State.

Violations

Sec. 10. A person engaged in the business of storing, selling, or other handling of flammable liquids, who violates any rule or regulation promulgated under this Act is guilty of a misdemeanor and upon conviction is punishable by confinement in the county jail for not more than 60 days or by a fine of not more than \$1,000, or by both. A separate offense is committed each day a violation continues.

Civil penalties

Sec. 11. (a) In addition to or in lieu of the criminal penalties provided by Section 10 of this Act, a person who violates any rule or regulation promulgated under this Act is liable to a civil penalty not to exceed \$100 for each day of the violation.

(b) The civil penalty is recoverable in a district court of:

(1) Travis County;

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- (2) the county where the defendant resides; or
- (3) the county where the violation occurs.
- (c) At the request of the board, the attorney general shall institute and conduct a suit in the name of the State of Texas to recover the penalty.

Injunction

Sec. 12. (a) Whenever it appears that a person is violating or threatening to violate any rule or regulation promulgated under this Act, the board may bring suit against the person in a district court of the county in which the violation or threat of violation occurs, to restrain the person from continuing the violation or carrying out the threat of violation. The attorney general shall represent the board when requested to do so.

(b) In any suit under this section, the court may grant the board, without bond or other undertaking, any prohibitory or mandatory injunction the facts may warrant, including temporary restraining orders, temporary injunctions, and permanent injunctions.

(c) Either party may appeal as in other civil cases.

Effective dates

Sec. 13. Regulations of the board may not be made effective before January 1, 1970. Otherwise, this Act takes effect September 1, 1969. Acts 1969, 61st Leg., p. 1692, ch. 550, emerg. eff. Sept. 1, 1969.

Title of Act:

An Act relating to regulation of the storage, handling, and use of flammable liquids at retail service stations; providing for

enforcement and penalties; and declaring an emergency. Acts 1969, 61st Leg., p. 1692, ch. 550.

TITLE 15—OFFENSES AGAINST THE PERSON

CHAPTER THREE—HAZING AND OTHER VIOLENCE

Arts. 1152 to 1155. Repealed by Acts 1969, 61st Leg. p. 3024, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts the Texas Education Code.

CHAPTER FOUR—ASSAULT WITH INTENT TO COMMIT SOME OTHER OFFENSES

Art. 1160a. Assault upon peace officer with intent to murder [New].

Art. 1160a. Assault upon peace officer with intent to murder

Section 1. In this Act, "peace officer" means any person defined as a peace officer by Article 2.12, Code of Criminal Procedure, 1965.

Sec. 2. A person who assaults a peace officer with intent to murder while said officer is in performance of his official duty, knowing that the person assaulted is a peace officer, is guilty of a felony and upon conviction is punishable by imprisonment in the penitentiary for life or for any term of years not less than two.

Acts 1969, 61st Leg., p. 1575, ch. 480, emerg. eff. June 10, 1969.

Title of Act:

An Act relating to assault of a peace officer with intent to murder; providing a penalty; and declaring an emergency. Acts 1969, 61st Leg., p. 1575, ch. 480.

For Annotations and Historical Notes, see V.A.T.S.

TITLE 17—OFFENSES AGAINST PROPERTY

CHAPTER THREE—MALICIOUS MISCHIEF

Art. 1362. Repealed by Acts 1969, 61st Leg., p. 483, ch. 154, § 1, eff. Sept. 1, 1969

See, now, art. 698c.

CHAPTER FOUR—TIMBERS AND LOGS

Art.

1379a. Damaging utility lines by causing cut trees to fall thereon [New].

Art. 1379a. Damaging utility lines by causing cut trees to fall thereon

Section 1. It shall be unlawful for any person who is actively engaged in commercial harvesting of any trees or timber to cut a tree or limb therefrom willfully causing such tree or limb to fall on any electric transmission or distribution line, or any telephone line or cable, breaking, or damaging, such line or cable.

Sec. 2. Any person who shall violate this Act shall be guilty of a misdemeanor and shall be fined not less than \$50 nor more than \$200. Acts 1969, 61st Leg., 2nd C.S. p. 66, ch. 14, emerg. eff. Sept. 19, 1969.

Section 3 of Act of 1969 provided: "This Act shall be construed as cumulative of existing laws, and not as repealing or amending same."

Title of Act:

An Act making it a misdemeanor for any person who is actively engaged in commercial harvesting of any trees or timber to cut a tree, or limb therefrom, willfully

causing such tree or limb to fall on any electric transmission or distribution line, or any telephone line or cable, breaking or damaging such line or cable so as to disrupt the service; providing a penalty; making such act cumulative; and declaring an emergency. Acts 1969, 61st Leg., 2nd C.S. ch. 14.

CHAPTER FOURTEEN—DISEASES OF ANIMALS AND BEES

Art. 1525b. Eradicating diseases among live stock and domestic fowls

Diseases of swine; testing; slaughter of infected swine; payments to owners; feeding garbage to swine; inspections

Sec. 22a. * * *

* * * * *

(7a) After January 1, 1970, it is unlawful for any person to feed garbage to swine without first registering with the Commission on a form prescribed by the Commission and securing a permit. The Commission shall furnish registration forms on request. This subsection does not apply to an individual who feeds to his own swine the garbage from his own household, farm, or ranch.

Sec. 22a(7a) added by Acts 1969, 61st Leg., p. 1563, ch. 471, § 1, eff.

Sept. 1, 1969.

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Art. 1525c. Tick Eradication Law

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Commission to prescribe dipping materials; method of testing by inspectors

Sec. 8. (a) The Texas Animal Health Commission shall prescribe in its rules and regulations the dipping materials to be used in the dipping of cattle, horses, mules, jacks and jennets, under the provisions of this Act, and the same shall be recognized official dipping materials for the dipping of such livestock, under the provisions of this Act, and no other dipping materials shall be used for such purposes.

(b) If the dipping solution is designated as a solution using dipping materials of the kind that are ordinarily known as arsenical dipping materials used for the dipping of livestock for the eradication of the fever-carrying tick, the Commission shall also prescribe in its rules and regulations the manner and method by which its inspectors shall test such arsenical dipping solution after the same has been mixed with water in the dipping vat for the purpose of determining the arsenical contents of the solution. The testing of said dipping solution shall be by the use of testing outfits, testing materials and testing fluids furnished to inspectors by the Texas Animal Health Commission or by the United States Department of Agriculture, Animal Health Division, in cooperation with said Commission, for the purpose of ascertaining said arsenical contents. When a test is made of said dipping solution by the use of the testing outfit, testing materials and testing fluid furnished by said Commission or Bureau, as herein provided, the same shall be accepted as the official test of said dipping solution. In the dippings of cattle, horses, mules, jacks and jennets in regular tick eradication, other than for official movement of said livestock, the test of said dipping solution after being mixed with water in the vat ready for dipping shall be not less than eighteen cubic centimeters or not more than twenty cubic centimeters, as shown by the test made with said testing outfits, testing material and testing fluid. By the term "not less than eighteen cubic centimeters and not more than twenty cubic centimeters" is meant that in making said test with said testing outfit, testing material and testing fluid in accordance with the directions contained in the rules and regulations of the Texas Animal Health Commission, the inspector who makes said test secures the results described in said rules and regulations, to-wit: a decided change of color of said dipping material to a light purple, as showing the completion of said test, by mixing not less than eighteen cubic centimeters nor more than twenty cubic centimeters of testing fluid with twenty-five cubic centimeters of said dipping solution into which has been dissolved a test tablet furnished with said testing outfit by said Texas Animal Health Commission or Animal Health Division, United States Department of Agriculture. In the trial of any case in connection with the dipping or failure to dip livestock under any provision of this Act, it shall be presumed that the dipping vat in question contained a sufficient amount of said dipping solution for dipping said livestock and that said dipping solution had been properly tested and that it showed the above test, or that said dipping solution could have and would have been put into said vat and tested to show the above test if the owner or caretaker had brought his livestock to said dipping vat for the purpose of dipping; and it shall not be necessary for the state to allege and prove in any criminal prosecution for failure to dip livestock under any provision of this Act, that said vat contained said dipping solution showing said test. If it becomes necessary in any court proceeding to prove the test of said dipping solution, it shall only be necessary to prove that the dipping material used was one of the official dipping materials prescribed in the rules and regulations of the Texas Animal Health Commission, and that the inspector tested said dipping solution in accordance with the pro-

For Annotations and Historical Notes, see V.A.T.S.

visions of this Section and of the rules and regulations of the Texas Animal Health Commission and that the test showed not less than eighteen cubic centimeters or not more than twenty cubic centimeters, as defined and explained in this Section and in said rules and regulations. When said dipping material is mixed with water in the dipping vat and is tested by an inspector of said Commission and shows a test at any strength of not less than eighteen cubic centimeters or not more than twenty cubic centimeters, it shall be the duty of all owners and caretakers of livestock which are subject to dipping to dip said livestock in said dipping solution at said strength, as shown by said test. The twenty-two cubic centimeter test elsewhere referred to in this Act shall be made in the same manner herein described by securing said change in color by mixing twenty-two cubic centimeters of said testing fluid in said dipping solution in which has been dissolved said test tablet.

(c) The Texas Animal Health Commission shall have the authority to prescribe by rule or regulation other dipping materials for use in the dipping of cattle, horses, mules, jacks and jennets under the provisions of this Act. The rules and regulations prescribing other dipping materials shall also set forth the purpose for which each dipping material is to be used and the manner in which each dipping solution shall be prepared.

Sec. 8 amended by Acts 1969, 61st Leg., p. 14, ch. 6, § 1, emerg. eff. March 4, 1969.

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CHAPTER SIXTEEN—SWINDLING AND CHEATING

Art.

1555c. Credit card theft [New].

Art. 1555c. Credit card theft

Definitions

Section 1. As used in this Act:

(1) "Cardholder" means the person or organization named on the face of a credit card to whom or for whose benefit the credit card is issued.

(2) "Credit card" means any instrument or device, whether known as a credit card, credit plate, or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services, or anything else of value on credit.

(3) "Expired credit card" means a credit card which is no longer valid because the term shown on it has elapsed.

(4) "Issuer" means any person, firm, corporation or financial institution which issues a credit card, or its duly authorized agent.

(5) "Receives" or "receiving" means acquiring possession or control or accepting as security for a loan.

(6) "Revoked credit card" means a credit card which is no longer valid because permission to use it has been suspended or terminated by the issuer.

Theft by taking or retaining possession of card taken

Sec. 2. A person who takes a credit card from the person, possession, custody, or control of another without the cardholder's consent, or who, with knowledge that it has been so taken, receives the credit card with intent to use it or to sell it, or to transfer it to a person other than the issuer or the cardholder, is guilty of credit card theft and is subject to the penalties set forth in Section 13(a) of this Act.

Theft of credit card lost, mislaid, or delivered by mistake

Sec. 3. A person who receives a credit card that he knows to have been lost, mislaid, or delivered under a mistake as to the identity or address of the cardholder, and who retains possession with intent to use it or to sell it or to transfer it to a person other than the issuer or the cardholder, is guilty of credit card theft and is subject to the penalties set forth in Section 13(a) of this Act.

Purchase or sale of credit card of another

Sec. 4. A person other than the issuer who sells a credit card or a person who buys a credit card from a person other than the issuer is guilty of credit card theft and is subject to the penalties set forth in Section 13(a) of this Act.

Obtaining control of credit card as security for debt

Sec. 5. A person who, with intent to defraud the issuer, a person or organization providing money, goods, services, or anything else of value, or any other person, obtains control over a credit card as security for debt, is guilty of credit card theft and is subject to the penalties set forth in Section 13(a) of this Act.

Dealing in credit cards of another

Sec. 6. A person, other than the issuer, who during any 12-month period receives, on giving of any consideration, credit cards issued in the names of two or more persons which he has reason to know were taken or retained under circumstances which constitute credit card theft, is guilty of credit card theft and is subject to the penalties set forth in Section 13(a) of this Act.

Forgery of credit card

Sec. 7. (a) A person who, with intent to defraud a purported issuer, a person or organization providing money, goods, services, or anything else of value, or any other person, falsely makes or falsely embosses a purported credit card or utters such a credit card, is guilty of credit card forgery and is subject to the penalties set forth in Section 13(b) of this Act.

(b) A person other than the purported issuer who possesses two or more credit cards which are falsely made or falsely embossed is presumed to have violated this section.

(c) A person "falsely makes" a credit card when he makes or draws, in whole or in part, a device or instrument which purports to be the credit card of a named issuer but which is not such a credit card because the issuer did not authorize the making or drawing, or alters a credit card which was validly issued.

(d) A person "falsely embosses" a credit card when, without the authorization of the named issuer, he completes a credit card by adding any of the matter, other than the signature of the cardholder, which an issuer requires to appear on the credit card before it can be used by a cardholder.

Signing credit card of another

Sec. 8. A person other than the cardholder or a person authorized by him who, with intent to defraud the issuer, or a person or organization providing money, goods, services, or anything else of value, or any other person, signs or writes his name or the name of another person on a credit card, violates this subsection and is subject to the penalties set forth in Section 13(a) of this Act.

Fraudulent use or representation

Sec. 9. (a) A person who, with intent to defraud the issuer, a person or organization providing money, goods, services, or anything else of value, or any other person, (i) uses for the purpose of obtaining money, goods, services, or anything else of value a credit card obtained or retained in violation of any provision of Sections 2-8 of this Act or a credit card which he knows is forged, expired, or revoked, or (ii) obtains money, goods, services, or anything else of value by representing without the consent of the cardholder that he is the holder of a specified card or by representing that he is the holder of a card and such card has not in fact been issued, is guilty of an offense and is subject to the penalties set forth in Section 13(b) of this Act.

(b) Notice of revocation shall be sent by United States mail, registered or certified, return receipt requested. Such notice shall be effective from and after the date the cardholder or his agent signs the return receipt.

Fraud by person authorized to provide goods or services

Sec. 10. (a) A person who is authorized by an issuer to furnish money, goods, services, or anything else of value upon presentation of a credit card by the cardholder, or any agent or employees of such person, who with intent to defraud the issuer or the cardholder, furnishes money, goods, services, or anything else of value upon presentation of a credit card obtained or retained in violation of any provision of Sections 2-8 of this Act or a credit card which he knows is forged, expired, or revoked is guilty of an offense and is subject to the penalties set forth in Section 13(b) of this Act.

(b) A person who is authorized by an issuer to furnish money, goods, services, or anything else of value upon presentation of a credit card by the cardholder, or any agent or employee of such person, who, with intent to defraud the issuer or the cardholder, fails to furnish money, goods, services, or anything else of value which he represents in writing to the issuer that he has furnished, is guilty of an offense and is subject to the penalties set forth in Section 13(a) of this Act.

**Possession of machinery, plates or other contrivance
or incomplete credit cards**

Sec. 11. A person other than the cardholder possessing two or more incomplete credit cards, with intent to complete them without the consent of the issuer or a person possessing, with knowledge of its character, machinery, plates, or any other contrivance designed to reproduce instruments purporting to be the credit cards of an issuer who has not consented to the preparation of such credit cards, is guilty of an offense and is subject to the penalties set forth in Section 13(b) of this Act. A credit card is "incomplete" if part of the matter other than the signature of the cardholder, which an issuer requires to appear on the credit card, before it can be used by a cardholder, has not yet been stamped, embossed, imprinted, or written on it.

Receipt of money, goods, services

Sec. 12. A person who receives money, goods, services, or anything else of value obtained in violation of Section 9 of this Act, knowing or believing that it was so obtained, is guilty of an offense and is subject to the penalties set forth in Section 13(a) of this Act.

Penalties

Sec. 13. (a) A person who is subject to the penalties of this subsection shall be fined not more than \$1,000 or imprisoned in the penitentiary not more than two years, or both.

(b) A person who is subject to the penalties of this subsection shall be imprisoned in the penitentiary not more than seven years.

Act not exclusive

Sec. 14. This Act shall not be construed to preclude the applicability of any other provision of the criminal law of this state which presently applies or may in the future apply to any transaction which violates this Act, unless such provision is inconsistent with the terms of this Act.

Severability

Sec. 15. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Acts 1969, 61st Leg., p. 2429, ch. 813, eff. Sept. 1, 1969.

Title of Act:

An Act defining offenses relating to theft, use, possession, purchase, sale, retention, forgery, fraud, possession of equipment or materials, and other activities con-

nected with credit cards; prescribing penalties; and declaring an emergency. Acts 1969, 61st Leg., p. 2429, ch. 813.

TITLE 18—LABOR

CHAPTER SIX—WORKMEN AND FIREMEN

Art.

1583—3. Compensation of firemen and policemen for court appearances
[New].

Art. 1583—2. Compensation of firemen and policemen in certain cities; increase in salary; election

Section 1. It is hereby provided that in any city of this State of not less than one hundred seventy-five thousand (175,000) inhabitants, according to the last preceding Federal Census, or any succeeding Federal Census, each member of the Fire Department and of the Police Department shall receive and be paid the sum of not less than Two Hundred Twenty (\$220.00) Dollars per month, and the additional sum of Three (\$3.00) Dollars per month commencing January 1, 1970, for each year of service in such Police or Fire Department up to and including twenty-five (25) years of service in such department, as a minimum wage for the services so rendered. This longevity or service pay shall be paid in addition to all other moneys paid for services rendered in said departments.

It is provided further, that in all cities in this State with inhabitants thereof between ten thousand (10,000) and one hundred seventy-five thousand (175,000), according to the last preceding Federal Census, each member of the Fire Department and of the Police Department shall receive and be paid the following sums per month according to the population of each such city of ten thousand (10,000) or more and up to forty thousand and one (40,001), such salary shall be One Hundred Sixty-five (\$165.00) Dollars per month minimum; in all such cities with inhabitants of forty thousand and one (40,001) to one hundred thousand and one (100,001) inhabitants, such minimum salaries shall be One Hundred Ninety-five (\$195.00) Dollars per month; and in all such cities from one hundred thousand and one (100,001) to one hundred seventy-five thousand (175,000) inhabitants, such minimum salaries shall be Two Hundred Ten (\$210.00) Dollars per month; and in all such cities the additional sum of Three (\$3.00) Dollars per month commencing January 1, 1970, for each year of service in such Fire or Police Department up to and including twenty-five (25) years of service in such department, as a minimum wage for the services so rendered. This longevity or service pay shall be paid in addition to all other moneys paid for services rendered in said departments.

Provided, however, that in all cities in this State having a population in excess of ten thousand (10,000), according to the last preceding Federal Census, or any succeeding Federal Census, the minimum salary of each member of the Fire Department and of the Police Department may be increased to not less than the minimum amount stated in a petition signed by qualified voters in said city in number not less than twenty-five (25%) per cent of the total number voting in the last preceding municipal election. Said petition shall state the amount of the proposed minimum salary aforesaid, and when it is filed with the governing body of a city said governing body shall call an election within ninety (90) days after said petition has been so filed to determine whether said proposed minimum salary shall be adopted. If at said election a majority of the votes cast shall favor the adoption of said proposed minimum salary, said governing body shall put such salary into effect on or before the first day of the next fiscal year of said city. No other issue shall be

joined on the same ballot with the proposition submitted at the election as herein provided. The question shall be submitted for the vote of the qualified electors and the ballot shall be printed to provide for voting for or against the proposition: "The proposed minimum salary of \$_____ per month for Firemen and Policemen." The requested salary set forth in the petition mentioned above shall be inserted in lieu of the blank space in the proposition. When an election has been held in a city pursuant to the provisions of this Act, a petition for another election in said city shall not be filed for at least one year subsequent to the election so held. Nothing herein shall be construed to prevent the city concerned from adopting under the provisions of this Act without an election the minimum salary set forth in the petition filed with the governing body of said city.
 Sec. 1 amended by Acts 1969, 61st Leg., p. 691, ch. 236, § 1, eff. Sept. 1, 1969.

* * * * *

Art. 1583—3. Compensation of firemen and policemen for court appearances

Section 1. (a) A municipality shall pay firemen and policemen for appearances, made on their time off, as witnesses in criminal suits or in suits in which the municipality or other political subdivision or governmental agency is a party in interest.

(b) Payment for court appearances made on time off shall be at the fireman's or policeman's regular rate of pay and shall be limited to required appearances made by the fireman or policeman in his capacity as a fireman or policeman.

Sec. 2. Payment made under the provisions of this Act may be taxed as court costs in civil suits in which a fireman or policeman appears as a witness.

Sec. 3. Nothing contained herein shall be construed to reduce or prohibit compensation paid in excess of the regular rate of pay.
 Acts 1969, 61st Leg., p. 696, ch. 238, eff. Sept. 1, 1969.

<p>Title of Act: An Act relating to the payment of firemen and policemen who are required to ap-</p>	<p>pear in court as witnesses on their time off; and declaring an emergency. Acts 1969, 61st Leg., p. 696, ch. 238.</p>
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CHAPTER EIGHT—MINES AND MINING

Art. 1612. Bath facilities

The operator, owner, lessee or superintendent of any coal mine employing ten or more men shall provide a suitable building convenient to the principal entrance of such mine, for the use of persons employed in and about said mine, for the purpose of washing themselves and changing their clothing when entering or leaving the mine. Such building shall be provided with proper light and heat, with a supply of hot and cold water and shower baths, and with properly constructed individual lockers for the use of such employes. Any operator, owner, lessee or superintendent of any coal mine violating any provision of this article shall be fined not less than twenty-five nor more than two hundred dollars, or be imprisoned in jail for not more than sixty days, or both. Every two weeks of such violation shall be a separate offense.

Amended by Acts 1969, 61st Leg., p. 1184, ch. 380, § 2, eff. Sept. 1, 1969.

TITLE 19—MISCELLANEOUS OFFENSES

CHAPTER NINE—RAILROAD COMMISSION

Art. 1690f. Transporting by motor vehicle for hire without permit

Any person, firm, corporation, organization, officer, agent, servant, or employee required by statute to have a permit or certificate from the Railroad Commission of Texas authorizing transportation by motor vehicle for compensation or hire who engages in transportation by motor vehicle for compensation or hire without first having obtained such certificate or permit from the Railroad Commission of Texas, or who aids or abets any such operation, shall be guilty of a misdemeanor, and, upon conviction therefor, shall be punished by a fine of not less than \$100 nor more than \$200, and each violation shall constitute a separate offense.

Acts 1967, 60th Leg., p. 168, ch. 88, § 1, eff. Aug. 28, 1967. Amended by Acts 1969, 61st Leg., p. 72, ch. 30, § 1, eff. Sept. 1, 1969.

Acts 1969, 61st Leg., p. 72, ch. 30, § 2, repealed conflicting laws and section 3 was a severability provision.

CHAPTER FIFTEEN A—WATER SAFETY ACT

Art. 1722a. Texas Water Safety Act

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Definitions

Section 2. As used in this Act, unless the context clearly requires a different meaning:

* * * * *

(7) "Department" means the Texas Parks and Wildlife Department.

Sec. 2(7) amended by Acts 1969, 61st Leg., p. 517, ch. 180, § 1, eff. Sept. 1, 1969.

* * * * *

Administration and enforcement of act; transfer

Sec. 2a. All powers, duties, and authority originally vested in the Texas Highway Department in connection with administration and enforcement of this Act are transferred to the Texas Parks and Wildlife Department.

Added by Acts 1969, 61st Leg., p. 517, ch. 180, § 2, eff. Sept. 1, 1969.

* * * * *

Local regulation

Sec. 19. * * *

* * * * *

(c) The Governing Board of any political subdivision of the State created pursuant to the provisions of Section 59, Article XVI, of the Constitution of the State of Texas for the purpose of conserving and developing the public waters of this State, is, with respect to public waters impounded within lakes and reservoirs owned or operated by such political subdivision, authorized by resolution or other appropriate order to desig-

nate certain areas to be bathing, fishing, swimming or otherwise restricted areas; and to make such rules and regulations relating to the operation and equipment of boats as it may deem necessary for the public safety, the provisions of which are consistent with the provisions of this Act. Provided that a copy of any rule or regulation enacted pursuant to this Section shall be summarily filed with the Department.

Sec. 19(c) amended by Acts 1969, 61st Leg., p. 517, ch. 180, § 3, eff. Sept. 1, 1969.

* * * * *

Fees

Sec. 26. * * *

* * * * *

(c) All fees shall be collected by the Department or through its duly authorized agents and deposited in the State Treasury to the credit of the Special Boat Fund. The Department shall use the fees deposited in the Special Boat Fund for administering the provisions of the Act and purchasing all necessary forms and supplies including the reimbursement of the Department for any such material produced by its existing facilities or work performed by other divisions of said Department, and any remaining funds shall be used to purchase, construct, or maintain boat ramps and comfort stations on or near public waters, as provided in Section 28 of this Act.

Sec. 26(c) amended by Acts 1969, 61st Leg., p. 517, ch. 180, § 4, eff. Sept. 1, 1969.

* * * * *

Boat ramps and comfort stations

Sec. 28. The Department is authorized to construct and maintain boat ramps, access roads, and comfort stations by the use of existing or additional services or facilities of said Department. Upon the completion of such work, said Department is authorized to prepare and transmit vouchers to the Comptroller of Public Accounts payable to the Department or to any person, firm, or corporation for reimbursement for such work and the Comptroller of Public Accounts is hereby authorized and directed to issue warrants on the Special Boat Fund to reimburse the Department or any person, firm, or corporation for the work performed. The use of a rotating blue beacon is hereby authorized for Texas Parks and Wildlife and police vessels and none other.

Sec. 28 amended by Acts 1967, 60th Leg., p. 1564, ch. 628, § 1, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 517, ch. 180, § 5, eff. Sept. 1, 1969.

* * * * *

Section 6 of the amendatory act of 1969 provided: "All records compiled by the Highway Department in connection with administration of the Texas Water Safety Act and all funds appropriated to the Highway Department from the Special Boat

Fund or other source to pay expenses incurred in connection with Administration and enforcement of the Texas Water Safety Act are transferred to the Parks and Wildlife Department to be used as provided in that Act."

PART I

CODE OF CRIMINAL PROCEDURE OF 1965

ARREST, COMMITMENT AND BAIL

CHAPTER SEVENTEEN—BAIL

Art.

17.045 Bail bond certificates [New].

Art. 17.045 Bail bond certificates

A bail bond certificate with respect to which a fidelity and surety company has become surety as provided in the Automobile Club Services Act, or for any truck and bus association incorporated in this state, when posted by the person whose signature appears thereon, shall be accepted as bail bond in an amount not to exceed \$200 to guarantee the appearance of such person in any court in this state when the person is arrested for violation of any motor vehicle law of this state or ordinance of any municipality in this state, except for the offense of driving while intoxicated or for any felony, and the alleged violation was committed prior to the date of expiration shown on such bail bond certificate.

Added by Acts 1969, 61st Leg., p. 2033, ch. 697, § 2, eff. Sept. 1, 1969.

SEARCH WARRANTS

CHAPTER EIGHTEEN—SEARCH WARRANTS

Art.

18.011 Warrants for fire marshals and health officers [New].

Art. 18.011 Warrants for fire marshals and health officers

(a) A search warrant may be issued to the fire marshal or health officer of the state or of any county, city, or other political subdivision for the purpose of allowing the inspection of any specified premises to determine the presence of a fire or health hazard or a violation of any fire or health regulation, statute, or ordinance.

(b) A search warrant may not be issued under this Article except upon the presentation of evidence of probable cause to believe that a fire or health hazard or violation is present in the premises sought to be inspected.

(c) In determining probable cause, the magistrate is not limited to evidence of specific knowledge, but may consider any of the following:

- (1) the age and general condition of the premises;
- (2) previous violations or hazards found present in the premises;
- (3) the type of premises;
- (4) the purposes for which the premises are used; and

(5) the presence of hazards or violations in, and the general condition of, premises near the premises sought to be inspected.

Added by Acts 1969, 61st Leg., p. 1623, ch. 502, § 1, eff. Sept. 1, 1969.

**AFTER COMMITMENT OR BAIL AND
BEFORE THE TRIAL**

CHAPTER NINETEEN—ORGANIZATION OF THE GRAND JURY

Art. 19.08 [339] [390] [378] Qualifications

No person shall be selected or serve as a grand juror who does not possess the following qualifications:

1. He must be a citizen of the state, and of the county in which he is to serve, and be qualified under the Constitution and laws to vote in said county, provided that his failure to pay a poll tax or register to vote shall not be held to disqualify him in this instance;
2. He must be of sound mind and good moral character;
3. He must be able to read and write;
4. He must not have been convicted of any felony;
5. He must not be under indictment or other legal accusation for theft or of any felony.

Amended by Acts 1969, 61st Leg., p. 1364, ch. 412, § 5, eff. Sept. 1, 1969.

Art. 19.23 [354] [405] [393] Mode of test

In trying the qualifications of any person to serve as a grand juror, he shall be asked:

1. Are you a citizen of this state and county, and qualified to vote in this county, under the Constitution and laws of this state?
2. Are you able to read and write?
3. Have you ever been convicted of a felony?
4. Are you under indictment or other legal accusation for theft or for any felony?

Amended by Acts 1969, 61st Leg., p. 1364, ch. 412, § 6, eff. Sept. 1, 1969.

CHAPTER TWENTY-SIX—ARRAIGNMENT

Art. 26.05 [494a] Compensation of counsel appointed to defend

Section 1. A counsel appointed to defend a person accused of a felony or a misdemeanor punishable by imprisonment, or to represent an indigent in a habeas corpus hearing, shall be paid from the general fund of the county in which the prosecution was instituted or habeas corpus hearing held, according to the following schedule:

- (a) For each day in trial court representing the accused, a fee of not less than \$25.00 nor more than \$50.00;
 - (b) For each day in trial court representing the accused when the State has made known that it will seek the death penalty, a fee of not less than \$25.00 nor more than \$100.00;
 - (c) For each day in court representing the indigent in a habeas corpus hearing, a fee of not less than \$25.00 nor more than \$50.00;
 - (d) For expenses incurred for purposes of investigation and expert testimony, not more than \$250.00;
 - (e) For the prosecution to a final conclusion of a bona fide appeal to the Court of Criminal Appeals, a fee of not less than \$100.00 nor more than \$250.00;
 - (f) For the prosecution to a final conclusion of a bona fide appeal to the Court of Criminal Appeals in a case where the death penalty has been assessed, a fee of not less than \$100.00 nor more than \$500.00.
- Sec. 1 amended by Acts 1969, 61st Leg., p. 1054, ch. 347, § 1, emerg. eff. May 27, 1969.

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TRIAL AND ITS INCIDENTS

CHAPTER THIRTY-FIVE—FORMATION OF THE JURY

Art. 35.12 [612] [687] [668] Mode of testing

In testing the qualification of a prospective juror after he has been sworn, he shall be asked by the court, or under its direction:

1. Except for payment of poll tax or registration, are you a qualified voter in this county and state under the Constitution and laws of this state?

2. Have you ever been convicted of theft or any felony?

3. Are you under indictment or legal accusation for theft or any felony?

Amended by Acts 1969, 61st Leg., p. 1364, ch. 412, § 2, eff. Sept. 1, 1969.

Art. 35.16 [616] [692] [673] Reasons for challenge for cause

(a) A challenge for cause is an objection made to a particular juror, alleging some fact which renders him incapable or unfit to serve on the jury. A challenge for cause may be made by either the state or the defense for any one of the following reasons:

1. That he is not a qualified voter in the state and county under the Constitution and laws of the state; provided, however, the failure to pay a poll tax or register to vote shall not be a disqualification;

2. That he has been convicted of theft or any felony;

3. That he is under indictment or other legal accusation for theft or any felony;

4. That he is insane or has such defect in the organs of seeing, feeling or hearing, or such bodily or mental defect or disease as to render him unfit for jury service;

5. That he is a witness in the case;

6. That he served on the grand jury which found the indictment;

7. That he served on a petit jury in a former trial of the same case;

8. That he has a bias or prejudice in favor of or against the defendant;

9. That from hearsay, or otherwise, there is established in the mind of the juror such a conclusion as to the guilt or innocence of the defendant as would influence him in his action in finding a verdict. To ascertain whether this cause of challenge exists, the juror shall first be asked whether, in his opinion, the conclusion so established will influence his verdict. If he answers in the affirmative, he shall be discharged without further interrogation by either party or the court. If he answers in the negative, he shall be further examined as to how his conclusion was formed, and the extent to which it will affect his action; and, if it appears to have been formed from reading newspaper accounts, communications, statements or reports or mere rumor or hearsay, and if the juror states that he feels able, notwithstanding such opinion, to render an impartial verdict upon the law and the evidence, the court, if satisfied that he is impartial and will render such verdict, may, in its discretion, admit him as competent to serve in such case. If the court, in its discretion, is not satisfied that he is impartial, the juror shall be discharged;

10. That he cannot read or write.

No juror shall be impaneled when it appears that he is subject to the second, third or fourth grounds of challenge for cause set forth above, although both parties may consent. All other grounds for challenge may be waived by the party or parties in whose favor such grounds of challenge exist.

Par. (a) amended by Acts 1969, 61st Leg., p. 1364, ch. 412, § 3, eff. Sept. 1, 1969.

* * * * *

Art. 35.19 [619] [695] [676] Absolute disqualification

No juror shall be impaneled when it appears that he is subject to the second, third or fourth cause of challenge in Article 35.16, though both parties may consent.

Amended by Acts 1969, 61st Leg., p. 1364, ch. 412, § 4, eff. Sept. 1, 1969.

CHAPTER THIRTY-EIGHT—EVIDENCE IN CRIMINAL ACTIONS

Art.
38.32. Presumption of death [New].

Art. 38.32 Presumption of death

(a) Upon introduction and admission into evidence of a valid certificate of death wherein the time of death of the decedent has been entered by a licensed physician, a presumption exists that death occurred at the time stated in the certificate of death.

(b) A presumption existing pursuant to Section (a) of this Article is sufficient to support a finding as to time of death but may be rebutted through a showing by a preponderance of the evidence that death occurred at some other time.

Added by Acts 1969, 61st Leg., p. 1034, ch. 337, § 1, eff. May 27, 1969.

APPEAL AND WRIT OF ERROR

CHAPTER FORTY-FOUR—APPEAL AND WRIT OF ERROR

Art. 44.33 [856] [949] [915] Hearing in appellate court

RULES OF THE COURT OF CRIMINAL APPEALS

Revised and Adopted September 16, 1968

I. Wednesday of each week, as heretofore, is set apart for the submission of cases and the delivery of opinions and orders.

II. The Court will, in its discretion, from time to time, set all cases for submission in the order of their filing so nearly as practicable, and the Clerk will be directed to use all reasonable diligence to notify counsel of record of such setting, though failure to receive notice will not necessarily prevent, or defeat the submission of the case on the day which it is set.

Within fifteen (15) days after receipt of notice of the setting counsel of record for the appellant or the petitioner will acknowledge receipt of such notice and advise the Clerk whether or not oral argument is desired.

III. When set for submission, cases will not be postponed or re-set by agreement of counsel or for other reasons except upon request for good cause shown.

Postponed cases and cases in which oral argument has not been requested prior to submission day will follow cases that have been previously set for the day.

IV. Habeas corpus cases will have precedence and be assigned as set by the Court for such time and dates as may be convenient.

For Annotations and Historical Notes, see V.A.T.S.

V. Cases of general interest, where the public good demands, may be advanced on written motion under the direction of the Court.

VI. Any party desiring a rehearing of any matter determined by the Court of Criminal Appeals may, within fifteen (15) days after the opinion is handed down, file with the Clerk of said Court his motion in writing for a rehearing thereof, distinctly specifying the grounds relied upon for the rehearing.

If the Court hands down an opinion in connection with the overruling of a motion for rehearing, a further motion for rehearing may be filed by the losing party within fifteen (15) days after such opinion is handed down; but a further motion for rehearing shall not be made as a matter of right in any other case.

Any motion for rehearing may be amended any time before the expiration of the fifteen-day period allowed for filing it, and with leave of the Court any time before its final disposition.

All motions and other matters filed in the Court of Criminal Appeals and not disposed of at the end of the term shall be automatically continued to the next succeeding term of said Court.

VII. It is ordered by the Court that the time of oral arguments (unless extended in special matters) shall be limited as follows:

Felony cases with penalty fixed at five (5) years or more, forty (40) minutes opening; ten (10) minutes rejoinder.

Felony cases with penalty fixed at less than five (5) years, thirty (30) minutes opening; five (5) minutes rejoinder.

Misdemeanor, revocation of probation and habeas corpus cases, thirty (30) minutes opening; five (5) minutes rejoinder.

On motion for rehearing, the unsuccessful party may consume one-half of that allowed on original hearing, and the prevailing party shall not be permitted to orally reply.

VIII. Cases in which the record on appeal is not accompanied by defendant's appellate brief filed in the trial court are submitted as soon as possible after being filed. Where the proceedings are found regular and no question of law is raised in such cases, they will be disposed of by per curiam opinion not citing authorities. Such per curiam opinions shall not be published, and the Clerk of the Court shall not certify any such opinions for publication.

Should such an opinion be cited in any future case before the Court, it shall not be deemed an authority.

IX. The Court of Criminal Appeals meets at 9:30 A.M. each Wednesday during the term.

JUSTICE AND CORPORATION COURTS

CHAPTER FORTY-FIVE—JUSTICE AND CORPORATION COURTS

Art.

45.031 Directed verdict [New].

The name of the "Corporation Court" was changed to the "Municipal Court" by Acts 1969, 61st Leg., p. 1689, ch. 547. See Vernon's Ann.Civ.St. art. 1194A.

Art. 45.01 [867] Complaint

Proceedings in a corporation court shall be commenced by complaint, which shall begin: "In the name and by authority of the State of Texas"; and shall conclude: "Against the peace and dignity of the State"; and if the offense is only covered by an ordinance, it may also conclude: "Contrary to the said ordinance". The recorder shall charge the jury when requested in writing by the defendant or his attorney. Complaints before such court may be sworn to before any officer authorized to administer oaths or before the recorder, clerk of the court, city secretary, city attorney or his deputy, each of whom, for that purpose, shall have power to administer oaths.

Amended by Acts 1969, 61st Leg., p. 1655, ch. 520, § 1, emerg. eff. June 10, 1969.

Art. 45.031 Directed verdict

If, upon the trial of a case in a corporation court, there is a material variance between the allegations in the complaint and the proof offered by the state, or the state has failed to prove a prima facie case of the offense alleged in the complaint, the defendant is entitled to a directed verdict of "not guilty" as in any other criminal case.

Added by Acts 1969, 61st Leg., p. 1655, ch. 520, § 2, emerg. eff. June 10, 1969.

MISCELLANEOUS PROCEEDINGS

CHAPTER FORTY-SIX—INSANITY AS DEFENSE

Art. 46.02 [932b] Insanity in defense or in bar

Trial of insanity issue in advance of trial on merits

Section 1. The issue of present insanity shall be tried in advance of trial on the merits, upon written application on behalf of the accused. If upon trial of the issue of insanity in advance of trial on the merits, the accused is found to be presently sane, the trial judge shall dismiss the jury which decided the issue of present insanity and empanel a new jury to hear any subsequent trial on the merits.

Sec. 1 amended by Acts 1967, 60th Leg., p. 1748, ch. 659, § 33, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 1698, ch. 554, § 1, emerg. eff. June 10, 1969.

* * * * *

Status of patient acquitted; post-commitment procedures

Sec. 3. (a) A person committed to a State Mental Hospital or to a mental hospital operated by the United States or the Veteran's Administration under this Article upon a jury finding of insanity at the time of

For Annotations and Historical Notes, see V.A.T.S.

trial who has been acquitted of an alleged offense because of insanity at the time the alleged offense was committed is not by reason of that offense a person charged with a criminal offense. The procedures set forth in this Section, and no others, shall apply to all post-commitment determinations of the sanity of a person committed to a mental hospital upon a jury finding of insanity at the time of trial who has been acquitted of an alleged offense because of insanity at the time the alleged offense was committed and thereby is not a person charged with a criminal offense.

(b) If the head of mental hospital to which a person has been committed upon a finding of insanity at the time of trial who has been acquitted of the alleged offense, is of the opinion that the person is sane, the head of the mental hospital shall so notify the court which committed the person to the mental hospital. Upon receiving such notice, the judge of the committing court shall within a reasonable length of time impanel a jury to determine whether the person is sane or insane. If the jury finds the person is sane, he shall be ordered released as soon as the judgment on the jury verdict becomes final. If the jury finds the person is insane, the judgment on the jury verdict shall order the person returned to the mental hospital until adjudged to be sane at a subsequent jury trial in the committing court. When the person is so ordered returned to the mental hospital, the head of the mental hospital shall not again notify the committing court that he is of the opinion the person is sane for at least 180 days from the date the judgment of the committing court ordering him returned to the mental hospital on a previous jury finding of insanity has become final.

(c) When a person has been committed to a mental hospital upon a finding of insanity at the time of trial who has been acquitted of the alleged offense, and the person has been so committed for at least one year from the date of the original order so committing the person, and the head of the mental hospital to which he is committed fails or refuses to notify the court which committed the person to the mental hospital that he is of the opinion that the person is sane, then the person so committed may seek a post-commitment determination of his sanity by submitting a written request to the head of the mental hospital to which the person is committed requesting a determination of his sanity by the committing court.

Upon receipt of such a request, the head of the mental hospital shall, provided the person has been committed for at least one year from the date of the original order committing the person to the mental hospital, immediately cause the person to be examined by one or more staff physicians, and shall then immediately certify to the committing court the person's written request, the reports and findings of any examining physicians, and his own findings, if any.

Upon receipt from the head of the mental hospital of the person's written request and accompanying papers certified to the committing court, the judge of the committing court shall immediately cause the same to be filed with the clerk of the committing court and the judge shall examine such written request and accompanying papers to determine if they reflect probable merit. In the event the judge of the committing court does not believe that the written request and accompanying papers reflect probable merit, the judge shall enter an order denying the person's request, which order shall be appealable to determine whether there was an abuse of discretion in denying the person's request. The committing court may, at its discretion, appoint disinterested qualified experts to examine the person as to the person's mental condition and requirements for hospitalization, in a mental hospital, to report their findings to the committing court, and to testify thereto, and the committing court may, at its discretion, direct the hospital to forward to the court any hospital records pertaining to such person.

If the person's request, accompanying papers and other records or reports, reflect probable merit, the judge of the committing court shall with-

in a reasonable length of time impanel a jury to determine whether the person is sane or insane. If the jury finds the person sane, he shall be ordered released as soon as the judgment on the jury verdict becomes final. If the jury finds the person is insane, the judgment on the jury verdict shall order the person returned to the mental hospital until adjudged to be sane at a subsequent jury trial in the committing court. When a person is so ordered returned to the mental hospital, the person shall not again be permitted to request a post-commitment determination of his sanity for at least one year from the date the judgment of the committing court ordering him returned to the mental hospital on a previous jury finding of insanity has become final.

(d) Whenever a post-commitment jury trial is had in the committing court, whether occasioned by notice from the head of the hospital to which the person is committed as set forth in Section 3(b) hereof, or whether occasioned by the written request of the person committed as set forth in Section 3(c) hereof, the same shall be conducted under the following rules:

(1) The State of Texas shall be represented by the District Attorney or County Attorney of the county from where the person was originally committed. Whenever the committing court determines that the person committed is too poor to employ counsel, the court shall appoint one or more practicing attorneys to represent him and counsel so appointed shall be compensated according to the schedule set forth in Article 26.05, Code of Criminal Procedure.

(2) The Rules of Civil Procedure shall apply to the selection of the jury, the court's charge to the jury and to all other aspects of the proceedings and trial except when inconsistent with the provisions of this Section.

(3) Both parties to such proceedings and jury trial shall have the right to appeal the judgment of the committing court to the appropriate Court of Civil Appeals, and such appeals, if any, shall be controlled by the Rules of Civil Procedure, and the Rules of Civil Procedure shall determine when the committing court's judgment is final.

(4) The burden of proof shall rest on the person committed, by a preponderance of the evidence, and the jury shall be instructed by the court that a person is sane if they believe from a preponderance of the evidence that the person's mental condition is such that the person does not require hospitalization in a mental hospital for the person's own welfare and protection or for the welfare and protection of others.

(5) Both parties to such proceedings and jury trial shall have the same right of subpoena as in criminal cases to compel the attendance of out of county witnesses and such out of county witnesses shall be paid by the state in the same manner and amounts as provided for in Article 35.27 Code of Criminal Procedure.

Sec. 3 amended by Acts 1967, 60th Leg., p. 717, ch. 299, § 1, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 2474, ch. 833, § 1, emerg. eff. June 18, 1969.

* * * * *

Acts 1969, 61st Leg., p. 2474, ch. 833, which amended section 3 of this article, provided in section 2: "If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions

or applications of the Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are declared to be severable."

CHAPTER FORTY-NINE—INQUESTS UPON DEAD BODIES

Art. 49.01 [968] When held

It is the duty of the justice of the peace to hold inquests, with or without a jury, within his county in the following cases:

* * * * * * * * * * *

7. When a person dies who has been attended by a duly licensed and practicing physician or physicians, and such physician or physicians are not certain as to the cause of death and are unable to certify with certainty the cause of death as required by Rule 40a, Sanitary Code of Texas, Article 4477, Revised Civil Statutes, Chapter 41, Acts, First Called Session, 40th Legislature, 1927, page 116. In case of such uncertainty the attending physician or physicians, or the superintendent or general manager of the hospital or institution in which the deceased shall have died, shall so report to the justice of the peace of the precinct in which the death occurred, and request an inquest.

The inquests authorized and required by this Article shall be held by the justice of the peace of the precinct in which the death occurred, but in event the justice of the peace of such precinct is unavailable, or shall fail or refuse to act, then such inquest shall be conducted by the nearest available justice of the peace, corporation court judge, county judge or judge of the county court at law of the county in which the death occurred.

Sec. 7 amended by Acts 1969, 61st Leg., p. 2123, ch. 727, § 1, eff. Sept. 1, 1969.

Art. 49.03 [970] [1060] Autopsies and Tests

The justice of the peace may in all cases call in the County Health Officer, or if there be none or if his services are not then obtainable, then a duly licensed and practicing physician, and shall procure their opinions and their advice on whether or not to order an autopsy to determine the cause of death. If upon his own determination he deems an autopsy necessary, the justice of the peace shall, by proper order, request the County Health Officer, or if there be none or if it be impracticable to secure his service, then some duly licensed and practicing physician who is trained in pathology to make an autopsy in order to determine the cause of death, and whether death was from natural causes or resulting from violence, and the nature and character of either of them. The county in which such autopsy and inquest is held shall pay the physician making such autopsy a fee of not more than \$300, the amount to be determined by the Commissioners Court after ascertaining the amount and nature of the work performed in making such autopsy. In those cases where a complete autopsy is deemed unnecessary by the justice of the peace to ascertain the cause of death, he may by proper order, order the taking of blood samples or any other samples of fluids, body tissues or organs in order to ascertain the cause of death or whether any crime has been committed. In the case of a body of a human being whose identity is unknown, the justice of the peace may, by proper order, authorize such investigative and laboratory tests and processes as are required to determine the identity as well as the cause of death.

Amended by Acts 1969, 61st Leg., p. 1845, ch. 618, § 1, emerg. eff. June 11, 1969.

Art. 49.06 [971] [1061] [1024] Chemical analysis

If upon such inquest, it becomes necessary to determine whether the death has been produced by poison, the justice of the peace, upon his own determination, or upon request of the physician performing such autopsy, shall call in to his aid, if necessary, some medical expert, chemist, toxicologist or licensed physician practicing pathology, qualified to make an analysis of the stomach and its contents, together with such other portions of the body as may be necessary to be analyzed and tested, for the purpose of determining the presence of poison in such body. The commissioners court shall pay to such expert or specialist such fee as it may determine reasonable not to exceed \$300.

Amended by Acts 1969, 61st Leg., p. 1845, ch. 618, § 2, emerg. eff. June 11, 1969.

Art. 49.25 Medical examiners

Office authorized

Section 1. Subject to the provisions of this Act, the Commissioners Court of any county having a population of more than 500,000 and not having a reputable medical school as defined in Articles 4501 and 4503, Revised Civil Statutes of Texas, shall establish and maintain the office of medical examiner, and the Commissioners Court of any county may establish and provide for the maintenance of the office of medical examiner. Population shall be according to the last preceding federal census.

Sec. 1 amended by Acts 1969, 61st Leg., p. 1619, ch. 500, § 1, emerg. eff. June 10, 1969.

* * * * *

Offices

Sec. 5. The commissioners court shall provide the medical examiner and his staff with adequate office space and shall provide laboratory facilities or make arrangements for the use of existing laboratory facilities in the county, if so requested by the medical examiner.

Sec. 5 amended by Acts 1969, 61st Leg., p. 1619, ch. 500, § 2, emerg. eff. June 10, 1969.

* * * * *

Attendance at organ transplant operations

Sec. 6a. (a) When death occurs to an individual designated a prospective organ donor for transplantation by a licensed physician under circumstances requiring the medical examiner of the county in which death occurred, or his duly authorized deputy, to hold an inquest, the medical examiner, or a member of his staff will be so notified by the administrative head of the facility in which the transplantation is to be performed.

(b) When notified pursuant to Subsection (a) of this Section, the medical examiner or his duly authorized deputy shall immediately go to the transplant facility, perform an inquest on the deceased prospective organ donor, and determine if an autopsy is required.

(c) If an autopsy is required, the medical examiner or his duly authorized deputy will examine the organ to be transplanted in its whole state and will examine any other clinical evidence on the condition of the organ.

(d) The organ to be transplanted will then be released to the transplant team for removal and transplantation.

(e) Thereafter, the remainder of the body will be removed to some convenient and suitable area designated by the administrative head of the transplant facility for completion of the autopsy.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 6a added by Acts 1969, 61st Leg., p. 1033, ch. 336, § 1, emerg. eff. May 27, 1969.

* * * * *

Transfer of Duties of Justice of Peace

Sec. 12. When the commissioners court of any county shall establish the office of medical examiner, all powers and duties of justices of the peace in such county relating to the investigation of deaths and inquests shall vest in the office of the medical examiner. Any subsequent General Law pertaining to the duties of justices of the peace in death investigations and inquests shall apply to the medical examiner in such counties as to the extent not inconsistent with this Article, and all laws or parts of laws otherwise in conflict herewith are hereby declared to be inapplicable to this Article.

Amended by Acts 1969, 61st Leg., p. 1619, ch. 500, § 3, emerg. eff. June 10, 1969.

* * * * *

Section 4 of Acts 1969, 61st Leg., p. 1619, ch. 500, repealed all laws to extent of conflict with this Act.

PART II

MISCELLANEOUS PROVISIONS

Art. 1056 1158-60 Pay of jurors

* * * * *

(b) Each juror in a justice court is entitled to receive \$3 for each criminal case in which he serves as a juror. However, no juror in a justice court may receive more than \$6 for each day or fraction of a day that he attends court as a juror.

Subsec. (b) amended by Acts 1969, 61st Leg., p. 290, ch. 115, § 2, eff. Sept. 1, 1969.

* * * * *

1. In general

When jurors are selected to serve in an actual trial on the merits the Commission-

ers Court is authorized to pay these persons \$3.00 per day. Op.Atty.Gen.1966, No. C-726.

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BUSINESS AND COMMERCE CODE

TITLE 1—UNIFORM COMMERCIAL CODE

CHAPTER 3. COMMERCIAL PAPER

SUBCHAPTER E. PRESENTMENT, NOTICE OF DISHONOR AND PROTEST

§ 3.501. When Presentment, Notice of Dishonor, and Protest Necessary or Permissible

* * * * *

(c) Unless excused (Section 3.511) protest of any dishonor is necessary to charge the drawer and indorsers of any draft which on its face appears to be drawn or payable outside of the states, territories, dependencies and possessions of the United States, the District of Columbia and the Commonwealth of Puerto Rico. The holder may at his option make protest of any dishonor of any other instrument and in the case of a foreign draft may on insolvency of the acceptor before maturity make protest for better security.

Subsec. (c) amended by Acts 1969, 61st Leg., p. 2466, ch. 830, § 1, eff. Sept. 1, 1969.

* * * * *

SUBCHAPTER F. DISCHARGE

§ 3.601. Discharge of Parties

* * * * *

(c) The liability of all parties is discharged when any party who has himself no right of action or recourse on the instrument

(1) reacquires the instrument in his own right; or

(2) is discharged under any provision of this Chapter, except as otherwise provided with respect to discharge for impairment of recourse or of collateral (Section 3.606).

(Subsec. (c) amended by Acts 1969, 61st Leg., p. 2466, ch. 830, § 2, eff. Sept. 1, 1969.

CHAPTER 9. SECURED TRANSACTIONS; SALES OF ACCOUNTS, CONTRACT RIGHTS AND CHATTEL PAPER

SUBCHAPTER A. SHORT TITLE, APPLICABILITY AND DEFINITIONS

§ 9.105. Definitions and Index of Definitions

(a) In this chapter unless the context otherwise requires:

* * * * *

(2) "Chattel paper" means a writing or writings which evidence both a monetary obligation and a security interest in or a lease of specific goods; a charter or other contract involving the use or hire of a vessel is not chattel paper. When a transaction is evidenced both by such a security agreement or a lease and by an instrument or a series of instruments, the group of writings taken together constitutes chattel paper ; Subsec. (a) (2) amended by Acts 1969, 61st Leg., p. 2466, ch. 830, § 3, eff. Sept. 1, 1969.

* * * * *

§ 9.106. Definitions: "Account"; "Contract Right"; "General Intangibles"

"Account" means any right to payment for goods sold or leased or for services rendered which is not evidenced by an instrument or chattel paper. "Contract right" means any right to payment under a contract not yet earned by performance and not evidenced by an instrument or chattel paper. "General Intangibles" means any personal property (including things in action) other than goods, accounts, contract rights, chattel paper, documents and instruments. All rights earned or unearned under a charter or other contract involving the use or hire of a vessel and all rights incident to the charter or contract are contract rights and neither accounts nor general intangibles.

Amended by Acts 1969, 61st Leg., p. 2466, ch. 830, § 4, eff. Sept. 1, 1969.

SUBCHAPTER B. VALIDITY OF SECURITY AGREEMENT AND RIGHTS OF PARTIES THERETO

§ 9.203. Enforceability of Security Interest; Proceeds, Formal Requisites

* * * * *

(b) A transaction, although subject to this Article, is also subject to Chapter 274, Acts of 60th Legislature, Regular Session, 1967 (Texas Consumer Credit Code, compiled as Vernon's Annotated Texas Civil Statutes, Articles 5069—1.01 through 5069—50.06) and any amendments thereof and successors thereto, and in the case of conflict between the provisions of this Chapter and any such statute, the provisions of such statute control. Failure to comply with any applicable statute has only the effect which is specified therein.

Subsec. (b) amended by Acts 1969, 61st Leg., p. 2466, ch. 830, § 5, eff. Sept. 1, 1969.

SUBCHAPTER D. FILING

§ 9.403. What Constitutes Filing; Duration of Filing; Effect of Lapsed Filing; Duties of Filing Officer

* * * * *

(e) The uniform fee for filing, indexing and furnishing filing data for an original or a continuation statement shall be \$2.00. Subsec. (e) amended by Acts 1969, 61st Leg., p. 2466, ch. 830, § 6, eff. Sept. 1, 1969.

§ 9.404. Termination Statement

(a) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must on written demand by the debtor send the debtor a statement that he no longer claims a security interest under the financing statement, which shall be identified by file number. A termination statement signed by a person other than the secured party of record must include or be accompanied by the assignment or a statement by the secured party of record that he has assigned the security interest to the signer of the termination statement. If the affected secured party fails to send such a termination statement within ten days after proper demand thereof he shall be liable to the debtor for \$100, and in addition for any loss caused to the debtor by such failure.

(b) On presentation to the filing officer of such a termination statement he must note it in the index. The filing officer shall remove from the files, mark "terminated" and send or deliver to the secured party the financing statement and any continuation statement, statement of assignment or statement of release pertaining thereto.

(c) The uniform fee for filing and indexing a termination statement including sending or delivering the financing statement shall be \$2.00. Amended by Acts 1969, 61st Leg., p. 2466, ch. 830, § 7, eff. Sept. 1, 1969.

§ 9.405. Assignment of Security Interest: Duties of Filing Officer; Fees

(a) A financing statement may disclose an assignment of a security interest in the collateral described in the statement by indication in the statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. Either the original secured party or the assignee may sign this statement as the secured party. On presentation to the filing officer of such a financing statement the filing officer shall mark the same as provided in Section 9.403(d). The uniform fee for filing, indexing and furnishing filing data for a financing statement so indicating an assignment shall be \$2.00.

(b) A secured party may assign of record all or a part of his rights under a financing statement by the filing of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of the filing. He shall note the assignment on the index of the financing statement. The uniform fee for filing, indexing and furnishing filing data about such a separate statement of assignment shall be \$2.00.

(c) After the disclosure or filing of an assignment under this section, the assignee is the secured party of record. Amended by Acts 1969, 61st Leg., p. 2466, ch. 830, § 8, eff. Sept. 1, 1969.

§ 9.406. Release of Collateral; Duties of Filing Officer; Fees

A secured party of record may by his signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. Upon presentation of such a statement to the filing officer he shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing of the financing statement. The uniform fee for filing and noting such a statement of release shall be \$2.00.

Amended by Acts 1969, 61st Leg., p. 2466, ch. 830, § 9, eff. Sept. 1, 1969.

§ 9.407. Information From Filing Officer.

* * * * *

(b) Upon request of any person, the filing officer shall issue his certificate showing whether there is on file on the date and hour stated therein, any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The uniform fee for such a certificate shall be \$5.00; however, if the number of statements reported therein exceed 10, then the fee for the certificate shall be \$5.00 plus \$1.00 for each statement over 10. Upon request the filing officer shall furnish a copy of any filed financing statement or statement of assignment for a uniform fee of \$1.00 per page, but not less than \$5.00 per request concerning a debtor.

Subsec. (b) amended by Acts 1969, 61st Leg., p. 2466, ch. 830, § 10, eff. Sept. 1, 1969.

TITLE 2—COMPETITION AND TRADE PRACTICES

**CHAPTER 15. MONOPOLIES, TRUSTS AND CONSPIRACIES
 IN RESTRAINT OF TRADE**

SUBCHAPTER D. RECOVERY OF DAMAGES PURSUANT TO FEDERAL ANTITRUST LAWS [NEW]

Sec.

15.40. Authority, Powers, and Duties of Attorney General.

**SUBCHAPTER D. RECOVERY OF DAMAGES PURSUANT
 TO FEDERAL ANTITRUST LAWS [New]**

Subchapter D, consisting of section 15.40, added by Acts 1969, 61st Leg., p. 1708, ch. 559, § 1.

§ 15.40. Authority, Powers, and Duties of Attorney General

(a) The attorney general may bring an action on behalf of the state or of any of its political subdivisions or tax supported institutions to recover the damages provided for by the federal antitrust laws, Title 15, United States Code,¹ provided that the attorney general shall notify in writing any political subdivision or tax supported institution of his intention to bring any such action on its behalf, and at any time within 30 days thereafter, such political subdivision or tax supported institution may, by formal resolution of its governing body or as otherwise specifically provided by applicable law, withdraw the authority of the attorney general to bring the intended action. In any action brought pursuant to this section on behalf of any political subdivision or tax supported institution of the state, the state shall retain for deposit in the general revenue fund of the State Treasury, out of the proceeds, if any, resulting from such action, an amount equal to the expense incurred by the state in the investigation and prosecution of such action.

(b) In any action brought by the attorney general pursuant to the federal antitrust laws for the recovery of damages by the estate or any of its political subdivisions or tax supported institutions, in addition to his other powers and authority the attorney general may enter into contracts relating to the investigation and the prosecution of such action with any other party who could bring a similar action or who has brought such an action for the recovery of damages and with whom the attorney general finds it advantageous to act jointly, or to share common expenses or to cooperate in any manner relative to such action. In any such action the attorney general may undertake, among other things, either to render legal services as special counsel to, or to obtain the legal services of special counsel from, any department or agency of the United States, any other state or any department or agency thereof, any county, city, public corporation or public district of this state or of any other state, that has brought or intends to bring a similar action for the recovery of damages, or their duly authorized legal representatives in such action. Added by Acts 1969, 61st Leg., p. 1708, ch. 559, § 1, emerg. eff. June 10, 1969.

¹ 15 U.S.C.A. § 15 et seq.

Title of Act:

An Act adding to the Business and Commerce Code, Chapter 15, a new Subchapter D, relating to the authority, powers, and duties of the attorney general in bringing suit on behalf of the state or any of its political subdivisions or tax supported insti-

tutions to recover damages provided for by the federal antitrust laws, Title 15, United States Code; providing that the state shall retain from certain proceeds the amount of its expense; and declaring an emergency. Acts 1969, 61st Leg., p. 1708, ch. 559.

CHAPTER 17. DECEPTIVE TRADE PRACTICES

§ 17.12. Deceptive Advertising

(a) No person may disseminate a statement he knows materially misrepresents the cost or character of tangible personal property, a security, service, or anything he may offer for the purpose of

(1) selling, contracting to sell, otherwise disposing of, or contracting to dispose of the tangible personal property, security, service, or anything he may offer; or

(2) inducing a person to contract with regard to the tangible personal property, security, service, or anything he may offer.

(b) No person may solicit advertising in the name of a club, association, or organization without the written permission of such club, association, or organization or distribute any publication purporting to represent officially a club, association, or organization without the written authority of or a contract with such club, association, or organization and without listing in such publication the complete name and address of the club, association, or organization endorsing it.

(c) A person's proprietary mark appearing on or in a statement described in Subsection (a) of this section is prima facie evidence that the person disseminated the statement.

(d) A person who violates a provision of Subsection (a) or (b) of this Section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$200.

Amended by Acts 1969, 61st Leg., p. 2045, ch. 701, § 1, emerg. eff. June 12, 1969.

Section 2 of the Amendatory act of 1969 was a severability clause.

TITLE 4. MISCELLANEOUS COMMERCIAL PROVISIONS

CHAPTER 33. FIDUCIARY SECURITY TRANSFERS

§ 33.04. Requirement of Signature Guarantee

For the transfer of a security to come within the terms of this Chapter, the signature on the assignment of the security must be guaranteed by any state or national bank incorporated in the United States (acting by and through one of its officers), by an unincorporated bank duly licensed to do business in the State of Texas (acting by and through any proprietor or partner), or by a firm that is a member of the New York Stock Exchange (acting by and through a duly authorized agent).

Amended by Acts 1969, 61st Leg., p. 2018, ch. 691, § 1, eff. Sept. 1, 1969.

§ 33.09. Territorial Application

(a) The rights and duties of a corporation and its transfer agents in registering a security in the name of a fiduciary or in making a transfer of a security pursuant to an assignment by a fiduciary are governed by the law of the jurisdiction under whose laws the corporation is organized; provided, however, that for purposes of this Act, a National Banking Association shall be deemed to have been organized in the state in which its principal banking house is located.

(b) This chapter applies to the rights and duties of a person

(1) other than the corporation and its transfer agents with regard to acts and omissions in this state in connection with the acquisition, disposition, assignment, or transfer of a security by or to a fiduciary; and

(2) who guarantees in this state the signature of a fiduciary in connection with such a transaction.

Amended by Acts 1969, 61st Leg., p. 2019, ch. 692, § 1, emerg. eff. June 12, 1969.

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*

TEXAS EDUCATION CODE

CHAPTER 889

H. B. No. 534

Effective September 1, 1969

An Act adopting the Texas Education Code, a revision of the general and permanent statutes relating to public education, excluding certain laws relating to higher education; expressly repealing the laws replaced by the code; leaving unaffected certain enumerated local and special laws; leaving unaffected certain laws relating to higher education; declaring the effect of conflicting laws passed at the same session; providing for severability; providing a saving clause; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. The Texas Education Code is adopted to read as follows:

TITLE 1. GENERAL PROVISIONS

Chapter

1. Title, Organization, and Purpose.
2. General Provisions.
3. Teacher Retirement System.
4. Penal Provisions.

[Chapters 5-10 reserved for expansion]

TITLE 2. PUBLIC SCHOOLS

11. Central Education Agency.
12. Textbooks.
13. Certification of Teachers.
14. Scholastic Census.
15. State Funds for Support of Schools.
16. Foundation School Program.
17. County Administration.
18. The County Unit System and County-Wide Equalization Taxes.
19. Creation, Consolidation, and Abolition of School Districts.
20. School District Funds.
21. Provisions Generally Applicable to School Districts.
22. Common School Districts.
23. Independent School Districts.

TITLE 2. PUBLIC SCHOOLS—Continued

Chapter

- 24. Municipal School Districts.
- 25. Rural High School Districts.
- 26. Rehabilitation Districts for Handicapped Persons.
- 27. County Industrial Training School Districts.
- 28. Countywide Vocational Districts.

[Chapters 29–50 reserved for expansion]

TITLE 3. HIGHER EDUCATION

SUBTITLE A. JUNIOR COLLEGES

- 51. Public Junior Colleges.

TITLE 1. GENERAL PROVISIONS

CHAPTER 1. TITLE, ORGANIZATION, AND PURPOSE

Section

- 1.01. Short Title.
- 1.02. Organization.
- 1.03. Purpose and Objectives.
- 1.04. Applicability.

Section 1.01. Short Title

This code shall be known and may be cited as the "Texas Education Code."

§ 1.02. Organization

(a) The division of this code into titles, subtitles, chapters, subchapters, sections, subsections and subdivisions, and the use of captions in connection therewith, are solely for convenience and shall have no legal effect in construing the provisions of the code.

(b) This code has been organized and subdivided in the following manner:

(1) the code is divided into titles, containing groups of related chapters;

(2) the code is also divided into chapters, which are numbered consecutively throughout the code;

(3) chapters are divided into sections, each of which carries the initial arabic numeral of the chapter in which it is found, and the arrangement of sections within chapters is determined by the numbers following the decimal;

(4) sections are divided into subsections, and the subsections are numbered consecutively with lowercase letters enclosed in parentheses;

(5) subsections are divided into subdivisions, and subdivisions are numbered consecutively with arabic numerals enclosed in parentheses;

(6) subdivisions are divided into paragraphs, and paragraphs are numbered consecutively with capital letters enclosed in parentheses; and

(7) paragraphs are divided into subparagraphs, and subparagraphs are numbered consecutively with lowercase Roman numerals enclosed in parentheses.

§ 1.03. Purpose and Objectives

The aim in adopting this code is to bring together in a unified and organized form the existing law relating to tax-supported educational institutions and to simplify, clarify, and harmonize existing law relating both to the public school system and to the state-supported institutions of higher education.

§ 1.04. Applicability

(a) This code shall apply to all educational institutions supported either wholly or in part by state tax funds unless specifically excluded.

(b) This code shall not apply to those eleemosynary institutions under the control and direction of the Department of Mental Health and Mental Retardation or to the institutions and activities of the Texas Youth Council.

CHAPTER 2. GENERAL PROVISIONS

Section

- 2.01. Public Education in General.
- 2.02. The Flying of the State Flag.
- 2.03. Dedication to the People of Texas.
- 2.04. Protection of Land in Use by Schools.
- 2.05. Motor Vehicles Owned and Used by State-Supported Educational Institutions.
- 2.06. Oath of Office and Allegiance.
- 2.07. Assignment, Transfer, or Pledge of Compensation.
- 2.08. Forfeiture of Position.
- 2.09. Vaccination.
- 2.10. Maintenance of Existing Institutions.

Section 2.01. Public Education in General

The objective of state support and maintenance of a system of public education is education for citizenship and is grounded upon conviction that a general diffusion of knowledge is essential for the welfare of Texas and for the preservation of the liberties and rights of citizens.

§ 2.02. The Flying of the State Flag

On all regular school days, every school and other educational institution covered by this code shall fly the Texas flag in accordance with the general rules governing its use.

§ 2.03. Dedication to the People of Texas

The educational institutions covered by this code are designed for and are open to the people of the State of Texas, subject only to such rules and regulations as the governing boards of such institutions may be au-

thorized in this code to make and enforce for the welfare of the various institutions under their control.

§ 2.04. Protection of Land in Use by Schools

No public road shall be opened across land owned and used by any school district or other educational institution covered by this code without the consent of the regents, directors, or trustees of that institution and approval of the governor, unless the land is subject to sale under the general laws of Texas. The roads already opened across such land may be closed by the authorities in charge whenever they deem it necessary to protect the interest of the institution and on repayment with eight percent interest of the amount actually paid out as appears on the records of the commissioners court, by the situs county for the land's condemnation.

§ 2.05. Motor Vehicles Owned and Used by State-Supported Educational Institutions

(a) Motor vehicles, trailers, and semitrailers which are the property of and used exclusively by any school district, institution of higher education, or agency in charge, or branch are exempt from the payment of state registration fee. Nevertheless, the owners of such vehicles must comply with the general statutes relating to motor vehicle registration.

(b) Application for license plates, identification of vehicles and transfer of ownership are governed by the general statutes relating to motor vehicles and such special provisions of those statutes that relate to the particular type of vehicle concerned.

§ 2.06. Oath of Office and Allegiance

(a) No public funds shall be paid to any person as a teacher, instructor, visiting instructor, or other employee connected with any tax-supported educational institution in Texas unless he takes the oath of office required of members of the legislature and all other state officers, as provided in Article XVI, Section 1, of the Texas Constitution.

(b) Foreign visiting instructors, refugees, and political refugees from conquered countries are exempted from the requirements in Subsection (a) of this section if they file an affidavit, on a form prescribed by the attorney general of Texas, stating, among other things, that they are not members of the Communist, Fascist, or Nazi parties, nor of any bund, or affiliated organization, and that they will not engage in any un-American activities, nor teach any doctrines contrary to the constitution and laws of the United States of America or of the State of Texas.

(c) Any teacher or instructor of any tax-supported educational institution in Texas who shall be found guilty of openly advocating doctrines which seek to undermine or overthrow by force or violence the republican and democratic forms of government in the United States or which in any way seek to establish a government that does not rest upon the fundamental principle of consent of the governed, shall after a full adjudicative hearing by his employing or appointing authority be dismissed.

§ 2.07. Assignment, Transfer, or Pledge of Compensation

(a) The terms "teacher" and "school employee" used in this section include:

- (1) any person employed by any public school district, in an executive, administrative, or clerical capacity, or as a superintendent, principal, teacher, or instructor; and

(2) any person employed by a university, college, or other educational institution in an executive, administrative, or clerical capacity, or as a professor, instructor, or in any similar capacity.

(b) Any teacher's or school employee's assignment, pledge, or transfer of his salary or wages as security for indebtedness—or any interest or part of his salary or wages—then due or which may become due under an existing contract of employment shall be enforceable only under the following conditions:

(1) Before or at the time of execution, delivery, or acceptance of an assignment, pledge, or transfer, written approval must be obtained from the employing authority or officer, and if the teacher or school employee executing the instrument is employed by:

(A) a common school district, approval of his assignment, pledge, or transfer must be obtained from either the secretary or chairman of the district board of trustees and also from the county superintendent of the county in which the district is located;

(B) an independent school district, approval of his assignment, pledge, or transfer must be obtained either from the president or secretary of the board of trustees or from the superintendent or business manager of the independent school district; and

(C) a college, university, or any other educational institution, approval of his assignment, pledge, or transfer must be obtained from the salary disbursement officer of the college, university, or other educational institution;

(2) Any assignment, pledge, or transfer must be in writing and acknowledged as required for the acknowledgment of deeds or other recorded instruments, and if executed by a married person, it must also be executed and acknowledged in a like manner by his or her spouse; however, the employer approving an assignment, pledge, or transfer need not acknowledge it; and

(3) An assignment, pledge, or transfer shall be enforceable only to the extent that the indebtedness it secures is a valid and enforceable obligation.

(c) Any school district, college, university, or other educational institution, or county superintendent—or disbursing agent—shall honor an assignment, pledge, or transfer fulfilling the conditions of Subsection (b) of this section without incurring any liability to the teacher or school employee executing the assignment, pledge, or transfer. Payment to any assignee, pledgee, or transferee in accordance with the terms of the instrument shall constitute payment to or for the account of the assignor, pledgor, or transferor. However, an assignment, pledge, or transfer shall be enforceable only to the extent of salary due or which may become due during continuation of the assignor's employment as a teacher or school employee.

(d) Venue for any suit against the employer of a teacher or school employee to enforce an assignment, pledge, or transfer of salary shall be in the county where the employing school or educational institution is located.

§ 2.08. Forfeiture of Position

During the term of his employment, a trustee or teacher in any public school or institution of higher learning in Texas, county or city superin-

tendent, university president, or college president shall not act as agent or attorney for any textbook publishing company selling textbooks in Texas. Acceptance of the agency or attorneyship shall by operation of law forfeit his position with the public schools.

§ 2.09. Vaccination

No form of vaccination or inoculation is required for a person's admission to any public school or state-supported institution of higher education when the person applying for admission submits, to the admitting official, an affidavit signed by a doctor who is duly registered and licensed under the Medical Practice Act of Texas¹ in which it is stated that, in the doctor's opinion, the vaccination or inoculation required would be injurious to the health and well-being of the applicant.

¹ Vernon's Ann.P.C. art. 739 et seq.

§ 2.10. Maintenance of Existing Institutions

No law establishing or providing for the maintenance of any public educational institution shall be affected or impaired by the repealing clause of this code unless expressly altered or repealed in some preceding or subsequent section herein.

CHAPTER 3. TEACHER RETIREMENT SYSTEM**Section**

3.01. Applicable Statutes.

§ 3.01. Applicable statutes

The Teacher Retirement System of Texas is governed by the provisions of H. B. No. 241, Acts of the 61st Texas Legislature, 1969.¹

1. Chapter 41, p. 109.

CHAPTER 4. PENAL PROVISIONS

Section

- 4.01. Violation of Duty as School Census Trustee.
- 4.02. Interference with Operation of Foundation School Program.
- 4.03. Failure to Comply with Budget Requirements.
- 4.04. Violation by Treasurer or Depository.
- 4.05. Improper Payment of Salaries.¹
- 4.07. Unlawful Inquiry Into Religious Affiliation of Applicants for Positions.
- 4.08. Unlawful Inquiry Into Religious Affiliation.
- 4.09. Failure to Transfer Pupils and Funds.
- 4.10. Alteration of Teacher's Certificate.
- 4.11. Approving Voucher Without Certificate.
- 4.12. Traffic in Certificate Examinations.
- 4.13. Preventing Use of Adopted Textbooks.
- 4.14. Accepting Rebate on Textbooks.
- 4.15. Failure to Teach Texas History.
- 4.16. Failure to Teach Patriotism.
- 4.17. Failure to Use the English Language.
- 4.18. Operation of School Buses.
- 4.19. Hazing.
- 4.20. Fraternities, Sororities, Secret Societies.
- 4.21. Soliciting Pupils to Join Secret Societies.
- 4.22. Taking Intoxicants to Athletic Events.
- 4.23. Loitering on School Property.
- 4.24. Violation of Free Textbook Law.
- 4.25. Thwarting Compulsory Attendance Law.
- 4.26. Refusal to Answer Census Trustee.
- 4.27. Unlawful Campaign Contributions.
- 4.28. Interference with the Peaceful Operation of the Public Schools.

1. So in enrolled bill.

Section 4.01. Violation of Duty as School Census Trustee

Any census trustee who shall wilfully fail or refuse to obtain the necessary information in regard to any child who should be included in the scholastic census on the first day of next September thereafter or who shall wilfully fail or refuse to include any child within the scholastic ages in his rolls or shall wilfully make any false report in his rolls or summaries shall be guilty of a felony and, upon conviction, shall be punished by confinement in the state penitentiary for not less than two nor more than five years. If the county superintendent finds or believes that any census trustee has violated any duty required of him under Chapter 14 of this code,¹ such county superintendent shall report said census trustee to the grand jury of the county at its next session after discovering such breach of duty.

1. Section 14.01 et seq.

§ 4.02. Interference With Operation of Foundation School Program

(a) Any person who shall confiscate, misappropriate, or convert money appropriated to the Foundation School Fund to carry out the purposes of

that program as set out in Chapter 16 of this code¹ after such money is received by the school district or board of county school trustees in accordance with the terms of Chapter 16, shall be guilty of a felony and upon conviction shall be punished by confinement in the state penitentiary for not less than one year nor more than five years.

(b) Any person who shall knowingly make any false statement, or shall falsify or permit to be falsified, any record, form, report, or budget required under the provisions of Chapter 16 of this code, or the rules of the state officials charged with the enforcement of the Foundation School Program, in any attempt to defraud the state or its school system as a result of such act, shall be guilty of a felony and upon conviction shall be punished by confinement in the state penitentiary for not less than one year nor more than five years. Such proceedings shall be instituted by the proper district or county attorney in accordance with Article 339, Revised Civil Statutes, 1925, or any other law appertaining thereto.

(c) Should any change or error in the records, forms, reports, or budgets result in any school district receiving from the Foundation School Fund more or less than it would have been entitled to receive had said records been correct, the commissioner of education shall correct such error, and so far as practicable shall adjust the payment in such a manner that the amount to which such district was correctly eligible shall be paid.

(d) Any person, including any county superintendent or ex officio county superintendent, school bus driver, school trustee, or any district superintendent, principal or other administrative personnel, or teacher of a school district, or its treasurer or proper disbursing officer, who violates any of the provisions of Chapter 16 of this code other than those to which subsections (a) and (b) of this section apply, shall be guilty of a misdemeanor and shall be fined not less than \$100 nor more than \$1000. Proceedings shall be instituted by the proper district or county attorney upon receipt of information from the state commissioner of education.

(e) If any person shall knowingly submit incorrect information to the Central Education Agency in any report required by Chapter 16 of this code or by the rules of the agency or by the commissioner of education for the honest administration of the Foundation School Program, such offenses shall constitute a felony, and any person upon conviction shall be punished by confinement in the state penitentiary for not less than two nor more than five years.

1. Section 16.01 et seq.

§ 4.03. Failure to Comply With Budget Requirements

(a) Whoever fails to comply with the duties assigned him with regard to the preparation or the following of a county school budget or who violates any provision of Section 17.56 of this code shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$25 nor more than \$100.

(b) Any county superintendent approving any expenditure of school funds in excess of the item or items appropriated in the adopted budget or a supplementary or amended budget shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$25 nor more than \$100.

(c) Whoever fails to comply with the duties assigned him with regard to the preparation or the following of a budget of an independent school district or who violates any provision of Section 23.42 of this code shall

be guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$25 nor more than \$100.

(d) Each and any trustee of an independent school district who votes to approve any expenditure of school funds in excess of the item or items appropriated in the adopted budget or a supplementary or amended budget shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$25 nor more than \$100.

(e) Charges of the violation of this section may be instituted by the proper county or district attorney or by the attorney general.

§ 4.04. Violations by Treasurer or Depository

(a) If any person who is by law a treasurer of any school district in this state, or if any officer, director, stockholder, agent, or employee of any corporation that is by law the treasurer or depository of any school district in this state shall fraudulently take, misapply, or convert to his own use any money, property, or other thing of value belonging to such district that may have come into his possession by virtue of his being treasurer of such district or that may have come into his possession by virtue of the corporation of which he is officer, director, stockholder, agent, or employee being the treasurer or depository of such district, or shall secrete the same with intent to take, misapply, or convert it to his own use or shall pay or deliver the same to any person knowing that he is not entitled to receive it, he shall be guilty of a felony and upon conviction shall be confined in the state penitentiary not less than 2 nor more than 10 years.

(b) Any county or city treasurer or treasurer of the school board of each city or town having exclusive control of its schools who fails to make and transmit any report and certified copy thereof, or either, required by law, shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$50 nor more than \$500.

§ 4.05. Improper Payment of Salaries

Any employee of the state or of any district, county, city, town, or school, who may be responsible for the payment of the salary of any county judge acting as ex officio county superintendent of public schools, or of any county, district, or town superintendent or principal, or other school officer, or any teacher, librarian, assessor, county treasurer, treasurer of county school depository, or treasurer of school district depository, after notice by the commissioner of education that the person has failed to comply with the provisions of Sec. 21.254 of this code shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$50 nor more than \$500.

§ 4.07. Unlawful Inquiry Into Religious Affiliation of Applicants for Positions

(a) No board of education, trustee of a school district, superintendent, principal, or teacher of a public school, or other official or employee of a board of education shall directly or indirectly ask, indicate, or transmit orally or in writing the religion or religious affiliation of any person seeking employment or official position in the public schools of the State of Texas, except to inquire of the applicant whether or not he or she believes in the existence of a Supreme Being.

(b) No department, agency, or commission or any agent or employee of the state shall have the right to inquire, request, or in any manner di-

rectly or indirectly indicate, require, or request the religious affiliation of any applicant for any position in the public education system of this state.

(c) Any person who shall violate any provision of this section, or who shall aid or incite the violation of any provision of this section, shall for each and every violation thereof be liable to a penalty of not less than \$100 nor more than \$500, to be recovered by the person aggrieved thereby or by any resident of this state, to whom such person shall assign his cause of action, in any court of competent jurisdiction in the county in which the plaintiff or the defendant shall reside; and such person shall also for every such offense be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$100 nor more than \$500 or shall be imprisoned not less than 30 days nor more than 90 days, or both.

§ 4.08. Unlawful Inquiry Into Religious Affiliation

(a) No person or organization employed or maintained to obtain or aid in obtaining positions for public school employees shall directly or indirectly ask or communicate orally or in writing, the religion or religious affiliation of anyone applying for employment in the public schools of this state, except to inquire whether or not he believes in the existence of a Supreme Being.

(b) Violation of Section (a) above shall subject the violator for each offense to:

(1) a civil penalty of not less than \$100 nor more than \$500, recoverable by the aggrieved applicant or his assignee in any court of competent jurisdiction located in the county of plaintiff's or defendant's residence; and

(2) a criminal punishment, of misdemeanor status, consisting of a fine of not less than \$100 nor more than \$500 or a jail term of not less than 30 days nor more than 90 days, or both.

§ 4.09. Failure to Transfer Pupils and Funds

Any county judge serving as ex officio county superintendent or any county superintendent, district, city or town superintendent or any school officer, who refuses to transfer pupils and funds as provided in Subchapter C of Chapter 21 of this code¹ shall be fined not less than \$50 nor more than \$500 or be confined in jail not more than 60 days, or both.

1. Section 21.061 et seq.

§ 4.10. Alteration of Teacher's Certificate

Whoever shall wilfully raise, change, or alter any teacher's certificate or diploma, or other instrument having the force of a teacher's certificate, shall be deemed guilty of a felony and upon conviction shall be confined in the penitentiary not less than two nor more than seven years.

§ 4.11. Approving Voucher Without Certificate

Any county or city superintendent or school trustee who approves any teacher's contract or voucher before the person has presented a valid teacher's certificate shall be fined not less than \$25 nor more than \$100.

§ 4.12. Traffic in Certificate Examinations

Whoever shall sell, barter, or give away, prior to any forthcoming examination, to applicants for teachers' certificates, or to any person, the questions to be used by any board of examiners in the examination of

teachers at any forthcoming examination; or any person who shall accept or otherwise obtain possession of such questions, or the answers thereto, prior to any such examination; or whoever shall use the same fraudulently at the time of said examination, or thereafter; or who shall permit or aid in the substitution of examination papers fraudulently prepared to be substituted for examination papers prepared during the examination; or who accepts remuneration for the granting of certificates or for aiding others to obtain certificates, except as provided for by law, shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$100 nor more than \$500 and imprisoned in jail for not less than 20 days nor more than 60 days.

§ 4.13. Preventing Use of Adopted Textbooks

Any school trustee who shall prevent or aid in preventing the use in any public school in this state of the books or any of them as adopted under the provisions of Chapter 12 of this code,¹ or any teacher in any public school in this state who shall wilfully fail or refuse to use the books adopted shall be guilty of a misdemeanor and upon conviction shall be fined a sum of not less than \$5 and not more than \$50 for each offense, and each day of such wilful failure or refusal by a teacher or wilful prevention of the use of the books by a trustee shall constitute a separate offense.

1. Section 12.01 et seq.

§ 4.14. Accepting Rebate on Textbooks

Any school trustee or teacher who shall ever receive any commission or rebate on any books used in the schools with which he is concerned as trustee or teacher shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$50 and not more than \$100.

§ 4.15. Failure to Teach Texas History

The history of Texas shall be taught in all public schools in and only in the history course of all such schools. The said course shall be not less than two hours in any one week. The commissioner of education shall notify the various county and city superintendents as to how said course shall be divided, and any city or county superintendent who fails or refuses to follow the provisions of this section shall be fined not less than \$25 nor more than \$200.

§ 4.16. Failure to Teach Patriotism

Any official or employee of the public free schools of this state who fails to perform his legal duty in connection with the requirement that the daily program of every public school shall be so formulated as to include at least 10 minutes for the teaching of intelligent patriotism, including the needs of the state and federal governments, the duty of the citizen to the state and the obligation of the state to the citizen, shall be subject to a fine of not more than \$500 or removal from office or both fine and removal from office.

§ 4.17. Failure to Use the English Language

Any teacher, principal, superintendent, trustee, or other school official having responsibility in the conduct of the work of any public school of this state who fails to comply with the provisions of Section 21.109 of this code with respect to the use of the English language in the schools

shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not less than \$25 nor more than \$100, cancellation of certificate, or removal from office, or both such fine and cancellation or fine and removal from office.

§ 4.18. Operation of School Buses

(a) All vehicles used for the transportation of pupils to and/or from any school or college shall have a sign on the front and rear and on each side of the vehicle, showing the words "School Bus" and such words shall be plainly readable in letters not less than eight inches in height. It shall be the duty of the operator of any school bus to see that the signs are displayed, but if a school bus is being operated on a highway for any purpose other than the transportation of pupils, the markings indicating "School Bus" shall be covered or concealed.

(b) Any person who violates the provisions of this section shall be guilty of a misdemeanor unless such violation is by other law of this state declared to be a felony. Every person convicted of a misdemeanor for violation of this section shall be fined not less than \$1 nor more than \$200 or confined in the county jail not to exceed 90 days or both; provided, however, that if death results to any person, caused either actually or remotely by a noncompliance or violation of this section, then and in that event, the party or parties so offending shall be punished as is now provided by law.

§ 4.19. Hazing

(a) No student of the University of Texas, or Texas A & M University, or any state school of Texas, or any other state-supported institution of higher education, shall engage in what is commonly known and recognized as hazing, or encourage, aid, or assist any other person thus offending.

(b) "Hazing" is defined as follows:

(1) any wilful act by one student alone or acting with others, directed against any other student of such educational institution, done for the purpose of submitting the student made the subject of the attack committed, to indignity or humiliation, without his consent;

(2) any wilful act of any one student alone, or acting with others, directed against any other student of such educational institution, done for the purpose of intimidating the student attacked by threatening such student with social or other ostracism, or of submitting such student to ignominy, shame, or disgrace among¹ his fellow students, and acts calculated to produce such results;

(3) any wilful act of any one student alone, or acting with others, directed against any other student of such education institution, done for the purpose of humbling, or that is reasonably calculated to humble the pride, stifle the ambition, or blight the courage of the student attacked, or to discourage any such student from longer remaining in such educational institution or reasonably to cause him to leave the institution rather than submit to such acts; or

(4) any wilful act by any one student alone, or acting with others, in striking, beating, bruising, or maiming; or seriously offering, threatening, or attempting to strike, beat, bruise, or maim, or to do or seriously offer, threaten, or attempt to do physical violence to any student of any such educational institution or any assault upon any

such students made for the purpose of committing any of the acts, or producing any of the results, to such student as defined in this section.

(c) No teacher, instructor, member of any faculty, or any officer or director, or a member of any governing board of any state-supported educational institution shall knowingly permit, encourage, aid, or assist any student in committing the offense of hazing, or wilfully acquiesce in the commission of such offense, or fail to report promptly his knowledge or any reasonable information within his knowledge of the presence and practice of hazing in the institution in which he may be serving to the executive head or governing board of such institution. Any act of omission or commission shall be deemed "hazing" under the provisions of this section.

(d) Any student of any state-supported educational institution of this state who shall commit the offense of hazing shall be fined not less than \$25 nor more than \$250 or shall be confined in jail not less than 10 days nor more than three months, or both.

(e) Any teacher, instructor, or member of any faculty, or officer or director of any state-supported educational institution who shall commit the offense of hazing shall be fined not less than \$50 or not more than \$500 or shall be imprisoned in jail not less than 30 days or not more than six months, or both, and in addition thereto shall be immediately discharged and removed from his then position or office in the institution, and shall thereafter be ineligible to reinstatement or reemployment as teacher, instructor, member of faculty, officer, or director in any state-supported educational institution for a period of three years.

¹ So in enrolled bill.

§ 4.20. Fraternities, Sororities, Secret Societies

(a) In all counties of this state, public school fraternities, sororities, and secret societies are prohibited in all the public schools of this state supported in whole or in part from public funds, which schools are below the rank or grade of colleges, and including within said provisions all high schools and junior high schools and all public schools of lower grades.

(b) A public school fraternity, sorority, or secret society as used in this section is hereby defined to be any organization composed wholly or in part of pupils of public schools below the rank of college or junior college as herein provided, which seeks to perpetuate itself by taking in additional members from the pupils enrolled in such school on the basis of the decision of its membership rather than upon the free choice of any pupil in the school who is qualified by the rules of the school to fill the special aims of the organization.

(c) Any public school fraternity, sorority, or secret society as defined in this section is hereby declared to be an organization inimical to the public good.

(d) It shall be the duty of school directors, boards of education, school instructors, and other corporate authority managing and controlling any of the public schools of this state within the provisions of this section to suspend or expel from the school under their control any pupil of such school who shall be or remain a member of, or who shall join or promise to join, or who shall become pledged to become a member of, or who shall solicit any other person to join, promise to join, or be pledged to become a member of any such public school fraternity, or sorority, or secret society. The above restrictions shall not be construed to apply to agencies

for public welfare, viz.: Boy Scouts, Hi-Y, Girl Reserves, DeMolay, Rainbow Girls, Pan-American Clubs, scholarship societies, and other kindred educational organizations sponsored by the state or national education authorities.

(e) Any person violating any provision of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than \$25 nor more than \$200 for each offense.

(f) The provisions of this section shall not apply to any universities, colleges, or schools organized for higher education beyond the high school and junior high school level, but the same shall apply to high schools, junior high schools, and all schools of lower grades.

§ 4.21. Soliciting Pupils to Join Secret Societies

(a) It shall be unlawful for any person not enrolled in a public school to solicit any student enrolled in any public school to join or pledge any public school fraternity, sorority, or secret society, or to solicit any such student to attend a meeting thereof, or any meeting where membership therein is encouraged.

(b) A public school fraternity, sorority, or secret society is any organization composed wholly or partially of students of public schools below the rank of college or junior college which seeks to perpetuate itself by taking in additional members from the student body of the school on the basis of its members' decision rather than on the free choice of any student qualified by the rules of the school to fulfill the special aims of the organization. This definition, however, does not apply to agencies organized for the public welfare including the Boy Scouts, Hi-Y, Girl Reserves, DeMolay, Rainbow Girls, Pan-American Clubs, scholarship societies, or any other kindred education organization sponsored by state or national education authorities.

(c) Universities, colleges, or other schools organized for education beyond the high school level are exempted from all provisions of this section.

(d) Any person convicted of violating any provision of this section shall be deemed guilty of a misdemeanor and upon conviction for each offense shall be fined not less than \$25 nor more than \$200.

§ 4.22. Taking Intoxicants to Athletic Events

(a) The possession of any intoxicating beverage while entering or inside any enclosure, field, or stadium where athletic events sponsored or participated in by the public schools of this state are being held is unlawful.

(b) If any officer of this state sees any person violating this section, he shall immediately seize the intoxicating beverage and within a reasonable time deliver it to the county or district attorney to be held as evidence until the trial of the accused possessor and then dispose of same.

(c) Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$25 nor more than \$200.

§ 4.23. Loitering on School Property

Any person loitering or loafing upon the grounds of any public school in session after being warned to leave by the person in charge of the school shall be fined not less than \$5 nor more than \$25.

§ 4.24. Violation of Free Textbook Law

Any person convicted of wilfully violating any law providing for the purchase and distribution of free textbooks for the public schools shall be fined not less than \$5 nor more than \$100.

§ 4.25. Thwarting Compulsory Attendance Law

(a) If any parent or person standing in parental relation to a child, within the compulsory school attendance ages and not lawfully exempt or properly excused from school attendance, fails to require such child to attend school for such periods as required by law, it shall be the duty of the proper attendance officer to warn the parent or person standing in parental relation that attendance must be immediately required. If after this warning the parent or person standing in parental relation fails to comply, the attendance officer shall file a complaint against him in the county court, or in the justice court of his resident precinct. Any parent or person standing in parental relation convicted of violating this section shall be fined \$5 for the first offense, \$10 for the second offense, and \$25 for each subsequent offense. Each day the child remains out of school after the warning has been given or the child ordered to school by the juvenile court may constitute a separate offense.

(b) If any parent or person standing in parental relation can prove that he is unable to compel his child to attend school, he shall be exempt from the penalties provided in this section and his child may be proceeded against as a habitual truant and committed to a state juvenile training school or any other suitable school agreed upon between his parent or person standing in parental relation and the judge of the juvenile court.

§ 4.26. Refusal to Answer Census Trustee

Any person who is in a position of control over a child who will be over six but under 17 years of age on the next September 1 and who, although requested by the census trustee, refuses to comply with the requirements in Section 14.03 of this code shall be fined not less than \$5 nor more than \$10.

§ 4.27. Unlawful Campaign Contributions

(a) It shall be unlawful for any person, group of persons, organization, or corporation engaged in manufacturing, shipping, selling, storing, or advertising textbooks or in any other manner connected with the textbook business to make a financial contribution to or take part in, directly or indirectly, the campaign of any person seeking election to the State Board of Education.

(b) It shall be unlawful for anyone interested in selling bonds of any type whatsoever to make a financial contribution to or take part in, directly or indirectly, the campaign of any person seeking election to the State Board of Education.

(c) Any person convicted of violating any provision of this section shall be fined not less than \$500 nor more than \$1,000 or sentenced to serve a jail term of not less than 90 days nor more than 180 days, or both.

§ 4.28. Interference With the Peaceful Operation of the Public Schools

(a) In order to maintain law, peace, and order in the operation of the public schools without the use of military force, the county judge of each county in this state is authorized to require any organization, operating

or functioning within the county and engaged in activities designed to hinder, harass, or interfere with the powers and duties of the State of Texas in controlling and operating its public schools to file with the county clerk, within seven days after such request is made, the following information, subscribed under oath before a notary public:

- (1) the official name of the organization and list of members;
- (2) the office, place of business, headquarters, or usual meeting place of the organization;
- (3) the officers, agents, servants, employees, or representatives of the organization;
- (4) the purpose or purposes of the organization; and
- (5) a statement disclosing whether the organization is subordinate to a parent organization and, if so, the name of the parent organization.

(b) The term "organization" as used in this section means any group of persons, whether incorporated or unincorporated, and includes any civic, fraternal, political, mutual benefit, legal, medical, trade, or other kind of organization.

(c) The information filed pursuant to Subsection (a) of this section is hereby declared public and subject to the inspection of any interested party.

(d) Any person having custody or control of the records of an organization who fails to furnish the information requested or any other person or organization who shall violate any provision of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than \$50 nor more than \$200, and each day of violation shall constitute a separate offense.

CHAPTER 11. CENTRAL EDUCATION AGENCY

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SUBCHAPTER A. GENERAL PROVISIONS

Section 11.01. Composition and Purpose

The State Board of Education, the State Board for Vocational Education, the state commissioner of education, and the State Department of Education shall comprise the Central Education Agency. It shall carry out such educational functions as may be assigned to it by the legisla-

ture, but all educational functions not specifically delegated to the Central Education Agency shall be performed by county boards of education or district boards of trustees.

§ 11.02. General Powers and Duties

(a) The Central Education Agency shall exercise general control of the system of public education at the state level in accordance with the provisions of this code.

(b) Any activity with persons under 21 years of age which is carried on in the state by other state or federal agencies, except higher education in approved colleges, shall be subject in its education aspects to the rules and regulations of the Central Education Agency.

(c) Except for agreements entered into by the governing board of a state university or college, the Central Education Agency shall be the sole agency of the State of Texas empowered to enter into agreements with respect to education undertakings, including provision of school lunches and the construction of school buildings, with an agency of the federal government. No county board of education or board of trustees of a school district shall enter into contracts with, or accept money from, an agency of the federal government except under rules and regulations prescribed by the Central Education Agency.

§ 11.03. Supervision of the Texas School for the Deaf

The Central Education Agency shall have exclusive jurisdiction and control over the Texas School for the Deaf, and it shall be the duty of the commissioner of education to appoint a superintendent for that school, subject to approval by the State Board of Education. Such jurisdiction shall extend but not be limited to the physical assets of the school, and appropriations made for its benefit shall be administered and expended by the agency.

§ 11.04. Superintendent of the Texas School for the Deaf

(a) The superintendent of the Texas School for the Deaf shall be a graduate of an accredited university or college, shall have a minimum of one school year of full-time classroom teaching, shall have at least a total of five years' experience in educating the deaf with at least two of those years acquired in some supervisory capacity in training the deaf, and shall have special training in the education of the deaf in a duly certified school granting such special training.

(b) The superintendent shall reside at the school and shall devote his time exclusively to the duties of his office.

(c) The superintendent may be removed from office by the State Board of Education on recommendation of the commissioner of education for the commission of any felony or any other offense involving moral turpitude, or for failure to carry out the duties of his office.

§ 11.05. Printing at the Texas School for the Deaf

(a) The art of printing, in all its branches, shall be among the subjects of study offered at the Texas School for the Deaf.

(b) A competent, practical printer shall be employed as instructor.

(c) Any public printing for the state may be performed at the Texas School for the Deaf without regard to any contract with an individual, firm, or corporation for public printing.

§ 11.06. Supervision of the Texas School for the Blind

The Central Education Agency shall have exclusive jurisdiction and control over the Texas School for the Blind. It shall be the duty of the commissioner of education to appoint a superintendent for that school, subject to approval by the State Board of Education. Such jurisdiction shall extend but not be limited to the physical assets of said school, and appropriations made for its benefit shall be administered and expended by the agency.

§ 11.07. Superintendent of the Texas School for the Blind

(a) The superintendent of the Texas School for the Blind shall be a graduate of an accredited university or college and shall have a minimum of four years of educational administrative experience, at least two years of which shall have been in the education or supervisory training of the blind.

(b) The superintendent shall reside at the school and shall devote his time exclusively to the duties of his office.

(c) The superintendent may be removed from office by the State Board of Education on recommendation of the commissioner of education for the commission of any felony or any other offense involving moral turpitude, or for failure to carry out the duties of his office.

§ 11.08. Skilled Oculist for the Texas School for the Blind

A skilled oculist shall be employed to examine regularly all students at the Texas School for the Blind and to administer treatment to all cases of curable blindness among such students.

§ 11.09. Preschool Program for Children With Hearing Loss

(a) The Central Education Agency shall develop a special program for preschool children who have a hearing loss sufficiently severe to prevent adequate progress in speech development.

(b) The purpose of the program shall be to prepare such children for entry in the first grade of the Texas School for the Deaf or the Texas public schools by providing them with a command of some form of communication with others.

(c) Any child three years of age or older on his last birthday, who has a hearing loss sufficiently severe to prevent adequate speech development, shall be eligible for such a program.

(d) The Central Education Agency shall establish the academic requirements for teachers who teach in this program and shall issue certificates to teachers who meet such standards.

(e) The cost of operating this special program shall be borne by the state and each participating district on the same percentage basis applicable to financing the Foundation School Program within the district. The cost of the program shall include a salary—not to exceed the prevailing local salary scale—as well as a maintenance and operational allotment of \$50 per month for each teacher. The state's share of the cost will be paid from the foundation school program fund and shall be considered by the Foundation School Fund Budget Committee in estimating the funds needed for Foundation School Program purposes.

§ 11.10. Countywide Special Day Schools for the Deaf

(a) The Central Education Agency is authorized to approve the establishment and operation of countywide special day schools for the deaf in

all counties having a population of 300,000 or more inhabitants, according to the last preceding federal census. Such schools shall be administered by a centrally located school district designated by the Central Education Agency in each such county, and the school districts accepting the designation shall provide appropriate physical facilities, buildings, equipment, supplies, materials, and transportation to all eligible children residing in the county without regard to school district boundaries.

(b) The provisions in this section may apply to any two contiguous counties whose cumulative population exceeds 300,000 but does not exceed 335,000 inhabitants, according to the last preceding federal census, provided that such bi-county day schools shall be administered by one school district designated by the Central Education Agency.

(c) School districts in counties contiguous to those authorized to operate a bi-county day school for the deaf may participate in the day school for the deaf program upon approval by the Central Education Agency of requests from a school district in a county contiguous to those counties authorized to operate the bi-county day school and the school district designated to conduct the school. Participation of school districts in counties contiguous to those authorized to operate the bi-county day school for the deaf shall be on the same basis as for school districts within the counties authorized to operate the school.

(d) All deaf children between the scholastic ages of 6 and 21, inclusive, residing in the county providing a day school program herein authorized for such scholastics, shall be eligible to attend the school designated by the operating district.

(e) Deaf children between the scholastic ages of 6 and 13, inclusive, in such counties (heretofore eligible for admission in the Texas School for the Deaf) shall not be eligible for admission to the Texas School for the Deaf except upon recommendation of the superintendent of the operating district with the concurrence of the superintendent of the Texas School for the Deaf.

(f) Students between the scholastic ages of 6 and 13, inclusive, enrolled in the Texas School for the Deaf prior to August 28, 1961, from counties herein authorized to provide and which do provide countywide day schools shall have the option of continuing their program at Texas School for the Deaf or returning to their homes to attend the designated day schools authorized by this code.

(g) Children enrolled in the countywide day schools in such counties, who become 14 years of age on or before December 31, shall be eligible for admission to the Texas School for the Deaf or to continue their academic training and program of vocational planning, guidance, and training in the special day school.

(h) Total cost of operating countywide day schools authorized by this section shall be borne entirely by the state and shall be paid from the foundation school program fund. Such costs shall be considered and included by the Foundation School Fund Budget Committee in estimating the funds needed for purposes of the Foundation School Program and such countywide day school program. No part of the operating costs herein provided for shall be charged to any of the school districts of this state.

(i) Operating costs for the program in each county shall be determined and paid on the basis of the following factors:

- (1) one teacher unit shall be allocated for every eight eligible deaf pupils or major fraction of eight;

(2) schools with 15 or more teacher units shall be allocated a full-time principal unit;

(3) one supervisor shall be allocated for every 10 teacher units but not to exceed three supervisors; provided, however, that each approved school shall have at least one supervisor;

(4) salaries of the teacher, supervisor, and principal shall be determined, respectively, in accordance with the official salary schedule of the district where the day school is established;

(5) an operation expense allotment, including transportation, of \$500 per each eligible deaf pupil enrolled in the program each current school year; and

(6) one initial allotment in the amount of \$2,000 per each teacher unit approved for the first year of operation only shall be allowed for the acquisition of transportation vehicles, auditory and other classroom equipment, and other aids and adjustments needed for training the deaf pupils in this program.

(j) No state funds provided for in Subsection (i) of this section shall be used for any other purpose than for the countywide special day schools for the deaf program herein referred to.

(k) The Central Education Agency shall approve the educational program for the countywide day schools, and the program shall be comparable to that of the Texas School for the Deaf.

§ 11.11. Program for Non-English Speaking Children

(a) The Central Education Agency shall develop a special program for non-English speaking children.

(b) The purpose of the program shall be to prepare such children for entry in the first grade of the Texas public schools by providing them with a command of essential English words which will afford them a better opportunity to complete successfully the work assigned them.

(c) The program for non-English speaking children shall cover a period of three months.

(d) Any non-English speaking child who is at least five years of age and who will be eligible to enter the first grade in the ensuing school year may be enrolled.

(e) The Central Education Agency shall establish the academic requirements for teachers who teach in this program and issue certificates to those who meet such standards.

(f) The cost of operating this program shall be borne by the state and each participating district on the same percentage basis applicable to financing the Foundation School Program within the district. The state's share of the cost of the program shall include a salary—not to exceed \$200 per month—as well as a maintenance and operational allotment of \$50 per month for each teacher. The state's share of the cost shall be paid from the foundation school program fund, and shall be considered by the Foundation School Fund Budget Committee in estimating the funds needed for Foundation School Program purposes.

(g) This program shall not be set up in any school district, or combination of school districts, unless at least 15 children qualify. The extent to which any school district shall participate in the foundation school program fund over and above the first unit shall be based on an average daily attendance of 20 eligible pupils. No state funds provided for in this section shall be used by the school district for any purpose other than for the non-English speaking program.

§ 11.12. Involvement With School Bus Regulations

The Central Education Agency and the State Board of Control, by and with the advice of the director of the Department of Public Safety, shall have joint and complete responsibility to adopt and enforce regulations governing the design, color, lighting and other equipment, construction, and operation of all school buses for the transportation of school children when owned and operated by any school district or privately owned and operated under contract with any school district in this state, and the regulations shall by reference be made a part of any such contract with a school district. The State Board of Control shall coordinate and correlate all specification data, finalize and issue the specification so adopted as provided for by Section 10, Chapter 304, Acts of the 55th Legislature, 1955 (Article 664—3, Vernon's Texas Civil Statutes). In the regulations, emphasis shall be placed on safety features and long-range, maintenance-free factors, and requiring that all school buses shall be purchased on competitive bids as provided by Section 3, Article V, Chapter 334, Acts of the 51st Legislature, 1949 (Article 634(B), Vernon's Texas Civil Statutes). Every school district, its officers, employees, and every person employed under contract by a school district shall be subject to these regulations. The State Board of Control shall purchase equipment to conform to these standards.

§ 11.13. Appeals

(a) Persons having any matter of dispute among them arising under the school laws of Texas or any person aggrieved by the school laws of Texas or by actions or decisions of any board of trustees or board of education may appeal in writing to the commissioner of education, who, after due notice to the parties interested, shall hold a hearing and render a decision without cost to the parties involved, but nothing contained in this section shall deprive any party of any legal remedy.

(b) The decisions of the commissioner of education shall be subject to review by the State Board of Education.

(c) Any person, county, or school district aggrieved by any action of the Central Education Agency may appeal to a district court in Travis County, Texas. Appeals shall be made by serving the commissioner of education with citation issued and served in the manner provided by law for civil suits. The petition shall state the action from which the appeal is taken, and if the appeal is from an order of the State Board of Education, shall also set out the order, or relevant portion thereof. Upon trial the court shall determine all issues of law and fact.

§ 11.14. Right Denied to Close or Consolidate Any Public School District

(a) The provisions of this chapter shall not be construed to give the State Board of Education, the commissioner of education, the State Department of Education, or anyone whomsoever, the power to close, to consolidate, or cause by regulation or rule to be closed or consolidated, any public school district in this state.

(b) The provisions of this code regarding and applicable to the consolidating, annexing, or otherwise closing of school districts of this state shall govern in all such matters.

§ 11.15. Advisory Council for Language-Handicapped Children

(a) The Advisory Council for Language-Handicapped Children shall consist of 12 members appointed by the governor, each member to serve

at the pleasure of the governor from the date of his appointment until August 31, 1970.

(b) The governor shall designate the chairman of the council. A majority of the appointed members, at the call of the chair, shall organize and elect the other officers that the council deems necessary.

(c) A member of the council serves without compensation, but on presentation of a voucher signed by the chairman of the council and approved by the commissioner of education, is entitled to receive reimbursement for actual expenses incurred while traveling on official council business.

(d) A majority of the council is a quorum for the conduct of business.

(e) The duty of the council is to study the problems of language-handicapped children and to advise the commissioner and the Central Education Agency in the development of programs designed to diagnose and treat the problems of language-handicapped children.

(f) The council shall report to the 62nd Legislature its findings and recommendations concerning the establishment of statewide diagnostic and treatment facilities for language-handicapped children.

(g) The governor shall appoint the members of the council as soon after the effective date of this act as possible. Because of the diverse nature of the problem of language-handicapped children, the governor is hereby encouraged by the legislature to make some appointments from the fields of psychology, medicine, and education.

(h) The Central Education Agency shall:

(1) develop programs, with the advice of the council, designed to diagnose and treat the problems of language-handicapped children; that is, a child who is deficient in the acquisition of language skills due to language disability where no other handicapping condition exists;

(2) establish, with the advice of the council, at least three regional experimental diagnostic facilities;

(3) develop rules, regulations, and guidelines governing the operation of the experimental diagnostic facilities;

(4) make the necessary agreements and contacts to establish the regional diagnostic facilities;

(5) actively seek the advice and cooperation of all appropriate public agencies and private institutions in the development of a program of diagnosis and treatment of language-handicapped children;

(6) seek and may accept grants from public and private sources to finance research and to develop a program designed to diagnose and treat language-handicapped children; and

(7) provide necessary staff, offices, and facilities for the council to conduct its business.

(i) The commissioner of education shall transmit to the 61st Legislature an interim report on the status of the research into the problem of diagnosing and treating language-handicapped children. He shall include in his report an itemized estimate of the money required to conclude the research project satisfactorily by August 31, 1970.

(j) The council ceases to exist at midnight August 31, 1970.

[Sections 11.16-11.20 reserved for expansion]

SUBCHAPTER B. STATE BOARD OF EDUCATION

§ 11.21. Definition

The State Board of Education shall be composed of 21 members, one elected from each of the educational districts, whose boundaries are coterminous with the congressional districts as constituted in 1949 under Senate Bill 195, Chapter 135, Acts 43rd Legislature, Regular Session.

§ 11.22. Membership

(a) Members of the State Board of Education shall be elected at biennial general elections held in compliance with the general election laws of this state, to the board offices which will become vacant on December 31 of that year.

(b) No person shall be eligible for election to or serve on the board if he holds an office with the State of Texas or any political subdivision thereof, or holds employment with or receives any compensation for services from the state or any political subdivision thereof (except retirement benefits paid by the State of Texas or the federal government), or engages in organized public educational activity.

(c) No person shall be elected from or serve in a district who is not a bona fide resident thereof with five years' continuous residence prior to his election. No person shall be eligible for election or appointment to or service on the board unless he is a citizen of the United States, a qualified voter of his district, and is 30 years of age or older.

(d) The total amount authorized to be expended furthering or opposing the candidacy of any person for membership on the State Board of Education shall not exceed \$1,500.

(e) A request to have the name of any person affiliated with any party placed on the official ballot as a candidate for the board offices shall be made in compliance with Article 190 of the Texas Election Code, as amended (Article 13.12, Vernon's Texas Election Code).

(f) A candidate's filing fee shall be as provided in Article 186 of the Texas Election Code, as amended (Article 13.08, Vernon's Texas Election Code).

(g) It shall be unlawful for any person, group of persons, organization, or corporation engaged in manufacturing, shipping, selling, storing, advertising textbooks—or in any other manner connected with the textbook business—to make a financial contribution to, or take part in, directly or indirectly, the campaign of any person seeking election to the State Board of Education. It shall likewise be unlawful for anyone interested in selling bonds of any type whatsoever to make a financial contribution to or take part in, directly or indirectly, the campaign of any person seeking election to the board. Anyone convicted of violating the provisions of this subsection shall be punished as prescribed by the penal laws of this state.

(h) The term of office of board members shall be for six years beginning January 1 immediately following their election.

(i) At the general election in 1950 there shall be elected, in conformity with the general election laws of this state, from each of the educational districts, one member of the State Board of Education. The members of the board elected at the election in 1950 in districts 1, 2, 3, 4, 5, 6, and 7 shall serve for a term of two years, beginning January 1, 1951; the members of the board elected at the election in 1950 in districts 8, 9, 10, 11,

12, 13, and 14 shall serve for a term of four years, beginning January 1, 1951; and the members of the board elected at the election in 1950 in districts 15, 16, 17, 18, 19, 20, and 21 shall serve for a term of six years, beginning January 1, 1951. At the general election in 1952 and at each general election following, members shall be elected, in conformity with the general election laws of this state, to the board offices which will become vacant on December 31 of that year.

(j) Each member of the board shall take the official oath of office, and shall be bonded in the amount of \$10,000, in the manner prescribed in Chapter 383, Acts of the 56th Legislature, Regular Session, 1959 (Article 6003b, Vernon's Texas Civil Statutes).

(k) In case of resignation or death of a board member, or in case a position on the board otherwise becomes vacant, the board shall fill such vacancy as soon as possible by appointment of a qualified person from the affected district. The appointee shall hold office only until his successor is duly elected for the remainder of the unexpired term at the next general election and has qualified by taking the required oath and filing the required bond or until expiration of the term of office to which he has been appointed, whichever occurs first.

(l) A vacancy that occurs at a time when it is impossible to place the name of a candidate for the unexpired term on the general election ballot shall be filled by appointment, as specified in Subsection (k) of this section.

(m) Members of the board shall receive no salary but shall be reimbursed for all expenses incurred in attending meetings of the board or incident to any judicial action taken because of appeal from a board order.

§ 11.23. Meetings and Organization

(a) The board shall hold regular meetings in Austin, Texas, on the first Monday in January, March, May, July, September, and on the second Monday in November. It may hold other meetings as scheduled by it in formal sessions or as may be called by the chairman.

(b) At its regular January meeting of each year following general election and qualification of new members, the State Board of Education shall organize, adopt rules of procedure, and elect a chairman, vice chairman, and secretary.

(c) No meeting of the State Board of Education shall be held unless attended by 14 members or more, and 14 members shall constitute a quorum for transacting all business. When the board is reduced below 14 members, vacancies may be filled by a majority vote of the remaining members.

§ 11.24. General Powers and Duties

(a) The State Board of Education is the policy-forming and planning body for the public school system of the state. It shall also be the State Board for Vocational Education and as such, the board shall have all the powers and duties conferred on it by the various statutes relating to the State Board for Vocational Education.

(b) As one part of the Central Education Agency, the State Board of Education shall have specific responsibility for adopting policies, enacting regulations, and establishing general rules for carrying out the duties placed on it or the Central Education Agency by the legislature.

§ 11.25. Powers and Duties Related to Commissioner of Education

(a) The state commissioner of education shall be the executive officer through whom the State Board of Education shall carry out its policies and enforce its rules and regulations.

(b) The State Board of Education shall have power to pass on appeals from decisions made by the commissioner in applying such rules and regulations.

(c) The State Board of Education shall appoint, by and with the consent of the Texas Senate and in conformity with the requirements of Section 11.51 of this code, the state commissioner of education to serve for a period of four years, beginning June 1 and ending May 31, and may reappoint him for successive terms of four years at a salary to be set by the board.

(d) The board shall have power to remove the commissioner for conviction of a felony, or of any crime involving moral turpitude, or for wilful and continuous disregard of the board's directions on matters vital to the operation of the Central Education Agency and the public school system.

(e) When a vacancy occurs by reason of resignation, death, or removal the board shall appoint a new commissioner for the unexpired term or an acting commissioner to serve at the board's discretion for a total consecutive term of not more than one year.

(f) On recommendation of the commissioner of education, the State Board of Education may authorize the commissioner to appoint as many official commissions composed of citizens of the state as are necessary to advise the commissioner of education in the discharge of his duties. A member of such a commission shall not receive any pay for his services on a commission other than reimbursement for actual expenses incurred. Necessary expenses for the operation of such commissions shall be included in the appropriate operating budget of the Central Education Agency and shall be subject to the same budget controls applied to all other items in the budget.

§ 11.26. Powers and Duties Related to Educational Needs of the State

(a) The State Board of Education shall review periodically the educational needs of the state, adopt or promote plans for meeting these needs, and evaluate the achievements of the educational program. With the advice and assistance of the state commissioner of education, the State Board of Education shall

(1) formulate and present to the governor and Legislative Budget Board the proposed budget or budgets for operating the Foundation School Program, the Central Education Agency, and the other programs for which it has responsibility;

(2) adopt operating budgets on the basis of appropriation by the legislature;

(3) establish procedures for budgetary control, expending, auditing, and reporting on expenditures within the budgets adopted;

(4) make to the legislature biennial reports covering all the activities and expenditures of the Central Education Agency;

(5) establish regulations for the accreditation of schools;

(6) execute contracts for the purchase of instructional aids, including textbooks, within the limits of authority granted by the legislature;

(7) execute contracts for the investment of the permanent school fund, within the limits of authority granted by Chapter 15¹ of this code;

(8) prescribe rules and regulations for certification of teachers and for granting certificates for teaching in the public schools of this state, in accordance with Chapter 13 of this code;² and

(9) consider the athletic necessities and activities of the public schools of Texas and in advance of each regular session of the legislature specifically report to the governor of Texas the proper and lawful division of time and money to be devoted to athletics, holidays, legal and otherwise, and to educational purposes.

(b) The State Board of Education shall not adopt any policy, rule, regulation, or other plan which would require any school district within the state, as a prerequisite for accreditation or other approval, to hire any supervisor or any guidance counselor.

1. Section 15.01 et seq.

2. Section 13.01 et seq.

§ 11.27. Providing for Deaf and Blind or Totally Blind and Nonspeaking Persons

(a) For the purposes of this section, unless the context otherwise requires,

(1) "totally deaf and blind person" means a person having such defects of hearing and sight that in the opinion of the board he may not be cared for, treated, or educated in the manner provided elsewhere in this code for the deaf or blind; and

(2) "totally blind and nonspeaking person" means a person having such defects of sight and speech that in the determination of the board he may not be cared for, treated, or educated in the manner provided elsewhere in this code for the blind or nonspeaking.

(b) The State Board of Education may provide for the maintenance, care, and education of persons under the age of 21 years who are totally deaf and blind or totally blind and nonspeaking.

(c) The board may accept such persons on application of the parent or guardian and may require reimbursement for the cost of their maintenance, care, and education as is provided by law for other deaf and blind, or blind and nonspeaking, persons.

(d) The board may negotiate and enter into contracts with public or private institutions inside or outside the State of Texas which are equipped to provide the specialized facilities and personnel necessary to care for and educate persons who are totally deaf and blind, or totally blind and nonspeaking; it may also provide maintenance, the necessary attendants, and transportation to and from such institutions for such persons. The costs of these services may be paid from appropriations made to the Central Education Agency for the care of persons who are totally deaf and blind.

§ 11.28. Powers Related to Independent School Districts

(a) The power of the State Board of Education to create and establish independent school districts has been abolished, but the State Board of Education shall continue to exercise the powers as provided in this section in those independent school districts which were created by the board under its former authority.

(b) It shall grant to such districts the right to share in the state per capita apportionment and such other privileges as are granted to independent and common school districts.

(c) The state commissioner of education shall appoint for each district a board of three trustees, who shall not be required to be residents of the district, except that for each military reservation independent school district the trustees shall be selected from a list of civilians who are qualified under the general school laws of Texas and who live or are employed on the military reservation. The list shall be furnished by the commanding officer of the military reservation to the commissioner of education. The trustees so appointed shall hold office for two years and until their successors are appointed and qualified.

(d) Each year the board of trustees shall take and certify the census of eligible children within the scholastic ages, and the children entitled to attend the reservation schools thus established shall be those of the officers, soldiers, and civilian employees residing or employed on the reservation.

(e) The board of trustees shall have the authority of transferring any school children who cannot be provided for by the district of their residence to any public school district maintaining adequate facilities and standards for elementary, junior, or senior high schools.

(f) The State Board of Education may make such special regulations and orders for the government of the district as it may deem expedient, but the laws pertaining to independent school districts, where the district is not otherwise ordered, shall govern such district.

(g) On the written request signed by a majority of the board of trustees of the district, the State Board of Education may abolish the district, in which event the State Board of Education shall give written notice to the board of trustees of the district and to the board of county school trustees or county board of education of the county in which the district is located. The county governing board shall be required to add the territory of the abolished district to a school district contiguous to the territory and to add the school census taken for the district prior to its abolishment to the scholastic census of the district to which the territory is added.

(h) Any military reservation territory which is subject to the same post or base command as a military reservation used to house dependents of military and civilian personnel and which wholly contains an independent school district, whether or not such reservations are contiguous, may be annexed to that reservation independent school district by the State Board of Education pursuant to a petition by that post or base commander.

(i) When any military reservation territory has been annexed to an independent school district of the same post or base command under Subsection (h) of this section, and the territory is no longer used to house dependents of military and civilian personnel, the State Board of Education, on petition of the post or base command, or on petition of a majority of the trustees of the school district from which the territory was originally detached, shall be authorized to detach such territory from the military reservation constituting an independent school district and to annex it to the school district from which it was originally detached.

§ 11.29. Adoption of Budget for the Central Education Agency

(a) The State Board of Education shall adopt annually a budget for the operation of the Central Education Agency. The budget shall be in

accordance with the amounts appropriated by the general appropriations act and shall provide funds for the administration and operation of the Central Education Agency and any other necessary expense.

(b) Expenses eligible for payment in whole or in part from federal and special funds shall be designated in the budget.

(c) Expense items budgeted which are not eligible for payment from federal or special funds shall be paid from the foundation school program fund.

(d) The State Board of Education shall budget annually from the foundation school program fund for the operation of the Central Education Agency an amount not to exceed four-tenths of one percent of the total cost of the Foundation School Program as estimated for purposes of the foundation School Program Act by the board at its March meeting immediately prior to the adoption of the budget at the July meeting.

(e) The budget cost of operating the Central Education Agency which is paid from the foundation school program fund shall be included in the estimated cost of the Foundation School Program which is computed by the State Board of Education in March of each year for the determination of the local fund assignment to be charged to each school district.

(f) On or before August 15 of each year, a copy of the approved operating budget for the Central Education Agency showing total funds budgeted by sources of funds shall be filed with the state comptroller of public accounts. Thereafter, vouchers submitted by the state commissioner of education shall be paid from the appropriate fund.

§ 11.30. Authority to Enter Into Contracts for Grants

For the maintenance and improvement of state educational programs and activities in the public schools, the State Board of Education may enter into contracts for grants from both public and private organizations and may expend such funds under the terms and for the specific purposes contracted.

§ 11.31. Teacher-Training Programs

(a) The State Board of Education shall develop and publicize a program specifically designed to encourage and facilitate the entry into public-school teaching and into teacher-training programs of a corps of intelligent, mature, and concerned persons who have received bachelor's degrees from accredited institutions of higher education.

(b) The State Board of Education and the institutions of higher learning in this state that are approved for teacher education shall cooperate to develop procedures for the individual evaluation and appraisal of the training and training needs of persons applying for teacher certification who have possessed a bachelor's degree from an accredited institution of higher learning for a period of three years or longer and who are eligible under the laws of Texas to be certified, and to provide to these persons teacher-training programs that are appropriate to their needs and that can be completed in a reasonable time.

(c) The president or chancellor of each college or university in this state approved for teacher training shall appoint a three-member evaluation team to perform the individual evaluation and determine the individual training needs referred to in Subsection (b) of this section. The evaluation team shall be comprised of two members of the faculty of the department or school of education and

(1) one member from the school or college of arts and sciences if the individual is applying for evaluation for elementary certification; or

(2) one member from the teaching field of the individual if the applicant is applying for evaluation for secondary certification.

(d) More than one team as described in Subsection (c) of this section may be appointed at an institution when needed.

(e) When an applicant meeting the requirements in Subsection (b) of this section seeks to become certified to teach in the public schools of Texas, he shall present his transcript and any information covering any work experience or additional qualifications to an institution of higher learning approved for teacher education. The institution's evaluation team shall evaluate the applicant's transcript and work experience and, when practicable, interview the applicant to determine any deficiencies in either professional or content preparation, in the area of teaching specialization chosen by the applicant. The evaluation team shall give due consideration to the applicant's work experience, as well as to his academic record, and to any other evidence bearing upon his qualification as a teacher. The evaluation team shall then recommend what additional course work or other preparation is needed by the applicant to qualify for certification under standards established by the State Board of Education. While the applicant is pursuing the study and preparation recommended by the evaluation team, he will remain under its general guidance. His training may be reevaluated by the team when necessary, as when any teaching experience is acquired by the applicant either in student teaching or under emergency permit. When the team finds the applicant has satisfactorily met the requirements for certification, the team shall recommend him for a provisional certificate.

(f) The State Board of Education, with the advice and assistance of the state commissioner of education, shall develop a pattern of minimum standards for the certification of persons under this section. The pattern shall recognize the role and responsibility of the evaluation teams. As far as the training of persons under this section is concerned, the board shall allow the waiver of any current requirements for the provisional certificate not stipulated or implied by the standards developed for the guidance of institutions for this particular program. However, nothing in this section shall be construed as permitting more requirements of an applicant under this section than would be made in an undergraduate program of teacher preparation; to the contrary, the legislative intent of this section is that, in recognition of the maturity, experience, and level of achievement of applicants in this program, course requirements would more likely be reduced, compressed, or combined, and would be more freely interchangeable with similar courses.

(g) The Central Education Agency is hereby authorized and directed to prepare, or have prepared, publicity materials, and to make these materials available for use to television and radio stations, newspapers and other periodicals, and any other appropriate communications media, to encourage qualified persons to enter the teaching profession and to publicize the training program directed in this section, as well as other teacher-training programs. The Central Education Agency is hereby authorized to use for this purpose any funds that have been or may be appropriated to it, and to accept and spend for this purpose any gifts or donations of funds made for this purpose.

(h) When the commissioner of education shall so direct, in the case of applicants seeking to enter this program to qualify to teach in trade or industrial courses, the requirement herein for a bachelor's degree may be waived.

(i) The State Board of Education, with the advice and assistance of the state commissioner of education, is hereby authorized to establish such rules and regulations as are not inconsistent with the provisions of this section and which may be necessary to implement and carry out the legislative policy expressed herein.

§ 11.32. Regional Education Media Centers

(a) The State Board of Education shall provide, by rules and regulations, for the establishment and operation of Regional Education Media Centers to furnish participating school districts with education media materials, equipment and maintenance, and educational services.

(b) Centers approved by the Central Education Agency as meeting the Board of Education requirements are established for the purpose of developing, providing and making available to participating school districts, among other education media services, the following:

(1) lending library service for educational motion picture films, 16 mm and 8 mm or improvements thereof, with such processing and servicing of films as is needed to maintain the library;

(2) lending library service for 35 mm slides, or improvements thereof, filmstrips, and disc recordings;

(3) comprehensive lending library collection of programmed instruction materials for both remedial and enrichment purposes;

(4) educational magnetic tape duplicating service for both audio and visual tapes, with the agency central duplicating faculty servicing the regional centers for program materials;

(5) overhead and other projection transparency duplicating service to provide visuals from prepared master copies; and

(6) professional and other services to assist schools in effective and efficient utilization of all center materials and services.

(c) Regional centers shall be located throughout the state so that each school district has the opportunity to be served and to participate in an approved center, on a voluntary basis. No center shall be approved unless it serves an area having 50,000 or more eligible scholastics in average daily attendance for the next preceding school year, except that the Central Education Agency may make an exception for sparsely populated areas.

(d) A Regional Education Media Center is an area center, composed of one or more Texas school districts, that is approved to house, circulate, and service educational media for the public schools of the participating districts.

(e) Each center shall be governed by a five- or seven-member board. The board size shall be determined locally and recommended in the initial application for center approval. The State Board of Education shall adopt uniform rules and regulations to provide for the local selection, appointment, and continuity of membership for regional center boards. Vacancies shall be filled by appointment by the remaining members of the regional board for the unexpired term. All members shall serve without compensation.

(f) The Regional Media Board is authorized to employ an executive director for its respective center and such other personnel, professional and clerical, as it deems necessary to carry out the functions of the center, and to do and perform all things which it deems proper for the successful operation thereof, and to pay for all operating expenses by warrants drawn on proper funds available for such purpose.

(g) Any school district which is a participant member of a Regional Education Media Center may elect to withdraw its membership in the center for a succeeding scholastic year, electing not to support nor to receive its services for any succeeding year. Title to and all educational media and property purchased by the center shall remain with and in the center.

(h) The Central Education Agency, through its audit and accreditation divisions, shall review for purposes of continuity and standardization the services of the centers.

(i) The cost incident to setting up the centers, their operation, and the purchase of education media supplies and equipment shall be borne by the state and each participating district to the extent and in the manner provided in this section.

(j) The state shall allot and pay to each approved center annually an amount determined on the basis of not to exceed \$1 per scholastic in average daily attendance for the next preceding school year in the district or districts that are participants in an approved center. The funds or amount provided by the state shall be used only to purchase educational media or equipment for the center which have had prior approval of its Regional Media Board and the Central Education Agency through its budgetary system.

(k) School districts as participant members in the center shall provide and pay to the proper center a proportionate amount determined on its ADA for the next preceding school year matching the amount provided by the state. The matching funds provided by the participant districts, including any donated or other local-source funds, may be used to pay for costs of administration of and/or servicing by the center and to purchase supplemental educational media. A center shall not enter into obligations which shall exceed funds available and/or reasonably anticipated as receivable for the current school year.

(l) Annually, pursuant to such regulations and procedure as may be prescribed by the agency, the governing board of each center shall determine the rate per pupil based on ADA the next preceding school year, not to exceed the \$1 limit prescribed in this section, which shall constitute the basis for determination of total amount to be transmitted by participant districts to the center and as matching funds from the state's contribution to this program.

(m) The state's share of the cost in the Regional Education Media Centers program herein authorized shall be paid from the minimum foundation school program fund, and this cost will be considered by the Foundation Program Committee in estimating the funds needed for foundation program purposes. Nothing in this section shall be construed to prohibit a center from receiving and utilizing matching funds in any amount for which it may be eligible from federal sources.

§ 11.33. Regional Education Service Centers

(a) The State Board of Education may provide for the establishment and a procedure for the operation of Regional Education Service Centers by rules and regulations adopted under this section and the provisions of Section 11.32, to provide educational services to the school districts and to coordinate educational planning in the region.

(b) The governing board of each Regional Education Service Center, under rules and regulations of the State Board of Education, may enter into contracts for grants from both public and private organizations and

to expend such funds for the specific purposes in accordance with the terms of the contract with the contracting agency.

§ 11.34. Authority to Serve Also as the State Board for Vocational Education

The State Board of Education is also the State Board for Vocational Education. As such it shall have the powers and perform the duties assigned in this code and the laws relating to the State Board for Vocational Education.

[Sections 11.35–11.40 reserved for expansion]

SUBCHAPTER C. THE STATE BOARD OF VOCATIONAL EDUCATION

§ 11.41. Composition and Executive Officer

(a) The State Board of Vocational Education is a unit of the Central Education Agency and is composed of those persons who are members of the State Board of Education as set forth in Section 11.22 of this code.

(b) The state commissioner of education shall be the executive officer through whom the state board for vocational education shall carry out its policies and enforce its rules and regulations.

§ 11.42. Vocational Rehabilitation Division of the Central Agency

(a) The vocational rehabilitation division of the Central Education Agency is designated and authorized to provide for the rehabilitation of severely physically disabled Texas citizens, except those who are visually handicapped as defined by laws relating to the State Commission for the Blind; provided that nothing herein contained shall affect or repeal the crippled children's restoration service authorized by Chapter 216, Acts of the 49th Legislature, 1945 (Article 4419c, Vernon's Texas Civil Statutes), administered by the crippled children's division of the State Department of Health, so far as that authority is consistent with laws relating to the State Commission for the Blind.

(b) Other functions and duties now or hereafter assigned to the supervision of the State Board for Vocational Education shall be carried out by appropriate divisions in the State Department of Education.

§ 11.43. Instructions for Cooperation With Congressional Act Providing Vocational Rehabilitation

(a) The State Board for Vocational Education is instructed to cooperate with the terms and conditions expressed in an Act of Congress passed June 2, 1920, and entitled: "An Act to provide for the promotion of Vocational Rehabilitation of persons disabled in industry or otherwise, and their return to civil employment," and all amendments thereto.

(b) The treasurer of the State of Texas is authorized to receive the funds appropriated under that Act of Congress and to make disbursements therefrom on the order of the State Board for Vocational Education.

(c) The State Board for Vocational Education is authorized to receive gifts and donations for rehabilitation work. These gifts and donations shall be deposited in the state treasury, subject to their matching if necessary with such funds as the federal government may allocate per bien-

nium to the state for this work, the cost of which has not already been met with state appropriations for the biennium.

(d) No person shall ever receive any commission for solicitation of any funds provided in this section.

[Sections 11.44–11.50 reserved for expansion]

SUBCHAPTER D. STATE COMMISSIONER OF EDUCATION

§ 11.51. Selection and Qualifications

(a) The Office of State Commissioner of Education is a unit of the Central Education Agency and shall be filled in accordance with the provisions of Section 11.25 of this code.

(b) The state commissioner of education shall be a person of broad and professional educational experience, with special and recognized abilities of the highest order in organization, direction, and coordination of education systems and programs, and in administration and management of public schools and public education generally. The commissioner of education shall be a citizen of the United States and shall have been a resident of the State of Texas for a period of not less than five years immediately preceding his appointment. He shall possess good moral character, be eligible for the highest school administrator's certificate currently issued by the State Department of Education, and shall have at least a master's degree from a recognized institution of higher learning. He shall take the oath of office required of other state officials.

(c) The commissioner shall execute his official bond in a sum not to exceed \$50,000, conditioned on the faithful performance of his duties as required by the laws of Texas and the rules and regulations imposed by the State Board of Education, and pursuant to the provisions of Chapter 383, Acts of the 56th Legislature, Regular Session, 1959 (Article 6003b, Vernon's Texas Civil Statutes).

§ 11.52. Powers and Duties

(a) The commissioner of education shall serve as executive officer of the Central Education Agency and as executive secretary of the State Board of Education and of the State Board for Vocational Education.

(b) The commissioner of education shall be responsible for promoting efficiency and improvement in the public school system of the state and shall have the powers necessary to carry out the duties and responsibilities placed upon him by the legislature and by the State Board of Education.

(c) The commissioner of education shall recommend to the State Board of Education such policies, rules, and regulations as he considers necessary to promote educational progress and shall supply the State Board of Education with all necessary or pertinent information to guide it in its deliberations.

(d) The commissioner of education shall prescribe uniform systems of forms, reports, and records necessary to secure needed information from county school officers and local school districts.

(e) The commissioner of education shall require of county judges, county and district school superintendents, county and school district treasurers or depositories, and other school officers and teachers such school reports relating to school funds and other school affairs as he may deem proper for collecting information and advancing the interests of the

public schools. He shall furnish the necessary blanks, forms, and instructions for this purpose.

(f) The commissioner of education may delegate ministerial and executive functions to members of the State Department of Education and may employ division heads and all other employees and clerks to perform the duties of the Central Education Agency as may be authorized by appropriations therefor.

(g) The commissioner of education shall issue teaching certificates to public school teachers and administrators in compliance with the provisions of Chapter 13 of this code.¹

(h) The commissioner of education is authorized to issue vouchers for the expenditures of the Central Education Agency according to the rules and regulations prescribed by the State Board of Education.

(i) The commissioner of education shall examine and approve all accounts to be paid out of the school funds by the state treasurer, and upon such approval, the comptroller of public accounts shall be authorized to draw his warrant.

(j) The commissioner of education shall observe and execute the mandates, prohibitions, and regulations established by law or by the State Board of Education in accordance with law.

(k) The commissioner of education shall have printed for general distribution as many copies of the school laws as the State Board of Education may determine.

(l) The commissioner of education shall advise and counsel the school officers of the counties, cities, towns, and school districts on the best methods of conducting the public schools. He may issue instructions and opinions regarding rules and regulations which shall be binding for observance on all officers and teachers.

(m) The commissioner shall inform himself about the educational progress of the different parts of this state and of other states. Insofar as he may be able, he shall visit different sections of this state, address teachers' institutes, associations, and other educational gatherings, instruct teachers, and promote all aspects of education. The legislature shall make adequate appropriation for the commissioner's necessary travel expenses, or those of his representative, when in service of the state.

(n) The commissioner shall, one month before the meeting of each regular session of the legislature, and 10 days prior to any special session thereof, at which, under the governor's proclamation convening the same, any legislation may be had respecting the public schools, make a full report to the State Board of Education on the condition of all the public schools. This report shall

(1) give all the information called for by the board and such other matters as the commissioner shall deem important; and

(2) be presented by the governor to the legislature, and 2,000 copies of it shall be printed in pamphlet form for use of the legislature and for distribution to the various school officers and libraries in this state and in other states and territories of the United States and Canada, and to the United States Office of Education in Washington.

1. Section 13.01 et seq.

SUBCHAPTER E. THE STATE DEPARTMENT OF EDUCATION**§ 11.61. Composition**

The State Department of Education shall constitute the professional, technical, and clerical staff of the Central Education Agency.

§ 11.62. Organization and Regulations

(a) The State Department of Education shall be organized into divisions and subdivisions established by the commissioner of education subject to the approval of the State Board of Education.

(b) Directors of the major divisions of the State Department of Education, and all of its other employees, shall be appointed by the commissioner of education pursuant to general rules and regulations adopted by the State Board of Education.

(c) The rules and regulations pertaining to personnel administration shall include a comprehensive classification plan, including an appropriate title for each position, a description of duties and responsibilities, and the minimum requirements of training, experience, and other qualifications essential for adequate performance of the work. These rules and regulations shall likewise provide tenure safeguards, leave and retirement provisions, and establish hearing procedures.

§ 11.63. Functions

(a) The State Department of Education shall

(1) carry out the mandates, prohibitions, and regulations for which it is made responsible whether by statute, the State Board of Education, the State Board for Vocational Education, or the commissioner of education;

(2) make free and full use of advisory committees and commissions composed of professional educators and/or other citizens of the state; and

(3) seek to assist local school districts in developing effective and improved programs of education through research and experimentation, consultation, conferences, and evaluation, but shall have no power over local school districts except those specifically granted by statute.

(b) The budgets and fiscal reports filed with the Central Education Agency shall be reviewed and analyzed by the staff of the State Department of Education to determine whether or not all legal requirements have been met and to collect fiscal data needed in preparing school fiscal reports for the governor and legislature. The Central Education Agency may drop from the list of accredited schools any school district which fails to comply with the laws or the rules and regulations of the State Board of Education applicable to preparation and adoption of the local budget and/or fiscal accounting system of public school districts.

CHAPTER 12. TEXTBOOKS

SUBCHAPTER A. GENERAL PROVISIONS

Section

- 12.01. Free Textbooks.
- 12.02. Textbook Fund.
- 12.03 Textbooks for the Blind and Visually Handicapped.

[Sections 12.04–12.10 reserved for expansion]

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ACQUISITION, AND CUSTODY

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- 12.14. Multiple List for Elementary Grades.
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- 12.31. Central Depositories.
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- 12.33. Cancellation of Contracts.
- 12.34. Continuing or Discontinuing Textbooks.
- 12.35. Purchase and Distribution.

[Sections 12.36–12.60 reserved for expansion]

SUBCHAPTER C. LOCAL OPERATIONS

- 12.61. Requisitions.
- 12.62. Local Adoptions.
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- 12.64. Bond.
- 12.65. Distribution; Handling.
- 12.66. Sale of Books.

SUBCHAPTER A. GENERAL PROVISIONS

§ 12.01. Free Textbooks

(a) Textbooks adopted by the State Board of Education for use in the public schools of Texas shall be furnished, under the plan as set out in this chapter, without cost to the pupils attending such schools.

(b) The adoption, purchase, distribution, and free use of such state-owned textbooks shall be carried out in accordance with the provisions of this chapter.

§ 12.02. Textbook Fund

(a) The state textbook fund shall consist of the fund set aside by the State Board of Education from the available school fund as provided below, together with all funds accruing from the sale of disused books, all money derived from the purchase of books from boards of school trustees by private individuals or by other schools, and all amounts lawfully paid into the fund from any other source.

(b) The State Board of Education shall annually, at a meeting designated by them, set apart out of the available school fund of the state an amount sufficient to purchase and distribute the necessary school books for the use of the pupils of this state for the scholastic year ensuing.

(c) Funds transferred to the textbook fund shall remain permanently in this fund until expended and shall not lapse to the state at the close of the fiscal year.

(d) The transfer of funds set apart to the textbook fund shall be determined by the State Board of Education on the basis of a report of the commissioner of education submitted on July 1 of each year, stating:

(1) the amount of the textbook fund which is then unexpended; and

(2) his estimate as to the funds necessary for the purchase and distribution and other necessary expenses of textbooks for the school session of the following year.

(e) On the basis of the information furnished, the state board shall have the power to set apart from the available school fund the estimated amount needed with 25 percent additional, this additional sum to be used to meet emergencies or necessities caused by unusual increase in scholastic attendance or by unusual and unforeseen expenses and school conditions.

(f) All necessary expenses incurred by the operation of this law or incident to the enforcement of this law shall be paid from the state textbook fund provided for in this chapter on bills approved by the commissioner of education.

§ 12.03. Textbooks for the Blind and Visually Handicapped

(a) The State Board of Education is authorized to acquire, purchase, and contract for, with or without bids, subject to rules and regulations adopted by the board, free textbooks recommended as suitable and usable as textbooks for the education of the blind and visually handicapped scholastics in the public school systems of this state in grades one to twelve inclusive. The board may also enter into agreements providing for the acceptance, requisition, and distribution of books and instructional aids pursuant to Public Law 922, 84th Congress, or as amended.¹

(b) For purposes of this section, a blind and/or visually handicapped scholastic means and includes any pupil whose visual acuity is impaired to the extent that he is unable to read the print in regularly adopted textbooks used in the subject class.

(c) For purposes of this section, "textbook" means and includes books in Braille, large type or any other medium or any apparatus which conveys information to the scholastic or otherwise contributes to the learning process.

(d) All textbooks for the blind and visually handicapped available and submitted on invitation shall be examined by the State Textbook Committee for its recommendation as to their suitability and usability as textbooks for the blind and visually handicapped in the public school systems.

(e) Textbooks for the blind and visually handicapped and teacher copies requisitioned and purchased by the board pursuant to contract signed by the chairman thereof and the costs of administration thereof shall be paid out of the textbook fund of this state as are textbooks for pupils of normal vision.

(f) Textbooks for the blind and visually handicapped may be obtained and distributed by the Central Education Agency pursuant to rules and regulations adopted by the State Board of Education as it may act on recommendations of the State Textbook Committee and commissioner of education.

(g) All textbooks acquired by the provisions of this section shall be the property of the State of Texas, to be controlled, distributed, and disposed of pursuant to board regulations.

1. 20 U.S.C.A. §§ 101, 102.

[Sections 12.04–12.10 reserved for expansion]

SUBCHAPTER B. STATE ADOPTION, PURCHASE, ACQUISITION, AND CUSTODY

§ 12.11. State Textbook Committee

(a) The commissioner of education, annually at the meeting of the State Board of Education held on the first Monday in May, shall recommend the names of 15 persons, no two of whom shall live in the same congressional district, for appointment to the textbook committee for a one-year term.

(b) Each of the persons so named shall be an experienced and active educator engaged in teaching in the public schools of Texas. At least a majority of the members of the committee shall be classroom teachers, and all members shall be appointed because of unusual backgrounds of training and recognized ability as teachers in the subject fields for which adoptions are to be made during the year of appointment.

(c) No person who has acted as an agent for any author or textbook publishing house or who has been an author or associate author of any textbook published by any publishing house, or who owns stock in any publishing house, or who has been or is directly or indirectly connected with any textbook publishing house, shall be eligible for appointment to the State Textbook Committee.

(d) The State Board of Education shall approve or reject the nominations: and if any name is rejected, the commissioner of education shall nominate others until 15 persons have been selected, no two of whom

shall live in the same congressional district, who shall be named by the State Board of Education to membership on the textbook committee.

(e) It shall be the duty of the textbook committee to recommend to the commissioner of education a complete list of textbooks which it approves for adoption at the various grade levels and in the various school subjects. The committee shall examine carefully all books submitted for adoption and shall prepare and publish for free distribution a list of its recommendations to the state commissioner.

(f) The textbook committee shall hold its meetings where and when the State Board of Education shall determine; its members shall receive no salary but shall be reimbursed for all expenses incurred in attending meetings and/or appeals involving the committee.

§ 12.12. Recommendations by State Commissioner of Education

(a) The commissioner of education may remove books from the list recommended by the State Textbook Committee, but he shall not place on the list any book not recommended by the committee, nor shall he reduce to a single adoption any list for a specific grade or subject in which multiple adoption is recommended by the committee.

(b) The commissioner of education, pursuant to the provisions in Subsection (a) of this section, shall submit to the State Board of Education the list recommended by the State Textbook Committee.

§ 12.13. Adoption by State Board of Education

The State Board of Education may remove books from the list submitted by the commissioner of education, but the board shall not place on the list any book not recommended by the commissioner of education, nor shall the board reduce to a single adoption any list for a specific grade or subject in which multiple adoption is recommended by the commissioner of education.

§ 12.14. Multiple List for Elementary Grades

(a) The State Board of Education shall select and adopt a multiple list of textbooks for use in the elementary grades of the public schools of Texas.

(b) The multiple list shall consist of not less than three nor more than five textbooks on the following subjects: spelling, reading (basal and supplementary), English language and grammar, geography, arithmetic, physiology-hygiene, civil government, driver education and safety, vocal music, elementary science, history of the United States (in which the Confederacy shall be fairly represented), history of Texas, agriculture, a system of writing books, and a system of drawing books.

(c) The board may also select and adopt textbooks for any additional subjects approved by the State Department of Education for teaching in the elementary schools, including but not limited to the foreign languages of German, Bohemian, Spanish, French, Latin, or Greek.

(d) The board may, if deemed necessary, adopt as textbooks a geography of Texas and a civil government of Texas.

(e) No book adopted shall contain anything of a partisan or sectarian character.

§ 12.15. Multiple List for High Schools

(a) The State State Board of Education shall adopt a multiple list of books for use in the high schools of Texas.

(b) The multiple list shall include not fewer than three nor more than five textbooks on the following subjects: algebra, plane geometry, solid geometry, general science, biology, physics, chemistry, a one-year world history, American history, homemaking, physical geography, driver education and safety, vocal music, English composition, literature (including American literature and English literature), shop courses, physiology, agriculture, civil government, commercial arithmetic, bookkeeping, typewriting, shorthand, journalism, and the Latin, Spanish, German, Czech, and French languages.

(c) Free textbooks shall be provided for all other courses which have been accredited by the state accrediting committee and for which as many as 10,000 pupils are enrolled according to the annual reports from high schools to the textbook division of the State Department of Education.

§ 12.16. Other Provisions

(a) In the event as many as three suitable textbooks are not offered for adoption on any one subject, the board may select fewer than three textbooks.

(b) Specific rules as to the manner of selection for all books on the multiple lists provided for in this section shall be made by the State Board of Education.

(c) Textbooks adopted in accordance with the provisions of this section are adoptions for every public school in this state and no public school in the state shall use any textbook unless it has previously been approved and adopted by the State Board of Education. The board shall prescribe rules under which such textbooks adopted and approved shall be introduced or used by or in the public schools of the state.

(d) Textbooks on physiology and hygiene shall contain at least one chapter on the effect of alcohol and narcotics.

§ 12.17. Public Notice of Adoptions to be Made

(a) When textbooks are to be selected and adopted under the provisions of this code, or where a contract for a textbook then in use is about to expire, two months in advance of the meeting of the State Board of Education at which the adoptions may be made, the chairman of the State Board of Education shall give public notice—

- (1) by having printed in the public press a notice to the effect that the meeting will be held and that adoptions will be made; and
- (2) by sending written notices to all persons, firms, or corporations in whose behalf the notices shall have been requested.

(b) The notices required by Subsection (a) of this section shall contain:

- (1) the time and place of the meeting of the State Board of Education at which the adoptions may be made;
- (2) the subjects on which textbooks may be adopted;
- (3) the last date on which sample copies of books offered for textbook adoption may be submitted;
- (4) the amount of cash deposit required;
- (5) the time to be allowed for signing contract and filing bond after the award is made; and
- (6) a statement that formal proposals will be received on the date of the meeting.

§ 12.18. Filing of Bids and Sample Copies

(a) At least 30 days prior to the date of the meeting of the State Board of Education at which adoptions are to be made, sample copies of each book on which a bid will be submitted shall be filed with the commissioner of education.

(b) Every person, firm, or corporation desiring to submit a bid on a book for adoption shall make the bid, by filing with the commissioner of education five copies of each book offered for consideration, and such additional copies as thereafter may be requested by the commissioner. Publisher's price information as required in this section and as may be requested on regular and special editions shall be printed, stamped, or pasted in each copy of each book filed with the commissioner of education.

(c) The bid shall state the prices at which the book is offered to Texas, f.o.b. the publisher's Texas depository and the terms and conditions upon which the book will be furnished. The terms and conditions shall not be in conflict with other provisions of this chapter.

(d) The bids shall be submitted in two forms, one in which is stated the allowance made for books then in use and the property of the state when offered in exchange for the new books to be adopted under this code; the other without stating the allowance for presently owned books, which would remain the property of the state. The allowance and condition for exchange, if agreed to and accepted by the state, shall be enforced only during the two scholastic years following a change in books.

(e) Information which shall also be printed, stamped, or pasted in each copy of each book filed with the commissioner of education shall be:

(1) a statement of the price at which the book or special editions are sold in other places under state or county adoptions, and the minimum quantities in which it will be sold at such prices;

(2) a statement of the publisher's catalogue price of the book or special editions, together with trade discounts and the conditions under which, and the purchasers to whom, such discounts are allowed, and the place of delivery; and

(3) a statement of the minimum wholesale price at which the book or special editions are sold f.o.b. the shipping point of the publisher and the name of the shipping point.

§ 12.19. Deposits With the Treasurer of the State

(a) In compliance with the published notice of adoptions to be made, each person, firm, or corporation submitting a bid or bids on a book or books for adoption shall deposit with the treasurer of the State of Texas such sum of money as the State Board of Education may require, but not less than \$500 nor more than \$2,500 according to the value of the books each bidder may propose to supply.

(b) Such deposits shall be returned to the unsuccessful bidders on certificate of the commissioner of education that no contract has been awarded on the bid for which the sum was deposited.

(c) When any successful bidder has been awarded a contract and has filed his bond and contract with the State Board of Education and they have been approved, the State Board of Education shall make an order on the treasurer of the state reciting such facts, and the treasurer shall return the deposit of such bidder to him.

(d) If any successful bidder fails to make and execute the contract and bond as provided in this subchapter, the deposit made by the successful

bidder shall be forfeited to the state absolutely and the treasurer shall place the deposit of the bidder in the state treasury to the credit of the available school fund, and the State Board of Education may readvertise for other bids to supply the book or books.

§ 12.20. Affidavit of Eligibility and Agency

(a) Each person, firm, or corporation submitting a bid on any book or books for adoption shall file with the commissioner of education on the day that the State Board of Education meets or within the last five days just preceding the date on which the board meets, an affidavit executed by the individual bidder or a member of the firm or the president and secretary of the corporation bidding, setting forth all of the facts with reference to the eligibility of the bidder to make a proposal.

(b) Each affidavit filed must contain the following:

(1) the names of all persons employed to act for the bidder, directly or indirectly, in any way whatsoever in securing the contract or in the preparation of the bid or bids and supporting documents, together with the addresses of such individuals and the capacity in which each served;

(2) the names of any persons who may have at any time during the preceding year received, either directly or indirectly, any money or other thing of value from the bidder by way of emolument for services rendered in this state, either directly or indirectly, in securing or attempting to secure contracts for the sale of books of the publisher or in promoting the sale of such books to the State of Texas;

(3) a statement that no member of the State Board of Education or of the State Textbook Committee is in any way interested, directly or indirectly, in the individual, firm, or corporation bidding; and

(4) a statement that the antitrust affidavits and other materials required by Section 12.22 of this code have been filed.

(c) In the event any publisher, after filing the affidavit, shall employ an attorney or other representative to assist in securing the award of a contract by the State Board of Education, he shall disclose such employment to the board by filing a supplementary affidavit before any contract in which he is interested shall be awarded.

(d) A publisher who cannot or does not comply with the provisions of this section shall not be eligible to bid.

§ 12.21. Affidavit as Warranty

The statements made in all affidavits filed by a publisher shall be considered warranties and, if found to be untrue, shall subject the contract to forfeiture and authorize a recovery on the bond to the full amount thereof, as liquidated damages, unless it is shown that such misstatement or nondisclosure of fact was unintentional or an oversight on the part of the publisher.

§ 12.22. Antitrust Regulations

(a) No book or books shall be purchased from any person, firm, or corporation who is a member of or connected with any trust.

(b) The affidavits (as shall be applicable to the bidder) which the State Board of Education shall require all persons, firms, and corporations bidding for a contract to file with the board, on or before the date selected by the board for receiving sealed bids for textbook adoptions,

and in order to carry out the requirement of Subsection (a) of this section, are as follows:

(1) Each person, firm, or corporation shall file a sworn affidavit that said person, firm, or corporation is not a trust and is not connected either directly or indirectly with a trust.

(2) Each person, firm, or corporation shall file a sworn affidavit stating whether the person, firm, or corporation is interested, or whether the person, firm, or any member thereof, or any individual stockholder of such corporation is interested or acting as a director, trustee, or stockholder, either directly or indirectly or through a third party, or in any manner in any other textbook publishing house. This statement shall be sworn to by the person, a member of such firm, or the president, secretary, and each of the directors of a corporation.

(3) Each firm bidding for a contract supplying books shall present a sworn statement signed by all its members, showing the names of all members of the firm, and stating whether any other person, firm, or corporation has any financial interest in the firm, and also whether any individual members of the firm have any financial interest in any other textbook publishing firm or corporation or textbook publishers.

(c) The State Board of Education shall also require the corporations, persons, or firms to file attested copies of all written agreements entered into and existing between them and others engaged in the textbook publishing business.

§ 12.23. Consideration of Bids

(a) The State Board of Education shall meet at the time and place mentioned in the public notice of adoptions to be made, as specified in Section 12.17 of this code. The board shall then and there open and examine the sealed proposals received.

(b) No bid shall be considered from, and no contract shall be made with, any publisher who has failed to establish his eligibility in compliance with the terms of Section 12.20 of this code;

(c) No bid shall be considered and no book or books shall be purchased from any person, firm, or corporation who is a member of or connected with any trust, or if, in the opinion of the State Board of Education, the affidavit, written agreements, or other facts presented in compliance with the terms of Section 12.22 of this code are violations of the anti-trust laws of the State of Texas or opposed to public policy.

(d) No person, not the author or publisher or the bona fide permanent and regular employee of the publisher, shall appear before the State Board of Education in behalf of any book submitted to the board for adoption or seek to influence the members thereof.

§ 12.24. Selection and Adoption

(a) The State Board of Education shall make a full and complete investigation of all books and accompanying bids. The textbooks shall be selected and adopted after a careful examination and consideration of all books presented.

(b) The books selected and adopted shall be those which in the opinion of the board are most acceptable for use in the schools. Quality, mechanical construction, paper, print, price, authorship, literary merit, and other relevant matters shall be given such weight in making the decisions as the board may deem advisable.

(c) No textbook shall be adopted until it has been read carefully and examined by at least a majority of the State Textbook Committee.

(d) The State Board of Education shall proceed without delay to adopt for use in the public schools of this state textbooks on all branches authorized by this chapter; but if the bids submitted are not satisfactory, the board may postpone the selection of the books or a part of them to such time as the board may select, and after readvertising, new bids may be received and acted on by the board in the same manner as original bids.

(e) If no texts on any prescribed subject are submitted by any particular publisher or publishers that meet the requirements of the schools, as may be determined by the board, then it shall be the duty of the board to instruct the commissioner of education to investigate the book market for the purpose of securing bids with a view of providing at the most reasonable price or prices possible, the best available texts on subjects that are to be adopted by the board for the schools of Texas.

§ 12.25. Maximum Price

The maximum price which the State Board of Education shall contract to pay, f.o.b. the Texas depository of the publisher, for any books to be used in the public schools of this state shall not exceed the minimum price at which the publisher sells the book in wholesale quantities, f.o.b. the publisher's publishing house, after all discounts have been deducted. Any contract made for the purchase of books for use in the public schools of Texas at a higher price than the maximum price fixed by the preceding sentence of this section shall be void.

§ 12.26. Bond

(a) The bidder to whom any contract may have been awarded shall execute a good and sufficient bond payable to the State of Texas. The bond shall be in an amount which the State Board of Education deems advisable but not less than \$2,500 for each textbook adopted by the State Board of Education for use in the public schools of the state. The bond shall be approved by the State Board of Education and shall be conditioned that the contractor shall faithfully perform all the conditions of the contract.

(b) For the purpose of securing satisfactory bond a series of pamphlet writing books shall be considered as one textbook, a series of pamphlet drawing books shall be considered as one textbook, and a series of band, chorus, or orchestra pamphlet-type books shall be considered as one textbook.

(c) The bond shall not be exhausted by a single recovery thereon, but may be sued on from time to time until the full amount is recovered.

(d) The State Board of Education may, at any time, on 20 days' notice, require a new bond to be given and in the event the contractor, shall fail to furnish new bond, the contract of the contractor may at the option of the State Board of Education, be forfeited.

§ 12.27. Preparation and Execution of Contract and Bond

(a) The contract and bond shall be prepared by the attorney general, and be payable in Travis County, Texas, and shall be deposited in the office of the secretary of state.

(b) Each contract shall be duly signed by the publishing house or its authorized officers and agents; and if it is found to be in accordance with all the provisions of this chapter, and if the bond required by this

chapter is presented and duly approved, the State Board of Education shall approve the contract and order it to be signed on behalf of the board by the chairman.

(c) All contracts shall be made in duplicate, one copy to remain in custody of the secretary of state and be copied or appear reproduced in full in the minutes of the meeting of the State Board of Education in a well-bound book, and the other copy to be delivered to the company or its agent.

§ 12.28. Provisions for Updating Books

(a) Every contract shall contain a provision that the State Board of Education may, during the life of the contract, on giving one year's previous notice to the publishers of the book or books, order the changes, amendments, and additions to the book or books so selected and adopted as in the discretion of the board shall keep them up-to-date and abreast of the times. Such revisions shall not be made more often than at two-year intervals.

(b) If in the judgment of the State Board of Education changes or revisions make it impractical for the revised books to be used in the same class with the old books, the publishers shall be required to give the same exchange terms as were given when the books were first adopted, and the exchange period shall extend two years from the time the revised books are first put into use in the schools.

(c) Nothing in this section shall be construed to give the State Board of Education power or authority to abandon any book or books originally contracted for.

§ 12.29. Other Contract Provisions

(a) The State Board of Education shall specify the duration of time of all adoption contracts, which shall be for a period the board may determine but not to exceed six years.

(b) The right to exclusive use of new books during the first three years of the term of any contract shall be waived by the contracting publishers to provide for the gradual introduction of new books.

(c) No contract shall ever be made that binds the state to buy a specific number of a specific quantity of textbooks, but all contracts shall be for such books as the state may need.

(d) Each contract shall provide or be construed to authorize that any book adopted in the contract by the State Board of Education may be sold by the publisher designated depository to any person, or to private and/or parochial schools, or state institutions of this state at the same rate and discount as those granted to the state, provided advance payment accompanies the purchase.

(e) Each contract shall contain a clause to the effect that, if the contract is cancelled by reason of fraud, collusion, or material breach, the full amount of the bond given by the contractor shall be considered as liquidated damages to be recovered out of the bond by the state at the suit of the attorney general.

§ 12.30. Announcement of Adoption

(a) As soon as the State Board of Education has entered into the contract for the furnishing of books for the public schools of this state under the provisions of this chapter, it shall be the duty of the board to issue its proclamations of such facts to the people of the state.

(b) As soon as practical after the adoption of the textbooks provided for in this chapter, the commissioner of education shall address to the county superintendents and to the presidents of the school boards in independent school districts and to the presidents of school boards in common school districts having 300 or more scholastic population a circular letter which shall contain a list of all the books and such other information as he may deem advisable.

§ 12.31. Central Depositories

All parties with whom book contracts have been made shall establish and maintain in some city in the state a depository where a stock of their goods to supply all immediate demands shall be kept; all contractors not maintaining their own individual or separate state agencies or depositories shall maintain a joint agency or depository to be located at some suitable and convenient distributing point. At the general depository each contractor joining in the agency shall keep on hand a sufficient stock of books to supply the schools of the state.

§ 12.32. Enforcement of Contracts

(a) Any person, firm, or corporation with whom a contract has been entered into under the provisions of this chapter, shall designate the secretary of state of Texas as its agent, on whom citation shall be served, and all other writs and processes, in the event any suit shall be brought against the person, firm, or corporation.

(b) The commissioner of education shall carefully label and file away the copies of books adopted as furnished for examination to the State Board of Education; the copies shall be securely kept and the standard of quality and mechanical excellence of the books so furnished under contract shall be maintained during the continuance of the contract.

(c) Complaints regarding textbook service or quality shall be made both to the commissioner of education and to the state depository designated by the contractor of the books. In the event a complaint does not receive reasonable prompt attention, the complaint shall be taken to the county judge, who shall report the fact to the attorney general. The attorney general shall bring suit on account of the failure in the name of the State of Texas in a district court of Travis County, and shall recover on the bond given by the contractor for the full value of the books not furnished as required, and an additional sum of \$100. Each day of failure to furnish the books shall constitute a separate offense. The amounts so recovered shall be placed to the credit of the state textbook fund.

§ 12.33. Cancellation of Contracts

(a) Any contract entered into under the provisions of this chapter may be cancelled by the state in a suit instituted by the attorney general for fraud, or collusion, or material breach of the contract on the part of either party to the contract or any member of the State Board of Education or any person, firm, or corporation, or their agents making the bond or contract.

(b) For the cancellation of any such contract the attorney general is authorized to bring suit in the proper court of Travis County.

(c) In case of the cancellation of any contract as provided for, the damages shall be fixed at not less than the amount of the bond, to be recovered as liquidated damages in the same suit canceling contract. Because of the difficulty of determining the damages that might accrue by

reason of fraud, collusion, or material breach, and cancellation of a contract, the full amount of the bond given by the contractor shall be considered as liquidated damages to be recovered by the state at the suit of the attorney general.

(d) In the event it is established that any antitrust regulation as specified in Section 12.22 of this code has been violated, the violation shall be held to be fraud and collusion, and the attorney general shall bring suit on the bond of that person, firm, or corporation, and on proof of violation shall recover the liquidated damages as provided for in this section.

§ 12.34. Continuing or Discontinuing Textbooks

(a) It shall be the duty of the State Board of Education to meet annually on the second Monday in November and at such other times as it may deem necessary for the purpose of considering the advisability of continuing or discontinuing, at the expiration of each current contract, any or all of the state-adopted textbooks in use in the public schools of Texas and for making such adoptions as are provided for in this chapter.

(b) Adoptions for the total number of different texts shall be so arranged that contracts on not more than one-sixth of the total number of different basal subjects shall expire in any one year or shall be changed in any one year. The series of pamphlet books referred to in Section 12.26(b) of this code shall each be considered as one book.

(c) Before making any change in the adopted series, the board shall, on thorough investigation, satisfy itself that a change is necessary for the best interest of the school children and that such change is consistent with financial economy.

(d) Before the board shall determine to displace any book on which the contract is expiring, it shall, before making a new contract for a new text, ascertain through the office of the commissioner of education the number of usable books of the kind on which the contract has expired or is about to expire, there are on hand, and also the estimated number of books that would be required to supply the needs of the schools of the state using the books for the first, second, and third years immediately succeeding the expiration of the contract on the books. The purpose of furnishing such an estimate of the number of books needed shall be to give the textbook publishers only an approximation as to the possible quantity of books which the state may need, but the state shall not be bound to any specific quantity.

(e) At the time the commissioner of education undertakes to secure a statement of the number of usable books on hand, as provided above, he shall also secure from the superintendents of independent school districts and of common school districts having 300 or more scholastic population and from county superintendents an expression as to whether or not they believe the existing text should be readopted or a new text adopted, and such information shall be for the use of the State Board of Education, but the board shall not be bound to readopt the old text or to adopt a new text by reason of such expression of preference by the superintendents.

(f) The board shall then secure from the publisher of the book on which the contract has expired or is about to expire a bid or offer for the furnishing of such textbooks to meet the actual necessities of the schools of the state during the first-, second-, and/or third-year period, allowing the state, however, a margin of 25 percent over, or 25 percent under, the estimated number to be required.

(g) If, upon consideration of the cost of the books required to supply such needs for such a period, it appears to the board that it will be economical to do so, it may make a contract with such publishers to furnish such books during said first-, second-, and/or third-year period with a view to using up the entire supply of such books on hand instead of wasting the same at the expiration of the original contract. At the expiration of the period, the board shall then make a contract for a textbook on the subject.

(h) Unless new textbooks better suited to the requirements of the schools are offered to supplant existing textbooks at a price and in quality satisfactory to the board, the board shall renew the existing contracts for such period as may be deemed advisable not to exceed a period of six years.

()¹ Whenever the contractor supplying any book agrees to renew the contract on the same terms for a period of not less than two years nor more than six years, the members of the State Board of Education shall give preference to the offer of the company holding the contract if they shall thereby secure as good or better books at a lower price than by making a different contract.

(j) It shall always be lawful for the board to renew a contract on such terms that in its judgment may be for the best interest of the state.

1. So in enrolled bill.

§ 12.35. Purchase and Distribution

(a) The purchase and distribution of free textbooks for the state shall be under the management of the commissioner of education, subject to the approval of the State Board of Education.

(b) One copy of each textbook used in the work taught by the teacher shall be issued by the school trustees, or their representatives, to each teacher as a desk copy. These books shall be returned to the trustees or their representatives at the close of the session.

(c) Books purchased in accordance with the terms of this chapter shall be delivered to the school districts f.o.b. the Texas depository of the publisher and shall be shipped by freight, parcel post, or express, as may be set out in the requisition.

(d) If it is necessary for the publisher or the depository to prepay any shipping charge, it shall be repaid by the state, in the same manner that the books are paid for, and in addition to the bill for books.

(e) The State Department of Education may direct the route by which books shall be shipped.

(f) Bills for textbooks purchased by the state on requisitions as provided for in this chapter shall be paid by warrants on the state treasury made by the state comptroller of public accounts on receipt of bills approved by the commissioner of education. The payment shall be made within 90 days from date of delivery, and if payment is delayed thereafter, a six percent per annum shall be added until date of payment.

(g) Any person, school not controlled by the state, state institution, or dealer in any county in the state may order books from the state depository designated by the publisher, and the books so ordered shall be furnished at the same rate and discount as are granted to the state, but in that case the designated depository may require that the price of books so ordered shall be paid in advance.

[Sections 12.36–12.60 reserved for expansion]

SUBCHAPTER C. LOCAL OPERATIONS

§ 12.61. Requisitions

(a) On the first school day of April each teacher shall report the maximum attendance of each of his grade levels taught, to the school principal or superintendent, if any, or to the county superintendent.

(b) Within one week subsequent to the first school day in April compiled reports as to the maximum attendance for the school shall be made by the principal to the superintendent or, if there is no district superintendent, the report shall be made to the county superintendent having jurisdiction of the district.

(c) Each superintendent of an independent school district, and each principal of a school district classified as common having a scholastic population of 300 or more and electing to have its books requisitioned and distributed directly to the district, shall compile maximum attendance reports and make such reports to the commissioner of education.

(d) Each county superintendent shall compile reports of the schools classified as common and under his jurisdiction (except for those electing to requisition directly as provided in Subsection (c) of this section), and make a report to the commissioner of education.

(e) Books needed as reported in Subsection (d) of this section shall be requisitioned and distributed entirely through the office of the county superintendent. However, any school district classified as common with a scholastic population of 300 or more may elect to have its books requisitioned and distributed in the same manner as are those for independent school districts. The duties of the county superintendent with reference to the care and distribution of textbooks shall be subject to the approval of the county school board and the commissioner of education.

(f) Reports as to the maximum attendance of each school shall be made to the commissioner of education as prescribed in Subsections (c) and (d) of this section not later than April 25 of each year. Blank forms for such reports and for the requisition of textbooks shall be prepared and furnished by the State Department of Education.

(g) Requisition for textbooks for a subsequent session shall be based on the reports of the maximum number of scholastics in attendance during the preceding school session, plus an additional 10 percent, except as otherwise provided. Requisitions shall be made through the commissioner of education and furnished by him to the state depository designated by contractors of books not later than June 1 of each year; but in cases of unforeseen emergency the designated state depository shall fill orders for books on requisition approved by the State Department of Education.

(h) Requisitions for textbooks shall be delivered to the county superintendent by each principal or superintendent of those school districts whose books are requisitioned and distributed through the county superintendent.

(i) Requisitions for supplementary readers and other textbooks may be made at convenient times during the session and should be made within one month in advance of the time the books will be needed.

§ 12.62. Local Adoptions

(a) No public school in the state shall use any textbook unless it has been previously adopted and approved by the State Board of Education.

(b) In each subject of the elementary and high school grades, one or more of the several textbooks of each multiple list adopted may be select-

ed by local school officials; but all of the schools in any one district, or all districts under the supervision of any one county school system (county school board and/or superintendent) must select the same book or books for all of the schools within the system.

(c) Once textbooks are selected from the multiple lists, they shall be continued in use in that school system for the entire period of the adoption or for a minimum period of not less than five years.

(d) Supplementary readers for pre-primer, primer, first, second, and third grades shall be distributed on a quota of not more than 300 percent of the enrollment for each of the grades to which the book is assigned.

(e) Supplementary readers for the fourth through the eighth grades shall be distributed on a quota basis not in excess of 200 percent of the grade enrollment to which the books are assigned.

(f) Agriculture and homemaking textbooks for grades 9 through 12 shall be distributed on a quota basis not in excess of 220 percent of the subject enrollment.

(g) All other books not specified in this section shall be supplied on the basis of one book for each pupil enrolled in the subject for which the book is adopted and not to exceed the total enrollment for the subject plus the teachers' copies.

§ 12.63. Title, Custody, and Disposition

(a) After purchase according to the provisions of this chapter, all textbooks are and shall remain the property of the State of Texas.

(b) Specific rules as to the requisition, distribution, care, use, and disposal of books may be made by the commissioner of education, subject to the approval of the State Board of Education. Such rules shall not conflict with the provisions of this code.

(c) Textbooks shall be subject to inspection by any agent or inspector authorized by those having charge of the local textbook service or authorized by the commissioner of education subject to approval of the State Board of Education.

(d) The commissioner of education with the approval of the State Board of Education may provide for the disposition of those textbooks which are no longer in fit condition to be used for instruction purposes, or for the disposition of discarded books remaining the property of the state. In case of the disuse of books in fair condition, inspectors of the State Department of Education may require continuance of their use.

(e) The school trustees of each district shall be designated as the legal custodians of the books and shall have the power to make such arrangements for the distribution of books to the pupils as they may deem most effective and economical.

§ 12.64. Bond

(a) One or more members or employees of each district board of trustees shall enter into bond in the sum of 15 percent of the value of the books consigned to the district by the state, payable in Austin, Texas, to the governor of the state, or his successors in office. All money accruing from the forfeiture of the bonds shall be deposited by the governor to the credit of the state textbook fund.

(b) The bond shall be approved by the county judge of the county in which the school is situated and by the commissioner of education; deposited with the commissioner; and conditioned on the faithful discharge by the member or employee of his duties under his employment and under

this section and on his faithfully accounting for all books coming into his possession and for all money received from the sale thereof.

§ 12.65. Distribution; Handling

(a) The district school trustees may delegate, under such terms as they deem best, to their employees power to requisition and distribute books and to manage books, but such delegations of authority shall not be at variance with the provisions of this code or with the rules for free textbooks formulated by the commissioner of education and approved by the State Board of Education.

(b) All books shall have on one inside cover a printed label stating that the book is the property of the state. Schools shall number all books, placing the number on the printed label. Teachers shall keep a record of the number of all books issued to each pupil. Books must be covered by the pupil under the direction of the teacher. Books must be returned to the teacher at the close of the session or when the pupil withdraws from school.

(c) Each pupil, or his parent or guardian, shall be responsible to the teacher for all books not returned by the pupil, and any pupil failing to return all books shall forfeit his right to free textbooks until the books previously issued but not returned are paid for by the parent or guardian.

(d) Teachers and school officers must make such reports as to the use, care, and condition of free textbooks as may be required by the local trustees or by the State Department of Education. The salary for any month of any teacher or employee who neglects to make the report at the proper time may be withheld until each report is received in a condition satisfactory in form and content.

(e) No teacher or employee of the school engaged in the distribution of textbooks under this code as the agent or employee of the state, or of any county or district in the state, shall, in connection with this distribution, sell or distribute, or in any way handle, any kind of school furniture or supplies, such as desks, stoves, blackboards, crayons, erasers, pens, ink, pencils, tablets, etc.

(f) Local boards of trustees shall make provision for the fumigation of books before the reissue of the books. Covers of all books shall be removed before reissue, and the pupils to whom the books are issued shall replace covers under the direction of the teacher.

§ 12.66. Sale of Books

The local boards of school trustees may sell books to pupils or parents attending the public schools of this state, at the state contract price. All money accruing from sales of textbooks by boards of school trustees shall be forwarded to the commissioner of education as directed, and deposited in the state textbook fund.

CHAPTER 13. CERTIFICATION OF TEACHERS

Section

- 13.01. State Board of Examiners for Teacher Education.
- 13.02. Rules and Regulations.
- 13.03. Filing of Application and Payment of Fees.
- 13.04. Qualifications.
- 13.05. Classes of Certificates.
- 13.06. Provisional Certificate.
- 13.07. Professional Certificate.
- 13.08. Duration of Certificate.
- 13.09. Certificate Areas of Specialization.
- 13.10. Emergency Teaching Permits.
- 13.11. Transition Certificates.
- 13.12. Certificates and College Credentials from Other States.
- 13.13. Certificates for Teaching in the Texas School for the Deaf or the Texas School for the Blind.
- 13.14. Alien Teachers.
- 13.15. Presentation and Recording of Certificates.
- 13.16. Cancellation of Certificates.

Section 13.01. State Board of Examiners for Teacher Education

(a) The state commissioner of education shall be authorized to appoint a board of examiners for teacher education consisting of not less than three competent teachers, living in the state, to serve during his pleasure, and he may increase or decrease the number as varying conditions may make necessary.

(b) It shall be the additive and cumulative duty of every person who is a state employee, teacher, professor, or officer of any of the state institutions of higher learning, and drawing a state warrant for salary as such, to serve as an ex officio member of the board of examiners for teacher education when called upon by the state commissioner of education for the performance of such ex officio duties.

§ 13.02. Rules and Regulations

(a) The State Board of Education, with the advice and assistance of the state commissioner of education, is authorized to establish such rules and regulations as are not inconsistent with the provisions of this chapter and which may be necessary to administer the responsibilities vested under the terms of this chapter concerning the issuance of certificates and the standards and procedures for the approval of colleges and universities offering programs of teacher education.

(b) In order to secure professional advice for his recommendations to the State Board of Education, the state commissioner of education shall consider recommendations of the board of examiners for teacher education in all matters covered by this chapter.

§ 13.03. Filing of Application and Payment of Fees

(a) Any person eligible to obtain a teacher certificate of any kind or classification provided for in this chapter shall make application to the

state commissioner of education, stating the class of certificate or certificates desired, and shall present to the commissioner such proof as this and other teacher certification laws require concerning his qualifications and fitness for the class of certificate requested.

(b) No applicant shall receive a teacher certificate of any class or kind, except as otherwise provided in this chapter, without first depositing with the state commissioner of education the application fee prescribed to be paid under the provisions of this chapter for the particular type or class of certificate requested.

(c) All application fees collected under the provisions of the teacher certification laws shall be used to cover the expenses of inspection and identification of approved college or university teacher education programs and of recording and issuing certificates.

§ 13.04. Qualifications

(a) No person shall receive a certificate authorizing his employment in the public schools of Texas without showing to the satisfaction of the state commissioner of education that he—

(1) is a person of good moral character, evidenced by written statements of three good and well-known citizens, or such proof as the commissioner may require of his moral qualifications;

(2) will support and defend the constitutions of the United States and the State of Texas;

(3) has secured credit from a college or university in this state in a course or courses (government or political science) which give special emphasis on the Texas Constitution and has secured credit from a college or university in a course or courses (government or political science) which give special emphasis on the United States Constitution, or shall have passed examination(s) administered under the direction of the Central Education Agency, in the one or both, as the situation demands; and

(4) has ability to speak and understand the English language sufficiently to use it easily and readily in conversation and teaching.

(b) No certificate shall be granted to a person under 18 years of age.

§ 13.05. Classes of Certificates

Teacher certificates authorizing the holders thereof to contract to teach, or to be employed in professional teaching service positions in the public schools of this state, shall be of two classes, designated as provisional certificates and professional certificates.

§ 13.06. Provisional Certificate

(a) The provisional certificate shall be issued to each applicant who has acquired, or shall acquire, a bachelor's degree conferred by a college or university approved for teacher education by the State Board of Education of Texas, and who is otherwise eligible to teach in the public schools of this state.

(b) Vocational teachers in trade and industrial courses shall not be required to have a bachelor's degree as a predicate to the issuance of a provisional certificate to them, but must in lieu of the bachelor's degree requirement have work experience to the extent that shall be established in the state plan for vocational education.

(c) A special teacher designated as a school nurse shall not be required to have a bachelor's degree as a predicate to the issuance of a pro-

visional certificate, but must in lieu thereof have been certified as a registered nurse under the laws of this state.

(d) An application fee of \$2 shall be paid by each applicant for the certificate provided for herein.

§ 13.07. Professional Certificate

(a) The professional certificate shall be issued to each applicant who has acquired a bachelor's degree conferred by a college or university approved for teacher education by the State Board of Education; who has satisfactorily completed at least 30 additional graduate-level hours, that shall be completed in accordance with an approved college plan of graduate teacher education designed for the purpose of qualifying the applicant to serve in the area or areas of specialization to appear on his certificate, in a college or university which has an approved graduate program of teacher education; and who has at least three years of teaching experience.

(b) The State Board of Education acting on recommendation of the state commissioner of education shall define by regulations what constitutes a year of teaching experience for purposes of this section.

(c) An application fee of \$3 shall be paid by each applicant for the certificate provided for in this section.

§ 13.08. Duration of Certificate

Either a provisional or professional certificate shall be permanent and valid for life, unless cancelled by lawful authority.

§ 13.09. Certificate Areas of Specialization

(a) The provisional and professional certificates shall show clearly that the holders thereof may teach or perform duties in professional service positions in one or more of the specialization areas in which the applicant shall have completed the college or university teacher education program approved for such area(s).

(b) The specialization areas shall be in:

- (1) the elementary schools, including kindergartens, grades 1 to 8 inclusive, and in grade 9 in junior high school;
- (2) junior high schools, including grades 6 to 10 inclusive;
- (3) high schools, including grades 7 to 12 inclusive;
- (4) in a special subject for all grades; and
- (5) in a professional service position or area as provided in the foundation school program law.

(c) The specialization area or areas designated above (which are to appear on the face of the certificate issued to an eligible applicant) shall be based upon the satisfactory completion by the applicant of a college or university teacher education program approved in one or more of the above five areas of specialization by the State Board of Education as recommended by the state commissioner of education.

§ 13.10. Emergency Teaching Permits

An emergency permit to teach, valid for not more than one scholastic year, may be issued under regulations adopted by the State Board of Education upon recommendation of the state commissioner of education. An application fee of \$1 shall be paid by an applicant for the permit authorized herein, and for each necessary renewal thereof.

§ 13.11. Transition Certificates

(a) "Permanent," as used throughout this section, shall mean valid for life unless cancelled by lawful authority.

(b) All persons enrolled in a college approved for teacher education and preparing for the teaching profession and all persons or teachers qualified for teacher certification or certified to teach in the public schools of this state prior to September 1, 1955, are safeguarded and protected in their right or privilege to pursue and continue in the teaching profession or training. Such persons as are eligible therefor shall receive, on application, the certificate or certificates authorized in Subsections (c), (d), (e), (f), (g), (h), and (j) of this section.

(c) A non-degree teacher who, on September 1, 1955, held a valid permanent teacher certificate issued upon prior certification laws of this state, and who is employed as a teacher in any scholastic year, on application, shall be issued a provisional certificate marked permanent.

(d) A non-degree teacher who, on September 1, 1955, held a valid temporary certificate issued under prior certification laws of this state, and who is employed as a teacher in any scholastic year thereafter, on application, shall be issued a provisional certificate marked temporary. This certificate shall be good for the remaining years of validity of his previous temporary certificate, but on expiration may be revived and continued by complying with the certification laws in effect at the time the temporary certificate was issued. Upon the holder's completion of the requirements entitling him to a permanent certificate, as prescribed by law pursuant to which his temporary certificate was issued, the provisional certificate shall be marked permanent.

(e) Any person who, prior to September 1, 1955, had established his eligibility for any teacher certificate under the then-existing certification laws of this state may apply for and receive the state certificate to which he was entitled under such laws on payment of the fees prescribed. On application, such person may also receive the class of certificate to which the provisions of this chapter entitle him.

(f) Any teacher who has a bachelor's degree, holds a valid Texas teacher certificate, has five years or more of teaching experience, and is employed as a teacher in any scholastic year following September 1, 1955, shall, on application, be issued a professional certificate. Such a teacher may, however, substitute six semester hours of college credit earned in a college or university approved for teacher education, and acquired after the conferring of his bachelor's degree for a year of teaching experience, but no more than three years (a total of 18 semester hours) of college credit may be substituted in order to qualify for a professional certificate.

(g) Any teacher who has a bachelor's degree, holds a valid Texas teacher certificate, but has less than five years of teaching experience (and cannot meet the requirements in Subsection (f) of this section for college credit in lieu of teaching experience), and who is employed as a teacher in any scholastic year following September 1, 1955, shall, on application, be issued a provisional certificate marked "permanent."

(h) Any teacher who has a master's degree, holds a valid Texas teacher certificate, and is employed as a teacher in any scholastic year following September 1, 1955, shall, on application, be issued a professional certificate.

(i) Any person who, prior to September 1, 1955, was enrolled in a program leading to a bachelor's degree in a college or university approved

for teacher education may continue to pursue the program established or altered by the college. On completion of the program and acquisition of the bachelor's degree, he shall be issued, on application and payment of fee prescribed therefor, the kind of certificate for which such preparation entitled him under the previous certification law when his college program was begun.

(j) Any person who held a valid permanent teaching certificate prior to September 1, 1955, shall, on application, be issued a professional certificate. If any part of this chapter is in conflict with this subsection, then this subsection shall control.

(k) There shall be no fee charged for the issuance of either class of new transitional certificates authorized under this section.

(l) The new classes of transitional certificates authorized to be issued under this section shall have designated on their face the area(s) of specialization corresponding to those specializations authorized by the applicable provisions of the previous certification laws.

§ 13.12. Certificates and College Credentials From Other States

(a) A person who holds a bachelor's or higher degree from another state and who desires a Texas certificate shall present such out-of-state certificate and official college transcript to the state commissioner of education, who shall require the State Board of Examiners for Teacher Education to make investigation as to the value of the transcript or certificate, as measured by the standards for certificates in Texas. The commissioner of education shall have the power to issue to the holder of a valid certificate or bachelor's or higher degree from another state a Texas certificate which in his judgment the holder merits when the value of his degree or certificate is measured by the standards required for Texas certificates. But no certificate may be issued if the degree or certificate presented is not deemed to meet the requirements for a Texas provisional certificate.

(b) No Texas teacher certificate shall be issued to a person from another state, as provided in Subsection (a) of this section, until that person has secured credit from a college or university in this state in a course or courses which give special emphasis on the Texas Constitution and has secured credit from a college or university in a course or courses which give special emphasis on the United States Constitution, or shall have passed examination(s), administered under the direction of the Central Education Agency, in one or both, as the situation demands. The course or courses may be taken by correspondence, extension classes, or in residence.

(c) Any person who applies for a Texas teacher certificate on credentials from another state, as provided in Subsection (a) of this section, may be issued by the state commissioner of education an emergency permit, which will indicate on its face the area of specialization and the class of certificate which the applicant shall be entitled to receive upon completion of the requirement set out in Subsection (b) of this section. The emergency permit shall entitle the applicant to teach in the area of specialization appearing on its face and shall be valid for a period not exceeding one scholastic year. No more than one emergency permit authorized in this subsection shall be issued to any applicant. The applicant shall be required to pay a fee of \$2 for the issuance of the emergency permit as well as an additional fee, prescribed in this chapter, for the issuance of a valid Texas teacher certificate when he qualifies and makes application therefor.

§ 13.13. Certificates for Teaching in the Texas School for the Deaf or the Texas School for the Blind

(a) A provisional certificate to teach the deaf or blind shall be issued, on application and payment of fees, to any person who is 18 years of age; has satisfactorily completed a four-year course of study in an accredited college, professional or technical school, or a university or college approved for teacher education; and has graduated with a degree including 10 semester hours of education (with not less than five of these covering principles and methods of teaching the type of handicapped children he is being certified to teach).

(b) Applicants for certificates to teach industrial and special subjects may substitute four years of trade or professional experience or successful teaching experience for college work, but the certificates issued for these industrial and special subjects shall authorize the holder to teach only such subjects in the Texas School for the Deaf or the Texas School for the Blind.

(c) Any teacher, who prior to 1935 had five years of successful teaching experience of particular types of handicapped children or of industrial and special subjects in the School for the Deaf or the School for the Blind, shall be granted a permanent provisional certificate entitling him to teach those types of children or subjects in the Texas School for the Deaf or the Texas School for the Blind.

(d) Any person now holding a valid teacher certificate, or who may hereafter be granted a certificate, may be deemed qualified to teach in the Texas School for the Deaf or the Texas School for the Blind.

§ 13.14. Alien Teachers

(a) No certificate of any type shall be issued to an alien unless proper evidence is produced showing his intention to become a naturalized citizen of the United States of America.

(b) It shall be unlawful for any board of trustees of any public school district of this state to contract with any person who is an alien to teach, unless the person has declared his intention to become a citizen of the United States. Except as provided in Subsection (c) of this section, any contract in violation of this provision shall be void and of no effect.

(c) If a like privilege is currently granted by any nation to any teacher designated by the governing body of a school district in this state, Subsection (b) of this section shall not apply to any alien teacher, a subject of that nation, who has been regularly designated by proper authority to serve as an exchange teacher in the United States and to teach in the public schools of Texas for not more than one year.

§ 13.15. Presentation and Recording of Certificates

(a) The county superintendent shall keep a record of all certificates held by persons teaching in the public schools of all common school districts, rural high school districts, and independent school districts having less than 150 scholastics (according to the last scholastic census approved by the Central Education Agency) and administered by the laws applicable to common school districts under the jurisdiction of his county.

(b) Any person who desires to teach in a public school of a district as above designated shall present his certificate for record before his contract with the board of trustees of the district shall become binding.

(c) Any person who desires to teach in a public school of an independent school district having 150 or more scholastics or in an independent school district having less than 150 scholastics but which has elected not to be governed by laws applicable to common school districts shall present his certificate for filing with the employing district before his contract with the board of trustees of the district shall become binding.

(d) A teacher or superintendent who does not hold a valid certificate or emergency permit shall not be paid for teaching or work done before the effective date of issuance of a valid certificate or permit.

§ 13.16. Cancellation of Certificates

(a) Any teacher's certificate issued under the provisions of this code or under any previous statute relating to the certification of teachers may be cancelled by the state commissioner of education under any one or more of the following circumstances:

(1) on satisfactory evidence that the holder is conducting his school or his teaching activities in violation of the laws of this state;

(2) on satisfactory evidence that the holder is a person unworthy to instruct the youth of this state; or

(3) on complaint made by the board of trustees that the holder of a certificate after entering into a written contract with the board of trustees of the district has without good cause and without the consent of the trustees abandoned the contract.

(b) Before any certificate shall be cancelled the holder shall be notified and shall have an opportunity to be heard. Any person whose certificate is cancelled by the state commissioner of education shall have the right of appeal to the State Board of Education.

(c) The state commissioner of education shall have the authority, upon the presentation of satisfactory evidence, to reinstate any teacher's certificate cancelled under the provisions of this section. On a refusal of the commissioner so to reinstate a certificate, the applicant shall have the right of appeal to the State Board of Education.

CHAPTER 14. SCHOLASTIC CENSUS**Section**

- 14.01. Definition.
- 14.02. Census Trustee.
- 14.03. Taking the Census.
- 14.04. Further Duties of the Census Trustee.
- 14.05. Supplemental Census.
- 14.06. Census in County-Line Districts.
- 14.07. Duty of the County Superintendent.
- 14.08. Authority of State Commissioner.
- 14.09. Compensation for Census Reports.

Section 14.01. Definition

All children over six and under 18 years of age on September 1, the beginning of any scholastic year, shall be included in the scholastic census.

§ 14.02. Census Trustee

The county superintendents for school districts under the general administration of their office and the boards of trustees of independent

school districts, on each November 1, or as soon as practicable thereafter, shall appoint one trustee of each school district, or some other qualified person, to take the scholastic census who shall be known as the census trustee of the district. Assistants may be appointed if necessary.

§ 14.03. Taking the Census

(a) The scholastic census shall be taken between January 1 and February 1 of each year and shall include all then resident children of the district who on the following September 1 will be over six years of age and under 18 years of age.

(b) In taking the census, the census trustee or designated assistant shall visit each home, residence, habitation, and place of abode within his district and shall by actual observation and interrogation enumerate the children thereof.

(c) He shall use for each parent or guardian or person having control of any such children a prescribed form showing:

(1) the name, color, and nationality of the person controlling such children;

(2) the name and number of the school district in which the children reside;

(3) the name, sex, and date of birth of each such child; and

(4) the street and house number or location of the house or place in which each child resides.

(d) Only the children of the same family shall be listed on one form; and if one person has under his control children of different family names, the census trustee shall use a separate form for each family name.

(e) The census trustee shall require such forms to be subscribed and sworn to on the date of the enumeration by such person rendering the children; the census trustee or his assistant is authorized to administer oaths for this purpose.

(f) When the census trustee (or his assistant) visits any home or house or place of abode of a family and fails to find either the parent or any person having legal control, he shall leave there the prescribed census blank with a note requiring the parent or any person having legal control of any child or children to complete the form, sign and swear or affirm to it, and deliver it to the census trustee.

§ 14.04. Further Duties of the Census Trustee

(a) The census trustee shall arrange the census forms in alphabetical order, according to the family name of the children reported thereon.

(b) He shall also make, on a prescribed form, census rolls for his district showing:

(1) the name, age, sex, and race of each child enumerated; and

(2) the name of the parent, guardian, or person having control of the child.

(c) He shall also make a summary of his rolls showing the number of such children of each race in each scholastic age.

(d) He shall swear to all his rolls and summaries and to the faithful and accurate discharge of his duties.

(e) He shall deliver the rolls, with the forms arranged in alphabetical order, to the county superintendent on or before April 1 after his appointment.

§ 14.05. Supplemental Census

(a) Upon certified request of the county superintendent, the state commissioner of education, at district expense, shall require a supplemental scholastic census to be taken whenever an unusual increase in the scholastic population of any school district is caused by the location therein or proximity thereto of camps, reservations, building or dam projects, shipyards, flying fields, training stations, munition works, or other agencies sponsored by federal or state government; or by the production of oil, gas, or other natural resources necessary in the program of the national defense.

(b) In the event this supplemental census shows a substantial increase in scholastic population, the state commissioner of education may approve a supplemental census roll, adding the names of additional eligible scholastics to the rolls of the district.

(c) This supplemental census roll shall be deemed a part of the original census as if it were taken in the last preceding January of the school year and the scholastic apportionment shall be paid in accordance therewith.

(d) Such supplemental census shall be taken not later than January 15 of any fiscal year, and shall include only additional eligible scholastics enrolled and in actual attendance.

(e) No adjustment in scholastic apportionment to a district shall be in an amount more than necessary for the additional expenditure needs of such districts approved by the State Department of Education.

(f) Only one supplemental census annually in any one district shall be authorized by the commissioner of education.

§ 14.06. Census in County-Line Districts

(a) The scholastic census of certain county-line districts that are under the general administration of county school authorities shall be taken under the supervision of the county superintendent of the county having jurisdiction of such district; it shall be reported by such county to the State Department of Education as provided by the general law governing the taking of the scholastic census. However, the census trustee taking the census of a county-line district shall make a separate roll of the scholastic population contained in the territory of each county in such district. The separate rolls shall be returned with the general census roll to the county superintendent as provided in Section 14.04 of this code.

(b) The county superintendent of such county having jurisdiction of the county-line district shall make duplicates of these separate census rolls and send appropriate copies to the county superintendent and county treasurer of each such county having territory in the county-line school district to be used by them for the purpose of apportioning the county available school funds.

(c) If a county-line school district, classified as common, has voted a special tax for school maintenance or the payment of interest and sinking fund on school bonds, the county superintendent of each county a part of which is included in the district shall, from time to time as such taxes are collected by his county, draw his warrant in favor of the county treasurer or county depository of the county having jurisdiction of the county-line district and against the county treasurer or county depository of his county for whatever amount of county available school funds accountable to the district and/or special tax, as the case may be, is in the hands of his treasurer or depository. Upon presentation of the warrant,

his treasurer or depository shall pay over to the treasurer named as depository of the county having jurisdiction of such county-line district the sum called for in the warrant, to be credited to the proper account or accounts, as the case may be, of the district. This sum shall be used only as the law provides for different kinds of school funds.

(d) All funds derived from the income of the county permanent school fund of each county embracing territory of any county-line district as apportioned under the provisions of paragraph (b) of this section shall be deposited to the credit of such district and shall be used for such purposes as are provided by law.

§ 14.07. Duty of the County Superintendent

(a) The rolls and summaries of the census trustee shall be preserved by the county superintendent in his office for three years after they are filed.

(b) The county superintendent shall make on prescribed forms separate, consolidated rolls for the white and colored children of his county, showing:

- (1) the names of the children arranged in alphabetical order, according to their family names;
- (2) the age and sex of each child, together with the number of the district in which he lives; and
- (3) the name of the parent or guardian.

(c) In making the consolidated rolls, the county superintendent shall scrutinize carefully the work of the census trustees and shall have power to summon witnesses, take affidavits, and correct any errors he may find in any census trustee's rolls.

(d) The county superintendent:

- (1) shall carefully exclude any and all duplication of names;
- (2) may investigate for possible omissions by referring to the forms of the previous years which have been preserved for that purpose; and
- (3) may reject, if he deems it necessary, any roll and appoint or direct to be appointed another census trustee to take the census for the district, but in that case he shall not approve the warrant to pay the census trustee whose work has been rejected.

(e) When the county superintendent has prepared his consolidated census rolls, one for each race, he shall make a duplicate of each and shall make affidavit to the correctness of both originals and duplicates.

(f) On or before May 1 of each year the county superintendent shall forward the originals of the consolidated census rolls to the Central Education Agency along with an abstract, on a prescribed form and under oath, showing:

- (1) the number of children of each race of different years of school age;
- (2) the total number of children of each race; and
- (3) the total of both races in the county.

(g) The duplicates of the consolidated census rolls shall be filed with the county clerk and become permanent records of his office.

§ 14.08. Authority of State Commissioner

The state commissioner of education shall have authority to investigate the census of any county and correct errors. In extreme cases where he believes gross errors have occurred or that fraud has been practiced, he

may, with approval of the State Board of Education, reject any county roll and require the census of the county be retaken.

§ 14.09. Compensation for Census Reports

(a) Census trustees shall be compensated for their services on the basis of the number of children of scholastic age listed by them at the rate of:

- (1) 10 cents per capita in county districts;
- (2) 3 cents per capita in towns of 2,500 to 5,000 inhabitants; and
- (3) 2 cents per capita in towns of 5,000 or more inhabitants.

(b) The county superintendent shall receive one cent per capita for the scholastic population reported by him.

(c) Neither the census trustee nor the county superintendent shall be paid until the census of the county is accepted by the state commissioner of education.

(d) The trustee's compensation shall be forfeited if his work is rejected by the county superintendent and the census of the district ordered retaken.

(e) Both the trustee's and the county superintendent's compensation shall be forfeited if the census of the county is rejected by the state commissioner of education and the census is ordered to be retaken.

CHAPTER 15. STATE FUNDS FOR THE SUPPORT OF PUBLIC SCHOOLS

Section

- 15.01. Composition of the Public School Funds.
- 15.02. Investment of Permanent School Fund.
- 15.03. Sale or Exchange of United States Treasury Bonds and Securities, and Municipal Bonds.
- 15.04. Treatment of Premium and Discount.
- 15.05. Prepayment of Certain Bonds Held by the Permanent School Fund.
- 15.06. Default of School District Securities Held by the Permanent School Fund.
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- 15.10. Duties of the State Comptroller of Public Accounts.
- 15.11. Duties of the State Treasurer.
- 15.12. Use of Available School Fund.

Section 15.01. Composition of the Public School Funds

(a) The permanent school fund, which shall constitute a perpetual endowment for the public free schools of this state, shall consist of:

- (1) all land appropriated for the public schools by the constitution and laws of Texas;
- (2) all the unappropriated public domain remaining in Texas, including all land recovered by the state by suit or otherwise except pine forest land as defined in Section 12, Article 2613, Revised Civil Statutes of Texas, 1925, as amended.

(3) all proceeds from the authorized sale of permanent school fund land, or any portion thereof, surveyed or unsurveyed;

(4) all proceeds from the lawful sale of any other properties belonging to the permanent school fund;

(5) all investments (authorized in Section 15.02 of this code) of properties belonging to the permanent school fund; and

(6) all income from the mineral development of land constituting the permanent school fund, including income from mineral development of riverbeds and other submerged land.

(b) The available school fund, which shall be apportioned annually to the several counties of Texas according to the scholastic population of each, shall consist of:

(1) the interest and dividends arising from any securities or funds belonging to the permanent school fund;

(2) all interest derivable from the proceeds of the sale of land set apart for the permanent school fund;

(3) all money derived from the lease of land belonging to the permanent school fund;

(4) all revenue collected by the state from an annual state ad valorem tax of an amount not to exceed 35 cents on the \$100 valuation, exclusive of delinquencies and cost of collection;

(5) one-fourth of all revenue derived from all state occupation taxes, exclusive of delinquencies and cost of collection;

(6) \$1 dollar from each poll tax collected by the state, exclusive of cost of collection;

(7) one-fourth of revenue derived from state gasoline and special fuels excise taxes as provided by law; and

(8) all other appropriations to the available school fund as made or may be made by the legislature for public free school purposes.

§ 15.02. Investment of Permanent School Fund

(a) In compliance with provisions of this section, the State Board of Education is authorized and empowered to invest the permanent school fund in the types of securities, which must be carefully examined by the State Board of Education and be found to be safe and proper investments for the fund as specified below:

(1) bonds and obligations of the United States and/or of the State of Texas;

(2) obligations and pledges of The University of Texas;

(3) corporate bonds of United States corporations of at least "A" rating;

(4) bonds issued, assumed, or guaranteed by the Inter-American Development Bank;

(5) bonds of counties, school districts, incorporated cities or towns, road precincts, drainage, irrigation, navigation, and levee districts in Texas, under the following rules and regulations:

(A) Such securities, prior to their purchase, must have been diligently investigated by the attorney general of Texas both as to their form and as to their legal compliance with applicable laws;

(B) The attorney general's certificate of validity procured by the party offering such bonds, obligations, or pledges must accompany these securities when they are submitted for registration to the state comptroller, who must preserve the certificates;

(C) Such securities shall be purchased under the provisions of Subsection (b) of this section;

(D) These public securities, if purchased, and when certified and registered as specified above, shall be incontestable unless issued fraudulently or in violation of a constitutional limitation, and the certificates of the attorney general shall be prima facie evidence of the validity of the bonds and coupons thereto; and

(E) After the issuing political subdivision of Texas has received the proceeds from the sales of such public securities, the issuing agency shall be estopped to deny their validity, and the same shall be held to be valid and binding obligations;

(6) preferred stocks and common stocks as the State Board of Education may deem to be proper investments for the permanent school fund, under the following rules and regulations:

(A) In making all such investments the State Board of Education shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital;

(B) At least a total \$400,000,000 of the permanent school fund shall always be invested in those securities designated in Subdivisions (1) through (5) of this subsection;

(C) Stocks eligible for purchase are restricted to stocks of companies incorporated within the United States which have paid dividends for 10 consecutive years or longer immediately prior to the date of purchase and which, except for bank stocks and insurance stocks, are listed upon an exchange registered with the Securities and Exchange Commission or its successors;

(D) Not more than 50 percent of the permanent school fund shall be invested at any given time in corporate stocks and bonds;

(E) Not more than one percent of the permanent school fund may be invested in securities issued by one corporation nor shall more than five percent of the voting stock of any one corporation be owned;

(F) At the discretion of the State Board of Education, corporate securities of the permanent school fund may be sold and the proceeds reinvested for the fund under the terms of this code; and

(7) notwithstanding any other law or provisions in this code, first lien real estate mortgage securities insured by the Federal Housing Administration under the National Housing Act of the United States,¹ as amended from time to time, or in any other first lien real estate mortgage securities guaranteed in whole or in part by the United States Government or any agency thereof.

(b) A 10-day option to purchase must be given to the State Board of Education when any bonds of a public school district of Texas are offered for sale. The State Board of Education must be given a like option to purchase any refunding securities issued in lieu of outstanding securities held for the account of the permanent school fund, which may be redeemed before maturity and which have been called for redemption.

(c) The authorized officer of the offering school district must notify the State Board of Education of all bids received for its offered bonds,

either as first issue or as securities issued in lieu of outstanding bonds held for the account of the permanent school fund.

(d) Before the option to purchase or exchange is exercised, the offered school district bonds must be carefully examined by the State Board of Education and must be found to be safe and proper investment for the fund, and unless satisfied, the board may decline to purchase same. Such offered securities must fulfill the following requirements:

(1) No school district bonds nor other bonds designated in Subsection (a)(5) of this section, shall be purchased unless the annual interest rate is two and one-half percent or more;

(2) No bonds issued by any political subdivision designated in Subsection (a)(5) of this section, shall be purchased if the bond indebtedness, including the security so offered, of the issuing political subdivision exceeds seven percent of the assessed value of all taxable property therein; and

(3) If default is made in the payment of interest due on bonds designated in Subsection (a)(5) of this section, the State Board of Education, at any time prior to the payment of the overdue interest, may elect to treat the principal as also due, and the principal shall, at the option of the board, become due and payable as follows:

(A) Payment of both principal and interest in such cases shall be enforced in any manner provided by law; and

(B) The right to enforce such collection shall never be barred by any law or limitation.

(e) The commissioner of education shall have authority, subject to the approval of the State Board of Education to exercise the option provided for in this section and to exercise a waiver of purchase when the securities offered do not meet eligibility requirements. When and if the commissioner of education exercises the option given by law for the purchase of securities, such exercise shall prevent the sale of the securities to any other party until the State Board of Education, at its next meeting, has had opportunity either to approve or to disapprove such purchase.

(f) If the State Board of Education elects to exercise its option to purchase, it shall order purchase of securities at the price offered by the best bona fide bidder and shall notify and direct the state comptroller to purchase the securities as an investment for the permanent school fund.

(g) If the State Board of Education shall refuse or shall have refused to purchase all or any part of the bonds offered by any such political subdivision, or from the parties to whom the bonds were issued, the offering authority shall sell the bonds to the best bona fide bidder; but the State Board of Education may thereafter purchase such bonds or obligations, subject to the same restrictions provided governing the purchase of such from the political subdivision. When so purchased, such obligations shall be subject to all rights and powers provided by law governing the same when purchased by the State Board of Education from the issuing authority.

1. 12 U.S.C.A. § 1701 et seq.

§ 15.03. Sale or Exchange of United States Treasury Bonds and Securities, and Municipal Bonds

(a) The State Board of Education may authorize the sale or exchange of any United States Treasury bonds, notes, certificates of indebtedness, or other securities issued by the United States Treasury, and may authorize the sale of any municipal bonds issued by any county, city, precinct,

district, or other political subdivision at any time held by the state treasurer for the account of the permanent school fund, in compliance with the following rules:

(1) None may be sold for a price less than the actual amount of money of the permanent school fund invested in it;

(2) None may be exchanged for a public security having a principal value less than the principal value of the security exchanged; and

(b) In making each and all of such sales the State Board of Education shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital.

(c) When any obligations are sold or exchanged as provided in Subsection (a) of this section, the state treasurer shall make delivery of the obligations sold or exchanged in accordance with the directions of the State Board of Education.

§ 15.04. Treatment of Premium and Discount

(a) If the State Board of Education authorizes the payment of a premium out of the permanent school fund in the purchase of any bond, obligation, or pledge as an investment for that fund, then the principal of such securities and an amount of the interest first accruing thereon equal to the premium so paid shall be treated as principal in such investment, and when the first interest is collected, the amount of the premium shall be returned to the permanent school fund.

(b) If the State Board of Education authorizes the purchase of a public security at less than par, the discount received in the purchase shall be paid to the available school fund when the bonds, obligations, or pledges are paid off and discharged.

§ 15.05. Prepayment of Certain Bonds Held by the Permanent School Fund

(a) The State Board of Education may authorize the governing body of any school district or political subdivision in Texas to pay off and discharge, at any interest paying date whether the bonds are matured or not, all or any part of any outstanding bond indebtedness now owned or hereafter to be owned by the permanent school fund, under the rules and regulations of this section.

(b) The governing body of the respective political subdivision desiring to pay off and discharge any such bonded indebtedness owned by the fund shall make such desire known by direct application in writing to the State Board of Education, at least 30 days before any interest paying date on the bonds, describing the bonds or part thereof it desires to pay off and discharge. The application shall be accompanied by an affidavit stating that only such tax money as may be collected by virtue of tax levy made for the specific purpose of providing a sinking fund and paying interest on the particular bonds to be redeemed shall be expended in the redemption, taking up, or paying off the bonds.

(c) The State Board of Education upon receipt of such application and affidavit shall take action on them in such manner as it may deem best and notify the applicant whether the application is refused or granted in whole or in part.

(d) It shall be unlawful for any person on whom any duty rests in carrying out the provisions of this section to give or receive any commission, premium, or compensation for the performance of such duty.

(e) Only such tax money as had been collected by virtue of tax levies made for the specific purpose of providing a sinking fund and paying interest on the particular bonds to be redeemed shall be expended in the redemption, taking up, or paying off of such bonds as provided in this section, unless such bonds are being redeemed for the purpose of being refunded.

§ 15.06. Default of School District Securities Held by the Permanent School Fund

(a) If interest and/or principal has not been paid for two years or more on any bonds issued by any school district (city controlled or otherwise) and held by the permanent school fund, the State Board of Education shall have the authority described in this section.

(b) The State Board of Education may compel any such school district to levy a tax sufficient to meet the interest and principal payments as then or later due.

(c) If any such district furnishes to the State Board of Education satisfactory proof that its taxing ability is insufficient, the State Board of Education may require the district to exhaust all legal remedies in collecting taxes then delinquent, and to levy a tax at the maximum lawful rate on the bona fide valuation of taxable property located in the district.

(d) Revenue collected by either method specified in Subsections (b) and (c) of this section shall be distributed proportionately to all owners of the defaulted securities and shall be in compliance with the following rules:

(1) The proportionate share for each owner will be based on the interest and principal requirements of the original security before authorized refunding; and

(2) Prior acceptance of refunding securities will not reduce an owner's proportionate share.

(e) As long as any such school district is delinquent in its payments of principal and/or interest on any of its bonds owned by the permanent school fund, the State Board of Education shall have the authority to specify the method of crediting payments to the state made by the district as to principal and interest.

(f) The comptroller of public accounts shall not issue any warrant from the foundation school fund to or for the benefit of any district which has been for as long as two years in default in the payment of principal or interest on any security owned by the permanent school fund unless and until the State Board of Education certifies that the district has satisfactorily complied with the appropriate provisions of this section, in which event the comptroller shall resume making payments to or for the benefit of the district, including the making of pretermitted payments.

§ 15.07. Authorized Refunding of Defaulted School Bonds

(a) In compliance with the provisions of this section, the State Board of Education is authorized to revise, readjust, modify, refinance, or refund defaulted bonds issued by any school district in Texas and owned by either the permanent school fund or the available school fund.

(b) Application must be made to the State Board of Education by the district which issued the bonds and must show that:

(1) delinquent interest totals at least 50 percent of the principal amount of the bonds; and

(2) taxable valuation has decreased to such an extent that a full application of the proceeds of the voted authorized tax authorized to be levied on the \$100 taxable property valuation will not meet interest and principal annually maturing on the bonds.

(c) The State Board of Education may effect a refunding of the debt due and to become due only if the board finds that:

(1) the district is unable to pay the sums already matured and the sums contracted to be paid as they mature by paying annually to the State Board of Education the full proceeds of a 50-cent tax levy on the \$100 of all taxable valuation of property within the district;

(2) the taxable valuation of property in the district has decreased at least 75 percent since the bonds were issued and that the decrease was not caused by the district or any of its officials;

(3) the district for a period of at least five years before applying to the State Board of Education for refunding has levied a tax of 50 cents on the \$100 of taxable valuation of property in the district, and that despite such levies, the aggregate amount due the State Board of Education exceeds the aggregate amount due at the beginning of the period;

(4) no additional bonds of the district have been authorized and sold during the five-year period immediately preceding the application; and

(5) the district has in good faith endeavored to pay its debt in accordance with the contract evidenced by the bonds held for the account of the permanent school fund or the available school fund.

(d) If the conditions specified in Subsection (c) of this section are found to exist, the district shall, for the purposes of this section, be deemed to be insolvent, and the State Board of Education may exchange the bonds, interest coupons, and other evidences of indebtedness for new refunding bonds of the district issued in compliance with the following regulations:

(1) The principal amount of the refunding bonds shall not be less than the total amount of the bonds, matured interest coupons, accrued interest, and interest on delinquent interest then actually due to the permanent school fund and/or the available school fund;

(2) The rate of interest to be borne by the refunding bonds may be lower than that borne by the bonds to be refunded if in consideration of the interest reduction the district agrees to levy a tax each year for a period of 40 years at a rate sufficient to produce annually a sum equal to 90 percent of the amount that can be calculated by the levy of a tax at the rate of 50 cents on the \$100 of taxable valuation of property as determined by the latest approved tax roll of the district, and in determining the rate of interest to be borne by the refunding bonds, the State Board of Education shall be governed by the following:

(A) The State Board of Education is authorized to require the rate to be such percent per annum as in its judgment will represent the maximum rate that can be paid by the district and still permit an orderly and certain retirement of the refunding bonds within 40 years from their date;

(B) The interest rate of refunding bonds to be received in exchange for bonds owned by the permanent school fund shall not be less than the minimum rate at which bonds may then be purchased as investments for the permanent school fund; and

(C) The rate of interest of refunding bonds to be received in exchange for bonds owned by the available school fund may be set by the State Board of Education at any rate which it deems feasible, and such refunding bonds may, at the discretion of the State Board of Education, be made non-interest bearing to such date as may be fixed by the board.

(e) No revision, readjustment, modification, refinancing, or refunding shall be made by the State Board of Education that will release or extinguish any debt or obligation then due and payable to the permanent school fund or to the available school fund.

(f) Except as otherwise provided or permitted by this section, the refunding of the bonds of school districts herein authorized shall be in compliance with the general provisions with regard to the refunding of school district bonds as specified in this code.

§ 15.08. Refunding Other Defaulted Obligations

(a) Defaulted obligations (other than bonds of school districts as provided in Section 15.07 of this code) due the available school fund may be refinanced or refunded with the approval of the State Board of Education in compliance with the provisions of this section.

(b) "Defaulted obligations," as used herein, shall include delinquent interest whether represented by coupons or not, interest on delinquent interest, and any other form of obligation due the available school fund.

(c) The obligor must make application to the State Board of Education and show:

(1) that the obligations due the available school fund have been in default in whole or in part for a continuous period of at least 15 years; and

(2) that the obligor is not in default in the payment of the principal of any bonds owned by the permanent school fund.

(d) If the State Board of Education finds that the above-specified requirements have been met, it may approve a refinancing or the issuance of refunding bonds on the conditions:

(1) that the refunding bonds must mature serially in not exceeding 40 years from the date of issuance;

(2) that the principal amount of the refunding bonds shall be not less than the total amount of the obligations then in default and due the available school fund;

(3) that the refunding bonds shall bear interest at such rate or rates as may be determined by the State Board of Education to be for the best interest of the available school fund.

(e) The State Board of Education in its discretion is authorized to accept refunding bonds in lieu of either matured or unmatured bonds held for the benefit of the permanent school fund, provided that the rate of interest on the new refunding bonds is at least the same rate as that of the bonds being refunded.

(f) Refunding bonds issued with the approval or pursuant a refunding agreement with the State Board of Education in compliance with either this section or Section 15.07 shall, on the order of the State Board of Ed-

ucation, be exchanged by the state treasurer for the defaulted obligations they have been issued to refund.

§ 15.09. Jurisdiction

The district courts of Travis County shall have jurisdiction of any suit on bonds or obligations belonging to the permanent school fund, or purchased therewith, concurrent with that of any other court having jurisdiction in said case.

§ 15.10. Duties of the State Comptroller of Public Accounts

(a) On or before July 1 of each year, the comptroller of public accounts shall estimate the amount of the available school fund receivable from every source during the coming scholastic year and report this estimate to the State Board of Education.

(b) On or before the meeting of each regular session of the legislature, the comptroller of public accounts shall report to the legislature an estimate of the amount of the available school fund to be received for the succeeding two years, and the several sources from which the same accrues, and which may be subject to appropriation for the establishment and support of public schools.

(c) On or before the first working day of each month, the comptroller shall certify to the state commissioner of education the total amount of money collected from every source during the preceding month and on hand to the credit of the available school fund.

(d) On receipt of certificates issued to him by the commissioner of education, the comptroller shall draw his warrants on the state treasurer and in favor of the treasurer (depository) of the available school fund of each school district for the amounts stated in the certificates. All such warrants shall be registered and transmitted to the state treasurer.

§ 15.11. Duties of the State Treasurer

(a) At least 30 days before each regular session of the legislature and 10 days before any special session at which there can be legislation respecting the public schools, the state treasurer shall report to the governor the condition of the permanent school fund and the available school fund, the amount of each and the manner of its disbursement.

(b) The treasurer shall provide the State Board of Education with the reports specified in Subsection (a) of this section, and with such additional reports as to those funds which the State Board of Education may request.

(c) The treasurer shall see to it that no portion of either the permanent school fund or the available school fund is used to pay any warrant drawn against any other fund.

(d) The treasurer shall receive and hold in a special deposit and keep account for all properties belonging to the available school fund. All warrants drawn on this fund by the comptroller of public accounts pursuant to certificate of the state commissioner of education must be registered by the state treasurer and then transmitted to the commissioner of education; and when properly endorsed shall be paid by the treasurer in the order of their presentation.

(e) On order of the State Board of Education, the treasurer shall exchange or accept refunding bonds in lieu of:

(1) either matured or unmatured bonds held for the benefit of the permanent school fund, which are being refunded under the terms of this chapter;

(2) defaulted obligations held for the benefit of the available school fund, provided that the refunding bonds are issued in compliance with Section 15.08 of this code;

(3) defaulted obligations of any school district of Texas held for the benefit of the permanent school fund or the available school fund, provided the refunding bonds are issued in compliance with Section 15.07 of this code;

(4) refunding bonds of any school district of Texas for school bonds not matured held by the state treasurer for the permanent school fund, when such new refunding bonds are issued by the school district in compliance with this code.

(f) The state treasurer shall be the custodian of all securities in which the school funds of the state have been or may hereafter be invested, and shall keep the securities in his custody until paid off, discharged, or otherwise disposed of by the proper authorities of the state, and on the proper installment of any interest or dividend, shall see that the proper credit is given, and the coupons on bonds, when paid, shall be properly separated therefrom and cancelled by the treasurer.

§ 15.12. Use of Available School Fund

(a) All available public school funds of Texas shall be appropriated in each county for the education of its children.

(b) No part of the permanent school fund or the available school fund shall be appropriated or used for the support of any sectarian school.

CHAPTER 16. FOUNDATION SCHOOL PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Section

- 16.01. Purpose.
- 16.02. Disposition of Money Appropriated.
- 16.03. Status of Private and Parochial Schools.

[Sections 16.04–16.06 reserved for expansion]

SUBCHAPTER B. CLASSIFICATION OF PROFESSIONAL POSITIONS AND SERVICES

- 16.07. Classification.

[Sections 16.08–16.10 reserved for expansion]

SUBCHAPTER C. PROFESSIONAL UNITS

- 16.11. Professional Units—Allotment—General Rules.
- 16.12. Professional Units—Allotment Formulas.
- 16.13. Classroom Teacher Units.
- 16.14. Vocational Teacher Units.
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**SUBCHAPTER I. SUPPLEMENTAL STATE SALARY
AID TO SCHOOL DISTRICTS**

- 16.98. Supplemental State Salary Aid.

SUBCHAPTER A. GENERAL PROVISIONS

Section 16.01. Purpose

The purpose of the Foundation School Program is to guarantee to each child of school age in Texas the availability of a Minimum Foundation School Program for nine full months of the year and to establish the eligibility requirements for the public school districts of Texas in connection therewith.

§ 16.02. Disposition of Money Appropriated

Appropriations enacted by the legislature for the promotion of the educational opportunities afforded by this state under this Foundational School Program shall be paid in accordance with the requirements and in the manner provided in this chapter.

§ 16.03. Status of Private and Parochial Schools

No provision of this chapter shall be interpreted inimically to the status previously enjoyed by the private or parochial schools operating in this state.

[Sections 16.04–16.06 reserved for expansion]

SUBCHAPTER B. CLASSIFICATION OF PROFESSIONAL POSITIONS AND SERVICES

§ 16.07. Classification

To effectuate the Foundation School Program here guaranteed, school districts are authorized to utilize the following professional positions, or units, and services:

- (1) professional positions;
 - (A) classroom teachers;
 - (B) vocational teachers;
 - (C) special service teachers, among which shall be included librarians, school nurses, school physicians, visiting teachers, and itinerant teachers;
 - (D) teachers of exceptional children;
 - (E) supervisors and/or counselors;
 - (F) principals, part-time;
 - (G) principals, full-time;
 - (H) superintendents; and
- (2) services:
 - (A) Current operating cost other than professional salaries and transportation; and
 - (B) transportation.

[Sections 16.08–16.10 reserved for expansion]

SUBCHAPTER C. PROFESSIONAL UNITS

§ 16.11. Professional Units—Allotment—General Rules

(a) The total number of professional units allotted to each district shall be the sum of the professional units, hereinafter prescribed, for classroom teachers, vocational teachers, special service teachers, teachers

of exceptional children, supervisors and/or counselors, full-time and/or part-time principals, and superintendents.

(b) Such professional unit allotments shall be contingent upon the employment of qualified personnel and upon the payment of not less than the minimum salary as prescribed in this chapter.

(c) No district will be required to employ professional personnel for the full number of professional units for which it is eligible, but where a fewer number are employed, grants shall be based upon the number actually employed during the current school year; and

(d) The number of professional units allotted for the purpose of this program to each school district, except as otherwise provided herein, shall be based upon and determined by the average daily attendance for the district for the next preceding school year.

(e) Separate allotments may be made for whites and Negroes.

(f) Where a school district is consolidated or contracted with another district, or annexed in whole or part to another district or districts, or where the number of grades taught has been reduced, or where the scholastics are transferred to another district, or where there is an annual fluctuation in the attendance in the district, or where for any reason there is a marked increase or decrease in the attendance of any school district, adjustments in professional allotments shall be made by the state commissioner of education subject to the applicable rules and regulations of the State Board of Education.

(g) Attendance in grades not classified to be taught by the county school board shall not be included in determining professional unit eligibility.

(h) Attendance of non-resident scholastics whose grades are taught in their home districts shall not count for teacher eligibility, unless the transfer of such scholastics has been approved by the county school board and the state commissioner of education.

(i) Any school district which is not dormant as defined in Section 16.80 of this code may, with approval of the boards of trustees of the districts concerned, the county school superintendent, and the state commissioner of education, contract for a period of one year to transfer its entire scholastic enrollment, both white and colored, to a contiguous district. The scholastic census rolls of both districts shall be combined, the per capita apportionment paid directly to the receiving district, and the combined average daily attendance used in determining the number of professional units for which the receiving district shall be eligible.

(j) Any school district containing 100 square miles or more and having fewer than one pupil per square mile, and which operates and maintains a four-year accredited high school, may be allotted by the state commissioner of education the number of professional units determinable as earned by the application of a sparse-area formula approved by the State Board of Education. The state commissioner of education shall consider in making such allotments the density and distribution of population in the district, road conditions, and the proximity of the school to another four-year accredited high school.

(k) In determining the number of professional units allotted to each school district in the foundation school program, the attendance of orphan, dependents, or neglected children who are wards of the state shall be considered eligible average daily attendance in the receiving school district or districts to which these children are transferred after approval by the county school board and the state commissioner of education.

§ 16.12. Professional Units—Allotment Formulas

(a) Subject to the general rules set out in Section 16.11 of this code, the number of professional units for each district shall be determined as prescribed in the succeeding sections of this subchapter.

§ 16.13. Classroom Teacher Units

Classroom teacher professional units for each school district, which may be separate for whites and Negroes, shall be determined, and teachers allotted in the following manner:

(1) To school districts having fewer than 15 pupils in average daily attendance, no classroom teacher unit, except that in cases of extreme hardship, such districts may be allotted on a year-to-year basis one classroom teacher unit if so recommended by the county school board and approved by the state commissioner of education;

(2) To school districts having from 15 to 25 pupils, inclusive, in average daily attendance, one classroom teacher unit;

(3) To school districts having from 26 to 109 pupils, inclusive, in average daily attendance, two classroom teacher units for the first 26 pupils and one classroom teacher unit for each additional 21 pupils (no credit to be given for fractions);

(4) To school districts having from 110 to 156 pupils, inclusive, in average daily attendance, six classroom teacher units;

(5) To school districts having from 157 to 444 pupils, inclusive, in average daily attendance, one classroom teacher unit for each 24 pupils, or fractional part thereof in excess of one-half;

(6) To school districts having from 445 pupils to 487 pupils, inclusive, in average daily attendance, 19 classroom teacher units;

(7) To school districts having from 488 to 1,512 pupils, inclusive, in average daily attendance, one classroom teacher unit for each 25 pupils, or fractional part thereof in excess of one-half;

(8) To school districts having from 1,513 to 1,599 pupils, inclusive, in average daily attendance, 61 classroom teacher units;

(9) To school districts having 1,600 or more pupils in average daily attendance, one classroom teacher unit for each 26 pupils, or fractional part thereof in excess of one-half; and

(10) To school districts which operate and have operated at least three consecutive years a four-year accredited high school and having an average daily attendance range between 84 and 156 for the immediate preceding year, the number of professional units shall be based and allotted as follows:

(A) A district having from 84 to 106 pupils, inclusive, in average daily attendance, shall be allotted six classroom teacher units;

(B) A district having 107 to 156 pupils, inclusive, in average daily attendance, shall be allotted seven classroom teacher units.

§ 16.14. Vocational Teacher Units

(a) Vocational teacher professional units for each school district, which may be separate for whites and Negroes, shall be determined and teachers allotted as prescribed in this section and, except for classroom teachers who also serve as part-time vocational teachers, shall be made in addition to other professional allotments.

(b) Each four-year accredited high school shall be eligible, subject to the provisions of the state plan for vocational education as approved by

the State Board for Vocational Education, for two vocational teacher units to teach one or more necessary vocational programs, approved by the state commissioner of education, in agriculture, home economics, trades and industries, or distributive education.

(c) Additional vocational teacher units for four-year accredited high schools may be allotted according to needs determined by a survey of the community and approved by the state commissioner of education.

(d) Each unaccredited high school and each high school classified lower than a four-year high school may be eligible, according to provisions of the state plan for vocational education, for vocational teacher units to teach one or more vocational programs in agriculture, home economics, trades and industries, and distributive education in a number to be determined by the state commissioner of education.

(e) A district having either an accredited or unaccredited high school which qualifies, according to the state plan for vocational education, for less than one vocational agriculture, home economics, trades and industries, or distributive education teacher unit, may be allotted by the state commissioner of education a fractional part of a nine-month vocational teacher professional unit. A fractional part of a vocational teacher professional unit shall entitle a district to employ a part-time vocational teacher or to assign a classroom teacher to serve as part-time vocational teacher.

§ 16.15. Special Service Teacher Units

(a) Special service teacher professional units for each school district, which may be separate for whites and Negroes, shall be based upon the number of approved classroom teacher units, and shall be determined and teachers allotted, in addition to other professional unit allotments, in the manner prescribed by this section.

(b) Districts which have 20 or more approved classroom teacher units shall be eligible for one special service teacher unit for each 20 classroom teacher units, no credit to be given for fractions.

(c) Districts not eligible for a full special service teacher unit may enter by vote of their respective boards of trustees, into one cooperative agreement to provide special service teachers, as prescribed in subsection (b) of this section, to be recommended and supervised by the county school superintendent, and employed by the county school board. The state commissioner of education shall, upon the county superintendent's certification of such agreement, allot to each district party thereto a fractional part of a special service teacher unit, said fraction to be not greater than the number of approved classroom teacher units for that district divided by 20.

(d) School districts may choose from the five types of special service teacher units listed in Section 16.07(1)(C) of this code the number of each classification that it desires, to the extent of total eligibility for such units, but the allocation of special service teacher units shall not preclude the assignment of classroom teachers to special service duties. The state commissioner of education shall establish qualifications for special service teachers which shall be subject to regulations made by the State Board of Education.

§ 16.16. Exceptional Children Teacher Units

(a) Exceptional children teacher units, special or convalescent, for each school district, which may be separate for whites and Negroes, shall

be allotted, in addition to other professional unit allotments, as prescribed by this section.

(b) The purpose of this allotment of exceptional children units is to provide competent educational services for the exceptional children in Texas between and including the ages of six and 21 (except as otherwise provided in this section for emotionally disturbed children) for whom the regular school facilities are inadequate or not available.

(c) As used in this chapter:

(1) "Exceptional children" means physically handicapped, mentally retarded and/or emotionally disturbed children.

(2) "Physically handicapped child" means any child or educable mind whose body functions are so impaired that he cannot be safely or adequately educated in the regular classes of the public schools without the provision of special services.

(3) "Mentally retarded child" means any child whose mental condition is such that he cannot be adequately educated in the regular classes of the public schools without the provision of special services.

(4) "Emotionally disturbed child" means any child 17 years of age or under, whose emotional condition is medically determined and psychologically determined to be such that he cannot be adequately educated in the regular classes of the public schools without the provision of special services; but no such child shall receive special services provided herein without the consent of his parent or guardian.

(5) "Special services" means transportation, special teaching in the public school curriculum, corrective teaching (such as lipreading, speech correction, sight conservation, and corrective health habits), the provision of special seats, books and teaching supplies, equipment, and like services required for the instruction of exceptional children.

(d) The state wide total of all classroom teacher units allotted for emotionally disturbed children each year shall be limited to 20 classroom teacher units per year. It is the intention of the legislature that these 20 classroom teacher units per year be allocated as a pilot study only, to ascertain the most practical and effective means of educating emotionally disturbed children.

(e) In any school district where the parents of the required number of any type of exceptional children, or types which may be taught together, petition the governing board of that district for a special class, it shall be the duty of such board to request the state commissioner of education to cooperate in the establishment of such class or classes. The state commissioner of education shall allot to such district a number of exceptional children teacher units to operate special or convalescent classes for exceptional children within the district pursuant to rules and regulations adopted by the State Board of Education.

(f) Districts not eligible for a full exceptional children teacher unit may enter, by vote of their respective governing boards, into one cooperative agreement to provide exceptional children teacher units approved by the county superintendent. The teacher for an exceptional children teacher unit shall be employed by the governing board of the district in which the class is to be taught, and such unit shall be administered solely and exclusively by the superintendent of such district. The state commissioner of education, upon the county superintendent's certification of the agreement, shall allot to each district party thereto a fractional part

of an exceptional teacher unit, provided that the sum of such units so allotted shall not be greater than the number of units for which said district would be eligible if no cooperative agreement existed.

(g) Whenever property has been donated to a district or whenever a district has been granted the right to use certain property for the education of exceptional children as provided in this chapter, the benefits of this law shall be extended to such exceptional children educated on such property under the supervision of the school district owning or having the right to use such property whether or not such property is located within the confines of the district. In no event, however, shall a district operate such schools on property located more than one mile beyond the boundary lines of the district whether the schools are located within this state or not.

(h) No person shall be employed to teach any class for exceptional children unless he possesses a valid teacher certificate and such training as the state commissioner of education may require.

§ 16.17. Supervisor and/or Counselor Units

(a) The state commissioner of education shall establish, subject to regulations by the State Board of Education, qualifications for supervisors and counselors. Supervisor and/or counselor professional units for each school district, which may be separate for whites and Negroes, shall be determined and supervisor and/or counselor units allotted, in addition to other professional unit allotments, as prescribed by this section.

(b) The basic allotment shall be one supervisor or counselor unit for the first 40 classroom teacher units and one supervisor or counselor unit for each additional 50 classroom teacher units, or major fractional part thereof. If a district is eligible for one such unit, the district may employ for such unit either a supervisor or a counselor, but not both. If a district is eligible for two or more such units, the district may employ supervisors only, counselors only, or a combination of the two to the extent of total eligibility.

(c) Districts having fewer than 40 classroom teacher units may enter, by vote of their respective governing boards, into one cooperative agreement to provide supervisors and/or counselors to be recommended and supervised by the county superintendent and employed by the county school board. Under such agreements the combined classroom teacher units of the cooperating districts shall be used in calculating eligibility for supervisor and/or counselor units, but if the county employs a supervisor from the county administrative funds, 40 classroom teacher units shall be deducted from the combined total. The state commissioner of education shall, upon the county superintendent's certification of such agreement, allot to each district party to such agreement a fractional part of a supervisor or counselor unit, said fraction to be not greater than the number of approved classroom teacher units for that district divided by 40.

§ 16.18. Principal Units

(a) Principal units shall be of two types: full-time principal units and part-time principal units. A part-time principal unit shall entitle a district to assign a classroom teacher to serve as a part-time principal and to receive an additional salary allowance as hereinafter provided in this chapter.

(b) The principal unit allotment as hereinafter provided shall be based upon the number of approved classroom teacher units and shall be made in addition to other professional unit allotments. Principal units for each school district, which may be separate for whites and Negroes, shall be determined and allotted as prescribed in this section.

(c) No district having fewer than three approved classroom teacher units shall be eligible for a principal allotment.

(d) To districts having from three to 19 classroom teacher units and not having an accredited four-year high school, one part-time principal unit shall be allotted.

(e) To districts having from nine to 19 classroom teacher units and having a four-year accredited high school, two part-time principal units shall be allotted. Additional part-time principal units shall be allotted, if necessary, to the extent that at least one part-time principal will be available for each campus on which a school with more than two classroom teachers is operated in the district.

(f) To districts having 20 or more approved classroom teacher units there shall be allotted one full-time principal unit for the first 20 classroom teacher units and one full-time principal unit for each additional 30 classroom teacher units, but fractions shall not be considered in computing principal allotments.

(g) Part-time principal units, in addition to full-time principal unit allowances provided above, shall be allowed as follows: one from the first 20 classroom teachers, and one from each additional 30 classroom teachers. Service as part-time principal shall be in addition to part-time classroom duties. Those so designated shall receive an additional allowance as hereinafter provided in this chapter. Additional part-time principal units shall be allotted, if necessary, to the extent that at least one full-time or part-time principal will be available for each campus on which a school with more than two classroom teachers is operated in the district.

§ 16.19. Superintendent Unit

(a)¹ Superintendents shall serve the entire school district. Allotments for superintendent units as provided for herein shall be made in addition to other professional unit allotments. Superintendent units for each district shall be determined and allotted in the following manner: A district having one or more four-year accredited high schools shall be eligible for one superintendent allotment. A district which does not have a four-year accredited high school shall not be eligible for a superintendent allotment.

1. There is no paragraph (b) in the enrolled bill.

§ 16.20. Professional Units, Combined ADA

For purposes of determining professional units allotment under provisions of this chapter, the Central Education Agency may combine a district's average daily attendance upon request being made by the district timely pursuant to agency instructions.

§ 16.21. Professional Units, Current ADA

(a) In addition to the allocation of professional units as otherwise prescribed in this chapter, there shall be allotted to any district, which

desires to and does report current-year increases in average daily attendance, additional units on such increase basis provided:

(1) the district submits its request-report with the Central Education Agency on or before July 1 of each school year; and

(2) the request shows the average daily attendance earned during the then current year.

(b) Adjustments in classroom teacher and other professional units and the attendant operational allotments shall be made to such districts on the basis of the formulas set out in this Chapter.

[Sections 16.22 to 16.30 reserved for expansion]

SUBCHAPTER D. SALARIES

§ 16.31. Minimum Salary Rules

(1) Beginning with the school year 1967-1968, the governing board of each and every school district in the state shall pay teachers upon a salary schedule providing a minimum beginning base salary, plus increments above the minimum for additional experience in teaching. The schedule shall be based on the rules prescribed in this subchapter.

(b) The salaries fixed herein shall be regarded as minimum salaries only and each district may supplement them.

(c) All teachers and administrators shall have a valid Texas certificate.

(d) Salary increments for college training shall be based upon training received at a college recognized by the state commissioner of education for the preparation of teachers.

(e) Payment of at least the minimum salary schedule provided herein shall be a condition precedent to a school's participation in the foundation school fund and its name being placed or continued upon the official list of affiliated or accredited schools.

(f) The annual salaries as provided herein may be paid in 12 payments at the discretion of the local school board.

(g) None of the provisions of this subchapter shall apply to teachers in distributive adult education.

(h) The salary of each professional position shall be determined as provided in this subchapter.

§ 16.32. Classroom Teachers

(a) The annual salary of classroom teachers shall be the monthly base salary, plus increments, multiplied by nine; but if the length of the school term is less than nine months, the annual salary shall be such base salary and increments multiplied by the number of months in the term.

(b) The minimum base pay for a classroom teacher who holds a bachelor's degree and no higher degree shall be \$526 per month. Thirteen dollars per month shall be added for each year of teaching experience, not to exceed \$130 per month.

(c) The minimum base pay for a classroom teacher who has less than a bachelor's degree shall be \$348 per month. Thirteen dollars per month shall be added for each year of teaching experience, not to exceed \$117 per month.

(d) The minimum base pay for a classroom teacher who holds a master's degree shall be \$560 per month. Thirteen dollars per month shall be added for each year of teaching experience, not to exceed \$208 per month.

§ 16.33. Vocational Teachers

(a) The minimum monthly base pay and increments for teaching experience for a vocational teacher conducting a 9, 10, or 12 month vocational program approved by the state commissioner of education shall be the same as a classroom teacher's. But vocational trade and industrial teachers having qualifications approved by the State Board for Vocational Education shall be eligible for the minimum monthly base pay for a classroom teacher holding a recognized bachelor's degree.

(b) The annual salary of vocational teachers shall be the monthly base salary, plus increments, multiplied by 9, 10, or 12, as applicable.

(c) Minimum salaries prescribed above for vocational teachers envision total salaries received for public school instruction, whether paid out of state and/or federal funds.

(d) Expenses where allowable shall be paid from a separate vocational fund but no such expense shall be counted as part of the cost of the Foundation School Program.

§ 16.34. Special Service Teachers

(a) The minimum monthly base salary and increments for teaching experience for special service teachers shall be the same as a classroom teacher's.

(b) The annual salary of such teachers shall be monthly base salary plus increments, multiplied by nine.

(c) A registered nurse shall be considered, for the purpose of computing salaries, as having a bachelor's degree.

(d) A librarian having a recognized certificate or degree based upon five years of recognized college training therefor shall be considered as having a master's degree.

§ 16.35. Teachers of Exceptional Children

The minimum monthly base salary and increments for teaching experience for teachers of exceptional children shall be the same as a classroom teacher's. The annual salary of such teachers shall be the monthly base salary, plus increments, multiplied by nine; but if the state commissioner of education approves such a unit for more than nine months, the annual salary shall be the monthly base salary, plus increments, multiplied by the approved number of months.

§ 16.36. Supervisors and/or Counselors

The minimum monthly base salary and increments for teaching experience for supervisors or counselors shall be the same as a classroom teacher's, plus \$30 per month. The annual salary for such supervisors or counselors shall be the monthly base salary, plus increments, multiplied by 10.

§ 16.37. Principals

(a) The minimum monthly base salary and increments for teaching experience for full-time principals shall be the same as a classroom teacher's, plus 20 percent as an administrative increment. The annual salary for such full-time principals shall be the monthly base salary, plus increments, multiplied by 11.

(b) In an independent school district in which no four-year accredited high school operates and having an average daily attendance in excess of

500 students the preceding school year, the full-time principal who must perform the same duties assigned a superintendent shall be paid on the same monthly basis as prescribed above for a full-time principal and his annual salary as such shall be the monthly base salary, plus increments, multiplied by 12. In such districts in addition to the full-time principal there shall be allotted two part-time principals who shall be paid on the same basis as provided below for part-time principals.

(c) On a campus to which are assigned seven or more classroom teacher units, the designated classroom teacher who serves as part-time principal shall be paid an additional monthly salary allowance of 15 percent of his salary. The annual salary for such part-time principals shall be the monthly base salary, plus increments, multiplied by nine and one-half.

(d) In a district which operates a two-year accredited high school district and is not an accredited four-year high school district, the part-time principal who serves as head-principal shall be paid on the same monthly salary basis and for the same number of months as provided for full-time principal.

(e) On a campus to which are assigned three to six inclusive, classroom teacher units, the designated classroom teacher who serves as part-time principal shall be paid an additional monthly salary allowance of eight percent of his salary. The annual salary for such part-time principals shall be the monthly base salary, plus increments, multiplied by nine. Part-time principals under this subsection shall be designated "head teacher." In addition to the allotment of other part-time principals an accredited high school with fewer than nine classroom teacher units shall be granted one head teacher.

§ 16.38. Superintendents

(a) The minimum monthly base salary and increments for teaching experience for superintendents shall be the same as a classroom teacher's plus an administrative increment dependent upon the number of classroom teacher units for which the district is eligible, as follows:

- (1) for fewer than 16 units, 20 percent;
- (2) for 16 to 49 units, 25 percent;
- (3) for 50 to 99 units, 30 percent;
- (4) for 100 to 149 units, 35 percent; and
- (5) for 150 or more units, 40 percent.

(b) The annual salary for superintendents shall be the monthly base salary, plus increments, multiplied by 12.

§ 16.39. Certified Teachers Holding Law Degree

Beginning with the school year 1967-1968, any person certified to teach in the public schools of Texas who holds a bachelor of laws or doctor of jurisprudence degree from an accredited law school shall have his minimum salary calculated on the basis of a master's degree.

§ 16.40. Professional Salaries—Total Cost

The total cost of professional salaries of positions allowable for purposes of this chapter shall be determined by application of the salary schedules to the total number of approved professional units, provided that such professional units are serviced by approved professional employees.

[Sections 16.41-16.44 reserved for expansion]

SUBCHAPTER E. CURRENT OPERATING COST

§ 16.45. Current Operating Cost

(a) ¹ The total current operating cost for each school district, other than professional salaries and transportation, shall be determined by multiplying the number of approved classroom teacher units and exceptional children teacher units by \$600, and grants therefor shall be allotted, subject to the following exceptions where grants therefor shall be allotted and determined as follows: With respect to exceptional children teacher units for the pilot program for emotionally disturbed children's program, the total current operating cost shall be determined by multiplying the number of eligible children in each classroom unit by \$200; but where such units are located in cooperation with hospital facilities, the allocation shall be \$600 for each such unit.

1. There is no paragraph (b) in the enrolled bill.

[Sections 16.46–16.50 reserved for expansion]

SUBCHAPTER F. TRANSPORTATION SERVICES

§ 16.51. Transportation Services

Transportation services shall be provided and allotments therefor shall be determined according to the provisions of this subchapter.

§ 16.52. Public School Transportation System

(a) The county school boards of the several counties of this state, subject to approval by the state commissioner of education, are authorized to establish and operate an economical public school transportation system within their respective counties.

(b) In establishing and operating such transportation systems, the county school boards shall:

- (1) requisition buses and supplies from the state board of control as provided for in this subchapter;
- (2) prior to June 1 of each year, with the commissioner's approval, establish school bus routes within their respective counties for the succeeding school year;
- (3) employ school bus drivers; and
- (4) be responsible for the maintenance and operation of school buses.

§ 16.53. County and District Transportation Funds

(a) State warrants for transportation, payable to the county school transportation fund in each county, shall be for the total amount of transportation funds for which the county is eligible under the provisions of this subchapter.

(b) When requested by the board of trustees of an independent school district, the county school board shall authorize such independent district to:

- (1) employ its school bus drivers;
- (2) be responsible for the maintenance and operation of its school buses; and
- (3) receive transportation payments directly from the state.

(c) When the county superintendent reports such authorization to the state commissioner of education, state warrants for transportation funds for which the district is eligible shall be made payable to the district transportation fund, which is hereby created.

§ 16.54. Use of Buses for Extracurricular Activities, Etc.

The county school boards and the state commissioner of education shall promulgate regulations in regard to the use of school buses, for other than transporting eligible children to and from school. Under rules and regulations of the State Board of Education, the appropriate district allocation in the county transportation fund, when approved by the county school board, or the district transportation fund, when approved by the board of trustees of the independent school district operating its own transportation system, may be used for school bus transportation of its pupils and necessary personnel on extracurricular activities and field trips sponsored by the respective district.

§ 16.55. Approved School Bus Routes

School buses shall be operated to and from school upon approved school bus routes and no variations shall be made therefrom. The penalty for varying from authorized routes and for unauthorized use of buses shall be the withholding of transportation funds from the offending county or school district. In the event the violation is committed by a district which receives no Foundation School Program Funds, the penalty provisions of Section 4.18 of this code shall be applied.

§ 16.56. Calculation of Allotment

(a) The total annual regular transportation cost allotment for each district or county shall be based upon the rules and formulas of this section.

(b) A typical bus route is defined as being from 45 to 55 miles of daily travel and composed of 60 percent surfaced roads and 40 percent dirt roads, over which 15 or more pupils who live two or more miles from school are transported.

(c) Allowable total base costs of maintenance, operation, salaries, depreciation, etc., for each bus shall be:

72 capacity bus	\$2,730 per year
60-71 capacity bus	\$2,630 per year
49-59 capacity bus	\$2,530 per year
42-48 capacity bus	\$2,430 per year
30-41 capacity bus	\$2,330 per year
20-29 capacity bus	\$2,230 per year
15-19 capacity bus	\$1,830 per year

(d) The capacity of a bus means the number of eligible children being transported who live two or more miles from school along the approved route served by the bus. A bus that makes two or more routes or serves two or more schools shall be considered as having a capacity equal to the largest number of eligible children on the bus at any one time.

(e) For each one percent increase of dirt road above 40 percent, one-half of one percent shall be added to the allowable total cost.

(f) For each five miles (or major fraction thereof) increase in daily bus travel above 55 miles, one percent shall be added to the total cost of operation. For each five miles (or major fraction thereof) less than 45

miles daily travel, one percent shall be deducted from the total cost of operation.

(g) The state commissioner of education may grant not to exceed \$75 per pupil per year for private or commercial transportation for eligible pupils from isolated areas. The need for this type of transportation grant shall be determined on an individual basis and the amount granted shall not exceed the actual cost. Such grants shall be made only in extreme hardship cases, and no such grants shall be made if the pupils live within two miles of an approved school bus route or city public transportation service.

§ 16.57. Routes and Systems: Evaluation and Approval

(a) All bus routes and transportation systems shall be reviewed by the state commissioner of education and he shall be responsible for establishing criteria for evaluating the several transportation systems of this state, but all such criteria shall be subject to approval by the State Board of Education.

(b) The commissioner shall evaluate all transportation systems as rapidly as possible.

(c) No new bus routes or extensions shall be approved prior to the survey of the transportation system of the district or county requesting them.

(d) In cities having a public transportation service, no child residing within the city limits shall be eligible for transportation at state expense unless he resides more than two miles, measured by the nearest practical route, from the service.

(e) Extension of a city's boundaries for city purposes only, after June 8, 1949, so as to include within the city boundaries part of a school district into which public transportation lines or facilities are then operated shall not affect the district's eligibility for transportation aid. Rather, all such districts shall be entitled to receive transportation aid under the provisions of this chapter, if otherwise qualified, to the same extent as if no part thereof had been annexed by the city and its public transportation lines had not operated therein.

(f) In approving a transportation system for a district or county, consideration shall be given to providing transportation for only those pupils who live two or more miles from the school they attend, but no consideration shall be given to providing transportation for pupils transferred from one district to another when their grades are taught in their home district unless transferred as provided by law and transportation has been approved by the county school board as provided by law.

(g) There shall be no duplication of bus routes and services within sending districts by buses operated by two school districts and/or counties except upon approval by the state commissioner of education.

§ 16.58. Use of Transportation Funds for Other Purposes

No funds paid to the several transportation units for the operation of transportation systems in this state shall be expended for any other purpose.

§ 16.59. Rules of Commissioner

The Commissioner of Education shall formulate rules and regulations, subject to approval by the State Board of Education for enforcing the provisions of this subchapter.

§ 16.60. Appeals

Appeals to the commissioner of education and to the State Board of Education may be had from policy decisions of the county school boards affecting transportation.

§ 16.61. Purchase of Vehicles

(a) Motor vehicles used for the purpose of transporting school children, including school buses, their chassis and/or bodies purchased through the state board of control, shall be paid for by the state board of control as set out in applicable laws. The Legislature may appropriate out of any money in the state treasury not otherwise appropriated a sum not exceeding \$250,000, or so much thereof as necessary, for the state board of control to be used for such purposes.

(b) Any such sum appropriated shall be known as the school bus revolving fund. When motor vehicles and school buses are delivered to the various schools coming within the provisions of this chapter, the governing bodies of such schools shall reimburse the state board of control for the money expended for such school buses including their chassis and/or bodies and the money shall be deposited by the state board of control in the school bus revolving fund.

§ 16.62. Transportation Allotment for Exceptional Children Program

(a) An annual transportation cost allotment for each district operating an approved exceptional children program shall be computed and paid from the Foundation School Program Fund on a per capita basis as provided by this section.

(b) For physically and/or orthopedically handicapped children, visually handicapped children with conditions making impractical the use of public transportation, deaf children, and/or trainable mentally retarded children, the transportation allotment shall be \$150 per exceptional child receiving such transportation, provided the district locally determines and certifies subject to the approval of the state commissioner of education that the pupil:

- (1) is unable to utilize existing regular transportation services;
 - and
 - (2) would be unable to attend the exceptional children class unless such special transportation is provided.
- (c) Allotments granted under this section shall be:
- (1) used only for transportation purposes of children enrolled in a district-operated exceptional children program;
 - (2) deposited in the district's exceptional transportation fund;
 - and
 - (3) accounted for separately from regular transportation funds.

§ 16.63. Contract With Public Transportation Company

(a) As an alternative to maintaining and operating a complete public school transportation system under this subchapter, and if the respective governing board is able to obtain an economically advantageous contract, a county school board for its transportation system or a board of trustees of an independent school district which has been authorized to be responsible for the maintenance and operation of its school buses may contract with public transportation companies for all or any part of its public school transportation.

(b) A contract is economically advantageous if the cost of the service contracted for is less than the projected cost of the same service as otherwise provided in this subchapter.

(c) The state commissioner of education, subject to the approval of the State Board of Education, shall make rules for the administration of this section.

(d) Contracts for public school transportation may include provisions for transporting students to and from approved school activities.

(e) Upon approval of the contract by the State Board of Education, the contract price for the service shall be included in the annual transportation cost allotment for the respective county or district.

[Sections 16.64–16.70 reserved for expansion]

SUBCHAPTER G. FINANCING THE PROGRAM

§ 16.71. Financing—General Rule

The sum of the approved salaries for professional positions, the current operating cost other than professional salaries and transportation, and cost of transportation service of each district, computed and determined in accordance with the provisions of this chapter, shall constitute the total cost of the Foundation School Program, which program shall be financed by:

(1) an equalized, local school district effort to the extent hereafter provided for the support of this program;

(2) distribution of the state and county available school funds based on the number of scholastics; and

(3) allocation to each local district a sum of state money appropriated for the purposes of public school education and sufficient to finance the remaining costs of the Foundation School Program in that district, which sum shall be computed and determined in accordance with the provisions of this subchapter.

§ 16.72. Total Amount Chargeable to Districts

The sum of the amounts to be charged for the 1967–1968 school year to local school districts for the support of the Foundation School Program shall be \$154,800,000. For the 1968–1969 school year, and for each year thereafter, the sum of the amounts to be charged to local school districts for the support of the Foundation School Program shall be 20 percent of the estimated total cost of the Foundation School Program for the immediately preceding school year, plus an amount equal to the difference between the gross local fund assignment and the net local fund assignment for the immediately preceding school year.

§ 16.73. Estimate of Total Cost of Program; Local Assignment

At its regular meeting in March, the State Board of Education, after receiving the recommendation of the state commissioner of education, shall estimate the total cost of the Foundation School Program for the current school year, based upon laws and approved school budgets then effective. Within 30 days after this estimate has been made, the state commissioner of education, subject to approval by the State Board of Education, shall assign to each school district, according to its taxpaying ability as determined in this subchapter, its proportionate part of the es-

timated cost to be raised locally for the next school year and applied in financing its Foundation School Program.

§ 16.74. County Economic Index

(a) The state commissioner of education, subject to approval by the State Board of Education shall, not later than the first week in March of each year, calculate an economic index of the financial ability of each county to support the Foundation School Program. This index shall be calculated to approximate each county's percentage of statewide taxpaying ability and shall constitute for the purpose of this subchapter a measure of that county's ability, in relation to that of other counties in the state, to support schools.

(b) The economic index for each county shall be based upon and determined by the following weighted factors:

- (1) assessed property valuation of the county, weighted by twenty;
- (2) scholastic population of the county, weighted by eight; and
- (3) income for the county as measured by value added by manufacture, value of minerals produced, value of agricultural products, payrolls for retail establishments, payrolls for wholesale establishments, and payrolls for service establishments, all weighted collectively by seventy-two.

(c) The commissioner of education, subject to approval by the State Board of Education, shall annually recompute not later than the first week in March, a new economic index using an average of data for a three-year period which shall be taken from the most recently available official publications and reports of state and federal agencies.

§ 16.75. County Assignment

For the school year beginning 1968-1969 and each school year thereafter, the state commissioner of education shall calculate the total local funds that the school districts of a county shall be assigned to contribute toward the total cost of the Foundation School Program by multiplying 20 percent of the estimated program cost for the immediately preceding school year, plus an amount equal to the difference between the gross local fund assignment and the net local fund assignment for the immediately preceding school year, by the economic index determined for each county. The product shall be regarded as the local funds available in each county for support of the Foundation School Program and shall be used in calculating the portion which shall be assigned to each school district in the county.

§ 16.76. School District Assignment

(a) The amount of local funds to be charged to each school district and used therein for support of the Foundation School Program shall be calculated and determined by the state commissioner of education as follows: Divide the state and county assessed valuation of all property in the county subject to school district taxation for the next preceding school year into state and county assessed valuation of the district for the next preceding school year, finding the district's percentage of the county valuation. Multiply the district's percentage of the county valuation by the amount of funds assigned to all of the districts in the county. The product shall be the amount of local funds that the district shall be assigned to raise toward the financing of its Foundation School Program.

(b) In any district containing state university-owned land, state-owned prison land, federal-owned military reservations, or federal-owned Indian reservations, the amount assigned to a school district shall be reduced in the proportion that the area included in the above-named classification bears to the total area of the district. For purposes hereof, state university-owned land is defined to mean and include also state-owned land located in Brazos County and devoted to the use of Texas A & M University.

(c) No local fund assignment shall be charged to the Boy's Ranch Independent School District in Oldham County, the Bexar County School for Boys Independent School District in Bexar County, or the Bexar County School for Girls Independent School District in Bexar County.

(d) Beginning with the school year 1967-1968, and thereafter, in any school district having three percent or more of its total scholastic population for the preceding school year composed of scholastic residents and transfers of tax-exempt institutions in the district for orphan, dependent, and/or neglected children, the amount assigned to such a district shall be reduced for the current school year by an amount equal to the product of the total average daily attendance of students who were residents and/or transfers of such tax exempt institutions during the preceding school year multiplied by \$151.50. The superintendent of any district desiring to receive such a reduction in assignment and qualifying therefor shall certify to the Central Education Agency, not later than December 1 of each year, the following information:

(1) the total average daily attendance of the school district determined for students residing in the district for the preceding school year;

(2) the average daily attendance for the preceding school year determined for the scholastic residents of the tax exempt institutions in the district for orphan, dependent, and/or neglected children; and

(3) a list showing the name of each such institution scholastic, the total daily attendance earned for such students in the preceding school year, and the name and address of the institution.

(e) If the revenue that would be derived from the legal maximum local maintenance school tax is less than the amount assigned to a school district according to its economic index, and if the district's property valuation is not less than the same property's valuation for state and county purposes, the lesser amount shall be assigned to be raised by such school district.

(f) Failure of a school district to collect local maintenance school funds equal to its assigned amount will not make the district ineligible for full state per capita apportionment and full foundation school fund grants, but the assigned amount shall be charged against the district as budgetary receipts whether or not actually collected.

(g) The amount of local funds assigned to a contract district, as provided for in Section 16.11(i) of this code, shall be assigned to the receiving district and all local taxes, except those required for the interest and sinking fund, shall be credited as collected to the receiving school district.

(h) If a district other than a contract district has no school, the amount of local funds assigned to, and local taxes collected from, such district shall be transferred for the current year to the receiving district in which such children attend school. But if its pupils attend schools in more than one receiving district, local fund assignments and local taxes

shall be apportioned for the current year between such receiving districts according to the number of transfers to each.

(i) If any school district has a budgetary income, as provided above in Section 16.71(1) and (2) of this code, in excess of the amount needed to operate a minimum Foundation School Program and transfers pupils to another district, it shall pay to the receiving district a proportionate part of such excess, based upon the ratio of the number transferred to its enumerated scholastic population, and this excess portion shall be charged to such receiving district.

(j) The sum of the amounts assigned to the several parts of a county-line school district shall be the amount assigned to be raised by such district for financing its Foundation School Program.

§ 16.77. Notification of Local Fund Assignment

The county tax assessor collector in each county, in addition to his other duties prescribed by law, shall certify to the state commissioner of education, not later than December 1 of each year, the following information:

(1) The assessed valuation, on a state and county valuation basis, of all property subject to school district taxation in each school district, or portion of a school district in such county, and the total assessed valuation of all property subject to school district taxation in the county;

(2) the total area of each school district; and

(3) the area within each school district comprised of state university-owned land, state-owned prison land, federal-owned forestry land, federal-owned military reservations, and/or federal-owned Indian reservation.

(b) Should any county tax assessor collector fail to submit such certificates, to the state commissioner of education, the state comptroller of public accounts is directed to do so, estimating when necessary.

(c) As soon after the receipt of such certificates as practicable, and prior to setting the respective tax rates for the school districts of the county, the state commissioner of education shall notify each school district of the amount of local funds that such district is assigned to raise for the succeeding school year.

(d) If there has been a marked increase or decrease in the assessed valuation of a school district within a county, and if the county school board, after certifying that the use of the preceding year's county and school district valuations for determining local fund assignments would be inequitable, recommends a different distribution of the county total than that made by the state commissioner of education, then such recommendations, subject to the commissioner's approval, shall become and be the lawful local fund assignments for such district.

§ 16.78. Excess of Local Funds Over Amount Assigned

Any local maintenance funds in excess of the amount assigned to a district may be expended for any lawful school purpose or carried over into the next school year.

§ 16.79. Administration of Foundation School Program

(a) It shall be the duty of the State Board of Education, State Board for Vocational Education, and the state commissioner of education to take such action, require such reports, and make such rules and regula-

tions consistent with the terms of this chapter as may be necessary to carry out its provisions.

(b) The state commissioner of education shall determine annually:

(1) the amount of money necessary to operate a Foundation School Program in each school district;

(2) the amount of local funds to be assigned and charged to each school district; and

(3) the per capita apportionment from state and county available school funds available to each school district.

(c) The commissioner of education shall then grant to each school district from the foundation school fund appropriation the amount of funds necessary to provide the difference between subdivision (1) and the sum of subdivisions (2) and (3) of Subsection (b) of this section.

(d) The commissioner shall approve warrants to each school district equaling the amount of its grant. Warrants for all money expended according to the provisions of this chapter shall be approved and transmitted to treasurers or depositories of school districts in the same manner as warrants for state apportionment are now transmitted.

§ 16.80. Dormant School Districts

(a) The county school boards of all counties of the state are authorized and required to consolidate by order of said board each dormant school district within the county with an adjoining district or districts.

(b) The term "dormant school district" means any school district that fails for any two successive years to operate a school in the district.

(c) The governing board of the district with which a dormant school district is consolidated shall continue to be the governing board for the new district.

(d) In each case, the consolidation order of the county school board shall define by legal boundary description the territory of the new district as so enlarged and shall be recorded in the minutes of the county school board as provided by law.

(e) Elections shall be held when required by law in such consolidated districts for the assumption of outstanding bonds, if any, for the levying of taxes therefor, and for the levying of a local maintenance tax.

(f) If a county-line district is or becomes dormant, the consolidation provisions of this section shall apply to all counties affected to the extent of territory in each.

§ 16.81. Territory Not in School District

(a) All property subject to school district taxation in the state must be included within the limits of a school district and a proper and proportionate tax paid thereon for school purposes. Therefore, at any time it may be determined there is territory located in a county but not within the described limits of a school district, the county school board is authorized and required to add such territory to an adjoining district or districts.

(b) In each case, the order of consolidation shall define by legal boundary description the territory of the new district and shall be recorded in the minutes of the county school board as provided by law.

(c) Elections shall be held as provided by law in such new districts for the assumption of outstanding bonds, if any, for the levying of taxes therefor, and for the levying of a local maintenance tax.

§ 16.82. Cumulative Effect

The provisions of Sections 16.80 and 16.81 of this code shall not be construed to repeal, supercede or limit any existing law providing other methods for school district consolidation and annexation.

§ 16.83. Falsification of Records, Report

(a) When, in the opinion of the director of school audits of the Central Education Agency, audits or reviews of accounting, enrollment, or other records of a school district reveal deliberate falsification of such records, or violation of the provisions of this chapter, whereby the district's share of state funds allocated under authority of this chapter would be, or has been, illegally increased, said director shall promptly and fully report such fact direct to the State Board of Education and to the state auditor.

(b) In the event of overallocation of such funds, as determined by the State Board of Education or the state auditor by reference to the director's report, the Central Education Agency shall, by withholding from subsequent allocations of state funds, recover from such district an amount, or amounts, equal to the overallocation.

[Sections 16.84 to 16.90 reserved for expansion]

**SUBCHAPTER H. QUARTERLY SEMESTER
PILOT PROGRAMS****§ 16.91. Pilot Program**

For purpose of exploring the feasibility of operating quarterly semester pilot programs, public school districts of this state are hereby authorized to operate (in lieu of the usual nine-month program) a twelve-month school year program and to receive allocation of state aid toward financing the extended three-month operation from the Foundation Program Fund, determined in the manner prescribed in this subchapter. Provided, however, that the district shall operate such twelve-month program under its proposed plan submitted to the Central Education Agency and subject to approval of the agency as meeting policy and regulations established and adopted by the State Board of Education applicable thereto.

§ 16.92. Limitation

Quarterly semester pilot programs, annually approvable under this subchapter, shall be restricted in number to involve a maximum of 10 programs not to exceed 100,000 pupils, based on average daily attendance in the preceding school year, and the attendance of eligible pupils shall be restricted to three quarterly semesters.

§ 16.93. Cost Basis

The cost of operating such approved quarterly semester pilot programs shall be borne by the state and each participating district on the same percentage basis that applies to financing the Foundation School Program Act within the respective district.

§ 16.94. Calculation of Costs

For purpose of computing authorized state aid and allocations under this subchapter, the cost of the program shall be ascertained as follows:

(1) The district's average daily attendance for classroom teacher unit eligibility and allocations shall be determined on a quarter semester basis, limiting eligible pupil attendance to three quarters within each scholastic year. Eligibility for special service teachers, supervisors and/or counselors, head teachers, part-time principals, and full-time principals shall be determined by dividing the total aggregate days of attendance in the pilot program by the number of days that instruction is offered during three semesters, determined to the best advantage of the district.

(2) An additional three-month salary adjustment, based on the state minimum salary schedule, shall be added for classroom teacher units occasioned by a twelve-month operation. Provided further that the number of months and salary, based on the state minimum salary schedule, for eligible special service teachers, supervisors and/or counselors, head teachers, part-time principals and full-time principals shall be allowed for 12 months.

(3) The total current operating costs of each pilot program as herein described, other than professional salaries and transportation, shall be determined by multiplying the number of classroom teacher units and exceptional teacher units times the number of months employed times \$67.

(4) An additional transportation allotment shall be added not to exceed the amount of one-third of the transportation allotment as normally computed for a nine-month operation.

§ 16.95. State's Share of Cost

The state's share of the cost shall be paid from the Minimum Foundation Program Fund, and this cost shall be considered by the Foundation Program Committee in estimating the funds needed for Foundation School Program purposes.

**SUBCHAPTER I. SUPPLEMENTAL STATE SALARY
AID TO SCHOOL DISTRICTS****§ 16.98. Supplemental State Salary Aid**

(a) Established hereby is a program to provide supplemental state salary aid to public free school districts in addition to funds provided under any other provision of the laws or constitution of this state. Purpose of this supplementary aid program: To encourage higher salaries for classroom teachers as defined herein, of grades one through twelve.

(b) "Classroom teacher" for purposes of this program shall mean any professionally qualified teacher employed full time by a school district and spending at least one-half of his working time in actual instruction of pupils in regularly organized and scheduled classes, vocational and exceptional teachers included.

(c) Entitlement of each district for supplemental state aid authorized herein shall be determined by adding the number of classroom, vocational and exceptional teacher units allocated only to districts eligible under those provisions of foundation school program described under Sections

16.13, 16.14 and 16.16 of this code, and multiplying the sum of all such classroom teachers as herein defined by \$50.

(d) A school district may establish eligibility to receive funds to the amount determined under Subsection (c) of this section by submitting to the Central Education Agency a plan which shall meet the following conditions:

(1) State funds to be utilized as salary from amount determined under Subsection (c) of this section shall constitute not more than the same percentage of the total amount disbursed as supplemental salary to classroom teachers as the state share of the foundation school program in each participating school district; and

(2) All funds received as supplemental salary aid shall be paid as supplemental salary to persons who qualify as classroom teachers and of districts as defined in above Subsections (b) and (c) of this section; and

(3) Supplemental salary paid to any such classroom teacher shall be in addition to the salary to which such teacher is entitled under the regularly established salary policy of the school district; and

(4) Not less than ten percent of such classroom teachers employed by the school district shall participate in the state-aid supplemental salary funds disbursed to any district, and no classroom teacher shall receive less than \$100 or in excess of \$1000 in any school year.

(e) On or before its first meeting day of each fiscal year, the State Board of Education shall certify to the comptroller of public accounts the amount of money required to meet the provisions of this salary aid program. Upon receipt of the certification or as soon thereafter as possible, the comptroller shall cause to be set aside from funds collected or to be collected and credited to the general revenue fund a sum sufficient to meet such certification, and such sum(s) as so certified are hereby appropriated therefor. Any funds remaining unexpended and unencumbered in this salary program account on the last working day of each fiscal year shall be credited to the general revenue fund.

CHAPTER 17. COUNTY ADMINISTRATION

SUBCHAPTER A. COUNTY GOVERNING BODY

Section

- 17.01. Management.
- 17.02. Composition of County Governing Board.
- 17.03. Elections.
- 17.04. Vacancies.
- 17.05. Qualifications for Office.
- 17.06. Oath of Office.
- 17.07. Organization.
- 17.08. Meetings.
- 17.09. Compensation.

[Sections 17.10–17.20 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES**Section**

- 17.21. Body Corporate.
- 17.22. School Property.
- 17.23. Creation, Consolidation, Etc.
- 17.24. Classification of Schools.
- 17.25. Student Transfers—Appeals.
- 17.26. Acquisition of Real Property.
- 17.27. Joint Meetings.
- 17.28. Veterans' Training.
- 17.29. Budget; Finances.
- 17.30. Interim Financing; Teachers' Salaries.
- 17.31. Other Powers and Duties.

[Sections 17.32–17.40 reserved for expansion]

SUBCHAPTER C. COUNTY SUPERINTENDENT

- 17.41. Office Established: Counties With 3,000 or More Scholastics.
- 17.42. Where Scholastic Population Drops Below 3,000.
- 17.43. Counties With Fewer than 3,000 Scholastics.
- 17.44. Petition for Election.
- 17.45. Counties of More Than 350,000.
- 17.46. Appointive Superintendents.
- 17.47. Ex Officio County Superintendent.
- 17.48. Qualifications.
- 17.49. Oath and Bond.
- 17.50. Office.
- 17.51. Salary.
- 17.52. Office Budget for County Superintendent.
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- 17.54. Supervisor.
- 17.55. Duties as Secretary of Board.
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- 17.57. Fiscal Accounting System.
- 17.58. Reports.
- 17.59. Supervision of Education in County.
- 17.60. Teachers' Meetings.
- 17.61. Administer Oaths.
- 17.62. County-Unit System.
- 17.63. Appeals.
- 17.64. Abolition of Office.

[Sections 17.65–17.70 reserved for expansion]

SUBCHAPTER D. TREASURER AND DEPOSITORY

- 17.71. County Depository.
- 17.72. Bond.
- 17.73. Apportionment to Districts.
- 17.74. County-Unit System.

[Sections 17.75–17.80 reserved for expansion]

SUBCHAPTER E. COUNTY SCHOOL LANDS

Section

- 17.81. Duty of Commissioners Court.
- 17.82. Sale of School Land.
- 17.83. Rental Proceeds.
- 17.84. Taxes on Agricultural or Grazing Land.

[Sections 17.85–17.90 reserved for expansion]

SUBCHAPTER F. SOCIAL SECURITY FOR EMPLOYEES

- 17.91. Authority of Governing Board.
- 17.92. Employer's Matching Contribution.

SUBCHAPTER A. COUNTY GOVERNING BODY

Section 17.01. Management

(a) The general management and control of public free schools and high schools in each county, unless otherwise provided by law, shall be vested in a board of county school trustees.

(b) In those counties which have previously been placed under or adopted, by either general or special law, or which may hereafter adopt pursuant to Chapter 18 of this code,¹ the county-unit system for tax purposes, the governing body may be designated the county board of education.

(c) In any county of this state not having heretofore elected or appointed a board of county school trustees, the commissioners court is authorized to appoint a board of county school trustees for the county, the residence of whose members shall conform to the provisions of Section 17.02 of this code relating to the election of county trustees.

(d) No board of county school trustees or county board of education shall be required in those counties which have created or hereafter may create under the terms of Section 19.061 of this code a single independent school district embracing the entire county.

1. Section 18.01 et seq.

§ 17.02 Composition of County Governing Board

(a) Unless otherwise provided by law, the board of county school trustees or county board of education shall be composed of five members, one of whom shall be elected from each of the four commissioners precincts of the county by the qualified voters of such precincts, and one from the county at large by the qualified voters of the county. Each shall be elected for a term of two years. Two members shall be elected in one year and three members shall be elected in the alternate year.

(b) In those counties with a population in excess of 350,000, the board of county school trustees shall consist of seven members, three of whom shall be elected from the county at large and one from each commissioners precinct. The trustees' first terms shall be fixed by lot, with two drawing to serve two years, two for four years, and three for six years. Thereafter, each member shall serve six years, with either two or three members elected every two years, the number depending upon that needed to bring the board to seven members.

§ 17.03. Elections

(a) Elections of county school trustees or members of the county board of education and district trustees shall be held on the first Saturday in April, except that in counties having a population of 500,000 or more, according to the last preceding federal census, such elections may be held on any other Saturday the trustees or board members may select by official resolution.

(b) Election officers appointed to hold the election for district trustees in each school district shall hold the regular election for county school trustees or county board members.

(c) In elections for county school trustees or county board members, all candidate applications for a place on the ballot must be filed with the county judge not less than 30 days prior to the day of election.

(d) The order for such elections must be made by the county judge at least 30 days prior to election day and must designate as voting places within each common or independent school district the same places at which votes are cast for the district trustees.

(e) It shall be no valid objection that the voters of a commissioners precinct are required by operation of this section to cast their ballots at a polling place outside the commissioners precinct of their residence.

(f) Election returns shall be made to the county clerk within five days after the election is held. Such returns shall be delivered by the clerk to the commissioners court at its first meeting thereafter, and that body shall canvass the returns and declare the results as in other elections.

(g) After the newly-elected trustees or county board members have taken and filed with the county clerk the official oath of office, the clerk shall issue their commissions impressed with the seal of the commissioners court.

§ 17.04. Vacancies

Any vacancy on a board of county school trustees or a county board of education shall be filled for the unexpired portion of the term by the remaining trustees or board members.

§ 17.05. Qualifications for Office

County school trustees or members of county boards of education must meet the following qualifications:

- (1) They must be qualified voters of the county from which they are elected;
- (2) The four persons representing commissioners precincts must each reside in the precinct from which he is elected;
- (3) They must possess good moral character;
- (4) They must be able to read and speak the English language;
- (5) They must be persons of good education and in sympathy with the public free schools;
- (6) They must not be connected with the public schools of any district, either as an official or as an employee.

§ 17.06. Oath of Office

All elected trustees or members of a county board of education must take the official oath of office and file same with the county clerk.

§ 17.07. Organization

Each board of county school trustees or county board of education shall be organized as follows: A president shall be elected by the trustees or members of the board from their number at the regular meeting in May of each year. A vice-president may be elected in the same manner as the president. The county superintendent shall act as secretary.

§ 17.08. Meetings

(a) The county school trustees or county boards of education shall hold meetings once each quarter on the first Monday in August, November, February, and May, or as soon thereafter as is practicable. Such meetings may likewise be held on the first Monday each month, or as soon thereafter as is practicable.

(b) Additional meetings may be called by the president or at the instance of any two trustees or members of the county board of education and the county superintendent.

(c) The meeting place shall be at the county seat in the office of the county superintendent.

(d) A majority of the trustees or board members shall constitute a quorum to transact business. All questions shall be decided by majority vote.

§ 17.09. Compensation

Each county school trustee or member of a county board of education shall be paid, for the time spent in attending meetings, \$6 per day, not to exceed \$72 in any one year, out of the state and county available school fund by warrants drawn on order of the county superintendent and signed by the president of the body, after approval of the account properly sworn to by the president.

[Sections 17.10–17.20 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES**§ 17.21. Body Corporate**

(a) The county school trustees or county board of education shall constitute a body corporate and in that name may acquire and hold real and personal property, sue and be sued, and receive bequests and donations or other moneys or funds coming legally into their hands.

(b) Unless otherwise provided by law, the corporate designation shall be County School Trustees of _____ County, State of Texas.

(c) If the county-unit system has been instituted in the county under previous law either general or special, and if the governing body thereunder is designated as a board of education, or if the county-unit system is hereafter adopted in the county under Chapter 18 of this code¹ and the designation board of education adopted, the corporate designation shall be County Board of Education of _____ County, State of Texas.

1. Section 18.01 et seq.

§ 17.22. School Property

The title to any school property belonging to the county, which title has heretofore been vested in the county judge and his successors in office, or to any school property which may be acquired, shall vest in the county

school trustees or the county board of education and their successors in office for public free school purposes.

§ 17.23. Creation, Consolidation, Etc.

(a) The county school trustees or county boards of education shall participate in the creation, consolidation, subdivision, and abolition of school districts as provided in Chapter 19 of this code.¹

(b) The county school trustees or county boards of education shall participate in the establishment of public junior colleges as provided in Chapter 51 of this code.²

1. Section 19.001 et seq.

2. Section 51.001 et seq.

§ 17.24. Classification of Schools

(a) The county school trustees or county boards of education shall, at the regular meeting in May of each year, or as soon thereafter as practicable, and in accordance with such regulations as the commissioner of education may prescribe, classify the schools of the county, including those in independent school districts, into elementary schools and high schools for the purpose of promoting the efficiency of the elementary school and of establishing and promoting high schools at convenient and suitable places.

(b) In classifying the schools and in establishing high schools, the trustees or county board members shall give due regard to schools already located, to the distribution of population, and to the advancement of the students in their studies.

§ 17.25. Student Transfers—Appeals

The county school trustees or county boards of education shall have jurisdiction over appeals by any common or independent district dissatisfied with student transfers made by approval in writing from one district to another by action of the county superintendent.

§ 17.26. Acquisition of Real Property

(a) The county school trustees or county boards of education shall have the power to purchase and lease, and by exercise of the right of eminent domain to acquire, the fee simple title to real property in the county for all common school districts and/or those independent school districts having a scholastic population of less than 150 and remaining under the supervision of the county governing board, for the purpose of supplying playgrounds, agricultural tracts, sites upon which to build schoolhouses, other buildings necessary for the operation of the schools, and for such other purpose as may be advisable for the schools within the districts.

(b) When real property is acquired by the exercise of the right of eminent domain, the trial and all other proceedings, including the assessing of damages, shall be in conformity to the statutes of the state for condemning and acquiring property by railroads. Whenever final judgment is rendered in any such condemnation proceedings, the plaintiff shall be awarded the fee simple title to the property condemned, and have full power over it, including the right of alienation.

§ 17.27. Joint Meetings

The county school trustees or county boards of education may call joint meetings with the district school trustees when deemed necessary and shall do so on petition of a majority of district school trustees.

§ 17.28. Veterans' Training

(a) Unless the county is one in which a tax-supported college or junior college is already operating non-credit classes and schools for veterans, the board of county school trustees or county board of education may maintain, operate and administer a special school for such educational and vocational training of veterans as may be provided by law of this state or of the United States for such veterans, and may employ such instructors, as it deems necessary, and do all things deemed proper for the successful operation of such school.

(b) The State Board for Vocational Education is authorized to allocate and pay to the respective county governing boards and such county governing boards are authorized to receive such money as well as any private donations made for the same purpose and shall stand charged with the power and duty to maintain, operate and administer the same for the purposes above stated.

(c) Payment for all necessary expenses of such schools shall be made by the county governing boards by warrants drawn on funds received by them for the purpose.

§ 17.29. Budget; Finances

(a) The county school trustees or members of the county board of education shall make the annual budget for county administration, have general supervision over the financial affairs of the schools under their jurisdiction, and see to it that all funds are expended in compliance with the regulations of the Central Education Agency.

(b) The county budget, including the applicable items set out in Sections 17.51-17.54 of this code and authorized under regulations of the commissioner of education, shall be filed with the State Department of Education on or before the first day of September of each scholastic year, and shall be certified to by the county school trustees or county board of education and attested to by the county superintendent. The commissioner of education shall transmit to the county governing board all instructions necessary for proper observance of this provision and shall remit in October of each scholastic year to the depository bank of each of the respective counties the amount of the state available fund provided in the budget of each county.

§ 17.30. Interim Financing; Teachers' Salaries

(a) On September 1 of each year, or as soon thereafter as practicable, the county school trustees or county boards of education shall, upon the basis of information furnished by the county depository bank at the request of the county governing body, ascertain the current financial resources of each school district under their supervision and, in the event any of said districts do not or will not have sufficient funds on deposit to pay the salaries of teachers when and as due, borrow funds necessary for such purpose, and authorize the depository bank of the county to charge interest at a rate to be agreed upon by said depository bank and said trustees under the rules prescribed in this section.

(b) The rate of interest shall not exceed eight percent per annum on vouchers issued to teachers from the date of the receipt by said depository until sufficient funds accrue to the credit of the district issuing said vouchers to liquidate the respective vouchers, the interest to be paid from the available funds of the district affected.

(c) No voucher shall draw interest after sufficient funds have accrued in the depository for its payment.

(d) The vouchers upon which interest is to be charged shall not exceed in amount 50 percent of the current available funds of the issuing district.

(e) All interest charged under this section shall be reported in full by the depository bank in its annual report to the state commissioner of education.

§ 17.31. Other Powers and Duties

(a) The county school trustees or county boards of education shall provide all information requested of them by the commissioner of education or any other person associated with the Central Education Agency; they shall also exercise all other functions conferred upon them by the statute and may perform any other act consistent with law for the promotion of education in the county.

(b) In those counties in which the county-unit system has been established under either general or special law of this state, and in those counties which may hereafter adopt the county-unit system under Chapter 18 of this code,¹ the county school trustees or county boards of education shall have, in addition to the powers and duties set out in this subchapter, the further powers specified for such county governing boards in the applicable sections of Chapter 18.

1. Section 18.01 et seq.

[Sections 17.32-17.40 reserved for expansion]

SUBCHAPTER C. COUNTY SUPERINTENDENT

§ 17.41. Office Established: Counties With 3,000 or More Scholastics

(a) Except as provided by Section 17.45 of this code, the commissioners court of every county having 3,000 scholastic population or more, as shown by the preceding scholastic census, shall at a general election provide for the election of a county superintendent to serve for a term of four years.

(b) In every county that shall attain 3,000 scholastic population or more, the commissioners court shall appoint such superintendent who shall perform the duties of such office until the election and qualification of his successor.

(c) In counties having a scholastic population of between 3,000 and 5,000 scholastics, wherein the office of county superintendent has not been created and a superintendent elected, then in such counties the question of whether or not such office is established shall be determined by the qualified voters of said county in a special election called therefor by the commissioners court of said county, upon petition therefor as specified in Section 17.44 of this code.

§ 17.42. Where Scholastic Population Drops Below 3,000

In all counties now or hereafter having the office of county superintendent where the scholastic population according to the last scholastic census is less than 3,000 but more than 2,000, the office of county superintendent shall continue unless and until a majority of the qualified property taxpaying voters of said county, voting at an election held to determine whether said office shall be abolished, shall vote to abolish said office, which election shall be ordered by the Commissioners Court upon petition therefor as specified in Section 17.44 of this code. Provided, however, that if a majority of said voters voting at said election hereinabove provided for, vote to abolish said office said election shall not become effective until the expiration of the term of office for which the county superintendent has been elected or appointed.

§ 17.43. Counties With Fewer Than 3,000 Scholastics

In any county having a scholastic population of fewer than 3,000, on the presentation of a petition as specified in Section 17.44 of this code, the commissioners court shall order an election for said county to determine whether or not the office of county superintendent shall be created in said county; and, if a majority of the qualified property taxpaying voters voting at said election shall vote for the creation of the office of county superintendent in said county, the commissioners court, at its next regular term after the holding of said election, shall create the office of county superintendent, and name a county superintendent who shall qualify under this chapter, and hold such office until the next general election.

§ 17.44. Petition for Election

The petition for any election under this subchapter must be signed by a number of qualified voters of the county equal to at least 25 percent of the votes cast in the county for governor at the last preceding general election.

§ 17.45. Counties of More Than 350,000

In any county having a population of more than 350,000, according to the last preceding federal census, the county superintendent shall be appointed by the county board of education, and shall hold office for four years. However, this provision shall not operate so as to deprive any elected superintendent of his office prior to the expiration of the term for which he has been elected.

§ 17.46. Appointive Superintendents

(a) In those counties which have previously adopted the county-unit system, under either general or special law of this state, wherein the county governing board was authorized to appoint the county superintendent, the office of county superintendent shall remain appointive so long as the county-unit system remains in effect.

(b) In those counties wherein the county governing board has previously been authorized, under either general or special law of the State, to appoint the county superintendent, or in any county which may hereafter qualify under the provisions of Chapter 18 of this code¹ for an appointive superintendent, the office of county superintendent shall be appointive.

§ 17.47. Ex Officio County Superintendent

In any county in which no county superintendent has been elected or appointed, the county judge shall be ex officio county superintendent and shall perform all the duties required of that office.

§ 17.48. Qualifications

An elective or appointive county superintendent must be a person of educational attainments, good moral character, and executive ability. He must hold a permanent, rovisional,¹ or professional teacher's certificate.

1. So in enrolled bill.

§ 17.49. Oath and Bond

The county superintendent, whether elected, appointed, or ex officio, shall take the official oath of office and shall give bond in the sum of \$1,000, conditioned upon the faithful performance of his duties and payable to and approved by the county governing board of the county, unless a county-wide independent school district has been created as provided in Chapter 19 of this code,¹ in which event the bond shall be payable to and approved by the county commissioners court.

1. Section 19.001 et seq.

§ 17.50. Office

The county commissioners court shall provide the county superintendent with an office in the courthouse and with the necessary office furniture and fixtures.

§ 17.51. Salary

(a) The salary of elective and appointive county superintendents shall be fixed as provided in this section.

(b) Each county superintendent shall receive from the available school fund an annual salary based upon the following salary schedule:

(1) The minimum base pay of a county superintendent who has one year but less than two years of college training in a standard college or university shall be \$155 per month. Six dollars per month shall be added for each year of teaching experience in the public schools of this state, not to exceed \$72 per month.

(2) The minimum base pay for a county superintendent who has two but less than three years of college training in a standard college or university shall be \$180 per month. Six dollars per month shall be added for each year of teaching experience in the public schools of this state, not to exceed \$72 per month.

(3) The minimum base pay for a county superintendent who has three years or more of college training in a standard college or university but who does not hold a bachelor's degree shall be \$205 per month. Six dollars per month shall be added for each year of teaching experience in the public schools of this state, not to exceed \$72 per month.

(4) The minimum base pay for a county superintendent who holds a bachelor's degree from a standard college or university and no higher degree shall be \$267 per month. Six dollars per month shall be added for each year of teaching experience in the public schools of this state, not to exceed \$72 per month.

(5) The minimum base pay for a county superintendent who holds a master's degree from a standard college or university shall be \$292

per month. Six dollars per month shall be added for each year of teaching experience in the public schools of this state, not to exceed \$156 per month.

(c) Each county superintendent shall receive, in addition to the salary based upon professional training and teaching experience in public schools of Texas as described in Subsection (b) above, monthly increments based upon the scholastic population brackets as indicated in the following table:

Population	Amount
3,000 or less	\$ 40.00
3,001 to 4,000	50.00
4,001 to 5,000	60.00
5,001 to 6,000	70.00
6,001 to 7,000	80.00
7,001 to 8,000	90.00
8,001 to 9,000	100.00
9,001 to 12,000	110.00
12,001 to 15,000	120.00
15,001 to 20,000	130.00
20,001 to 30,000	140.00
30,001 to 50,000	150.00
50,001 and over	160.00

(d) The annual salary for a county superintendent shall be the monthly base salary, plus increments, multiplied by 12. Any county superintendent who has served 24 or more years as an elected county superintendent in Texas may receive the same base pay and increments for experience as a county superintendent with a master's degree would receive in the same position.

(e) In those counties in which the county judge acts as ex officio county superintendent, he shall receive as salary for his services in performing the duties of county superintendent, in addition to all other compensation provided by law, whether paid on a fee or salary basis, such sum as the board of county school trustees or county board of education may determine, provided that it shall never exceed \$2,600 per year.

(f) The compensation provided in this section shall be paid monthly upon order of the county school trustees or county board of education, but the salary for the month of September shall not be paid until the county superintendent presents a receipt from the office of the commissioner of education showing that he has made all reports required of him.

§ 17.52. Office Budget for County Superintendent

(a) The office budget for an appointive or elective county superintendent may include the following items:

(1) Employment of a competent assistant with approval and confirmation of the county school trustees or county board of education. In counties with a total population equaling or fewer than 100,000, according to the last federal census, the annual salary of such assistant shall not exceed \$4,500. In counties with a total population greater than 100,000, according to the last federal census, the annual salary of such assistant shall not exceed \$4,800.

(2) Employment of such other assistants as may be necessary, provided that the total sum of all salaries of all assistants to the county

superintendent does not exceed annually \$7,200 in counties having a total population equaling or fewer than 100,000, nor \$7,500 in counties having a total population greater than 100,000.

(b) The county school trustees or county board of trustees may make further provisions as they deem necessary for office and travel expenses of the county superintendent, provided that such expenditures of the county superintendents shall not be more than \$1,080 annually and shall not be paid except upon notarized claims made upon forms filed by the county school superintendent and approved by the county school trustees or county board of education.

§ 17.53. Office Budget: Ex Officio Superintendent

The office budget for an ex officio county superintendent may include the following items:

(1) Appointment by the county school trustees or county board of education of an assistant to the ex officio county superintendent at a salary not to exceed \$2,600 per year.

(2) Provision by the county school trustees or county board of education for other office and travel expenses in an amount not to exceed \$1,050 per year.

§ 17.54. Supervisor

Whenever a supervisor is assigned a position under the county superintendent, as provided in Section 16.17 of this code, the office and travel expenses of such supervisor may be included in the office budget of the county superintendent. Such expenses shall be in addition to the budget maximums set out above in Sections 17.52(b) and 17.53(2), but shall not exceed \$50 per month per supervisor. This budget item is limited to a nine-month basis.

§ 17.55. Duties as Secretary of Board

(a) The county superintendent shall act as secretary of the county school trustees or county board of education. He shall keep in a well bound book, which shall be open to public inspection, a true and correct record of the proceedings of the county governing board.

(b) He shall keep an accurate record of the term of office of each common school district and county school trustee or county board member and shall furnish the county judge at least 60 days prior to the date of their election the number of trustees or board members to be elected in each district or precinct or in the county at large.

(c) He shall conduct all correspondence of the board, receive all reports required by the board, and see that such reports are in proper form, complete and accurate.

(d) He shall have the right to advise on any question under consideration by the board, but shall have no vote.

§ 17.56. Duties as Budget Officer

(a) The county superintendent shall be the budget officer for each common and rural high school district under such county's jurisdiction.

(b) On or before the tenth day of August, he shall prepare an itemized budget covering all carefully estimated receipts and proposed expenditures for the next succeeding fiscal year of each common and rural high school district under the jurisdiction of the county.

(c) When so prepared this budget shall be submitted to the trustees of each such district for approval; when approved by the trustees and by the county superintendent, copies shall be filed in the offices of county superintendent, the county clerk, and the Central Education Agency, all such copies having been prepared on forms authorized and according to regulations established by the State Board of Education. Such budgets shall be filed no later than the first day of November of the year for which the budget is approved.

(d) In case of an unforeseen emergency, a supplemental budget or budget amendment may be approved in the same manner and copies thereof filed with the original budget when approved.

(e) At any time during the process of budget preparation, any taxpayer of a common or rural high school district for which the budget is being prepared shall have the right to file with the county superintendent and/or trustees of the district any statement or protest he may desire to file concerning any item of expenditure proposed in the budget. Such statement or protest shall be given due consideration by the county superintendent or by the trustees for the district in their final action upon adoption of the budget.

§ 17.57. Fiscal Accounting System

(a) The county superintendent shall select and install a standard school fiscal accounting system for each common and rural high school district in his jurisdiction. This system must meet at least the minimum requirements prescribed by the State Board of Education and be approved by the state auditor; it shall not, however, relieve any board from keeping any other accounting records. It shall also be keyed to and correlated with the classifications in the budget regarding the purposes of disbursements and sources of receipts.

(b) The county superintendent shall cause to be kept in his office for each district a record of expenditures made and income received during the fiscal year for which the budgets were approved. No expenditure of public funds shall be made in any common or rural high school district in any manner other than that provided in the budgets prepared and approved pursuant to the provisions of Section 17.56 of this code.

§ 17.58. Reports

At the time budgets are filed as prescribed in Section 17.56 of this code, the county superintendent shall report to the Central Education Agency on forms furnished by the agency the disbursements and receipts of each common and rural high school district in his jurisdiction for the preceding fiscal year.

§ 17.59. Supervision of Education in County

(a) The county superintendent shall have, under direction of the commissioner of education, the immediate supervision of all matters pertaining to public education in his county.

(b) For all common and rural high school districts and all independent school districts having fewer than 150 scholastics and remaining under his jurisdiction, he shall examine all contracts, including their salary provisions, between the district trustees and teachers of his county, and if in his judgment such contracts are proper, he shall approve them.

(c) He shall confer with the teachers and trustees and give them advice when needed, visit and examine schools, and deliver lectures promoting interest in public education.

(d) He shall distribute all school blanks and books to the officers and teachers of the public schools under his jurisdiction and shall make such reports to the Central Education Agency, or any division thereof, as may be asked of him.

(e) He shall, if possible, spend at least four days each week visiting the schools while they are in session.

(f) He shall approve the reports of independent school districts, except such as have a scholastic population of 500 or more, to the Central Education Agency, and shall have jurisdiction over appeals from decisions of independent school districts of fewer than 500 scholastics.

§ 17.60. Teachers' Meetings

(a) The county superintendent or ex officio county superintendent may call the teachers of the county together for one or more meetings, but not to exceed three in any one school year, the number to be determined by the county governing board and county superintendent. These meetings may be held on Saturday for one or more hours, but not to exceed three hours on any one day, as the program arranged may demand.

(b) The county superintendent may require teachers' attendance at these meetings but they shall not be paid therefor.

(c) The trustees of any independent district having 500 or more scholastic population may authorize the superintendent of schools in the district to hold district teachers' meetings in lieu of county meetings.

§ 17.61. Administer Oaths

The county superintendents are empowered to administer oaths necessary in transacting any business relating to school affairs, but they shall receive no compensation therefor.

§ 17.62. County-Unit System

In the event the county-unit system has been previously adopted in a county, under either general or special law of this state, or in the event the county-unit system should be adopted under the provisions of Chapter 18 of this code,¹ the county superintendent shall perform such additional duties as may have been or may be assigned to him for the proper functioning of that system.

1. Section 18.01 et seq.

§ 17.63. Appeals

All appeals from decisions of the county superintendent shall be to the county school trustees or county board of education. If desired, further appeal may be had to any court of competent jurisdiction over the subject matter, or to the commissioner of education pursuant to Section 11.13 of this code. Notice of election of either further appeal route must be given to the county governing board within five days after its final decision.

§ 17.64. Abolition of Office

(a) Upon a petition of 25 percent of the qualified voters who cast a vote in the governor's race at the preceding general election in counties of less than 100,000 population according to the last federal census; or

upon a petition of 20 percent of the qualified voters who cast a vote in the governor's race at the preceding general election in counties of 100,000 or more population according to the last federal census, the county judge shall within 90 days of the receipt of such petition call an election to determine by majority vote whether the office of county superintendent (or ex officio county superintendent and the county school board in counties having an ex officio county superintendent) shall be abolished. At such an election all ballots shall have printed to provide for voting for or against the proposition:

"The abolishment of the office of county superintendent" or "the abolishment of the office of an ex officio county superintendent and the county school board" (as the case may be).

(b) Where the majority of the qualified electors approve the abolition of the office of county superintendent, the duties of such abolished office as may still be required by law shall vest in the county judge in ex officio capacity upon expiration of the current term of that office.

(c) Where the majority of the qualified electors approve the abolition of the office of the ex officio county superintendent and county school board, the duties of such abolished offices as may still be required by law shall be and become the duties of the office of county judge of said county upon the expiration of the current term of office of the ex officio county superintendent, and said county judge shall not be entitled to nor receive any additional compensation as a result of these additional duties.

(d) Not more than one such election may be called during any term of office of the incumbent county superintendent or ex officio county superintendent and that not during the year that a regular election for the office is being held.

(e) Nothing in this section shall apply to counties of 900,000 or more where the county superintendent and his staff are paid by the county. There shall be a county superintendent's office in these counties whether or not there is a common school district therein. The salaries of the county superintendent and his employees shall be set by the school board in said county.

[Sections 17.65-17.70 reserved for expansion]

SUBCHAPTER D. TREASURER AND DEPOSITORY

§ 17.71. County Depository

The county depository, selected in compliance with the general laws of the state, shall serve as treasurer of county school funds. The commissioners court of each county shall file with the State Department of Education a copy of the depository bond or a copy of the depository contract showing securities in escrow. No commission shall be paid to the county depository for receiving and disbursing school funds.

§ 17.72. Bond

(a) Within 20 days after receipt of a certificate of its selection, the county depository shall execute a good and sufficient bond payable to the county judge.

(b) The bond shall equal the probable amounts of the available school fund which may be on deposit at any one time, plus the permanent county

funds as estimated by the county superintendent, or in a county having no superintendent, by the county judge.

(c) The bond shall be conditioned on the depository's good performance of its duties, including but not limited to safekeeping and faithful disbursement of the school fund according to law and payment of such warrants as may be drawn on the fund by competent authority.

(d) In lieu of a bond, the depository may secure the school funds by approved securities or in any other manner authorized by law for securing county funds.

§ 17.73. Apportionment to Districts

(a) The county depository, upon receiving notice from the Central Education Agency of the amount apportioned to the county, shall report the same to the county superintendent, who shall immediately apportion it to the several districts, according to the scholastic census, and notify the county treasurer of the amount apportioned to each district.

(b) The county treasurer shall keep a separate account with each district, showing the amount apportioned according to the certificate of apportionment and the amount paid out to each school and district.

(c) In no case shall the county treasurer pay out any part of the school fund without the approval of the county superintendent.

(d) All balances of the general school fund not appropriated for the current year shall be carried over by the treasurer as part of the county's general school fund for the succeeding year. Unexpended balances of any district not exceeding \$5 per capita, according to the last scholastic census, shall be carried over for the benefit of that school district. Unexpended balances in excess of \$5 per capita, according to the last scholastic census, shall be carried over for the benefit of that school district only to the extent of \$5 per capita, and the excess shall be reapportioned to the school districts of the county.

§ 17.74. County-Unit System

In any county in which the county-unit system has previously been established under either general or special law of this state, and in any county which may hereafter adopt the county-unit system under the provisions of Chapter 18 of this code,¹ the county depository shall secure and handle such funds as may be acquired through operation of that system in the same manner as other funds available for county school purposes.

1. Section 18.01 et seq.

[Sections 17.75–17.80 reserved for expansion]

SUBCHAPTER E. COUNTY SCHOOL LANDS

§ 17.81. Duty of Commissioners Court

It shall be the duty of the commissioners court to provide for the protection, preservation, and disposition of all lands heretofore granted, or which may hereafter be granted, to the county for educational purposes and which constitute the permanent county school fund.

§ 17.82. Sale of School Land

(a) Each county may sell or dispose of school lands in such manner as may be prescribed by the commissioners court of the county.

(b) The proceeds of any such sale shall be invested in bonds of the United States; the State of Texas; counties of the state; independent or common school districts; road precinct, drainage, irrigation, navigation and levee districts in the state; or incorporated cities or towns. These bonds shall be held by the county in trust for the benefit of its public free schools, and only interest thereon may be used and expended annually.

§ 17.83. Rental Proceeds

Besides other available school funds provided by law, rental and lease proceeds from lands previously granted by the state to any county for educational purposes shall be appropriated by the commissioners court of the county in the same manner legally prescribed for the appropriation of interest on bonds purchased with the proceeds from sale of such lands. Likewise, proceeds from the sale of timber on these lands shall be invested by the commissioners court as prescribed in Section 17.82(b) of this code. None of the rental, lease, or timber proceeds shall be applied by the commissioners court to any purpose other than those prescribed in this code.

§ 17.84. Taxes on Agricultural or Grazing Land

Any county in this state owning as school land any agricultural or grazing land is authorized to pay taxes lawfully levied thereon out of revenue derived from such land by the county, but if any county has no revenue or insufficient revenue from the land, the taxes shall nevertheless be paid in whole or in necessary part from the county's general fund.

[Sections 17.85–17.90 reserved for expansion]

SUBCHAPTER F. SOCIAL SECURITY FOR EMPLOYEES**§ 17.91. Authority of Governing Board**

The county school trustees or county board of education, as the case may be, of each county in this state may enter into all necessary agreements with the State Department of Public Welfare to provide for coverage under the Old Age and Survivors Insurance provisions of the Federal Social Security Act¹ of all persons who qualify under applicable federal regulations and whose salaries, wages or other compensation are paid from the county administration fund, the county transportation fund, or any other fund or funds administered by such governing board. With reference to these agreements, the county governing board shall have the same authority as that of counties, municipalities, and other political subdivisions with respect to participation of employees in the Federal Old Age and Survivors Insurance program.

1. 42 U.S.C.A. § 401 et seq.

§ 17.92. Employer's Matching Contribution

(a) The minimum employer's matching contributions, required by federal regulations, shall be paid into the fund from which each person is paid his salary, wages, or other compensation, by the state or subdivi-

sions, as the case may be, which is required by law to pay the salary, wages, or other compensation of such person.

(b) If the salary, wages, or other compensation of a person comes from more than one source, each of said sources shall pay its pro rata share of the employer's matching contribution. The administrative costs of the program shall be prorated in like manner.

(c) In the case of instructors and other authorized personnel, if any, employed by the county school governing body for duties in connection with special schools for vocational and educational training of veterans, the employer's matching contributions and pro rata administrative costs for such instructors and employees shall be paid by the board from the operating funds of said special schools and collected in the same manner as other operating expenses of those schools are collected.

(d) The minimum employer's matching contribution shall, in all cases, be in addition to any maximum compensation fixed by law for the persons or employees covered by this subchapter.

**CHAPTER 18. COUNTYWIDE EQUALIZATION FUND OR
COUNTY UNIT SYSTEM OF EQUALIZATION
TAXATION**

Section

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Section 18.01. Definition

The county unit system is a method by which the voters of a county may, without affecting the operation of any existing school district within the county, create an additional countywide school district which may exercise in and for the entire territory of the county the taxing power conferred on school districts by Article VII, Section 3, of the Texas Constitution, for the purpose of adopting a countywide equalization tax for the maintenance of the public schools.

§ 18.02. Validation and Conversion to Present Law

(a) All actions heretofore taken in establishing in any county a countywide equalization fund or a county-unit system of any sort, whether established, organized, and/or created by the vote of the people residing in such counties or by the action of the county school trustees or the county board of education, as the case may be, and whether authorized or created by general or special law in this state, are hereby validated in all respects, regardless of whether or not such actions were duly and legally taken in the first instance; and all such county equalization funds and/or county-unit systems resulting from such action and heretofore collecting and distributing countywide equalization funds or functioning as county-unit systems are hereby in all things validated.

(b) All facts of county judges, county school trustees, or county boards of education in such counties in ordering an election or elections, declaring the results of such election, levying, attempting, or purporting to levy county equalization taxes or taxes for or on behalf of a countywide district or a county equalization fund are hereby in all things validated.

(c) All county-unit systems heretofore created and hereby validated are hereby authorized and empowered to levy, assess, and collect the same rate of tax, or not to exceed the rate of tax heretofore authorized or attempted to be authorized by any act of the county governing body or by any election of the taxpaying voters of said county or by any act, whether general or special, by the legislature, or the same rate as is being levied, assessed, and collected therein and heretofore authorized or attempted to be authorized by any act or acts of said counties or by any act, whether general or special, of the legislature.

(d) All counties in which an equalization fund has heretofore been created are hereby authorized to levy, assess, and collect the same rate of tax or not to exceed the rate of tax heretofore authorized or attempted to be authorized by any election of the taxpaying voters of the county or by any act, whether general or special, by the legislature, or the same rate as is being levied, assessed, and collected therein any heretofore authorized or attempted to be authorized by any act or acts of said counties or by any act, whether general or special, of the legislature.

(e) All future administrative procedures, elections, and tax levies in those counties which now have an equalization fund or which are now operating under a county-unit system, shall be controlled by the provisions of this chapter.

§ 18.03. Authorization

(a) Any county in this state may, at an election called for that purpose under the provisions of this chapter and to the extent herein provided, adopt a county-unit system of education for the purpose of levying, as-

sessing, and collecting a school equalization tax and for such other administrative purposes as are authorized in this chapter.

(b) Any county in which the county-unit system has been adopted may, if further authorized by a majority of the qualified property taxpaying voters residing therein at an election held for that purpose as provided in this chapter exercise in and for the entire territory of the county, to the extent in this chapter prescribed, the tax power conferred on school districts by Article VII, Section 3, of the Texas Constitution.

§ 18.04. Petition for Election to Adopt County-Unit System

(a) An election to adopt the county-unit system shall be ordered by the county judge of any county upon the presentation of a petition praying for the formation of a countywide school district and signed by the number of qualified voters specified below:

(1) In any county having a population of fewer than 100,000, according to the last federal census, the petition must be signed by at least 100 qualified voters; and

(2) In any county having a population of 100,000 or more, according to the last federal census, the petition must be signed by at least 500 qualified voters.

(b) Upon the receipt of a petition fulfilling the applicable requirements of subsection (a) of this section, the county judge shall order, in compliance with the applicable provision below, an election to determine whether or not the county-unit system shall be adopted in the county.

(c) In these counties with a population of fewer than 100,000, the county judge shall, within 30 days, order an election to be held throughout the county and give notice of the date of the election by publication of the order in some newspaper published in the county for 20 days prior to the date set for the election.

(d) In those counties with a population of 100,000 or more, the county judge shall, within 90 days, order an election to be held throughout the county and give notice by posting, in each precinct for at least 20 days prior to the election, notice of the date of the election and the question to be determined.

§ 18.05. Election to Adopt the County-Unit System

(a) All legally qualified voters in the county shall be allowed to vote at the election to determine whether or not the county shall adopt the county-unit system.

(b) The form of ballot shall be substantially as follows: "For Equalization District" and "Against Equalization District."

(c) The election shall be conducted by the election officer appointed to hold the election of district school trustees in each school district in the county and at the same polling places. The expenses of the election shall be paid from general county funds.

(d) The commissioners court at its next regular meeting following the election, shall canvass the returns of the election and declare the result. If a majority of the votes cast favor the formation of such a district, the court shall declare the countywide school equalization district duly and legally created and the provisions of this chapter duly adopted.

§ 18.06. Management

(a) In those counties which have adopted or may hereafter adopt the county-unit system, the general management, supervision and control of

the countywide school district shall be vested in the county governing board as specified in Section 17.01 of this code.

(b) In those counties adopting the county-unit system and having a total population of fewer than 100,000, the county governing board shall be designated as the county school trustees.

(c) In those counties adopting the county-unit system and having a total population of 100,000 or more, the county governing board shall be designated as the county board of education.

(d) After the adoption of the provisions of this chapter, the county governing board shall continue to exercise all powers and duties assigned to it in Chapter 17 and in other provisions of this code,¹ and in addition thereto shall perform the other functions assigned to it under the terms of this chapter.

1. Section 17.01 et seq.

§ 18.07. Petition for Tax Election

(a) On receipt of a petition legally praying for the authority to levy and collect an equalization tax and fulfilling the requirements of this section, the county judge of any county which has adopted the county-unit system shall immediately order an election to be held throughout the county in compliance with the terms of the petition.

(b) The petition must be signed by the applicable number of legally qualified taxpaying voters of the county as specified below:

(1) In those counties with a population of fewer than 500,000, according to the last federal census, the petition must be signed by at least 100 properly qualified taxpaying voters.

(2) In those counties with a population of at least 500,000, according to the last federal census, the petition must be signed by a number equal to at least 10 percent of those voting for governor at the last preceding general election.

(c) The petition may pray for authority to levy and collect an equalization tax at any specified rate not in excess of the maximum for the county as set out in Section 18.12 of this code.

§ 18.08. Order; Notice

(a) If the petition specifies a rate, the county judge shall incorporate that rate in his order; if no rate is specified in the petition, the order of the county shall indicate that the rate shall not be in excess of the maximum under the general law applicable to the county.

(b) The county judge shall give notice of the election by publication of the order at least 20 days prior to said election in some newspaper published in the county.

§ 18.09. Election

(a) The election shall be held not more than 30 days after the date of the order.

(b) Only legally qualified property taxpaying voters, who own property in the county and who have duly rendered the same for taxation, shall be allowed to vote.

(c) The form of the ballot shall be substantially as follows: If no specific tax rate was set in the petition, the proposition shall read: "For county tax" and "Against county tax." If a specific tax rate was incorporated in the petition, the proposition shall read: "For county tax not

exceeding _____ cents on the \$100 valuation" and "Against county tax not exceeding _____ cents on the \$100 valuation."

§ 18.10. Canvass; Result

(a) The commissioners court shall, at its next regular meeting, canvass the returns of the election and declare the result.

(b) If a majority of the votes cast shall favor the tax, the court shall certify that fact to the county governing board and to the county tax assessor and collector.

(c) The county governing board, upon receipt of certification of the adoption of the tax, shall be authorized to levy the tax at the rate voted or, if no rate was specified, at a rate not to exceed the maximum for the county as provided in Section 18.12 of this code.

(d) The county tax assessor and collector, upon receipt of certification of the adoption of the tax, shall be authorized to assess and collect the equalization tax as levied by the county governing board.

(e) If a majority of the votes cast oppose the tax, a second election upon the basis of a new petition may be held at any time within two years after the adoption of the county unit system, but if at such second election a majority of the votes cast again oppose the tax, the county unit system shall cease to exist within the county and be reestablished only by a new election as provided in Sections 18.04 and 18.05 of this code.

§ 18.11. Election to Revoke Tax

No election to revoke a tax adopted under the provisions of this chapter shall be ordered until the expiration of three years from the date of the election at which the tax was adopted.

§ 18.12. Maximum Tax Rate

(a) The county-wide equalization tax which may be authorized by the voters under this chapter shall be assessed at rates not to exceed:

(1) 50 cents on the \$100 property valuation in those counties with a total population of 100,000 or more.

(2) \$1 on the \$100 property valuation in those counties with a total population of fewer than 100,000.

(b) In the event the petition requisite to the calling of a tax election, as specified in Section 18.07 of this code, prays for authority to levy and collect an equalization tax at a specific rate less than the maximum for the county as set out in subsection (a) of this section, the maximum for that county shall be the rate specified in the petition.

§ 18.13. Assessment and Collection of Tax

(a) The officers assessing and collecting the county equalization tax shall receive therefor the same compensation as is paid for assessing and collecting school taxes in common school districts.

(b) The county tax assessor shall assess all of the taxable property in the county at the same rate of valuation as it is assessed for state and county purposes.

(c) The county tax collector shall collect the tax at the same time and in the same manner as other state and county taxes are collected.

(d) The county tax collector, before entering upon the duties of his office, shall enter into a bond with two or more good and sufficient sureties, or surety bond, for the protection of the equalization fund. The

bond shall be made payable to the county governing board and shall be made in a sum fixed by the county governing board at not less than double the amount of money belonging to the fund which the tax collector may have in his possession at any time. A similar bond may be required by the county governing board of any and all other persons or corporations in whose possession the equalization funds may be kept.

(e) The tax collector shall have the same authority and the same laws shall apply in the collection of the equalization tax as in the collection of county ad valorem taxes.

(f) The tax collector shall deposit the returns from the equalization tax in a separate fund to be known as the county equalization fund for the support of the public schools of the county.

(g) The tax collector shall, on or about the 10th day of each month, make a report to the county governing board and to the county superintendent showing all money collected by him during the last month by the equalization tax.

(h) The tax collector shall, upon the authorization of the county governing board as provided in Section 18.14 of this code, place to the credit of the common school districts in the county such money as is apportioned to them, the funds to be protected as provided by existing depository laws.

(i) The tax collector shall honor all warrants issued by the county governing board in allocating money from the county equalization fund to independent school districts within the county, and the funds so received by the independent school districts shall be protected in accordance with existing depository laws.

§ 18.14. Distribution of Equalization Tax Funds

(a) The county governing board shall distribute the moneys collected from the equalization tax according to the provisions of this section.

(b) The funds shall be distributed to the common and independent school districts of the county on a per capita basis according to the number of scholastic pupils shown by the last preceding scholastic census roll approved by the State Department of Education.

(c) Any county-line district shall be eligible to receive its per capita apportionment based upon the number of scholastic pupils residing in the county of the equalization district as shown by the latest official scholastic census of the district.

(d) The county governing board shall issue warrants (on the per capita basis specified above) against the equalization fund to the school district trustees in each district. However, the apportionment may be made by the county governing board either annually or from time to time as the money is collected.

(e) The county superintendent in each county adopting the county unit system and authorizing the assessment and collection of an equalization tax shall keep a record of all money, both received and paid out, from the county equalization fund.

§ 18.15. Effect on Local School Districts

(a) The adoption of the county unit system under the provisions of this chapter shall not have the effect of changing any duties imposed on or powers conferred on the trustees of any common, independent, or other school district within the county.

(b) The several common, independent, or other school districts within any county adopting the provisions of this chapter shall continue to have authority to levy, assess, and collect the maintenance taxes which have theretofore or hereafter may be authorized by the property taxpayers of those districts.

(c) The adoption of the provisions of this chapter shall not affect the right and duty of the respective school districts to levy, assess, and collect taxes within respective districts for the payment of principal and interest on the bonded indebtedness of those districts.

(d) No money received by a common, independent, or other school district from the county equalization tax fund shall be used to pay any present or future bond issues of the district or interest thereon.

[Sections 18.16–18.20 reserved for expansion]

§ 18.21. Petition for Election

In all counties having a population of 350,000 or more according to the last preceding Federal Census, the County Judge of such counties shall, upon the presentation to him of a petition signed by 150 or more of the qualified property taxpaying voters of such county praying for such an election, order an election for the purpose of submitting to the qualified property taxpaying voters of such county the question of whether or not a tax not to exceed one cent on the 100 Dollars valuation of the taxable property in such county shall be levied, assessed and collected in such county for the purpose of creating an Equalization Fund for the public free schools in such counties, to be expended in the equalization¹ of educational opportunities and in the advancement and administration of the public free schools therein.

1. So in enrolled bill.

§ 18.22. Order for Election

Upon the presentation of such petition to the County Judge he shall order an election to be held in such county on the earliest day when a county wide election is being held; and such order shall designate at least one polling place in each school district, or part of school districts, in such county, with such additional polling places as he may deem necessary or advisable, and shall appoint one person, who shall be a qualified voter at such polling place, as presiding officer at such polling place; and such presiding officer may appoint one judge and two clerks to assist in holding such election. The ballots and other election supplies shall be furnished by the Election Board of such County, and such election shall be governed by the General Election Laws, except as may be otherwise provided in this chapter.

§ 18.23. Notice of Election

Notice of such election shall be given by publication of such order in a newspaper of general circulation in such county once each week for three consecutive weeks, or by posting notices thereof in three public places in such county for at least 20 days prior to the date of such election or by both such publication and posting.

§ 18.24. Returns; Declaring Result

The presiding officer at each polling place shall, within five days from the date of holding such election, make due return thereof to the Commissioners' Court of such county, which shall canvass the returns and de-

clare the result thereof; and if a majority of the qualified property tax-paying voters voting at such an election shall vote in favor of such tax, the Commissioners' Court shall thereupon enter its order upon the minutes of such Court declaring the result thereof, and shall certify such fact to the County School Trustees of such county.

§ 18.25. Meeting to Determine Tax Required

If the vote be in favor of such tax, the County School Trustees of such county shall as soon thereafter as practicable hold a meeting for the purpose of determining the amount of money required for equalization purposes, and for the payment of administration expense in such counties, and they shall thereupon make their order setting forth the estimated amount of money required for such purposes, and the rate of tax to be levied to raise such sums, and shall certify the same to the Commissioners' Court; and the Commissioners' Court shall thereupon levy the rate so certified to them by the said County School Trustees, not to exceed the rate fixed by this chapter, and cause such tax to be assessed and collected in the same manner, at the same time, and by the same officers as State and County taxes are now collected.

§ 18.26. County Equalization Fund

The tax herein provided for shall constitute a part of the school funds of said counties, and shall never be levied, assessed or collected for any purpose other than those herein specified, and for the advancement of public free schools in such counties; and when collected, it shall be deposited by the Tax Collector in the County Depository in a fund which shall be known as "County Equalization Fund", and a statement of the amounts collected shall be furnished monthly by the Collector to the County School Trustees.

§ 18.27. Tax Lien

Such tax, when levied by order of the Commissioners' Court as herein provided, shall be a lien upon all property in such county, and shall be governed by the same laws as govern the levy, assessment and collection of State and County taxes, except as otherwise specially provided herein.

§ 18.28. Expenditure of Funds

Such funds shall be expended by the County School Trustees of such counties for the equalization of educational opportunities in such counties, and for the payment of administration expense, upon warrants signed by the President and the Secretary of the County School Trustees; and all such expenditures shall be approved monthly by the County School Trustees; provided, however, no part of such fund shall be expended in any school district which does not levy a tax for school purposes of 75 cents or more on the 100 Dollars value of taxable property in such district.

§ 18.29. Duties and Powers

The duties, powers and authorities herein given to the County School Trustees shall be cumulative of all other duties, powers and authorities

heretofore or hereafter given such Trustees. This law shall not affect the levy, assessment or collection of any other tax heretofore or hereafter levied, assessed or collected in any school district in such counties, and the tax herein provided for shall be in addition to such other tax, or taxes.

§ 18.30. Payment of Superintendent's Salary and Expense

(a) In the event that the tax herein provided for shall be authorized by the voters of the county to which this chapter applies, then the County Superintendent's salary and all expenses of maintaining his office shall be paid out of the funds realized from the collection of the tax herein provided for.

(b) Until the tax provided for herein shall be authorized and levied, the salary of the County Superintendent and his assistants, and the expenses of maintaining the office of County Superintendent, shall continue to be paid as otherwise provided by law.

CHAPTER 19. CREATION, CONSOLIDATION, AND ABOLITION OF SCHOOL DISTRICTS

SUBCHAPTER A. ENLARGING DISTRICTS BY ANNEXING OTHER DISTRICTS

Section

19.001. Enlarged Districts.

[Sections 19.005-19.030 reserved for expansion]

SUBCHAPTER B. CREATION OF COUNTY-WIDE COMMON SCHOOL DISTRICTS

- 19.031. Qualifications.
- 19.032. Petition for Election: Order.
- 19.033. Election.
- 19.034. Canvass: Order.
- 19.035. Election of Trustees.
- 19.036. Status of District.

[Sections 19.037-19.060 reserved for expansion]

SUBCHAPTER C. CREATION OF COUNTY-WIDE INDEPENDENT SCHOOL DISTRICTS

- 19.061. Qualifications.
- 19.062. Petition.
- 19.063. Election Order; Notice.
- 19.064. Election.
- 19.065. Order Creating District.

**SUBCHAPTER C. CREATION OF COUNTY-WIDE
INDEPENDENT SCHOOL DISTRICTS—Continued****Section**

- 19.066. Appointment of Initial Trustees.
- 19.067. Election of Trustees.
- 19.068. Trustees; Powers, Etc.
- 19.069. Taxes.
- 19.070. County Governing Board Not Required.

[Sections 19.071–19.100 reserved for expansion]

SUBCHAPTER D. COUNTY-LINE DISTRICTS

- 19.101. Creation of County-Line Common School Districts.
- 19.102. County-Line Rural High School Districts.
- 19.103. Joint Maintenance.
- 19.104. Voter Qualifications.
- 19.105. Conversion of County-Line Rural High School Districts into Independent School Districts.
- 19.106. Creation of County-Line Independent School Districts.

[Sections 19.107–19.130 reserved for expansion]

**SUBCHAPTER E. RURAL HIGH SCHOOL DISTRICTS—
CREATION, CONVERSION, ETC.**

- 19.131. Establishment of Rural High School Districts.
- 19.132. Limitations.
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[Sections 19.137–19.160 reserved for expansion]

**SUBCHAPTER F. MUNICIPAL SCHOOL DISTRICTS—CREATION,
BOUNDARY CHANGES, CONVERSION, ETC.**

- 19.161. City May Acquire Control of Schools.
- 19.162. Transfer of Control from District to City.
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- 19.164. Extension of Boundaries.
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- 19.166. Separation from Municipal Control and Conversion to Independent School District.
- 19.167. Separation from Municipal Control and Conversion to Common School District.

[Sections 19.168–19.200 reserved for expansion]

SUBCHAPTER G. CONVERSION OF COMMON SCHOOL DISTRICT TO INDEPENDENT SCHOOL DISTRICT**Section**

- 19.201. Qualifications.
- 19.202. Petition.
- 19.203. Election Order; Notice.
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- 19.205. Incorporation; Trustees; Organization.
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- 19.207. Law Governing District.

[Sections 19.208–19.230 reserved for expansion]

SUBCHAPTER H. CONSOLIDATION OF SCHOOL DISTRICTS

- 19.231. Districts Which May Consolidate.
- 19.232. Petition.
- 19.233. Election Order; Notice.
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- 19.235. Consolidation of Common School Districts.
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[Sections 19.246–19.260 reserved for expansion]

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- 19.261. Detachment and Annexation.
- 19.262. Annexation of Districts in Larger Counties.
- 19.263. Creation of Districts in Response to Petition for Detachment.

[Sections 19.264–19.300 reserved for expansion]

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- 19.301. Extension of Municipal Boundaries: Counties of Less Than 165,000.
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- 19.331. Nine-Member Board; County of 100,000 or More.
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[Sections 19.333–19.360 reserved for expansion]

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 19.367. Territory Formerly Two or More Common School Districts.
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[Sections 19.369–19.400 reserved for expansion]

SUBCHAPTER M. ABOLITION OF SUBDIVISION OF COMMON SCHOOL DISTRICTS

- 19.401. Authority of County Governing Board.
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- 19.461. Authority of District Trustees.
 19.462. Election.

**SUBCHAPTER A. ENLARGING DISTRICTS
BY ANNEXING OTHER DISTRICTS****Section 19.001. Enlarged Districts**

(a) The county school trustees or county boards of education, as the case may be, in any county in this State, shall have the authority to create enlarged districts by either of the following methods:

(1) By annexing one or more common school districts or one or more independent school districts having a scholastic population of less than 250 to a common school district having 400 or more scholastic population.

(2) By annexing one or more common school districts or one or more independent school districts having a scholastic population of less than 250 to an independent school district having 150 or more scholastic population.

(b) An enlarged district created by the method described in Subsection (a)(1) of this section shall be classified as a common school district; an enlarged district created by the method described in Subsection (a)(2) of this section shall be classified as an independent school district.

[Sections 19.005–19.030 reserved for expansion]

SUBCHAPTER B. CREATION OF COUNTY-WIDE COMMON SCHOOL DISTRICTS**§ 19.031. Qualifications**

A county-wide common school district may be created, under the terms of this subchapter, in any county in the State meeting all of the following qualifications:

(1) The county must have a scholastic population of fewer than 600 as shown by the last scholastic census on file in the State Department of Education.

(2) The county must not embrace the whole or any part of an independent school district.

(3) There must be no outstanding indebtedness against any common school district in the county.

(4) The county must have an assessed property valuation of less than \$6,000,000.

§ 19.032. Petition for Election: Order

(a) The county judge, when petitioned by 50 or a majority of the legally qualified property taxpaying voters of any county meeting the qualifications specified in Section 19.031 of this code, shall order an election to be held throughout the county for the purpose of determining whether a majority of the legally qualified property taxpaying voters residing in the county shall favor the creation of a common school district embracing the entire county.

(b) The petition and order for the election shall state that the purpose is to create a common school district embracing the entire county.

(c) The order for the election must be issued and public notice thereof given, as in other school elections, for not less than three weeks prior to the date at which the election is to be held.

(d) It shall not be necessary for either the petition or the order to state the metes and bounds of the district proposed to be created.

§ 19.033. Election

(a) The election to determine whether to create a common school district embracing the entire county shall be held at the usual voting places in each election precinct in the county and shall be conducted under the general election laws of this state.

§ 19.034. Canvass: Order

(a) The commissioners court shall, either at a regular or a special session, canvass the returns of the election and declare the results.

(b) If it is found that a majority of the legally qualified property tax-paying voters, voting at the election, are in favor of the creation of a common school district embracing the entire county, the commissioners court shall enter an order creating the common school district embracing the entire county and abolishing all common school districts existing prior thereto.

(c) It shall not be necessary for the order creating the district to state the metes and bounds of the county.

§ 19.035. Election of Trustees

(a) When any common school district embracing an entire county has been created as provided in this subchapter, the county judge shall immediately order an election for the election of three trustees for the school district.

(b) The county judge shall give public notice of the election by posting notices thereof at each voting place in the county not less than 20 days before the date at which the election is to be held.

(c) The county judge shall appoint for the election for each precinct in the county a presiding officer, who shall be authorized to appoint two clerks to assist him in the conduct of the election.

(d) Any person seeking election as trustee of the county-wide district shall, not less than 10 days before the election, apply in writing to the county judge to have his name placed on the ballot.

(e) The county judge shall order the preparation of the necessary number of ballots containing the names of each person applying as a candidate for trustee.

(f) The election shall be held at the usual voting places in each voting precinct in the county and shall be conducted in compliance with the general laws relating to common school district elections.

(g) The officers holding the election shall make returns thereof to the county judge within five days after the election. The commissioners court at its next regular or special session shall canvass the returns and declare the results of the election.

§ 19.036. Status of District

Any county-wide common school district created under the terms of this subchapter shall be governed as other common school districts as provided in Chapter 22 of this code,¹ and shall have all the rights and privileges of other common school districts heretofore created or which may hereafter be created under the general laws of this State.

1. Section 22.01 et seq.

SUBCHAPTER C. CREATION OF COUNTY-WIDE INDEPENDENT SCHOOL DISTRICTS**§ 19.061. Qualifications**

A county-wide independent school district may be created, under the terms of this subchapter, in any county in the state meeting all of the following qualifications:

(1) The county must have a scholastic population of not more than 2,500.

(2) Not more than two school districts, either two common school districts or two independent school districts or one common school district and one independent school district, shall have conducted schools within the past two years.

§ 19.062. Petition

Whenever it is desired that any county meeting the qualifications of Section 19.061 of this code be created into a single independent school district, there shall be presented to the county judge a petition which shall:

(1) be signed by either a majority of the members of the board of trustees of the common and/or independent school districts within the county or by 20 qualified voters or a majority of the qualified voters of each of the common and/or independent school districts within the county;

(2) state that the purpose is to create an independent school district embracing the entire county; and

(3) provide that in the event a county line district, either common or independent, shall exist in the county, such county line district shall be excepted from the proposed county-wide independent school district and the provisions hereof.

§ 19.063. Election Order; Notice

Upon the presentation of a petition fulfilling the qualifications of Section 19.061 of this code, the county judge shall:

(1) order an election to be held throughout the county on a date not less than 21 days nor more than 30 days after the date of the filing of the petition; and

(2) cause notice of the election to be given by posting a substantial copy of the election order in a public place in each common and/or independent school district in the county not less than 15 days prior to the date fixed for the election.

§ 19.064. Election

(a) The election shall be held at the usual voting place or places in each of the several districts in the county and shall be conducted under the general election laws of the state unless otherwise provided herein.

(b) The commissioners court shall at any regular or special session after the election canvass the return of the election and declare the result thereof.

§ 19.065. Order Creating District

If it is found that a majority of the legally qualified voters voting in the election favor the creation of a county-wide independent school district, the commissioners court shall pass an order which shall:

(1) create the independent school district embracing the entire county and abolish all common and/or independent school districts participating in the election; and

(2) declare the boundaries of the county-wide independent school district to be co-extensive with the boundaries of the county or, in the event a county line school district exists within the county, define the boundaries of the county-wide independent school district by metes and bounds, excluding the county line district.

§ 19.066. Appointment of Initial Trustees

(a) The trustees of an independent school district embracing an entire county shall be selected as provided in this section and Section 19.067 of this code.

(b) Immediately following the election at which it was determined to create a county-wide independent school district, the county judge shall provide for the organization of the district within 10 days thereafter by appointing seven trustees as follows: One trustee shall be appointed from each of the four commissioners precincts within the county, and three trustees shall be appointed from the county at large.

§ 19.067. Election of Trustees

(a) The first election for trustees shall be called by the county judge, shall be held on the first Saturday in April of the year following the election at which the county-wide independent school district was created and shall be conducted as provided by this section.

(b) Each elector in the county shall be permitted to vote for one board member from the commissioners precinct in which the elector and the candidate reside and shall be permitted to vote for three candidates from the county at large.

(c) The commissioners court shall appoint election judges and assistants, cause ballots to be printed and distributed, canvass the votes, declare the results of the election, notify the persons elected, and call a meeting of the new board of trustees on a date not more than 10 days after the results of the election are determined.

(d) The seven trustees first elected shall determine by lot which shall serve for a term of one year and which for a term of two years. Those drawing numbers 1, 2, and 3 shall serve for a term of one year, and those drawing numbers 4, 5, 6, and 7 shall serve for a term of two years.

(e) All subsequent elections of trustees shall be called by the board of trustees in the manner provided in this code for trustee elections in independent school districts. The elections shall be held on the first Saturday in April of each year at places in each commissioners precinct designated by the board of trustees. Each year, either three or four trustees, as the case may be, shall be elected for a term of two years.

§ 19.068. Trustees; Powers, Etc.

(a) The boards of trustees of independent school districts established under this subchapter, whether appointed or elected, shall have all the powers, rights, duties, privileges, and qualifications granted in or re-

quired by the general provisions of this code relating to independent school districts.

(b) The board of trustees shall have general management and control of all schools situated or established in the districts, including management of the business affairs of the district and selection of teachers.

(c) The boards of trustees shall have all rights and powers of taxation as provided for independent school districts, including assessing and valuing property for taxation, fixing tax rates, and issuing bonds.

(d) The boards of trustees shall have any other rights and powers now held and exercised by boards of trustees of independent school districts as provided in Chapter 23 of this code.¹

1. Section 23.01 et seq.

§ 19.069. Taxes

(a) The maintenance and bond taxes and assessed valuations in each of the several component districts existing at the time of the creation of the independent school district embracing the entire county shall continue as authorized and approved until such time as an election shall have been held equalizing the maintenance tax and assuming the bonded indebtedness of the several component school districts making up the county-wide independent school district.

(b) Elections for the levying of taxes, assumption of debt, and issuance of bonds shall be called, held, and determined in accordance with the provisions governing such elections in independent school districts as provided in Subchapter O of this chapter¹ or in Chapter 20 of this code.²

(c) The laws governing the assessing and collecting of taxes, issuance of bonds (new or refunding), in independent school districts shall be applicable to independent school districts created under this subchapter.

1. Section 19.461 et seq.

2. Section 20.01 et seq.

§ 19.070. County Governing Board Not Required

No county school trustees or county boards of education shall be required in those counties which create county-wide independent school districts under the terms of this subchapter.

[Sections 19.071–19.100 reserved for expansion]

SUBCHAPTER D. COUNTY-LINE DISTRICTS

§ 19.101. Creation of County-Line Common School Districts

(a) The county school trustees and/or county boards of education of two or more adjoining counties shall have the authority, in compliance with the provisions of this section, to create common school districts to contain territory in two or more counties.

(b) No county-line common school district shall be created with or changed to an area less than nine square miles.

(c) Each county-line common school district shall be laid out in as near the shape of a square as possible, and in no event shall the length of the district be greater than one and one-half times its width.

(d) The county governing board of each county having territory included in the proposed district shall pass an order which shall:

(1) describe by metes and bounds the territory to be included in the district;

(2) give the course and direction with the exact length of each line contained in the description and locate each corner called for upon the ground;

(3) give the acres of each survey and parts of surveys of lands included in the district;

(4) include a map showing the conditions upon the ground as described in the field notes and giving the number of acres of land contained in each survey and parts of surveys contained in each county;

(5) show the exact position and location of the county line in the territory proposed to be created into a county-line district; and

(6) designate and name one of the counties having territory included in the description of the proposed district which shall manage and have control of the public schools of the county-line district for all school purposes.

(e) The proposed district shall be deemed created and established when the order described in Subsection (d) of this section has been passed by the county governing board of each county having territory included therein.

§ 19.102. County-Line Rural High School Districts

(a) The county school trustees and/or county boards of education of two or more adjoining counties shall have the authority, upon the written order of a majority of the members of the governing board of each county concerned, to establish county-line rural high school districts. The order shall designate the county which shall have supervision of the county-line rural high school district.

(b) A county line rural high school district, so established, shall be governed in all respects as other rural high school districts as provided in Chapter 25 of this code.¹

1. Section 25.01 et seq.

§ 19.103. Joint Maintenance

The county governing boards of each county having territory included within a county-line district shall have power to provide jointly for the maintenance of the county-line school.

§ 19.104. Voter Qualifications

All persons who are otherwise qualified to vote in an election involving a school district question and who reside in a county line school district shall be entitled to vote at any such election involving the school district regardless of whether or not such voters reside in the county having management and control of the county line district.

§ 19.105. Conversion of County-Line Rural High School Districts Into Independent School Districts

(a) Any county-line rural high school district in which there is maintained an accredited school system of 12 grades, including a high school offering 16 or more credits, may be converted into an independent school district as prescribed by this section.

(b) A petition signed by 20 or a majority of the qualified property tax-paying voters residing in the district and praying for an election to determine whether the rural high school district shall be incorporated for free school purposes only shall be presented to the county judge of the county in which the greater or greatest area of the district lies.

(c) Upon receipt of the petition, the county judge shall issue an order calling for an election to be held throughout the district not less than 20

nor more than 30 days from the date of filing the petition, for the purpose of converting the rural high school district into an independent school district for school purposes.

(d) After the election is held, the commissioners court of the county in which the greater or greatest area of the district lies shall canvass the returns and declare the result of the election.

(e) If a majority of the votes cast favor the change from a rural high school district into an independent school district, the commissioners court shall:

(1) enter its order incorporating the independent school district; and

(2) cause a certified copy of the order to be recorded by the county clerks in the deed records of the counties having territory within the district.

(f) An independent school district created under the provisions of this section shall be regarded as duly incorporated for free school purposes only and shall be vested with all the rights, powers, and privileges conferred and imposed upon independent school districts as provided in Chapter 23 of this code.¹

(g) Whenever any independent school district is incorporated under this section, the members of the board of trustees of the rural high school district shall maintain their status as trustees of the newly incorporated independent school district and shall continue to serve until their respective terms of office expire.

(h) The titles and rights to all property owned, held, set apart, or in any way dedicated to the use of the public schools of the elementary school districts comprising the rural high school district for school purposes only, shall be vested in the board of trustees of the independent school district, after incorporated under this section, and shall be managed and controlled by the board of trustees, as is now or may hereafter be provided by law.

(i) All bonds issued by and outstanding against the rural high school district, as a school district, and all obligations, contracts, and indebtedness existing against the rural high school district, shall become the obligations and debts of the independent school district at the time of its incorporation.

1. Section 23.01 et seq.

§ 19.106. Creation of County-Line Independent School Districts

(a) Independent school districts may be created containing territory within two or more counties by the same procedure that towns and villages are created by law for municipal purposes, except that the map required by the statute governing municipal incorporations shall also show the correct location and position of the county-line or lines involved in the incorporation of the independent school district.

(b) An incorporated free school district containing territory in two or more counties shall have all the rights, powers and privileges granted to any other incorporations for free school purposes only.

(c) The same modes, manners, and methods of government and procedure provided by Chapter 23 of this code¹ for independent school districts shall govern the management and control of incorporated school districts containing territory within two or more counties.

1. Section 23.01 et seq.

SUBCHAPTER E. RURAL HIGH SCHOOL DISTRICTS—CREATION, CONVERSION, ETC.**§ 19.131. Establishment of Rural High School Districts**

The county school trustees or county board of education, as the case may be, in each county in this state shall have the authority to form one or more rural high school districts by grouping contiguous common school districts having fewer than 400 scholastic population and independent school districts having fewer than 250 scholastic population.

§ 19.132. Limitations

No rural high school district shall contain a greater area than 100 square miles or more than 10 elementary school districts, except that:

(1) The county school trustees or county board of education may create a rural high school district containing more than 100 square miles when so authorized by the vote of a majority of the qualified electors in the proposed rural high school district voting at an election called for that purpose.

(2) The county school trustees or county board of education may create a rural high school district containing more than 10 elementary districts when so authorized by the vote of a majority of the qualified electors of each elementary district in the proposed rural high school district voting at an election called for that purpose.

§ 19.133. Status

A rural high school district shall be classified as a common school district, and all other districts, whether common or independent, composing the rural high school district shall be referred to as elementary school districts.

§ 19.134. Transfer of Control

The board of trustees of each elementary school districts grouped or included to form a rural high school district, as hereinabove provided, shall continue in control of its respective district until the close of the current scholastic year, but it shall make no contract affecting the expenditure of any school funds subsequent to September 1 nor shall it have any authority in the management and control of the schools of the district after September 1. The board of trustees for the rural high school district shall, immediately upon its organization, proceed to make contracts for the operation of all schools under its control.

§ 19.135. Conversion of Rural High School District Into Independent School District

(a) A rural high school district in which there is maintained an accredited school system of 12 grades, including a high school offering 16 or more credits, may be converted into an independent school district as prescribed by this section.

(b) A petition signed by 20 or a majority of the qualified property tax-paying voters residing in the district and praying for an election to determine whether the rural high school district shall be incorporated for free school purposes only shall be presented to the county judge.

(c) Upon receipt of the petition, the county judge shall issue an order calling for an election to be held not less than 20 nor more than 30 days

from the date of filing the petition, for the purpose of converting the rural high school district into an independent school district for school purposes.

(d) After the election is held, the commissioners court shall canvass the returns and declare the result of the election.

(e) If a majority of the votes cast favor the change from a rural high school district into an independent school district, the commissioners court shall:

(1) enter its order incorporating the independent school district; and

(2) cause a certified copy of the order to be recorded by the county clerk in the deed records of the county.

(f) An independent school district created under this section shall be regarded as duly incorporated for free school purposes only and shall be vested with all the rights, powers, and privileges conferred and imposed upon independent school districts as provided in Chapter 23 of this code.¹

(g) When any independent school district is incorporated under the terms of this section, the members of the board of trustees of the rural high school district shall maintain their status as trustees of the newly incorporated independent school district and shall continue to serve until their respective terms of office expire.

(h) The titles and rights to all property owned, held, set apart, or in any way dedicated to the use of the public schools of the elementary school districts comprising the rural high school district for school purposes only, shall, after incorporating under this section, be vested in the board of trustees of the independent school district, and shall be managed and controlled by the board of trustees as is now or may hereafter be provided by law.

(i) All bonds issued by and outstanding against the rural high school district, as a school district, and all obligations, contracts, and indebtedness existing against the rural high school district, shall become the obligations and debts of the independent school district at the time of its incorporation.

1. Section 23.01 et seq.

§ 19.136. Abolition of Rural High School District

(a) The county school trustees or county board of education, as the case may be, shall have the authority to abolish a rural high school district on a petition signed by a majority of the voters of each elementary school district composing the rural high school district.

(b) When a rural high school district has been abolished, each district of which it was composed shall revert back to its original status with the exception that, in the event there is any outstanding indebtedness against the rural high school district, each component district shall assume its proportional part of the debts, bonded or otherwise.

[Sections 19.137–19.160 reserved for expansion]

**SUBCHAPTER F. MUNICIPAL SCHOOL DISTRICTS—CREATION
BOUNDARY CHANGES, CONVERSION, ETC.**

§ 19.161. City May Acquire Control of Schools

(a) Any city or town in this state may acquire the exclusive control of the public free schools within its limits by a majority vote of the property taxpaying voters of the city or town voting at an election held for that purpose as herein provided.

(b) A petition, signed by not less than 50 of the qualified electors of the city or town and requesting an election to determine whether the city or town shall acquire the exclusive control of the public free schools within its limits, shall be presented to the mayor.

(c) Upon receipt of the petition, the mayor shall order an election to be held at a date within 20 days thereafter.

(d) The election shall be conducted as other municipal elections; and if a majority of the votes cast favor the proposition, the city or town shall by ordinance duly passed and entered of record, assume control and management of the public free schools within its limits. Not more than one election shall be held in any one calendar year to determine the question.

§ 19.162. Transfer of Control From District to City

(a) Any independent school district including within its limits a city or town incorporated for municipal purposes under the laws of this State may transfer the control and management of the school district to the incorporated city or town as prescribed by this section.

(b) A petition, signed by as many as 50 or a majority of the resident qualified voters of the independent school district and requesting an election on the proposition of whether the public free schools of the district should be assumed and controlled by the incorporated city or town, shall be presented to the board of trustees of the independent school district.

(c) Upon receipt of the petition, the board shall order an election to be held at the usual voting places within the district at a date within 20 days thereafter.

(d) The election shall be ordered and held in conformity with the law governing tax and bond elections in independent school districts, as provided in Section 20.04 of this code, except that the qualified electors need not be property taxpayers but need only qualify to vote under the laws of this State regulating general elections.

(e) The ballot for use at the election shall have printed thereon the words: "For assuming control of the public free school of _____ Independent School District by the city of _____, Texas," and "Against assuming control of the public free school of _____ Independent School District by the city of _____, Texas."

(f) If a majority of the qualified voters voting at the election vote in favor of the proposition, the board of trustees of the independent school district shall certify the results of the election to the governing authority of the incorporated city or town, together with a certified copy of the record showing all the proceedings had in the incorporation of the independent school district and all boundary extensions thereto, if any, and a well-defined map accurately showing the territory described in the record.

(g) If the governing authority of the city or town finds that the election has been in all respects lawfully held and the returns thereof duly and legally made, then it shall, by ordinance duly passed and entered of record, assume control and management of the public free schools within its limits and perform such other duties as may be required of it by this code.

(h) If the boundaries of the independent school district do not coincide with the boundaries of the incorporated city or town, the city governing body shall on the same day pass an ordinance extending its corporate line for school purposes only so that the same shall coincide with and embrace the same territory as the independent school district.

(i) If the independent school district shall have an outstanding bonded indebtedness, the incorporated city or town shall become liable and bound for the payment of such indebtedness, and the governing body of the city or town shall levy and cause to be assessed and collected, upon all property subject to taxation within the limits of the incorporated city or town or within the limits of the corporation as extended for school purposes only, taxes to pay interest on such bonds and to provide a sinking fund sufficient to redeem the same at maturity. Such tax shall thereafter be annually levied and collected so long as the bonds, or any of them, are outstanding and unpaid.

(j) If the independent school district had previously authorized a maintenance tax, the assumption of the control and management of the schools of the district shall not abrogate or affect such tax, and the maintenance tax shall thereafter be annually levied, assessed, and collected by the proper authorities of the incorporated city or town until increased or changed by the qualified voters in conformity with the provisions and requirements of Chapter 20 of this code.¹

(k) The trustees of the independent school district serving at the time of the assumption of the control of the schools of the district by the incorporated city or town shall continue to serve until the expiration of their terms of office; subsequent trustees shall continue to be elected in compliance with the general law relative to the election of trustees of independent school districts as provided in Chapter 23 of this code.²

1. Section 20.01 et seq.

2. Section 23.01 et seq.

§ 19.163. Status of District

Municipal school districts, established under either Section 19.161 or Section 19.162 of this code shall be classified as independent school districts and shall operate and be governed according to the general laws relative to independent school districts, as provided in Chapter 30 of this code,¹ except insofar as such laws are modified by the specific provisions relative to municipal school districts as contained in Chapter 24 of this code.²

1. Should read "Chapter 23 of this code".

See section 23.01 et seq.

2. Section 24.01 et seq.

§ 19.164. Extension of Boundaries

(a) Any city or town which has assumed control of its schools and become a municipal school district under the terms of Section 19.161 of this code or under prior statutory authority may extend its corporation lines for school purposes only under the provisions of this section.

(b) A petition signed by a majority of the resident qualified voters of the territory seeking to be included in the municipal school district shall be presented to the board of trustees of the municipal school district.

(c) If the extension of boundaries is recommended by a majority vote of the board of trustees of the municipal school district, the governing body of the city may, by ordinance and on the conditions prescribed by this section, extend its boundaries for school purposes only.

(d) The proposed change in boundaries shall not deprive¹ the scholastic children of the remaining part of any common or independent school district which may be affected by the proposed change of the opportunity of attending school.

(e) The added territory shall bear its pro rata part according to taxable values of any obligation owed by the municipal school district, but shall not bear any part of any other debt owed or contracted by the town or city. The property of the added territory shall bear its pro rata part of all school taxes but of no other taxes. The added territory shall not affect the city's debts or business relations in any manner whatsoever except for school purposes.

(f) The officers whose duty it is to assess and collect school taxes within the city limits shall also assess and collect school taxes within the territory added for school purposes only.

(g) When hereafter an entire territory of a contiguous district or districts is added for school purposes only, under the provisions of this section, the extended city control district shall be regarded as eligible for incentive aid to the extent and under the conditions prescribed in Section 00.00 of this code.²

1. So in enrolled bill.

2. Probably should read "Article 2815—4 of Vernon's Texas Civil Statutes".

§ 19.165. Disannexation of Territory

(a) Any territory added to a municipal school district for school purposes only and outside the municipal limits of the city or town may be disannexed under the terms and conditions of this section.

(b) A petition signed by a majority of the persons owning property in the territory proposed to be disannexed shall be presented to the board of trustees of the municipal school district.

(c) If the board of trustees consents to the disannexation, the governing body of the city or town may by ordinance disannex the territory, in which event:

(1) The governing body of the city or town shall notify the county school trustees or county board of education of the county in which the disannexed territory is situated by sending to the commissioners court a copy of the disannexation ordinance.

(2) The liability of the disannexed territory for any obligations of the municipal school district shall be adjusted in the manner provided in Subchapter N of this chapter.¹

(3) The disannexed territory shall ipso facto immediately become a part of the adjoining school district other than that from which it has been disannexed, or if the disannexed territory adjoins more than one other district, the disannexed territory shall become a part of the adjoining district designated to receive the territory by the county school trustees or county board of education.

1. Section 19.431 et seq.

§ 19.166. Separation From Municipal Control and Conversion to Independent School District

(a) Any municipal school district, established either under the terms of Section 19.161 of this code or under any other prior statutory authority, may be separated from municipal control so that the school corporation shall become and be an independent school district, without the dual character theretofore possessed by the school corporation and the city or town, under the provisions of this section.

(b) A petition signed by 100 or more of the resident qualified voters of the municipal school district and/or city or town and praying for an election on the proposition of whether or not the public schools shall be divorced from municipal control shall be presented to the board of trustees of the municipal school district. The board of trustees of the municipal school district shall certify the petition to the governing body of the city or town.

(c) Upon receipt of the petition and certification, the governing body of the city or town shall fix a date not more than 10 days thereafter for the holding of a joint meeting of the governing body of the city or town and the board of trustees of the municipal school district. At the joint meeting, the governing body of the city or town and the board of trustees of the municipal school district, acting jointly as one body, the mayor or chairman of the governing body presiding, shall order an election as prayed for in the petition.

(d) The election shall be held not more than 30 days nor less than 10 days thereafter. At least 10 days notice of the election shall be given.

(e) Every person who has attained the age of 21 years and who has resided within the limits of the municipal school district for the six months next preceding the date of election and who is a qualified elector under the laws of this State shall be entitled to vote.

(f) The ballots for use at the election shall have printed thereon the words: "For the separation of the public schools from municipal control," and "Against the separation of the public schools from municipal control."

(g) In all respects not specifically covered herein, the election shall be conducted as nearly as possible in compliance with the law with reference to regular city elections in the town or city.

(h) The governing body of the city or town shall immediately canvass the returns of the election and certify the results to the board of trustees of the municipal school district, together with a certified copy of the record showing all proceedings in respect of the election.

(i) If a majority of the qualified voters, voting at the election in the municipal school district, vote in favor of the separation of the public schools from municipal control and if the board of trustees of the school district finds that the election has been in all respect lawfully held and the returns thereof duly and legally made to the governing body of the city or town, the board of trustees shall by resolution duly passed and entered of record, declare that the public schools of the municipal school district have been separated from municipal control and that the corporate name of the school district shall thereafter be "_____ Independent School District," inserting the name of the city or town.

(j) If the proposition shall be defeated at the election, then no election for that purpose shall be ordered until after the expiration of one year from the date of the previous election.

(k) The separation of the schools from municipal control shall produce the following results:

(1) The school district shall have all the powers conferred upon independent school districts by the constitution and laws of the state, including the rights to assess, levy, and collect taxes and issue bonds for school purposes.

(2) Any and all maintenance and/or bond taxes previously voted, authorized, and/or levied on the taxable properties situated within the limits of the municipal school district shall be continued in full force by the independent school district.

(3) The board of trustees of the independent school district shall consist of seven members.

(4) The members of the board of trustees of the municipal school district shall continue as members of the board of trustees of the independent school district until the terms for which they have been elected or appointed, as the case may be, shall have expired or until their successors have been elected or qualified.

(5) In the event the board of trustees of the municipal school district consisted of fewer than seven members, those serving shall appoint a sufficient number of new trustees to bring the total membership of the board to seven members, the appointees to serve in accordance with the general law governing the election and tenure of office of independent school district trustees.

(6) At the expiration of the terms of office of the existing trustees, election of trustees shall be held in compliance with the general law relating to the election of trustees in independent school districts as provided in Chapter 23 of this code.¹

(7) The title and rights to all property owned, held, set apart or in any way dedicated to the use of the public schools of the city or town, and/or heretofore vested in such city or town and/or the mayor, chairman of the commission, city council, city commission or board of school trustees of the city or town, prior to separation from municipal control, shall be vested in the board of trustees of the independent school district and shall be managed and controlled by the board of trustees as provided in Chapter 23 of this code.

(8) All bonds issued by and outstanding against the city or town, as a school district, and all obligations, contracts and indebtedness existing against the city or town, as a school district, shall become the obligations and debts of the independent school district at the time of its separation from municipal control. The independent school district, after separation from municipal control, shall be held to have assumed the discharge of all such obligations, contracts and indebtedness, and the same shall be enforceable and collectible from, paid off and discharged by, the independent school district; and it shall not be necessary to call an election within and for such district for the purpose of assuming such bonds and other indebtedness.

1. Section 23.01 et seq.

§ 19.167. Separation From Municipal Control and Conversion to Common School District

(a) Any municipal school district, established either under the terms of Section 19.161 of this code or under any other prior statutory authority, may be separated from municipal control and become a common school

district, without the dual character theretofore possessed by the school corporation of the city or town, under the provisions of this section.

(b) A petition signed by 100 or more of the resident qualified voters of the municipal school district and praying for an election on the proposition of whether or not the public schools shall have divorced from municipal control, shall be presented to the board of trustees of the municipal school district. The board of trustees of the municipal school district shall certify the petition to the governing body of the city or town.

(c) Upon receipt of the petition and certification, the governing body of the city or town shall fix a date not more than 10 days thereafter for the holding of a joint meeting of the governing body of the city or town and the board of trustees of the municipal school district. At the joint meeting, the governing body of the city or town and the board of trustees of the municipal school district, acting jointly as one body, the mayor or chairman of the governing body presiding, shall order an election as prayed for in the petition.

(d) The election shall be held not more than 30 days nor less than 10 days thereafter. At least 10 days notice of the election shall be given.

(e) Every person who has attained the age of 21 years and who has resided within the limits of the municipal school district for six months next preceding the date of election, and who is a qualified elector under the laws of this State shall be entitled to vote.

(f) The ballots for use at the election shall have printed thereon the words: "For the separation of the public schools from municipal control and converting same into a common school district," and "Against the separation of the public schools from municipal control and converting same into a common school district."

(g) In all respects not specifically covered herein, the election shall be conducted as nearly as possible in compliance with the law with reference to regular city elections in the town or city.

(h) The governing body of the city or town shall immediately canvass the returns of the election and certify the results to the board of trustees of the municipal school district, together with a certified copy of the record showing all proceedings in respect of the election.

(i) If a majority of the qualified voters, voting at the election in the municipal school district, vote in favor of the separation of the public school from municipal control and in favor of creating a common school district therefor and if the board of trustees of the municipal school district finds that the election has been in all respects lawfully held and the returns thereof duly and legally made to the governing body of the city or town, then it shall by resolution duly passed and entered of record, declare that the public schools of the municipal school district have been separated from municipal control, and that the name of the school district shall there be "_____ Common School District," inserting the name of the city or town.

(j) If the proposition shall be defeated at the election, then no election for that purpose shall be ordered until after the expiration of one year from the date of the previous election.

(k) The separation of the schools from municipal control shall produce the following results:

(1) The members of the board of trustees of the municipal school district shall continue to serve as the board of trustees of the common school district until a special election can be held for choosing

their successors and until such successors have been duly elected and qualified.

(2) The commissioners court of the county, pursuant to its duties in connection with common school districts, shall order an election for the purpose of naming a board of trustees of the school district as provided in Section 22.00¹ of this code.

(3) The elected trustees of the common school district shall conduct the affairs of the district as provided in Chapter 22 of this code.²

(4) The title and rights to all property owned, held, set apart or in any way dedicated to the use of the public schools of the city or town, and/or heretofore vested in the city or town and/or the mayor, chairman of the commission, city council, city commission, or board of school trustees of the city or town prior to separation shall be vested in the board of trustees of the common school district.

(5) All bonds issued by and outstanding against the city or town as a municipal school district, and all obligations, contracts, and indebtedness existing against the city or town as a municipal school district shall become the obligations and debts of the school district at the time of its separation from municipal control, and the same shall be enforceable and collectible from, paid off and discharged by the common school district as if originally created by it as a common school district; and it shall not be necessary to call an election within and for such district for the purpose of assuming such bonds and other indebtedness.

1. So in enrolled bill.
2. Section 22.01 et seq.

[Sections 19.168–19.200 reserved for expansion]

SUBCHAPTER G. CONVERSION OF COMMON SCHOOL DISTRICT TO INDEPENDENT SCHOOL DISTRICT

§ 19.201. Qualifications

(a) Any common school district possessing the qualifications specified below may, by the method herein provided, form an incorporation for free school purposes only and become an independent school district.

(b) In order to become an independent school district under the terms of Sections 19.202–19.205 of this code, the common school district must:

- (1) have 165 inhabitants or more;
- (2) contain an area of not less than 83 square miles;
- (3) have an assessed property valuation of not less than \$3,000,000; and
- (4) not include within its bounds any municipally incorporated town or village which has assumed control of the public free schools within its limits.

§ 19.202. Petition

Whenever it is desired that any common school district possessing the qualifications set out in Section 19.201 of this code become incorporated, there shall be presented to the county judge a petition which shall:

- (1) be signed by 20 or a majority of the resident qualified voters of the common school district;
- (2) contain a definite description by metes and bounds of the common school district proposed to be incorporated;

- (3) recite the name by which the independent school district should be known;
- (4) pray for an election to determine whether the common school district shall be incorporated as an independent school district; and
- (5) pray for the election of seven trustees.

§ 19.203. Election Order; Notice

(a) If the county judge finds that the petition fulfills the requirements of Section 19.202 of this code and that the facts contained therein are true, he shall:

- (1) enter his order upon the minutes of the commissioners court granting the petition;
- (2) specify in the order the place or places and a date, within 20 days of the order, at which the election shall be held;
- (3) appoint in the order a presiding officer for the place of each of the places of election;
- (4) describe in the order the proposition to be submitted together with a definite description by metes and bounds of the common school district proposed to be incorporated;
- (5) issue a notice of the election stating in substance the contents of the election order and the time and place or places of the election; and
- (6) cause the sheriff not less than 10 days prior to the date set for the election to post a copy of the notice of election in three different public places within the boundaries of the common school district as described in the election order.

(b) Whenever the county judge shall enter his order for an incorporation election, as provided above, he shall at the same time order an election to be held for the selection of a board of trustees to consist of seven members. Notice of the election for trustees shall be given the same time and in the same manner as provided for the giving of notice for the incorporation election. The election of trustees shall be held at the same time, under the same rules, and by the same officers as the incorporation election.

§ 19.204. Election

The election shall be held under the provisions of the laws of this State regulating general elections except as otherwise provided herein. Only qualified voters who are residents of the common school district proposed to be incorporated shall be entitled to vote. The officers holding the election shall make returns of the results thereof to the county judge. The county judge shall canvass the returns and declare the results of the election.

§ 19.205. Incorporation; Trustees; Organization

(a) If a majority vote favors the incorporation of the district, the county judge shall enter upon the minutes of the commissioners court an order incorporating the school district and cause the county clerk to record a certified copy of the order in the deed records of the county. The independent school district shall thereafter be regarded as duly incorporated for free school purposes only and shall be vested with all the rights, powers, and privileges conferred and imposed upon independent school districts as provided in Chapter 23 of this code.¹

(b) The county judge shall issue his certificate of election to each of the seven candidates for the office of trustee who received the greatest number of votes cast. Upon the issuance of the certificate of election and the taking by the trustees of the official oath of office the trustees shall be deemed to have qualified and shall immediately enter upon the discharge of their duties.

(c) The trustees elected at the incorporation election shall organize as provided in Chapter 23 of this code but shall hold office only until the first Saturday in April next succeeding and until their respective successors have been duly elected and qualified.

(d) Upon notice to the commissioner of education, the independent school district shall be entitled to receive the share of the available school fund to which the district is entitled. No incorporated town or village included within the boundaries of the independent school district may thereafter acquire any right to take or assume control of the public free schools within its limits.

1. Section 23.01 et seq.

§ 19.206. Conversion of District With 12-Grade School

(a) Any common school district in which there is maintained a accredited school of 12 grades, including a high school offering 16 or more credits, may become an independent school district under the terms of this section.

(b) A petition signed by 20 or a majority of the legally qualified property taxpaying voters residing in the common school district and praying for an election to determine whether the common school district shall be incorporated shall be presented to the county judge.

(c) Upon receipt of the petition, the county judge shall issue an order calling for an election to be held not less than 20 nor more than 30 days from the date of the filing of the petition for the purpose of determining whether the common school district shall be converted into an independent school district.

(d) After the election is held, the commissioners court shall canvass the returns thereof as in other similar elections and declare the results thereof. If the majority of the votes cast favor the change from common school district to independent school district, the county school trustees or county board of education, as the case may be, shall:

(1) pass such order or orders as may be necessary creating the independent school district; and

(2) appoint a board of seven members, all of whom shall possess the qualifications of school trustees and all of whom shall serve until the next regular trustee election under the laws of this state, at which time seven members shall be elected.

§ 19.207. Law Governing District

Any independent school district established in compliance with this subchapter shall be governed and controlled as provided in Chapter 23 of this code.¹

1. Section 23.01 et seq.

[Sections 19.208–19.230 reserved for expansion]

SUBCHAPTER H. CONSOLIDATION OF SCHOOL DISTRICTS

§ 19.231. Districts Which May Consolidate

(a) Subject to the limitation of Subchapter K of this chapter,¹ any of the following groups of school districts may, by the procedure described in this subchapter, consolidate into a single school district:

- (1) two or more contiguous common or county-line common school districts;
- (2) two or more contiguous independent or county-line independent school districts;
- (3) one or more independent or county-line independent school districts and one or more common or county-line common school districts constituting as a whole one continuous territory;
- (4) a rural high school district and one or more contiguous common or county-line common school districts; or
- (5) one or more rural high school districts and one or more independent or county-line independent school districts, where all of the districts constitute as a whole one continuous territory.

(b) The combined districts may all be located wholly within a single county, or they may be located in adjoining counties; or the combined districts may be composed of one or more districts located wholly within one or more counties and one or more county line districts.

1. Section 19.331 et seq.

§ 19.232. Petition

A petition signed by 20 or a majority of the legally qualified voters of each of the several contiguous school districts proposed to be consolidated and praying for an election to authorize the consolidation shall be presented to the county judge of the county in which the school districts are located, or if one or more districts to be consolidated is a county line district, to the county judge of the respective county or counties having jurisdiction thereof.

§ 19.233. Election Order; Notice

Upon the receipt of a petition fulfilling the qualifications of Section 19.232 of this code, each county shall:

- (1) issue an order for a election to be held on the same day in each district included in the proposed consolidated district; and
- (2) give notice of the date and purpose of the election by publication of the order in some newspaper published in the county for at least 20 days prior to the date on which the elections are to be held or by posting a notice of the election in each of the districts or by both publication and posted notice.

§ 19.234. Canvass; Result

(a) The commissioners court of the county (or the commissioners court of the several counties, if more than one county is involved) shall at the next meeting thereof, canvass the returns of the election in each district voting and publish the results separately for each district.

(b) If the votes cast in each and all districts show a majority in each district voting separately in favor of the consolidation, the commissioners court (or the commissioners courts of the several counties, if more than

one county is involed¹) shall declare the school districts consolidated. If less than a majority of the votes cast in any one of the districts is in favor of the consolidation, then another election involving the same consolidation proposal may not be held until at least one year has elapsed since the date of the election.

1. So in enrolled bill.

§ 19.235. Consolidation of Common School Districts

(a) When common school districts are consolidated together, regardless of whether or not one or more of the districts may be a common county-line district, the consolidated district shall be classed as a common school district and shall be named and governed as provided by this section.

(b) The trustees of each district participating in the consolidation shall, upon notification and at the time and place specified by the commissioners court or commissioners courts of the county or counties involved, meet in a joint meeting to:

- (1) select a name by which the new consolidated school district shall be known; and
- (2) designate the county which shall have the supervision of the new consolidated school district.

(c) The county governing board of the county having supervision of the new consolidated school district shall appoint a board of seven trustees for the new consolidated school district who shall serve until the next April election or until their successors shall qualify.

(d) The new common consolidated school district shall thereafter be governed and controlled as provided in Chapter 22 of this code.¹

1. Section 22.01 et seq.

§ 19.236. Consolidation Involving Independent School District

When two or more independent school districts are consolidated together or when one or more independent school districts are consolidated with one or more independent school districts, the consolidated district shall be classed as an independent school district and shall be named and governed according to Section 19.237 or 19.238 of this code, whichever is applicable.

§ 19.237. Consolidation Involving Only One Independent School District

(a) If only one independent school district is consolidated with one or more common school districts, the provisions of this section apply.

(b) The consolidated district shall bear the name of the independent school district.

(c) The board of trustees of the independent school district shall serve as the board of trustees of the consolidated district until the next regular election of trustees, at which time the consolidated district shall elect a board of seven trustees, unless the scholastic population of the independent school district is in excess of five times that of the other district or districts consolidating with it, in which event the trustees of the independent school district shall continue to serve for the terms for which they have been elected and only the vacancies, as they occur, shall be filled from the consolidated district.

(d) The powers, duties, and terms of office of the trustees shall be in accordance with the general laws governing independent school districts as provided in Chapter 23 of this code.

§ 19.238. Consolidation Involving Two or More Independent School Districts

(a) If two or more independent school districts are included in the consolidation, the provisions of this section apply.

(b) The consolidated district shall bear the name as prescribed in the petition for consolidation and shall include "Consolidated Independent School District."

(c) The board of trustees of the independent school district having the greater or greatest number of scholastics at the time of consolidation shall serve as the board of trustees of the consolidated district until the next regular election of trustees, at which time the consolidated district shall elect a board of seven trustees, at least two of whom shall be elected from the area of each former independent district included in the consolidation, unless the scholastic population of the larger or largest independent school district is in excess of five times that of the other district or districts consolidating with it, in which event the trustees of the larger or largest district shall continue to serve for the terms for which they have been elected and only the vacancies, as they occur, shall be filled from the consolidated district.

(d) The powers, duties and terms of office of the trustees shall be in accordance with the general laws governing independent school districts as provided in Chapter 23 of this code.¹

1. Section 23.01 et seq.

§ 19.239. Consolidation of Common and Rural High School Districts

(a) When one or more common school districts are consolidated with a rural high school district, the consolidated district shall, if there be no bonded indebtedness in any district involved or if any bonded indebtedness is adjusted as specified below, take form of such rural high school district and be governed by the board of trustees of the rural high school district if all parts had originally been included in the rural high school district.

(b) In case of any outstanding bonded indebtedness in any district participating in the consolidation, an election shall be held to determine whether or not the common school district or districts or the rural high school district shall assume its or their pro rata share of the indebtedness.

(c) The consolidation shall not become effective until after the election adjusting the bonded indebtedness. In case the election fails to be carried, the consolidation shall be held for naught and such districts shall remain in their original status.

§ 19.240. Consolidation of Rural and Independent Districts

When one or more rural high school districts are consolidated with one or more independent school districts, the consolidation district shall be classed as an independent school district and shall be named and governed according to Section 19.241 or Section 19.242 of this code, whichever is applicable.

§ 19.241. One Independent District

(a) If only one independent school district is involved in the consolidation, the provisions of this section apply.

(b) The consolidated district shall bear the name of the independent school district.

(c) The board of trustees of the independent school district shall serve as the board of trustees of the consolidated district until the next regular election of trustees, at which time the consolidated district shall elect a board of seven trustees, unless the scholastic population of the independent school district is in excess of five times that of the other district or combined districts consolidating with it, in which event the trustees of the independent school district shall continue to serve for the terms for which they have been elected and only the vacancies, as they occur, shall be filled from the consolidated district.

(d) The powers, duties, and terms of office of the trustees shall be in accordance with the general laws governing independent school districts as provided in Chapter 23 of this code.¹

1. Section 23.01 et seq.

§ 19.242. Two Independent Districts

(a) If two or more independent school districts are included in the consolidation, the provisions of this section apply.

(b) The consolidated district shall bear the name prescribed in the petitions for consolidation and shall include "Consolidated Independent School District."

(c) The board of trustees of the independent school district having the greater or greatest number of scholastics at the time of consolidation shall serve as the board of trustees of the consolidated district until the next regular election of trustees, at which time the consolidated district shall elect a board of seven trustees at least two of whom shall be elected from the area of each former independent school district included in the consolidation, unless the scholastic population of the larger or largest independent school district participating in the consolidation is in excess of five times that of the other district or combined districts consolidating with it, in which event the trustees of the larger or largest independent school district shall continue to serve until their terms expire and only the vacancies, as they occur, shall be filled from the consolidated district.

(d) The powers, duties, and terms of office of the trustees shall be in accordance with the provisions of Chapter 23 of this code.¹

1. Section 23.01 et seq.

§ 19.243. Assumption of debt

(a) If at the time of the proposed consolidation there are outstanding bonds of any district included in the proposed consolidation, an election shall be held to determine whether or not the consolidated district shall assume and pay off the outstanding bonds and levy a tax therefor.

(b) The election may be held after consolidation has been accomplished on the call of the trustees of the consolidated district as authorized in Subchapter O of this chapter.¹

(c) The election may be held on the same day upon which the election on the question of consolidation is held provided that separate notices, separate ballots, separate ballot boxes, and separate tally sheets are provided for the two separate elections.

(d) If at an election, either on the day of the consolidation election or on some future day, a majority of the voters vote to assume and pay off the bonded indebtedness of the district or districts consolidating, then the bonded indebtedness shall become valid and subsisting obligations of the consolidated district, and the proper officers thereof shall annually

thereafter levy sufficient taxes to pay the interest thereon as it accrues and to create a sinking fund which, in addition to the sinking funds already accumulated in the original bonded district, will pay off and retire the outstanding bonds when they become due.

1. Sections 19.461, 19.462.

§ 19.244. Dissolution of Consolidated School Districts

(a) Any consolidated school district may be dissolved and the districts included therein restored to their original status by the same procedure provided for consolidation, except that it shall not be necessary to provide polling places in each district.

(b) When dissolution is brought about by majority vote of the qualified voters of the consolidated district, each of the restored districts shall assume and be liable for its prorata part of the outstanding financial obligations of the consolidated district, each prorata part to be based on the relation that the total assessed valuation of all property in the original district bears to the total assessed valuation of property in the consolidated district.

(c) No election for the dissolution of a consolidated district shall be held until three years have elapsed after the date of the election at which the districts were consolidated.

§ 19.245. Dissolution of County-Line Consolidated School Districts

(a) A county-line consolidated school district may be dissolved as provided by this section whenever the consolidated school district fails to operate a public free school.

(b) A petition signed by 20 or a majority of the qualified voters of the county-line district shall be filed with the county judge of the county in which that portion of the district desiring to be dissolved is situated.

(c) Upon the filing of such a petition, the county judge shall call an election to be held at some designated place in the district.

(d) If a majority of the votes cast at the election favor dissolution, the boundaries of the original districts, before consolidation, shall be reapportioned by order of the county judge. Thereafter, the consolidated county-line school district shall cease to exist insofar as it shall relate to that portion of the district in which the election was held.

(e) Dissolution of the district under the terms of this section shall not operate to relieve any one of the original districts from assuming and bearing its pro rata part of the total indebtedness of the consolidated county-line school district; and any indebtedness, bonded or otherwise, shall be borne proportionately by the original districts comprising the county-line school district.

[Sections 19.246–19.260 reserved for expansion]

**SUBCHAPTER I. DETACHMENT AND ANNEXATION
OF TERRITORY****§ 19.261. Detachment and Annexation**

(a) The county school trustees or county board of education, as the case may be, in each county of this state shall have the authority, when duly petitioned as herein provided and in compliance with the limitations of Subchapter K of this chapter,¹ to detach from and annex to any school

district territory contiguous to the common boundary line of the two districts.

(b) The petition requesting detachment and annexation must:

(1) be signed by a majority of the qualified voters residing in the territory to be detached from one district and added to the other; and

(2) give the metes and bounds of the territory to be detached from one district and added to the other.

(c) The proposed annexation must be approved by a majority of the board of trustees of the district to which the annexation is to be made.

(d) Unless the petition is signed by a majority of the trustees of the district from which the territory is to be detached, no school district territory may be detached where the ratio of the number of scholastics residing in the area to be detached to the total number of the scholastics residing in the district from which the territory is to be detached is less than one-half the ratio of the assessed valuation (based on preceding year valuations) in the territory to be detached to the total assessed valuation (based on the preceding year valuations) of the district from which the area is to be detached.

(e) No school district may be reduced to an area of less than nine square miles.

(f) Upon receipt of the petition and notice of the approval as required by this section, the county governing board shall notify the trustees of any other common school districts which may be affected by any contemplated change and specify the place and date at which a hearing on the matter shall be held and at which the trustees of any common school district to be affected shall be given an opportunity to be heard.

(g) After the conclusion of the hearing, the county governing board may pass an order transferring the territory and redefining the boundaries of the district affected by the transfer. The order shall be recorded in the minutes of the county governing board.

(h) Any outstanding indebtedness affected by a change in boundaries shall be adjusted by the county governing board as provided in Subchapter N of this chapter.²

1. Section 19.331 et seq.

2. Section 19.431 et seq.

§ 19.262. Annexation of Districts in Larger Counties

(a) In every county in this state having a population of 210,000 or more according to the last preceding Federal census, any school district may be annexed to any contiguous independent school district as herein provided.

(b) There shall be presented to the county school trustees or county board of education, as the case may be, a petition which shall:

(1) request annexation to a specified independent school district;

(2) state the metes and bounds of the district proposed to be annexed; and

(3) be signed by a majority of the board of trustees of the district seeking annexation or by not less than 20 qualified voters of such district.

(c) The proposed annexation must be approved by a majority of the board of trustees of the independent school district to which the petitioning district seeks to be annexed.

(d) Upon receipt of the petition and notice of approval, the county governing board, if the proposed annexation appears to it to be in the best

interest of the districts affected, shall enter its order for an election to be held within the petitioning district at its expense.

(e) The following propositions shall be submitted at the election: "For the annexation of _____ School District to _____ School District" and the contrary¹ thereof.

(f) No election in the receiving district shall be necessary on the question of annexation and the governing board of the receiving independent school district, without the necessity of an additional election, shall have the power to assess, levy and collect ad valorem taxes on all taxable property within the boundaries of the district as changed, for the purposes of the maintenance of public free schools therein, and the payment of principal of and interest on all bonded indebtedness outstanding against, or attributable, adjusted or allocated to, such district or any territory therein, in the amount, at the rate, or not to exceed the rate, and in the manner authorized in the district prior to the change in its boundaries, and further in accordance with the laws under which all such bonds, respectively, were voted; and such governing body also shall have the power, without the necessity of an additional election, to sell and deliver any unissued bonds voted in the district prior to any such change in boundaries, and to assess, levy and collect ad valorem taxes on all taxable property in the district as changed, for the payment of principal of and interest on such bonds in the manner permitted by the laws under which such bonds were voted.

(g) The county governing board and the board of trustees of the receiving district shall each enter an order on its minutes:

- (1) declaring the petitioning district to be duly annexed to the receiving district and subject to all the laws governing the same; and
- (2) redefining the boundaries of the receiving district showing the annexation.

(h) A certified copy of the order of the county governing board shall be transmitted to the county clerk of the county and recorded in the "Record of School Districts" of the county.

(i) Title to all property, real and personal, of the annexed district shall vest in the receiving district. The receiving district shall have complete authority over and management of the public schools in the territory annexed.

(j) The receiving district shall assume all outstanding indebtedness of the annexed district, bonded or otherwise. Any tax in effect in the receiving independent school district shall continue and become effective and apply to the entire independent district as constituted after annexation is completed.

(k) The independent receiving district shall continue as the same district and operate in all respects as it was prior to the annexation except that the annexed territory shall become liable for all indebtedness, subject to all taxes, and be a part thereof for all purposes as though originally included in the independent district.

1. So in enrolled bill.

§ 19.263. Creation of Districts in Response to Petition for Detachment

(a) Subject to the limitations contained in Subchapter K of this chapter,¹ and in conformity with the following provisions, new school districts, either independent or common, may be created by detaching terri-

tory from existing contiguous districts and uniting such territory into a new district.

(b) A petition requesting the creation of a new school district shall:

- (1) give the metes and bounds of the proposed new district;
- (2) be signed by a majority of the qualified voters residing in each territory to be detached from an existing district; and
- (3) be addressed to the county governing board of the county in which the territory of the proposed district is located, or, if the territory is in more than one county, to the county governing board of the county in which the principal school of the new district is to be located and in which the administrative jurisdiction of the proposed district is to be vested.

(c) The county governing board to which the petition is addressed must give notice of the proposed action in writing to the officers of the boards of trustees of each district whose area would be affected by the creation of the proposed district. The officers of the boards of trustees of each district to be affected must be given an opportunity to be heard by the county governing board to whom the petition is addressed.

(d) In the event the territory to be detached from any district exceeds 10 percent of the total area of the district, the proposed detachment must be approved in writing by a majority of the board of trustees of the district.

(e) No new district may be created within an area of less than nine square miles; and no district shall be reduced below an area of nine square miles.

(f) Any district affected, either remaining or newly created, must have a sufficient taxable valuations to support an efficient school system.

(g) If all the requirements of this section are met, the county governing board to which the petition was addressed may enter its order creating the new school district. If the new district embraces territory in two or more counties, the orders affecting its establishment shall be concurred in by the county governing boards of each county concerned.

(h) At the time the order establishing the district is made, the county governing board having jurisdiction over the new district shall appoint a board of trustees for the new common or independent school district, as the case may be, to serve until the next regular election of trustees when a board of trustees shall be elected in compliance with the provisions of Chapter 22 of this code² governing common school districts or the provisions of Chapter 23 of this code³ governing independent school districts, whichever is applicable.

(i) Any bonded indebtedness affected by the establishment of a new district shall be adjusted by the county school trustees or county board of education, as the case may be, as provided in Subchapter N of this chapter.⁴

(j) Before any tax may be levied over the territory of the new district for the liquidation of its proportionate part of the outstanding bonded indebtedness of any district from which the territory of the new district was taken, the new district shall vote to assume the indebtedness and to authorize the levy of the necessary taxes.

(k) Such elections shall be held in accordance with the provisions governing bond tax elections in a common or independent school district, whichever is applicable.

(l) A new district, when created in compliance with the terms of this section, shall have all the rights and privileges of an independent or a common school district.

1. Section 19.331 et seq.
2. Section 22.01 et seq.
3. Section 23.01 et seq.
4. Section 19.431 et seq.

[Sections 19.264–19.300 reserved for expansion]

SUBCHAPTER J. EXTENSION OF MUNICIPAL BOUNDARIES

§ 19.301. Extension of Municipal Boundaries: Counties of Less Than 165,000

(a) In any county with a total population of fewer than 165,000 according to the last preceding federal census, whenever the limits of any incorporated city or town constituting an independent school district are so extended or enlarged as to embrace the whole or any part of any school district, independent or common, that portion so embraced within the corporate limits of the city or town shall, unless specifically determined otherwise as provided in Subsection (c) of this section, automatically become a part of the independent school district constituted by the incorporated city or town.

(b) If within a portion of a district so embraced there should be situated any real property belonging to the partially embraced district, the city or town may acquire the property upon such terms as may be mutually agreed upon between the governing body of such city or town and the authorities of the district.

(c) If it is determined by majority vote of those voting at an election held within the city or town that the territory or any portion thereof to be embraced within the corporate limits shall not thereby become a part of the independent school district constituted by the city or town but shall be taken into the city limits for municipal purposes only, the embraced territory shall continue to be included within the school district or districts in which it had previously been included as though the city limits had not been extended.

(d) When the corporate limits of any city or town are extended to include therein the whole or any part of any school district having an outstanding bonded indebtedness and the extension was not limited to municipal purposes only, the city or town shall become liable and bound for the payment of such proportion of the bonded indebtedness of the district as the assessed value of the included portion bears to the entire assessed value of the district from which it was taken. The assessed values of the district so included shall be those shown upon the last preceding tax assessment roll after the district is so included. The incorporated city or town shall pay either directly or through the officers of the district the proportion of the interest and principal of the bonded indebtedness for which it is liable.

§ 19.302. Counties of 165,000 or More

(a) In any county with a total population of 165,000 or more according to the last preceding Census, whenever the limits of any incorporated city or town are extended or enlarged to include additional territory or whenever any territory is annexed to any incorporated city or town, the ex-

tension or enlargement of the limits of the incorporated city or town shall be for municipal purposes only and shall not automatically bring about any change in any existing school district or districts situated in the annexed area.

(b) After the territory has been included in or annexed to the incorporated city or town, the county governing board of the county or counties in which the districts are situated may, with the approval specified in Subsection (c) of this section, annex the territory to any contiguous school district as specified in Section 19.261 of this code.

(c) Any subdivision of or annexation to any existing school district under the terms of this section must be approved by a majority of the school trustees of each school district affected.

[Sections 19.303–19.330 reserved for expansion]

SUBCHAPTER K. CHANGES IN BOUNDARIES OF INDEPENDENT SCHOOL DISTRICTS

§ 19.331. Nine-Member Board; County of 100,000 or More

No change in the boundaries of an independent school district governed by an elective board of nine members and located in a county having a population of 100,000 or more according to the last preceding federal census may be made or effected, whether by election or by order of the county governing board or by any other method, until and unless the proposed change has been approved by a majority of the governing board of the independent school district.

§ 19.332. District With 30,220 or More Scholastics

No election shall be ordered for the purpose of determining whether or not territory shall be added to any independent school district having 30,220 or more scholastics according to the last official scholastic census unless prior to the ordering of the election, the proposed addition of territory has been approved by a majority vote of the board of trustees of the independent school district to which the territory is proposed to be added.

[Sections 19.333–19.360 reserved for expansion]

SUBCHAPTER L. ABOLITION OF INDEPENDENT SCHOOL DISTRICTS

§ 19.361. Abolition of Independent School Districts

Subject to the limitation on elections in Section 19.365 of this code, any independent school district incorporated for free school purposes under the laws of Texas may be abolished in the manner provided by this subchapter.

§ 19.362. Petition

A petition requesting the abolition of the district and signed by at least 10 percent of the qualified voters residing in the district shall be presented to the county judge of the county in which the independent school district or a part thereof is situated.

§ 19.363. Election

(a) Upon the receipt of such a petition, the county judge shall:

(1) issue an order designating the time and place within the school district and within the county of his court at which there shall be held an election to determine whether the independent school district shall be abolished;

(2) appoint to preside at the election an officer who shall select two judges and two clerks to assist in holding the election; and

(3) cause notice of the election to be given by posting advertisement for at least ten days prior to the date of the election at three public places within the independent school district.

(b) Except as herein provided, the election shall be held in the manner prescribed by law for holding general elections.

(c) All persons who are legally qualified voters of the state and of the county in which the independent school district or part thereof is situated and who have resided within the independent school district for at least six months next preceding shall be entitled to vote.

(d) The officers holding the election shall make return thereof to the county judge within 10 days after the election is held.

§ 19.364. Order Abolishing District

If a majority of the voters, voting at the election, shall vote to abolish the independent school district, the county judge shall declare the independent school district abolished and enter an order to that effect upon the minutes of the commissioners court and from the date of such order, the independent school district shall cease to exist.

§ 19.365. Limitation on Elections

Within any 12-month period not more than one election shall be held on either:

(1) the question of abolishing an independent school district; or

(2) the question of creating an independent school district out of territory formerly comprising an independent district which has been abolished within the preceding 12 months.

§ 19.366. Disposition of Territory

All of the territory of an abolished independent school district must be created into a common school district or be annexed to or included within some other contiguous district or districts, and its property and affairs, unless otherwise controlled by the manner in which the district was abolished, shall be regulated as herein provided.

§ 19.367. Territory Formerly Two or More Common School Districts

(a) Upon the abolishment of an independent school district heretofore created by local or special law out of territory theretofore containing two or more common school districts, the common school districts shall immediately come into existence by operation of law with the same boundaries they had prior to the creation of the independent school district.

(b) All funds, property, rights, and liabilities of the abolished independent school district may be divided between the common school districts by agreement of the trustees of the common school districts.

(c) In the event the district trustees are unable to agree, the county governing board shall apportion the funds, property, rights, and liabilities

ties of the abolished independent district between the common school districts in an equitable and just manner, taking into consideration the property owned and the assets and liabilities of each common school district at the time of the creation of the independent district as well as the assets and liabilities coming into existence after the formation of the independent district.

(d) Any bonds issued by one of the common school districts prior to the creation of the independent school district shall be paid and retired by the common school district issuing the same. Taxes for the payment of the bonded indebtedness shall be levied and collected in the same manner as other taxes voted by a common school district. Any amounts paid of the abolished independent school district in connection with such bond issue shall be paid back by the common school district issuing the bonds to such an extent as will be necessary to reimburse the other common school district or districts for its or their proportionate part of the payment.

(e) Any debt incurred by the abolished independent school district, the benefits of which will accrue particularly to one of the common school districts, shall be taken over by that common school district.

(f) High school children in a common school district within the territory of the abolished independent school district shall have the right to attend, without tuition, any other common school district within the territory formerly composing the independent school district provided the common school district so chosen does not have a scholastic population of more than 350.

§ 19.368. Territory Formerly Single District or Parts of Several Districts

(a) Upon the abolishment of an independent school district created out of territory formerly comprising a single common school district and/or consisting of parts of several districts and/or districts annexed thereto, the county governing board shall contain or embrace the territory of the abolished independent school district into a newly created common school district or shall annex the territory to one or more contiguous districts.

(b) When all the territory embraced within the abolished independent school district is created into a common school district or is annexed to or included within the limits of one other district, title to all property, both real and personal, belonging to the abolished independent school districts shall be vested in the other school district or its governing officers.

(c) When the territory of the abolished independent school district is subdivided and annexed to two or more other school districts, all real property, improvements, and appurtenances belonging to the abolished independent school district shall become the property of the districts to which these properties are annexed, and all personal property shall be divided between the receiving districts in proportion to the assessed property value of the part of the abolished independent school district so annexed.

(d) When at the time of its abolishment the independent school district had no outstanding indebtedness, all uncollected taxes on the property of the district for the years up to and including the last day of January of the year immediately following that in which the independent school district is abolished shall be levied and collected, at the same rate and in the same manner as authorized for the independent school district

immediately prior to its abolishment, by the school district or districts to which the territory containing the property upon which taxes are due has been annexed.

(e) When at the time of its abolishment the independent school district had outstanding bonds or other indebtedness, enforceable either at law or in equity, the school district or districts to which the territory of the abolished independent school district has been annexed may, at an election held for that purpose, assume such bonds or other indebtedness. The election shall be held in the manner provided for holding an election for voting bonds or for voting a special tax, as the case may be, within the receiving school district as provided in Chapter 20 of this code.¹ If a majority of the qualified property tax paying voters within the receiving district vote in favor of assuming the indebtedness, all property within the receiving district, not exempt under the general law, shall be subject to taxation for the payment of the bonds or other indebtedness of the abolished independent school district, and the proper officers of the receiving district shall levy upon the property of the district a tax adequate for the payment of the bonds or other indebtedness over such a period of time as may be necessary for that purpose.

(f) In the event the qualified taxpaying voters of the receiving district or districts do not by majority vote assume the outstanding bonds and other indebtedness of the abolished independent school district, all taxes against the property of the abolished independent school district shall remain in full force and effect and shall be levied and collected by the proper officers of the district or districts to which the territory of the abolished independent school district has been annexed until the entire indebtedness is fully paid.

(g) In the event the qualified taxpaying voters of the receiving district or districts do not by majority vote assume the outstanding bonds and other indebtedness of the abolished independent school district, the county school trustees or county board of education, as the case may be, shall manage, control or dispose of all property within the county belonging to the abolished independent school district. The county governing board shall have the power to do any and all things necessary for the payment of such bonds or other indebtedness which the independent school district, or the trustees thereof, could have done had the independent school district not been abolished. The county governing board shall also have the power to levy and collect taxes, and the power to bring and defend litigation in the name of the independent school district.

(h) Any creditor of an abolished independent school district shall file his claim against the district with the county school trustees or county board of education, as the case may be, within 60 days after the independent school district has been abolished and, if the claim is not allowed, may maintain suit against the abolished independent school district as such. Service in a suit, if necessary, may be had upon the chief officer of the county governing board. The county governing board shall defend any suit against an abolished independent school but may, in its discretion, make such settlement of the litigation as may be deemed advisable.

1. Section 20.01 et seq.

SUBCHAPTER M. ABOLITION OR SUBDIVISION OF COMMON SCHOOL DISTRICTS**§ 19.401. Authority of County Governing Board**

¹ The county school trustees or county board of education, as the case may be, in any county in this state shall have full power and authority to abolish and/or subdivide any common school district or other district coming under the jurisdiction of the county governing board provided that:

(1) the district has fewer than ten resident scholastics within its boundaries; and

(2) no public school has been conducted in the district for a period of five years immediately preceding such action by the county governing board.

(b) The territory of any district abolished or subdivided shall be attached to one or more contiguous school districts or county-line school districts in such manner as may be determined by the county governing board.

1. Paragraph probably should be lettered as (a).

§ 19.402. Adjustment of Bonded Debt

The county governing board shall also, at the time of abolishing or subdividing a common school district, make an adjustment of outstanding bonded indebtedness, if there be such, and provide for an equitable distribution of all district properties as specified in Subchapter N of this chapter.¹

1. Section 19.431 et seq.

§ 19.403. Appeal

Any trustee or any resident of a district or territory affected by the action of the county governing board, as authorized by this subchapter, may appeal from the decision of the county governing board to the district court of the county in which the governing board acts.

SUBCHAPTER N. ADJUSTMENT OF BONDED INDEBTEDNESS BY COUNTY GOVERNING BOARD**§ 19.431. Duty of County Governing Board**

Whenever a board of county school trustees or a county board of education has participated in the creation of any new school district or in the changing of the boundaries of any existing district (whether by consolidation, by detachment-attachment, by subdivision, or by any other authorized means), it shall be the duty of the county governing board to make an adjustment of any outstanding bonded indebtedness and district properties of any district or districts affected.

§ 19.432. Basis for Adjustment

The county governing board shall take into consideration the value of the school properties and the taxable wealth of the districts affected and the territory so divided, detached, or added, as the case may be, to make an equitable adjustment of the indebtedness and the district properties between the districts affected and between the territory divided, detached, or added.

§ 19.433. Adjustment Orders

(a) When the governing board has arrived at a satisfactory basis of such an adjustment, it shall have the power to make such orders in relation thereto as shall be conclusive and binding upon the districts and the territory affected thereby.

(b) The county governing board may order the trustees of the districts affecting to order an election for the issuing of such refunding bonds as may be necessary to carry out the purposes of the order of the county governing board.

§ 19.434. Refunding Bond Election

In the event an election is ordered by the county governing board, it shall be the duty of the district trustees to order such election and to cause the same to be held.

§ 19.435. Refunding Bonds

(a) If a majority of the voters casting votes at a refunding bond election held to carry out the orders of the county governing board favoring the issuance of refunding bonds, the provisions of this section apply.

(b) The bonds shall be issued by the district trustees.

(c) The bonds shall be of the same denomination and carry the same interest rate and mature at the same time as the outstanding bonds owning¹ by the district issuing them.

(d) The new bonds, when so issued, shall be subject to exchange for the outstanding bonds for which the district issuing them shall still be liable, according to the order adjusting the indebtedness. In the event an exchange of the new bonds for the outstanding bonds cannot be made, the new bonds of the district, to the amount of the old bonds for which it is still liable and to which no exchange can be made, shall be deposited in the county treasury to the account of the district.

(e) Taxes shall be levied and assessed only for the payment of interest, sinking fund, and principal of the new bonds so issued. The funds arising from taxation shall be used to discharge the principal and interest of such new bonds as have been issued and exchanged and such old bonds as have not been exchanged.

(f) When taxes are collected applicable to new bonds not exchanged and the proceeds applied to payment on old bonds not exchanged, the corresponding new bonds in the county treasury shall be credited with such payment and retired as the old un-exchange bonds are retired.

1. So in enrolled bill.

§ 19.436. Failure of Bond Election

(a) If a refunding bond election held to carry out the orders of the county governing board fails to secure approval of a majority of the voters voting at such election or if the county governing board is unable otherwise to arrange an adjustment or settlement of outstanding bonded indebtedness, it shall be the duty of the county governing board to certify to the commissioners court that the bonded indebtedness of the territories affected by the changes has not been adjusted.

(b) Upon receipt of such certification, it shall be the duty of the commissioners court thereafter annually to levy and cause to be assessed and collected from the taxpayers of the districts as they existed before the

changes were made, the tax necessary to pay the interest, the sinking fund, and the principal of the indebtedness as it matures.

(c) It shall be the duty of each independent school district so affected to cause all funds in its hands, whether sinking funds or otherwise, which have been collected on account of such bonded indebtedness, to be transferred to the county treasurer of the county in which the district is situated, and the district shall thereafter cease to levy and collect any tax on account of such bonds.

(d) It shall be the duty of the county treasurer to keep all funds transferred by independent school districts affected and all funds collected by the taxation authorized in Subsection (b) of this section in separate accounts and apply the same only to the discharge of the existing bonded indebtedness and the interest thereon, it matures.

§ 19.437. Discretion of County Governing Board

The county school trustees or county boards of education as the case may be, shall not be restricted to the method of adjusting bonded indebtedness set out in the preceding sections of this subchapter, but they shall have full power and authority to make any legal and equitable adjustment and settlement that can be effected to adjust the bonded indebtedness of any district affected by any type of authorized boundary change.

SUBCHAPTER O. ADJUSTMENT OF BONDED INDEBTEDNESS BY DISTRICT TRUSTEES

§ 19.461. Authority of District Trustees

The trustees of any school district, independent, common, or rural high school, as such district exists after consolidation, annexation, subdivision, or any other authorized type of boundary change, are authorized to call an election for any one or all of the following purposes:

(1) To assume any bonded or other debt created by the district as it previously existed or by any district or districts wholly or partially incorporated in the district as constituted after the boundary change.

(2) To levy taxes for the payment of any previously existing debt of the district as it previously existed or by any district or districts wholly or partially incorporated in the district as constituted after the boundary change.

(3) To levy taxes for the further maintenance and operation of the district as constituted after the boundary change by the qualified taxpaying voters of the new district.

§ 19.462. Election

Any election called under the authorization of Section 19.461 of this code shall be held at such time and in such manner and upon such notice as specified in Section 20.04 of this code. A rural high school election shall be held under the rules applicable to independent school districts.

CHAPTER 20. SCHOOL DISTRICT FUNDS

**SUBCHAPTER A. SCHOOL DISTRICT TAX BONDS
AND MAINTENANCE TAXES**

Section

- 20.01. Bonds and Bond Taxes.
- 20.02. Maintenance Taxes.
- 20.03. Assessment of Property.
- 20.04. Bond and Tax Elections.
- 20.05. Refunding Bonds.
- 20.06. Examination of Bonds by the Attorney General.
- 20.07. Bonds or Legal Investments.
- 20.08. Previously Voted Bonds and Taxes.

[Sections 20.09–20.20 reserved for expansion]

SUBCHAPTER B. SCHOOL DISTRICT REVENUE BONDS

- 20.21. Gymnasia, Stadia, and Other Recreational Facilities.
- 20.22. Revenue Bonds.
- 20.23. Rentals, Rates, and Charges.
- 20.24. Pledge of Revenues.
- 20.25. Refunding Bonds.
- 20.26. Examination of Bonds by the Attorney General.
- 20.27. Bonds Eligible as Investments and Security.

[Sections 20.28–20.40 reserved for expansion]

SUBCHAPTER C. MISCELLANEOUS PROVISIONS

- 20.41. Proceeds; Use for Water, Sewer and Gas Connections.
- 20.42. Investment of Bond Proceeds in Obligations of United States;
Interest Bearing Secured Time Bank Deposits.
- 20.43. Interest Bearing Time Warrants.
- 20.44. Delinquent Tax Penalties in Independent Districts Having City
of 275,000.
- 20.45. Pledge of Delinquent Taxes as Security for Loan.
- 20.46. Additional Tax for Construction, Repair and Equipment of School
Buildings; Purchase of Sites; Election.
- 20.47. Additional Tax for Construction, Repair and Equipment of Schools
in Counties With Population in Excess of 150,000; Purchase
of Sites; Election.
- 20.48. Authorized Expenditures.
- 20.49. Borrowing Money for Current Maintenance Expenses.
- 20.50. Contracts for Athletic Facilities.

**SUBCHAPTER A. SCHOOL DISTRICT TAX BONDS AND
MAINTENANCE TAXES****Section 20.01. Bonds and Bond Taxes**

The governing board of each independent school district (including, as to each municipally controlled independent school district, the city council or commission which has jurisdiction thereof), and the governing board of each rural high school district, and the commissioners court of every county, for and on behalf of each common school district under its jurisdiction, shall be authorized to issue negotiable coupon bonds for the construction and equipment of school buildings in the district and the purchase of the necessary sites therefor, and to levy and pledge, and cause to be assessed and collected, annual ad valorem taxes sufficient to pay the principal of and interest on said bonds as the same come due, subject to the provisions and restrictions of Section 20.04 of this code. Such bonds may be issued in various series or issues, and shall mature serially or otherwise not more than 40 years from their date, and shall bear interest at such rate or rates as shall be determined within the discretion of such governing board or commissioners court. Said bonds, and the interest coupons appertaining thereto, shall be negotiable instruments, and they may be made redeemable prior to maturity, and may be issued in such form, denominations, and manner, and under such terms, conditions, and details, and shall be signed and executed, as provided by such governing board or commissioners court in the resolution or order authorizing the issuance of said bonds. All bonds shall be sold to the highest bidder for not less than their par value and accrued interest.

§ 20.02. Maintenance Taxes

The governing board of each independent school district (including, as to each municipally controlled independent school district, the city council or commission which has jurisdiction thereof), and the governing board of each rural high school district, and the commissioners court of every county, for and on behalf of each common school district under its jurisdiction, shall be authorized to levy, and cause to be assessed and collected, annual ad valorem taxes for the further maintenance of public free schools in the district, subject to the provisions and restrictions of Section 20.04 of this code.

§ 20.03. Assessment of Property

In common school districts the value of taxable property shall be assessed on the same basis as that used for state and county purposes; but in all other school districts such value may be assessed on any basis authorized or permitted by any applicable law.

§ 20.04. Bond and Tax Elections

(a) No such bonds shall be issued and none of the aforesaid taxes shall be levied unless authorized by a majority of the resident, qualified, electors of the district, who own taxable property therein and who have duly rendered the same for taxation, voting at an election held for such purpose, at the expense of the district, in accordance with the Texas Election Code, except as hereinafter provided. Each such election shall be called by resolution or order of such governing board or commissioners court, which shall set forth the date of the election, the proposition or

propositions to be submitted and voted on, the polling place or places, and any other matters deemed necessary or advisable by such governing board or commissioners court.

(b) In each proposition submitted to authorize the issuance of bonds there shall be included the question of whether the governing board or commissioners court shall be authorized to levy and pledge, and cause to be assessed and collected, annual ad valorem taxes, on all taxable property in the district, either—

(1) sufficient, without limit as to rate or amount, to pay the principal of and interest on said bonds; or

(2) sufficient to pay the principal of and interest on said bonds, provided that the annual aggregate bond taxes in the district shall never be more than the rate (not to exceed \$1 on the \$100 valuation of taxable property in the district) stated in said proposition.

(c) If bonds are ever voted in a district pursuant to Subsection (b) (1) of this section, then all bonds thereafter proposed shall be submitted pursuant to that subsection, and Subsection (b)(2) of this section shall not be applicable to such district. No bonds shall be issued pursuant to Subsection (b)(1) of this section if the aggregate principal amount of tax bond indebtedness of the district after such issuance would be in excess of 10 percent of the assessed valuation of taxable property in the district according to the then last completed and approved ad valorem tax rolls of the district.

(d) In each proposition submitted to authorize the levy of maintenance taxes there shall be included the question of whether the governing board or commissioners court shall be authorized to levy, and cause to be assessed and collected, annual ad valorem taxes, for the further maintenance of public free schools, of not to exceed the rate (which shall be not more than \$1.50 on the \$100 valuation of taxable property in the district) stated in said proposition.

(e) Notice of each such election shall be given by publishing a substantial copy of the election resolution or order one time, at least 10 days prior to the date set for the election, in a newspaper of general circulation in the district. Such governing board or commissioners court shall canvass the returns and declare the results of such elections.

§ 20.05. Refunding Bonds

Each such governing board or commissioners court shall be authorized to refund or refinance all or any part of any of the district's outstanding bonds and matured but unpaid interest coupons payable from ad valorem taxes by the issuance of negotiable, coupon, refunding bonds payable from ad valorem taxes. Said refunding bonds shall mature serially or otherwise not more than forty years from their date, and shall bear interest at such rate or rates, as shall be determined within the discretion of such governing board or commissioners court. Said refunding bonds may be issued without an election in connection therewith, provided that in no event shall any series or issue of refunding bonds be issued in a principal amount greater than the face or par value of the obligations being refunded thereby, and provided that if a maximum interest rate was voted for the bonds being refunded, the refunding bonds shall not bear interest at a rate higher than such voted maximum rate, and provided further that refunding bonds shall be payable from taxes of the same nature as those pledged to the payment of the obligations being refunded thereby. Said refunding bonds, and the interest coupons appurtenant thereto, shall be negotiable instruments and they may be made redeemable prior

to maturity, and may be issued in such form, denomination, and manner, and under such terms, conditions and details, and shall be signed and executed, as provided by the governing board or the commissioners court in the resolution or order authorizing the issuance of said refunding bonds. The refunding bonds shall be issued and delivered in lieu of, and upon surrender to the comptroller of public accounts of Texas and cancellation of, the obligations being refunded thereby, and the comptroller of public accounts shall register the refunding bonds and deliver the same in accordance with the provisions of the resolution or order authorizing the refunding bonds. Such refunding may be accomplished in one or in several installment deliveries. Said refunding bonds also may be issued and delivered in accordance with the provisions of and procedures authorized by any other applicable law.

§ 20.06. Examination of Bonds by the Attorney General

All bonds issued pursuant to this subchapter, and the appropriate proceedings authorizing their issuance, shall be submitted to the attorney general of Texas for examination. If he finds that such bonds have been authorized in accordance with law he shall approve them, and thereupon they shall be registered by the comptroller of public accounts of the State of Texas; and after such approval and registration such bonds shall be incontestable in any court, or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes.

§ 20.07. Bonds are Legal Investments

All bonds issued pursuant to this subchapter shall be legal and authorized investments for all banks, trust companies, building and loan associations, savings and loan associations, small business investment corporations, insurance companies of all kinds and types, fiduciaries, trustees, and guardians, and for all interest and sinking funds and other public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies and bodies politic. Said bonds also shall be eligible and lawful security for all deposits of public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of said bonds, when accompanied by any unmatured interest coupons appurtenant thereto.

§ 20.08. Previously Voted Bonds and Taxes

All tax bonds voted in any school district in accordance with law but unissued at the effective date of this code may be issued in the manner provided by the law in effect at the time such bonds were voted, or issued in the manner provided in this subchapter, to the extent pertinent and applicable, without an additional election; and all maintenance taxes heretofore voted in any school district in accordance with law may be levied and collected in the manner provided by the law in effect at the time such bonds were voted, or issued in the manner provided in this subchapter, to the extent pertinent and applicable, without an additional election.

[Sections 20.09–20.20 reserved for expansion]

SUBCHAPTER B. SCHOOL DISTRICT REVENUE BONDS**§ 20.21. Gymnasias, Stadia, and Other Recreational Facilities**

The governing board of each independent school district (including, as to each municipally controlled independent school district, the city council or commission which has jurisdiction thereof) and the governing board of each rural high school district, and the commissioners court of every county, for and on behalf of each common school district under its jurisdiction, shall be authorized and have the power to acquire, purchase, construct, improve, enlarge, equip, operate, and maintain gymnasias, stadia, or other recreational facilities for and on behalf of its district, and such facilities may be located within or without the district.

§ 20.22. Revenue Bonds

For the purpose of providing funds to acquire, purchase, construct, improve, enlarge, and/or equip gymnasias, stadia, or other recreational facilities, such board or commissioners court shall be authorized to issue its revenue bonds to be payable from and secured by liens on and pledges of all or any part of any of the revenues from any rentals, rates, charges, or other revenues from any or all of such facilities, in the manner hereinafter provided. Said bonds may be additionally secured by mortgages and deeds of trust on any real property on which any of said facilities are or will be located, or any real or personal property incident or appurtenant to said facilities, and the board or the commissioners court may authorize the execution and delivery of trust indentures, mortgages, deeds of trust or other forms of encumbrances to evidence same. Said bonds may be issued to mature serially or otherwise not to exceed 50 years from their date. In the authorization of any such bonds, each board or the commissioners court may provide for the subsequent issuance of additional parity bonds, or subordinate lien bonds, or other types of bonds, under such terms or conditions as may be set forth in the resolution or order authorizing the issuance of said bonds, all within the discretion of the board or commissioners court. Said bonds, and any interest coupons appertaining thereto, shall be negotiable instruments (provided that such bonds may be issued registrable as to principal alone or as to both principal and interest), and shall be executed, and may be made redeemable prior to maturity, and may be issued in such form, denominations, and manner, and under such terms, conditions, and details, and may be sold in such manner, at such price, and under such terms, and said bonds shall bear interest at such rates, as shall be determined and provided by the board or commissioners court in the resolution or order authorizing the issuance of said bonds. If so permitted in the bond resolution or order, any required part of the proceeds from the sale of the bonds may be used for paying interest thereon during the period of the construction of any facilities to be provided through the issuance of said bonds, and for the payment of operation and maintenance expenses of said facilities to the extent, and for the period of time, specified in said bond resolution, and also for the creation of reserves for the payment of the principal of and interest on the bonds; and such moneys may be invested, until needed, to the extent, and in the manner provided, in said bond resolution or order.

§ 20.23. Rentals, Rates, and Charges

The board or commissioners court shall be authorized to fix and collect rentals, rates, and charges, from students and others for the occupancy

or use of any of said facilities, in such amounts and in such manner as may be determined by such board or commissioners court.

§ 20.24. Pledge of Revenues

The board or commissioners court shall be authorized to pledge all or any part of any of its revenues from the aforesaid facilities to the payment of any bonds issued hereunder, including the payment of principal, interest, and any other amounts required or permitted in connection with said bonds. When any of the revenues from said facilities are pledged to the payment of bonds, the rentals, rates and charges for the occupancy or use thereof shall be fixed and collected in such amounts as will be at least sufficient to provide for all payments of principal, interest, and any other amounts required in connection with said bonds, and, to the extent required by the resolution or order authorizing the issuance of said bonds, to provide for the payment of operation, maintenance, and other expenses.

§ 20.25. Refunding Bonds

Any revenue bonds issued by any such board or commissioners court under this subchapter, and any revenue bonds issued by any such board or commissioners court under any other Texas statute and payable from revenues from any such facilities may be refunded or otherwise refinanced by such governing board or commissioners court, and in such case all pertinent and appropriate provisions of this subchapter shall be fully applicable to such refunding bonds. In refunding or otherwise refinancing any such bonds the board or commissioners court may, in the same authorizing proceedings, refund or refinance bonds issued pursuant to this code and bonds issued pursuant to any other such Texas statute and combine all said refunding bonds and any other additional new bonds to be issued pursuant hereto into one or more issues or series of bonds, and may provide for the subsequent issuance of additional parity bonds, or subordinate lien bonds, or other type of bonds. All refunding bonds shall be issued and delivered under such terms and conditions as may be set forth in the authorizing proceedings.

§ 20.26. Examination of Bonds by the Attorney General

All bonds issued pursuant to this subchapter, and the appropriate proceedings authorizing their issuance, shall be submitted to the attorney general of Texas for examination. If he finds that such bonds have been authorized in accordance with law he shall approve them, and thereupon they shall be registered by the comptroller of public accounts of Texas; and after such approval and registration such bonds shall be incontestable in any court, or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes.

§ 20.27. Bonds Eligible as Investments and Security

All bonds issued pursuant to this subchapter shall be legal and authorized investments for all banks, trust companies, building and loan associations, savings and loan associations, small business investment corporations, insurance companies of all kinds and types, fiduciaries, trustees, and guardians, and for all interest and sinking funds and other public funds of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies and bodies politic.

Said bonds also shall be eligible and lawful security for all deposits of public funds of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of said bonds, when accompanied by any unmatured interest coupons appurtenant thereto.

[Sections 20.28–20.40 reserved for expansion]

SUBCHAPTER C. MISCELLANEOUS PROVISIONS

§ 20.41. Proceeds; Use for Water, Sewer or Gas Connections

Whenever bonds are hereafter voted and issued by school districts for the statutory purpose of construction and equipment of school buildings in the district and the purchase of the necessary sites therefor, the bond proceeds may be used, among other things, to pay the cost of acquiring, laying, and installing pipes or lines to connect with the water, sewer, or gas lines of an incorporated city or town, including home rule cities, or other municipal corporation, or private utility company (whether or not the water, sewer, or gas lines of such city, town, or other municipal corporation adjoin the school site or sites), so that the school district may afford its public free school buildings of the water, sewer, or gas services offered by such city, town, or other municipal corporation, or private utility company.

§ 20.42. Investment of Bond Proceeds in Obligations of United States; Interest Bearing Secured Time Bank Deposits

From and after the effective date of this code, any school district within the state which has or may have on hand any sums of money which are proceeds received from the issue and sale of bonds of any such school district, either before or after the effective date of this code, which proceeds are not immediately needed for the purposes for which such bonds were issued and sold, may, upon order of the board of trustees of such school district, place the proceeds of such bonds on interest bearing time deposit, secured in the manner provided in Section 23.63 of this code, with a state or national banking corporation within this state, or invest the proceeds of such bonds in bonds of the United States of America or in other obligations of the United States of America, as may be determined by the board of trustees of the school district; but such interest bearing secured time deposits or bonds or other obligations of the United States of America shall be of a type which cannot be cashed, sold or redeemed for an amount less than the sum deposited or invested therein by such school district; and when such sums so placed or so invested by a school district are needed for the purposes for which the bonds of the school district were originally authorized, issued and sold, such time deposits or bonds or other obligations of the United States of America in which such sums have been placed or invested shall be cashed, sold or redeemed and the proceeds thereof shall be used for the purposes for which the bonds of the school district were originally authorized, issued and sold.

§ 20.43. Interest Bearing Time Warrants

(a) Any school district in the State of Texas in need of funds to repair or renovate school buildings; purchase school buildings and school

equipment; to equip school properties with necessary heating, water, sanitation, lunchroom and electric facilities; or is in need of funds with which to employ an individual firm or corporation deemed to have special skill and experience to compile taxation data for use by its board of equalization; and said school district is financially unable out of available funds to make such repairs, renovations of school buildings, purchase school buildings, purchase school equipment, to equip school properties with necessary heating, water, sanitation, lunchroom or electric facilities or is unable to pay such individual or corporation for the performance of the professional duties hereinabove mentioned, may, subject to the provisions hereof, issue interest-bearing time warrants, in amounts sufficient to make such purchase and improvements, to pay all or part of the compensation of such individual, firm or corporation to compile such data, any law to the contrary notwithstanding. Such warrants shall mature in serial installments of not more than five years from their date of issue, and to bear interest at a rate not to exceed six percent per annum. Such warrants shall upon maturity be payable out of any available funds of such school district in the order of their maturity dates. Any such interest-bearing time warrants so issued may be issued and sold by such district for not less than their face value, and the proceeds thereof used to provide funds required for the purpose for which they are issued. Such warrants shall be entitled to first and prior payment out of any available funds of such district as they become due. Included in such purposes is the payment of any amounts owed by said school districts, which indebtedness was incurred in carrying out any of such purposes.

(b) No such interest-bearing time warrants shall be issued or sold by a common school district, rural high school district, or an independent school district of less than 150 scholastics until the same shall have been approved by the county board of school trustees; and said board shall, upon application of such school district, inquire into the financial conditions and needs of such district, and shall not approve the issuance of such interest-bearing time warrants unless in its opinion said district is in need of such repair and renovation of school building, and school equipment and to equip school properties with necessary heating, water, sanitation, lunchroom and electric facilities, and will be able with the resources in prospect to liquidate said warrants at their maturity.

(c) No school district in the State of Texas shall issue such interest-bearing time warrants in excess of one percent of the assessed valuation of the district, for the year in which such interest-bearing time warrants are issued; nor shall the payment of such interest-bearing time warrants in any one year exceed the anticipated surplus income of the district for the year in which the warrants are issued. Based on the budget of the district for said year, such anticipated income to be computed by taking the entire expected income of such school district from every source for the year in which such interest-bearing time warrants are issued, less teachers' salaries, bus aid included in the foundation fund, and that part of the local maintenance tax earmarked for salaries and known in the Gilmer-Aiken Law as the economic index or fund assignment. The anticipated income computation as herein defined shall be exclusive of all bond taxes. No school district shall have outstanding at any one time warrants totaling in excess of \$25,000 under the provisions of this section.

(d) In every instance wherein interest-bearing time warrants or other evidence of indebtedness have been issued by school districts within the State of Texas for any of the purposes herein provided for, the act of the

board of trustees, and/or governing board of such district in issuing such interest-bearing time warrants are each and all hereby expressly validated. The indebtedness thus attempted to be created by such action is hereby declared to be the indebtedness of such district and shall be paid out of available funds as herein provided.

(e) Whenever any such interest-bearing time warrants have been issued under this section, and so long as any of them may be outstanding the officer in charge of the collection of delinquent taxes shall pay the same to legal depository of the district, to be deposited and held in a special fund for the payment of such interest-bearing time warrants, and except as herein otherwise provided, no part thereof shall be applied or used for any other purpose.

(f) Interest and penalties on delinquent taxes shall be deemed a part of such taxes for the purpose of this section. Should any delinquent taxes, including interest and penalties, be cancelled, waived, released or reduced either by such school district or in any other way, with or without its consent, the amount of the loss so sustained shall be paid by the district to the special fund provided for herein out of funds not otherwise pledged to such special fund.

(g) All school districts issuing interest-bearing time warrants shall have the power to fix lien on and encumber and mortgage any and all property purchased with the proceeds of such warrants, and to fix a lien on and encumber any property, including teacherages owned by the district to secure the payment of legally incurred obligations. Provided, however, there shall never be a valid lien authorized or fixed on any school building wherein actual classroom instruction of pupils attending such school is being carried on or conducted.

(h) The word "interest-bearing time warrant" as used in this section means promissory note, interest-bearing time warrant, obligation or other evidence of indebtedness issued under this section.

(i) Taxes levied in any year to pay principal and interest of bonds and which taxes subsequently become delinquent for the purpose of this section, shall not be included in the term taxes or revenues or delinquent taxes as herein used.

§ 20.44. Delinquent Tax Penalties in Independent Districts Having City of 275,000

(a) That the board of education or the board of trustees, as the case may be, of any independent school district within the State of Texas, whether created by general law or special act of the legislature, and wherein there may be situated a city having not less than 275,000 population according to the last preceding federal census, shall have the power by passing a resolution by ¹ a majority vote of the members of said board of education or board of trustees, as the case may be, beginning with 1933 delinquent taxes due to any such school district, to require in addition to the payment of any such delinquent taxes, in lieu of the present penalties provided by law, the payment of a penalty of two percent upon the amount of the tax due if paid during the first month of such delinquency, four percent if paid during the second month of such delinquency, six percent if paid during the third month of such delinquency, eight percent if paid during the fourth month of such delinquency, nine percent if paid during the fifth month of such delinquency, and 10 percent if paid thereafter. Such resolution shall provide that, in addition to the payment of the tax and penalty as provided, interest at the rate of six

percent per annum shall be charged and paid upon the gross amount of the tax and penalty due from the date the tax became delinquent until paid.

(b) Until and unless the board of education or board of trustees of any such independent school district shall pass the resolution provided for in the next preceding section hereof, the penalties and interest now provided by law on delinquent taxes due to any such independent school district shall be and remain in full force and effect.

(c) Notwithstanding the fact that such board of education or board of trustees of any such independent school district may hereafter, during any particular year, pass a resolution as provided for in Subsection (a) of this section, such action may be rescinded as to future years thereafter by a resolution passed by such board of education or board of trustees in any such school district by a majority vote of the members of such board of education or board of trustees, in which event the same interest and penalties now provided by law on delinquent taxes due to independent school districts shall immediately accrue on all taxes thereafter becoming delinquent if such taxes be not paid before the same become delinquent.

1. So in enrolled bill.

§ 20.45. Pledge of Delinquent Taxes as Security for Loan

The board of trustees of any school district of Texas is hereby authorized to pledge its delinquent school taxes levied for local maintenance purposes for specific school years as security for a loan, and such delinquent taxes pledged shall be applied against the principal and interest of the loan as they are collected. Provided, there shall be no pledging of delinquent taxes levied for school bonds for purposes herein set out. Funds secured through such loans may be employed for any legal maintenance expenditure or purpose of the school district. Provided further, that such loans may bear interest at a rate not to exceed six percent per annum.

§ 20.46. Additional Tax for Construction, Repair and Equipment of School Buildings; Purchase of Sites; Election

(a) Any school district, whether created under general or special law, having all or a portion of its territory situated in a county having a population of more than 190,000 according to the last preceding federal census, shall have the authority to levy an ad valorem tax, not to exceed 50 cents per \$100 valuation, for the purpose of paying the cost of the purchase, construction, repair, renovation or equipment of public free school buildings and the purchase of necessary sites therefor, provided, however, that no bonds or other evidence of indebtedness may be issued payable in whole or in part from the tax herein authorized; and provided further that no contract shall be made which will encumber more than the revenues to be collected from said tax in any one fiscal year.

(b) This additional tax for the maintenance of public free schools shall not be levied or collected until such time as it has been approved by a majority¹ of the resident, qualified, property-taxpaying voters who own taxable property within the district which has been duly rendered for taxation, participating in an election called for that purpose, have approved the additional maintenance tax. Nothing herein shall prohibit the submission of other propositions at such election; provided, however, that the proposition for the additional maintenance tax shall not be in-

cluded in any other maintenance tax proposition, but shall be voted upon separately.

(c) It is the intent of this section to confer upon the school districts situated in large counties the right and power to make contracts for the expenditure of current funds for the same purpose as it may issue bonds, without the necessity of issuing bonds and paying the interest on such obligations, and shall be construed to this end and as not being in conflict with the provisions of any other law regulating the issuance of bonds. The election for the additional maintenance tax shall be called and held in the manner provided by Section 20.04(a) and (e) of this code.

(d) The provisions of this statute shall not preclude the use of other tax revenues for such revenues to be so used.

1. So in enrolled bill.

§ 20.47. Additional Tax for Construction, Repair and Equipment of School in Counties With Population in Excess of 150,000; Purchase of Sites; Election

(a) Any school district whether created under general or special law, having all or a portion of its territory situated in a county having a population of more than 150,000 according to the last preceding federal census and having or acquiring the authority to levy under then existing law an ad valorem tax of not to exceed \$1.75 per \$100.00 of assessed valuation for maintenance purposes, shall have the authority to levy, apportion and expend out of any such maintenance tax levy \$.50 per \$100.00 of assessed valuation for the purpose of paying the cost of purchase, construction, repair, renovation and equipment of public free school buildings and purchase of sites therefor; provided, however, that no bonds or other evidences of indebtedness may be issued payable in whole or in part from the maintenance tax so levied and allocated and provided further that no contract shall be made which will encumber more than the revenues on hand and to be collected from said tax in any one fiscal year.

(b) The levy, allocation and expenditure of such portion of the maintenance tax as herein provided, may be made after such action has been approved by a majority of the resident, qualified property tax paying voters, who own taxable property within the district which has been duly rendered for taxation, participating in an election called for that purpose. This section shall not affect maintenance taxes levied for the year 1958 and prior years by any school district adopting same.

(c) It is the intent of this section to confer upon school districts to which it is applicable now or hereafter, the right and power to make contracts for the expenditure of maintenance funds for the same purpose as it may issue bonds, without the necessity of issuing bonds and paying the interest on such obligations and this section shall be construed to this end and as not being in conflict with the provisions of any other law regulating the issuance of bonds. The election for the allocation and expenditure of such maintenance tax as provided herein shall be called and held in the manner provided by Section 20.04(a) and (3) ¹ of this code.

(d) The provisions of this statute shall not preclude the use of any tax revenues for the same or different purposes as herein specified to the extent it is now lawful for such revenues to be used.

1. Possibly should read "(e)".

§ 20.48. Authorized Expenditures

(a) The public free school funds shall not be expended except as provided in this section.

(b) The state and county available funds shall be used exclusively for the payment of teachers' and superintendents' salaries, fees for taking the scholastic census, and interest on money borrowed on short time to pay salaries of teachers and superintendents, when these salaries become due before the school funds for the current year become available; provided that no loans for the purpose of payment of teachers shall be paid out of funds other than those for the then current year.

(c) Local school funds from district taxes, tuition fees of pupils not entitled to free tuition and other local sources may be used for the purposes enumerated for state and county funds and for purchasing appliances and supplies, for the payment of insurance premiums, janitors and other employees, for buying school sites, buying, building and repairing and renting school houses, and for other purposes necessary in the conduct of the public schools to be determined by the board of trustees, the accounts and vouchers for county districts to be approved by the county superintendent; provided, that when the state available school fund in any city or district is sufficient to maintain the schools thereof in any year for at least eight months, and leave a surplus, such surplus may be expended for the purposes mentioned herein.

(d) All independent school districts having within their limits a city with a population of 160,000 or more according to the last preceding federal census shall, in addition to the powers now possessed by them for the use and expenditure of local school funds and for the issuance of school bonds, be expressly authorized and empowered, at the option of the governing body of any such school district, in the buying of school sites and/or additions to school sites and in the building of school houses, to issue and deliver notes of the school district, negotiable or non-negotiable in form, representing all or a part of the purchase price or cost to the school district of the land and/or building so purchased or built, and to secure such notes by a vendor's lien and/or deed of trust lien against such land and/or building, and, by resolution or order of the governing body of the school district made at or before the delivery of such notes, to set aside and appropriate as a trust fund, and the sole and only fund, for the payment of the principal of and interest on such notes such part and portion of the local school funds, levied and collected by the school district in that year and/or subsequent years, as the governing body of the school district may determine, provided that in no event shall the aggregate amount of local school funds set aside in or for any subsequent year for the retirement of such notes exceed, in any one such subsequent year, 10 percent of the local school funds collected during such year.

§ 20.49. Borrowing Money for Current Maintenance Expenses

(a) Independent or consolidated school districts are hereby authorized to borrow money for the purpose of paying maintenance expenses and to evidence such loans with negotiable notes; provided that at no time shall said loans exceed 75% of the previous years' income. Such notes shall be payable only from current maintenance taxes levied at or before the time of making such loans and from delinquent maintenance taxes. The term "maintenance expenses" or "maintenance expenditures" as used in this section means any lawful expenditure of the school district other than payment of principal of and interest on bonds.

(b) Such notes may be issued only after a budget has been adopted for the current school year and the maintenance expenditures stated therein do not exceed the maintenance tax levied for the current year, plus the

delinquent maintenance taxes expected by the board of trustees to be collected during the then current school year. A budget, within the meaning of this section, may be amended or a new budget may be adopted at any time before the issuance of such notes.

(c) Such notes shall be authorized by resolution adopted by a majority vote of the board of trustees, signed by the president or vice president and attested by the secretary of said board. The notes shall bear interest at a rate of not to exceed six percent per annum.

(d) Any such note may contain a certification that it is issued pursuant to and in compliance with this section, and pursuant to a resolution duly adopted by the board of trustees, and such certification shall constitute sufficient evidence that said note is a valid and binding obligation of the district.

(e) This section is cumulative of and is not intended to replace or impair the provisions of Section 20.48 of this code.

§ 20.50. Contracts for Athletic Facilities

(a) Any independent school district, acting by and through its board of trustees, is hereby authorized to enter into a contract with any corporation, or any city or any institution of higher learning of the State of Texas (State University or College) located wholly or partially within its boundaries, for the use of any stadium and other athletic facilities owned by, or under the control of, any such entity. Such contract may be for any period, not exceeding 75 years, and may contain such terms and conditions as may be agreed upon between the parties.

(b) The district may enter into such contract for the use of such stadium and other athletic facilities for any purpose related to sports activities and other physical education programs for the students at the public free schools operated and maintained by such independent school district.

(c) The consideration for any such contract may be paid from any source available to such independent school district; but it¹ voted, as hereinafter provided, such independent school district shall be authorized to pledge to the payment of said contract an annual maintenance tax in an amount sufficient, without limitation, to provide all of such consideration. If so voted and pledged, such maintenance tax shall be assessed, levied, and collected annually in the same manner as provided by general law applicable to independent school districts for other maintenance taxes.

(d) No maintenance tax shall be pledged to the payment of any such contract or assessed, levied or collected unless an election is held in the independent school district and any such maintenance tax is duly and favorably voted by a majority of the resident, qualified electors of the independent school district who own taxable property therein and who have duly rendered the same for taxation, voting at said election. Each such election shall be called by order of the board¹ of trustees of the independent school district. The election order shall set forth the date of the election, the proposition to be submitted and voted on, the polling place or places, and any other matters deemed advisable by the board of trustees. Notice of said election shall be given by publishing a substantial copy of the order calling the election one time, at least ten days prior to the election, in a newspaper of general circulation in the district. Except as herein otherwise specifically provided, any such election shall¹ be held in accordance with the Texas Election Code.

1. So in enrolled bill.

**CHAPTER 21. PROVISIONS GENERALLY APPLICABLE TO
SCHOOL DISTRICTS****SUBCHAPTER A. GENERAL PROVISIONS****Section**

- 21.001. Scholastic Year.
- 21.002. Scholastic Month.
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- 21.005. Holidays.
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[Sections 21.007–21.030 reserved for expansion]

SUBCHAPTER B. ADMISSION AND ATTENDANCE

- 21.031. Admission.
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- 21.033. Exemptions.
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- 21.061. Transfers.
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- 21.076. Assignment on Basis of Sex.
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1. So in enrolled bill.

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SUBCHAPTER E. KINDERGARTEN

- 21.131. Free Kindergarten.
- 21.132. Petition and Election.
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- 21.161. General Rule.
- 21.162. Emergency Purchase.
- 21.163. Purchase of Bus in Operation.
- 21.164. Purchase With Donated Money, Etc.
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- 21.166. Financing.
- 21.167. Sale of Buses.
- 21.168. Rules and Regulations.
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SUBCHAPTER G. TEACHERS' EMPLOYMENT CONTRACTS

- 21.201. Probationary or Continuing Contract.
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- 21.203. Probationary Contract—Termination.
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- 21.251. Teachers' Records and Reports.
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SUBCHAPTER I. DISCIPLINE, LAW AND ORDER

- 21.301. Suspension of Incurable Pupil.
- 21.302. Proceedings in Juvenile Court.
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- 21.401. Consolidated Elections.
- 21.402. Agreement.
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1. So in enrolled bill.

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- 21.901. Contracts—Competitive Bidding.
- 21.902. Late Afternoon and Evening Sessions.
- 21.903. Donations to the Public Schools.
- 21.904. Requiring or Coercing Teachers to Join Groups, Clubs, Committees, or Organizations: Political Affairs.
- 21.905. Employment Consultation With Teachers.
- 21.906. Insurance for School Athletes.
- 21.907. Deaf and Deaf-Mute Students.
- 21.908. Court-Related Children—Liaison Officers.
- 21.909. Protective Eye Devices in Public Schools.

SUBCHAPTER A. GENERAL PROVISIONS**Section 21.001. Scholastic Year**

The scholastic year shall commence on the first day of September of each year and end on the thirty-first day of August thereafter.

§ 21.002. Scholastic Month

A school month shall consist of not less than 20 school days, inclusive of holidays.

§ 21.003. Scholastic Week

A school week shall consist of five days, inclusive of holidays.

§ 21.004. School Day

A school day shall be taught for not less than seven hours each day, including intermissions and recesses.

§ 21.005. Holidays

The public schools shall not be closed on legal holidays unless so ordered by the board of trustees.

§ 21.006. Names of School Districts

(a) Whenever the board of trustees of any school district in this state shall determine that the name of the district should be changed or amended by adding or deleting any word or words therefrom or any name or names of cities or towns, the board of trustees may, by resolution, change the name of the district.

(b) Notice of the change in name shall be given to the Central Education Agency by sending to the commissioner of education a copy of the resolution, attested by the president and secretary of the board of trustees of the school district. The district, under its changed name, shall be deemed to be a continuation of the district, as formerly named, for all purposes.

[Sections 21.007–21.030 reserved for expansion]

SUBCHAPTER B. ADMISSION AND ATTENDANCE**§ 21.031. Admission**

(a) All children without regard to color over the age of six years and under the age of 18 years on the first day of September of any scholastic year shall be entitled to the benefits of the Available School Fund for that year.

(b) Every child in this state over the age of six years and not over the age of 21 years on the first day of September of the year in which admission is sought shall be permitted to attend the public free schools of the district in which he resides or in which his parent, guardian, or the person having lawful control of him resides at the time he applies for admission notwithstanding the fact that he may have been enumerated in the scholastic census of a different district or may have attended school elsewhere for a part of the year.

(c) The board of trustees of any public free school district of this state shall admit into the public free schools of the district free of tuition all persons over six and not over 21 years of age at the beginning of the scholastic year if such person or his parent, guardian or person having lawful control resides within the school district.

§ 21.032. Compulsory Attendance

Unless specifically exempted by Section 21.033 of this code or under other laws, every child in the state who is as much as seven years of age and not more than 17 years of age shall be required to attend the public schools in the district of his residence or in some other district to which he may be transferred as provided or authorized by law a minimum of 165 days of the regular school term of the district in which the child resides or to which he has been transferred.

§ 21.033. Exemptions

The following classes of children are exempt from the requirements of compulsory attendance:

(1) any child in attendance upon a private or parochial school which shall include in its course a study of good citizenship and which shall make the English language the basis of instruction in all subjects;

(2) any child whose bodily or mental condition is such as to render attendance inadvisable and who holds a definite certificate of a reputable physician specifying the condition and covering the period of absence;

(3) any child who is blind, deaf, dumb, or feebleminded and for whom no adequate provision for instruction has been made by the school district;

(4) any child living more than two and one-half miles by direct and traveled road from the nearest public school and having available to him no free school transportation; and

(5) any child more than 17 years of age who has satisfactorily completed the work of the ninth grade and who presents to the county superintendent satisfactory evidence showing that his services are needed in support of a parent or other person standing in a parental relation to the child.

§ 21.034. Reports

(a) The failure of any child within the compulsory attendance age to enroll in school shall be determined upon the basis of the reports prescribed by this section.

(b) The county superintendent of each county shall furnish to the superintendent of schools of each school district in the county, or to the principal in the event there be no superintendent, a complete list of all children belonging in the district as shown by the last scholastic census and the record to¹ transfers to and from the district.

(c) Each superintendent or principal shall report to the county superintendent the names of all children subject to the provisions of this subchapter who have not enrolled in the school.

(d) The superintendent, principal, or other official of any private, denominational, or parochial school shall furnish the county superintendent a list of all children of scholastic age enrolled in the school and the district in which each child was enumerated in the public school census.

(e) From the lists supplied by the public school superintendents and principals and by the officials of any private, denominational, or parochial schools, the county superintendent shall compile a list for each district showing all children who are shown by the census to be of scholastic age but who have not enrolled in any school. The list for each district shall be furnished to the person or persons serving as attendance officer for the district.

1. So in enrolled bill.

§ 21.035. Violations of Attendance Requirements

(a) Violations of the compulsory attendance law by absence after enrollment shall be determined upon the basis of the provisions of this section.

(b) Any child not excepted from compulsory school attendance may be excused, as provided by this section, for temporary absence resulting from personal sickness, sickness or death in the family, quarantine, weather or road conditions making travel dangerous, or any other unusual cause acceptable to the teacher, principal, or superintendent of the school in which the child is enrolled.

(c) The reason for an excused absence must be stated in writing and signed by the parent or other person standing in parental relation to the child.

(d) The person discharging the duties of attendance officer of the school may investigate any case in which an excused absence is requested.

(e) Any teacher giving instruction to any child within the compulsory attendance age shall promptly report any unexcused absence to the person serving as attendance officer for the school.

§ 21.036. School Attendance Officer

(a) In compliance with the terms of this section, a school attendance officer may be elected by either of the following types of governing bodies:

(1) The county school trustees of any county having a scholastic population of more than three thousand (3,000).

(2) The board of trustees of any independent school district having a scholastic population of more than two thousand (2,000).

§ 21.037. Selection of Attendance Officer

(a) Authorization to elect a school attendance officer shall be derived from the provisions of this section.

(b) A petition requesting and explaining the need for a school attendance officer and signed by at least 50 resident freeholders of the area involved shall be presented to the county school¹ trustees or the trustees of the independent school district, as the case may be.

(c) The governing body, upon receipt of a petition as prescribed as Subsection (b) of this section, shall set a date for a public hearing and give notice thereof by publication in a newspaper published at the county seat for three consecutive weeks or, if there be no such newspaper, by posting printed notices in two public places within the area and one at the courthouse door of the county.

(d) If, after the public hearing, the governing body is of the opinion that a school attendance officer is necessary to the proper enforcement of the compulsory attendance law and that the school concerned will be

benefited by such an officer, the governing body may elect an attendance officer.

(e) An elected attendance officer may be compensated from the available school funds belonging to the county or independent school district.

(f) An elected attendance officer may, at the option of the county or independent district governing body, be the probation officer or some officer or officers of the juvenile court of the county.

1. So in enrolled bill.

§ 21.038. Where No Attendance Officer Selected

In those counties and independent school districts where no attendance officer has been elected, the duties of attendance officer shall devolve upon the school superintendents and peace officers of the counties and districts, but no additional compensation may be paid for the services.

§ 21.039. Powers and Duties of Attendance Officer

(a) A school attendance officer shall have the following powers and duties:

- (1) to investigate all cases of unexcused absences from school;
- (2) to administer oaths and to serve legal process;
- (3) to enforce the provisions of the compulsory attendance law;
- (4) to keep records of all cases of any kind investigated by him in the discharge of his duties;
- (5) to make all reports of his work required of him by the commissioner of education; and
- (6) to proceed in juvenile court against any incorrigible pupil, or against any recalcitrant person having parental control as provided in Section 4.25 of this code.

(b) A school attendance officer shall not invade or enter any private home or private residence or any part thereof without the permission of the owner or tenant except to serve lawful process upon a parent, guardian, or other person standing in parental relation to a child affected by the compulsory attendance law.

(c) A school attendance officer shall not forcibly take corporal custody of any child anywhere without permission of the parent, guardian, or other person standing in parental relation to the child except in obedience to a valid process issued by a court of competent jurisdiction.

§ 21.040. Permissive Attendance

The board of trustees of any school district may, upon such terms as it may deem just and proper, admit pupils either over or under the school age, either in or out of the district, but in admitting such pupils the board shall see to it that the schools are not overcrowded to the neglect and injury of pupils within the scholastic age.

SUBCHAPTER C. TRANSFERS AND SCHOOL ASSIGNMENTS

§ 21.061. Transfers

Any child lawfully enrolled in any school district may be transferred either to another district within the same county or, if distance or danger makes attendance in his own county hazardous or inadvisable, to an adjoining district in another county.

§ 21.062. Application

(a) Application to transfer under the terms of Section 21.061 of this code must be made to the county superintendent of the county having jurisdiction of the district in which the child resides.

(b) The application must be made in writing by the parent or guardian or person having lawful control of the child to be transferred. The applicant must state in the application that it is his bona fide intention to send the child to the school to which transfer is asked.

(c) To be effective for the next following scholastic term, the application must be filed not later than June 1.

1. So in enrolled bill.

§ 21.063. Approval and Certification

The county superintendent to whom the application is submitted must approve the transfer not later than June 1 of the calendar year in which the transfer is to be effective and must certify the transfer to the State Department of Education and to the district to which the child is transferred.

§ 21.064. Appeal

Any district may, if it is dissatisfied with the transfer, appeal to the county school trustees who shall have the right to annul and cancel the transfer.

§ 21.065. Per Capita Apportionment

(a) The State Department of Education shall authorize the state treasurer to pay in the following manner the per capita apportionment of each pupil whose transfer is not appealed or whose transfer, if appealed, is approved.

(b) If the transfer is to an independent school district with a scholastic population of 500 or more, the payment shall be made directly to the district.

(c) If the transfer is to any district other than an independent school district with a scholastic population of 500 or more, the payment shall be made to the county superintendent to be paid by him to the district to which the pupil was transferred.

§ 21.066. Emergency Transfers

(a) Emergency transfers of state apportionment for any child or children of school age may be made only under the provisions of this section.

(b) Emergency transfers may be made only from a county or counties where a public calamity, such as serious floods, prolonged drought, or extraordinary border disturbances, occurring after the taking of the scholastic census, has resulted in such a sudden change in scholastic population as to create a hardship in the support of the public schools.

(c) Emergency transfers may be made only on application of the county or district trustees of the county or district to which the transfer is to be made. The application formally requesting the transfer must be made to the commissioner of education before June 1 of the year in which the conditions warranting the transfer occur. The application must set forth the facts warranting the transfer and show that it may properly be granted under the terms of this section.

(d) No application for emergency transfer shall be granted unless:

(1) the increase in scholastic population, as evidenced by a list of pupils actually residing within the district but not enumerated in the

census of the district as filed with the State Department of Education, is in excess of 20 percent of the number of children assigned to the district as a result of the scholastic census and regular transfers; and

(2) the sudden change in scholastic population of the county or district would work a hardship in the support of the public free schools of the county or district in which the increase in population occurs.

(e) The commissioner of education may grant an application fulfilling the above qualifications and, with the approval of the State Board of Education, order any apportionment or apportionments transferred, in which event the commissioner of education shall notify the county superintendents of each county involved and the board of trustees of any independent school district involved that the final apportionment of school funds cannot be made under these circumstances before June 15.

(f) All arrangements for emergency transfers must be completed by June 15 of the year following the occurrence of the unusual condition causing the emergency.

(g) Children whose state funds are thus transferred to any county shall be included in the number of children for whom the county school apportionment of the county is made.

§ 21.067. Transfer for High School Purposes

Any pupil not more than twenty-one (21) years of age who has been promoted to a high school grade not taught in his home district shall have the right to transfer to and to attend a standardized, classified, or affiliated high school either in his home county or in any other county in the State. Transfers of funds under such conditions shall be regulated by Sections 21.068–21.072 of this code.

§ 21.068. Certification of Eligibility

(a) Not later than 30 days after notification of the entrance of any pupil in a receiving high school, certification of his eligibility for tuition privileges in the high school of the receiving district shall be made to the State Department of Education by the receiving district and by the sending district as provided by this section.

(b) If the sending school district is a common school district or an independent school district under the budget control of the county superintendent, the certificate of eligibility must be signed both by the superintendent or principal of the sending district and by the county superintendent. In that event the county superintendent must file with the State Department of Education, not later than October 1 of each year, a copy of the budget of the sending district and any other information which will enable the State Department of Education to estimate the amount of high school tuition that the sending district will be able to pay, but the amount of the state or county available funds of a sending district which may be used for this purpose shall be limited to the per capita apportionment for each pupil actually transferred.

(c) If the sending school district is an independent school district not under the budgetary control of a county superintendent, the superintendent of the sending district shall sign the certificate of eligibility and, not later than October 1 of each school year, file with the State Department of Education a copy of the budget of his district and any other information which will enable the State Department of Education to estimate the

amount of high school tuition that the district will be able to pay, but the amount of the state or county available funds of the sending district which may be used for this purpose shall be limited to the per capita apportionment for each pupil actually transferred.

(d) The signing of the certificate by the sending district shall obligate the district and the state to pay to the receiving school district the amount of high school tuition due it as determined under the rules of the State Department of Education.

§ 21.069. Report

At the close of each semester, each receiving high school district shall make to the State Department of Education and to the budgetary authority of the sending school district or districts a report showing:

- (1) the name of the sending district and the county in which it is located;
- (2) the name, age, grade, attendance record, and rate of tuition of each pupil received under the terms of this section;
- (3) an itemized statement of the amount of tuition due the receiving district.

§ 21.070. Payments to Receiving District

(a) Upon the basis of the attendance reports approved by the State Department of Education, warrants shall be issued semiannually by the state directly to the receiving high school district for the payment of the tuition due.

(b) Each sending district indebted to a high school district for tuition shall issue a warrant to the receiving high school district, not later than June 15 of each fiscal year, for all of its surplus maintenance funds, or as much thereof as may be necessary to pay the entire tuition account of the sending district to the receiving district. County equalization funds may be used to defray in whole or in part rural high school tuition fees.

(c) Not later than July 1 of each year, each receiving high school district shall certify to the State Department of Education the amount received by it as tuition from each sending district. The amount paid by the sending district shall be deducted from the second semiannual payment made by the state to the receiving school. If any high school district should receive from the State Department of Education an amount in excess of the total tuition charged by the receiving district, the district shall return all excess payment to the State Department of Education to be deposited with the state treasurer to the credit of the fund from which it came.

(d) The commissioner of education shall withhold any and all funds due any district that refuses or fails to execute forms required by the State Department of Education for pupils eligible to have their high school tuition paid by the home district and the state.

§ 21.071. Per Capita Apportionment Payments

The state per capita available fund for each pupil transferred for high school purposes under Section 21.067 of this code and enrolled in the school to which he has been transferred, shall be distributed to the districts to which such pupils have been transferred as the apportionment is paid by the state. If any district fails to pay any per capita apportionment, as above provided, the commissioner of education, upon notification of such failure by affidavit of the receiving district, shall investigate the

accounts and, if he finds that the obligation is in fact due, shall withhold from the home district of the transferred pupil or pupils such an amount as the district may owe to any other district until the obligation has been paid.

§ 21.072. Limitation

The obligation of the state to pay high school tuition for pupils transferred under Section 21.067 of this code shall be limited to a maximum of \$7.50 per month per pupil.

§ 21.073. Transfer to District of Bordering State

(a) Any child who would be entitled to attend the public school of any district situated on the border of Louisiana, Arkansas, Oklahoma, or New Mexico and who may find it more convenient to attend the public school in a district in one of those contiguous states may have the state and county per capita apportionment of the available school funds paid to the school district of the contiguous state and may have additional tuition, if necessary, paid by the district of his residence on such terms as may be agreed upon by the trustees of the receiving district and the trustees of the residence district.

(b) Such arrangements must be approved by the county superintendent and the county school trustees of the Texas county of residence.

(c) The restrictions of Sections 21.068-21.072 of this code with regard to the payment of high school tuition shall not apply to transfers to contiguous state high schools.

§ 21.074. Transfers in Discretion of Governing Board

(a) In conformity with the provisions of Sections 21.075-21.078 of this code, the board of trustees of any school district or any board of county school trustees shall have authority to transfer and assign any pupil or pupils from one school facility or classrooms to another within its jurisdiction.

(b) Such transfers may not be made by any general or blanket order but must be made upon an individual basis as specified herein.

(c) The authority herein granted may be exercised by the board directly or may be delegated by it to the superintendent of schools or to any other person or persons employed by the board.

§ 21.075. Factors to be Considered

(a) In the assignment, transfer, or continuance of pupils among and within the schools, or within the classroom and other facilities thereof, the following factors and the effect or result thereof shall be considered, with respect to the individual pupil as well as other relevant matters:

- (1) available room and teaching capacity in the various schools;
- (2) availability of transportation facilities;
- (3) effect of the admission of new pupils upon established or proposed academic programs;
- (4) suitability of established curricula for the particular pupil;
- (5) adequacy of the pupil's academic preparation for admission to a particular school and curriculum;
- (6) scholastic aptitude and relative intelligence or mental energy or ability of the pupil;
- (7) psychological qualification of the pupil for the type of teaching and associations involved;

(8) effect of the admission of the pupil upon the academic progress of other students in the particular school or facility thereof;

(9) effect of the admission of the pupil upon prevailing academic standards at a particular school;

(10) psychological effect upon the pupil of attendance at a particular school;

(11) possibility or threat of friction or disorder among pupils or others;

(12) possibility of breaches of the peace or ill will or economic retaliation within the community;

(13) home environment of the pupil;

(14) maintenance or severance of established social and psychological relationships with other pupils and with teachers;

(15) choice and interest of the pupil;

(16) morals, conduct, health, and personal standards of the pupil; and request or consent of parents or guardians and the reasons assigned therefor.

(b) The board or the person acting for the board shall not consider a factor in its evaluation any matter relating to the national origin of the pupil or the pupil's ancestral language.

§ 21.076. Assignment on Basis of Sex

A board may require the assignment of pupils to any or all schools within its jurisdiction on the basis of sex, but assignments of pupils of the same sex among schools reserved for that sex shall be made in the light of the factors set out in Section 21.075(a) of this code.

§ 21.077. Petition of Parent

The parent or person standing in parental relation to any pupil may by petition in writing either:

(1) request the transfer or assignment of the pupil to a designated school or to a school to be designated by the board; or

(2) file objections to the assignment of the pupil to the school to which he has been assigned.

§ 21.078. Hearing; Action on Petition; Appeal

(a) Upon receipt of a petition of either type described in Section 21.077 of this code, the board shall:

(1) if no hearing is requested, act upon the petition within 30 days and notify the petitioner of its conclusion; or

(2) if a hearing is requested, designate a time and place for the holding of a hearing within 30 days.

(b) Whenever a hearing is requested, it shall be conducted by the board in compliance with the provisions of this section.

(c) The hearing shall be final on behalf of the board except as specified in Subsection (f) of this section.

(d) The petitioner may present evidence relevant to the individual pupil.

(e) The board may conduct investigations as to the objection or request, examine the pupil or pupils involved, and employ agents, professional or otherwise, for the purpose of such examinations and investigations.

(f) The decision of the board, either with or without hearing, shall be final unless the pupil or the parent, guardian, or custodian of the pupil

as next friend, shall file exception to the action of the board as constituting a denial of any right of the pupil guaranteed under the constitution of the United States.

(g) In the event exception is filed on the ground that the decision of the board constitutes a denial of a right of the pupil guaranteed under the constitution of the United States and the board does not within 15 days reconsider its final action, an appeal may be taken from the final action of the board, on that ground alone, to the district court of the county in which the board is located, in which event:

(1) the petition must be filed within 30 days from the date of the board's final decision;

(2) the petition must state the facts relevant to the pupil as bearing on the alleged denial of his rights under the constitution of the United States; and

(3) the petition must be accompanied by bond, with sureties approved by the clerk of the court, conditioned to pay all costs of appeal if the same shall not be sustained.

§ 21.079. Transfers Between Districts or Counties

The boards of trustees of two or more adjoining districts or the boards of county school trustees of two or more adjoining counties may, by mutual agreement and under the same rules specified in Sections 21.075-21.078 of this code, arrange for the transfer and assignment of any pupil or pupils from the jurisdiction of one board to that of another, in which event the participating governing boards shall also agree to the transfer of school funds or other payments proportionate to the transfer of attendance.

SUBCHAPTER D. COURSES OF STUDY

§ 21.101. Courses of Study

All public free schools in this state shall be required to offer instruction in the following subjects: English grammar, reading in English, orthography, penmanship, composition, arithmetic, mental arithmetic, United States history, Texas history, modern geography, civil government, physiology and hygiene, physical education, and, in all grades, a course or courses in which some attention is given to the effects of alcohol and narcotics. Such subjects shall be taught in compliance with any applicable provision of this subchapter.

§ 21.102. Patriotism

The daily program of every public school shall be so formulated by the teacher, principal, or superintendent as to include at least 10 minutes for the teaching of intelligent patriotism, including the needs of the state and federal governments, the duty of the citizen to the state, and the obligation of the state to the citizen.

§ 21.103. Texas History

The history of Texas shall be taught in all public schools in and only in the history courses of all such schools. The course shall be taught for not less than two hours in any one week. The commissioner of education shall notify the different county, city, and district superintendents as to how the course may be divided.

§ 21.104. Physiology and Hygiene

All textbooks on physiology and hygiene purchased in the future for use in the public schools of this state shall include at least one chapter on the effects of alcohol and narcotics. Although physiology and hygiene must be taught in all public schools, any child may be exempted, without penalty, from receiving instruction therein if his parent or guardian presents to the school principal a signed statement that the teaching of disease, its symptoms, development and treatment, and the viewing of pictures or motion pictures on such subjects conflict with the religious teachings of a well-established church or denomination to which the parent or guardian and the child belong.

§ 21.105. Kindness to Animals

In the primary grades of all public schools in this state, suitable instruction shall be given with regard to kindness to animals and the protection of birds and their nests and eggs.

§ 21.106. Constitution

All public free high schools in this state shall teach and require a course of instruction in the constitutions of the United States and the State of Texas. The course shall be a combined course in both constitutions, and shall be given for at least one-half hour each week in the school year or at least one hour each week for one-half of the school year, or the equivalent thereof. No student shall be graduated from any public free high school in this state who has not passed a satisfactory examination in the course of instruction herein described.

§ 21.107. Vocational Courses

All public free high schools located outside of incorporated cities or towns shall be required, in addition to all other courses required by this subchapter, to offer instruction in agriculture, industrial arts, home economics, and other vocational studies.

§ 21.108. Other Courses

Courses other than those prescribed in the foregoing sections of this subchapter, including the Spanish language or any other modern language, may be required to be taught by:

- (1) the board of trustees of any school district for the schools within its district; or
- (2) the commissioner of education for all public free schools within the state or any recognized division of such schools.

§ 21.109. Use of English Required

Except for authorized courses in a foreign language, all courses at all grades in the public schools shall be conducted in the English language.

§ 21.110. Military Instruction

(a) In all school districts wherein military instruction is conducted pursuant to a state or federal law requiring the district to give bond or otherwise indemnify the State of Texas or the United States or any authorized agency of either in an amount and upon conditions determined by any agency under authority of and pursuant to such law for the care,

safe-keeping, and return of property furnished, the board of trustees of the school district shall have authority to:

(1) make contracts with the proper governmental agency with respect to the teaching of such courses in military training; and

(2) execute, as principal or surety, a bond or bonds to secure the contracts for the purpose of procuring arms, ammunition, animals, uniforms, equipment, supplies, means of transportation, or other needed property.

(b) In those school districts wherein military instruction is given as provided in Subsection (a) of this Section, available school funds may be expended to:

(1) procure from any guaranty or surety company any bond or bonds authorized above, in such amount and on such conditions as may be required by the governmental agency; or

(2) reimburse the State of Texas or the United States for any loss pursuant to the terms of any contract entered into.

§ 21.111. Vocational and Other Educational Programs

(a) The board of trustees of any public free school district of this state, subject to rules and regulations of the Central Education Agency heretofore and hereafter adopted, is hereby authorized and empowered to conduct and supervise vocational classes and other educational programs for students of all ages; and whenever it deems necessary to expend local maintenance funds for the cost thereof.

(b) For purposes of conducting and/or supervision by the district of such vocational classes and other educational programs for students of any and all ages, said board of trustees is hereby authorized and empowered to purchase, acquire or lease real or personal property; to contract or enter into agreements with any department or agency of the United States or this state, subject to rules and regulations prescribed by the Central Education Agency appertaining to such educational programs; and to contract or enter into agreements with any person, partnership, firm or corporation pertaining to the local operation and supervision of such programs by the district.

§ 21.112. Police Administration and Fire Protection Administration

Beginning with the 1967-1968 school year, every independent school district in a county having a population of 200,000 or more, according to the last preceding federal census, may offer in each high school for senior students a one-semester course in police administration and a one-semester course in fire protection administration, to be conducted according to the State Department of Education's requirements relating to curricula and teaching materials. Such courses, if offered, shall be elective courses.

SUBCHAPTER E. KINDERGARTEN

§ 21.131. Free Kindergarten

The board of trustees of any school district in Texas is hereby authorized to establish and maintain as a part of the public free schools of said district one or more kindergartens for the training of children residing in said district who are under the scholastic age and who are at least five years of age.

§ 21.132. Petition and Election

(a) The board of trustees of any school district shall, upon the petition of 20 percent of the qualified voters residing within the school district, call an election within 60 days of the filing of such petition to determine by a majority vote of the legally qualified voters residing in such district whether or not the district shall establish and maintain a kindergarten as a part of the public free schools of such district. Such petition shall be filed between April 1 and June 1 of any year.

(b) At such election the ballot shall have printed thereon the following: "FOR public kindergarten"; and "AGAINST public kindergarten."

(c) If a majority of the votes cast at such election favor the exercise of the power herein granted, the board of trustees shall establish and maintain such kindergarten, or kindergartens, as such board deems in the best interests of the residents of the district as a part of the public free schools of the district for the training of children under the scholastic age down to and including five years residing in the district, and shall establish such courses of training, study, and discipline, and such rules and regulations governing such kindergartens as such board shall deem best.

§ 21.133. Establishment

After voter approval of a kindergarten for a school district, the board of trustees shall establish the kindergarten by the commencement date of the next scholastic year following the year in which the election is held. The cost of establishing and maintaining such kindergartens shall be paid from the special school tax of said districts. The kindergartens shall be a part of the public school system and shall be governed, as far as practicable, in the same manner and by the same officers as are or may be provided by law for the government of the other public schools of the state.

§ 21.134. Subsequent Elections

If an election should be called and held hereunder in any school district and the proposition should fail to receive a majority of the votes cast, then no additional election shall be called on such proposition in such school district until at least one year after the date that such prior election was held.

SUBCHAPTER F. SCHOOL BUSES**§ 21.161. General Rule**

Except as specifically authorized by this subchapter all motor vehicles used for transporting school children (including buses, bus chassis, and bus bodies, tires and tubes, but excluding passenger cars), purchased by or for any school district participating in the Foundation School Program, shall be purchased by and through the State Board of Control.

§ 21.162. Emergency Purchase

Any of the items specified in Section 21.161 of this code may, in instances where an emergency requires an immediate purchase thereof, be purchased by any school district or the school trustees of any county provided the purchase is reported to and approved by the Board of Control.

§ 21.163. Purchase of Bus in Operation

The board of trustees of any school district in this state may purchase, with the approval of and at a price determined by the Board of Control, any privately-owned or contracted school bus now in operation in the transportation of school children, but the owners of such buses are not obligated to sell to the school district.

§ 21.164. Purchase With Donated Money, Etc.

Without the approval of the Board of Control, the board of trustees of any school district may purchase buses, bodies, chassis, tires, or tubes with funds provided by gifts or by profits from athletic contests or other school enterprises in no way supported by tax funds or grants or appropriations from any governmental agency, either state or federal.

§ 21.165. Purchase Through Board of Control

(a) The purchase of motor vehicles (including buses, bus chassis, bus bodies, tires, and tubes) by the Board of Control shall be made in compliance with the provisions of this section.

(b) The purchase must be made on the basis of competitive bids submitted under such rules and regulations as may be made by the Board of Control.

(c) The purchase must be authorized by a requisition, which may be submitted by either a board of county school trustees or the board of trustees of a school district. The requisition must include a general description of the article or articles desired, as well as any other applicable matter specified in this section.

(d) If the requisition is for the purchase of a motor vehicle, bus, bus body, or bus chassis, it must be approved by the county school trustees and by the commissioner of education.

(e) If the requisition is for the purchase of tires and tubes, it must be approved by either the county superintendent or the county school trustees.

(f) If the requisition is for the purchase of special equipment required, because of climatic or road conditions, to guarantee adequate safety and comfort of school children, the requisition must describe the special conditions and requirements so that the Board of Control may purchase equipment which it determines to be adapted or designed for the conditions or requirements.

(g) The requisition must contain a certification as to the funds that will be available to pay for the article or articles requisitioned.

§ 21.166. Financing

(a) Any school district financially unable to comply with the requirements of immediate payment for any motor vehicle, including buses, bus bodies, or bus chassis purchased by it, may, subject to the provisions hereunder, issue interest-bearing time warrants in amounts sufficient to make such purchase, any other law to the contrary notwithstanding.

(b) The warrants shall mature in serial installments not more than five years from the date of issue, and shall bear interest at a rate not to exceed six percent per annum. The warrants shall be issued and sold at not less than their face value.

(c) The proceeds of the sale of the warrants shall be used to provide the funds required for the purchase requisitioned.

(d) The warrants shall upon maturity and in the order of their maturity dates be payable out of any available funds of the school district and, as they become due, shall be entitled to first and prior payment out of such funds.

(e) Full records of all warrants issued and sold shall be kept by the school district and reported to the Board of Control.

§ 21.167. Sale of Buses

The sale price or trade-in value of any buses owned by any county or school district shall be considered in determining eligibility for transportation grants; and whenever any such buses are to be sold, traded in, or otherwise disposed of, they must be disposed of by the Board of Control or by the county school trustees or the trustees of the school district under such rules and regulations as the Board of Control may provide.

§ 21.168. Rules and Regulations

The Board of Control shall have the power to make rules or adopt regulations to effectuate the purpose of the purchase and sale provisions of this subchapter.

§ 21.169. Compliance

Compliance with the purchase and sale provisions of this subchapter shall be a condition precedent to participation in the Foundation School Fund. Any school district failing or refusing to comply shall be ineligible to share in the Foundation School Fund for one year from the date of such failure or refusal or violation of the terms hereof.

§ 21.170. Operation of School Buses

(a) The board of trustees of any school district or county school board providing transportation of pupils to and from school shall employ or contract with a responsible person or firm to provide operators for the buses in compliance with the provisions of this section.

(b) No driver shall be employed who is not at least 17 years of age, licensed as a chauffeur, and sound in body and mind.

(c) Each driver shall be required to give bond in an amount determined by the board but not less than \$2,000, payable to the employing board and conditioned upon the faithful and careful discharge of his duties for the protection of the pupils under his charge and the faithful performance of his contract with the board.

(d) The board shall require all drivers to bring their vehicles to a dead stop before crossing any railroad or interurban railway tracks. The failure to stop before any such crossing shall forfeit the driver's contract, and, in case of accident to pupils or to the vehicle, shall cause the driver's bond to be forfeited and the amount and all rights thereunder determined by a court of competent jurisdiction.

(e) The board shall see to it that all motor vehicles operated by the district in the transporting of pupils are equipped with efficient lights and brakes, with adequate protection from inclement weather, and with the safety devices specified in Section 4.18 of this code.

§ 21.171. Regulations of Department of Education

The boards of trustees of all school districts providing transportation for pupils and all drivers used in that service shall abide by any and all regulations pertaining thereto which may be promulgated by the State Department of Education as authorized in Section 11.12 of this code.

SUBCHAPTER G. TEACHERS' EMPLOYMENT CONTRACTS**§ 21.201. Probationary or Continuing Contract**

Each teacher hereafter employed by any school district in this State shall be employed under, and shall receive from such district, a contract that is either a "probationary contract" or a "continuing contract" in accordance with the provisions of this subchapter if the school board chooses to offer such teacher a "probationary contract" or a "continuing contract." All such contracts shall be in writing, in such form as may be promulgated by or approved by the commissioner of education, and shall embody the terms and conditions of employment hereinafter set forth, and such other provisions not inconsistent with this subchapter as may be appropriate.

§ 21.202. Probationary Contract

Any person who is employed as a teacher by any school district for the first time, or who has not been employed by such district for three consecutive school years subsequent to August 28, 1967, shall be employed under a "probationary contract," which shall be for a fixed term as therein stated; provided, that no such contract shall be for a term exceeding three school years beginning on September 1 next ensuing from the making of such contract; and provided further that no such contract shall be made which extends the probationary contract period beyond the end of the third consecutive school year of such teacher's employment by the school district, unless the board of trustees determines and recites that it is in doubt whether the particular teacher should be given a continuing contract, in which event a probationary contract may be made with such teacher for a term ending with the fourth consecutive school year of such teacher's employment with the school district, at which time the employment of such teacher by such school district shall be terminated, or such teacher shall be employed under a continuing contract as hereinafter provided.

§ 21.203. Probationary Contract—Termination

The board of trustees of any school district may terminate the employment of any teacher holding a probationary contract at the end of the contract period, if in their judgment the best interests of the school district will be served thereby; provided, that notice of intention to terminate the employment shall be given by the board of trustees to the teacher on or before April 1, preceding the end of the employment term fixed in the contract. In event of failure to give such notice of intention to terminate within the time above specified, the board of trustees shall thereby elect to employ such probationary teacher in the same capacity, and under probationary contract status for the succeeding school year if the teacher has been employed by such district for less than three successive school years, or in a continuing contract position if such teacher has been employed during three consecutive school years.

§ 21.204. Hearing

In event a teacher holding a probationary contract is notified of the intention of the board of trustees to terminate his employment at the end of his current contract period, he shall have a right upon written request to a hearing before the board of trustees, and at such hearing, the teach-

er shall be given the reasons for termination of his employment. After such hearing, the board of trustees may confirm or revoke its previous action of termination; but in any event, the decision of the board of trustees shall be final and non-appealable.

§ 21.205. Probationary Contract—Exception

The requirement to serve a probationary period shall not apply to any teacher who previously completed a probationary period under a contract with the school district where employed before September 1, 1967, and who was then considered to be on a permanent contract status as defined by the school district.

§ 21.206 Continuing Contract

Any teacher employed by a school district who is performing his third, or where permitted fourth, consecutive year of service with the district under probationary contract, and who is elected to employment by the board of trustees of such district for the succeeding year, shall be notified in writing of his election to continuing contract status with such district, and such teacher shall within 30 days after such notification file with the board of trustees of the employing school district notification in writing of his acceptance of the continuing contract, beginning with the school year following the conclusion of his period of probationary contract employment. Failure of the teacher to accept the contract within such 30 day period shall be considered a refusal on the part of the teacher to accept the contract.

§ 21.207. Status Under Continuing Contract

Each teacher with whom a continuing contract has been made as herein provided shall be entitled to continue in his position or a position with the school district, at a salary authorized by the board of trustees of said district complying with the minimum salary provisions of the foundation aid law, for future school years without the necessity for annual nomination or reappointment, until such time as the person:

- (1) resigns, or retires under the Teacher Retirement System;
- (2) is released from employment by the school district at the end of a school year because of necessary reduction of personnel as herein defined;
- (3) is discharged for lawful cause, as defined in Section 21.209 of this code and in accordance with the procedures hereinafter provided;
- (4) is dismissed at the end of a school year for any reason as set out in Section 21.210 of this code and pursuant to the procedures hereinafter provided in such cases; or
- (5) is returned to probationary status, as authorized in Section 21.210 of this code.

§ 21.208. Administrative Personnel

The board of trustees may grant to a person who has served as superintendent, principal, supervisor, or other person employed in any administrative position for which certification is required, at the completion of his service in such capacity, a continuing contract to serve as a teacher, and the period of service in such other capacity shall be construed as contract service as a teacher within the meaning of this subchapter.

§ 21.209. Discharge for Cause

Any teacher, whether employed under a probationary contract or a continuing contract, may be discharged during the school year for one or more of the following reasons, which shall constitute lawful cause for discharge:

- (1) immorality;
- (2) conviction of any felony or other crime involving moral turpitude;
- (3) drunkenness;
- (4) repeated failure to comply with official directives and established school board policy;
- (5) physical or mental incapacity preventing performance of the contract of employment; and
- (6) repeated and continuing neglect of duties.

§ 21.210. Release at End of Year

Any teacher employed under a continuing contract may be released at the end of any school year and his employment with the school district terminated at that time, or he may be returned to probationary contract employment for not exceeding the three succeeding school years, upon notice and hearing (if requested) as hereinafter provided, for any reason enumerated in Section 21.209 of this code or for any of the following additional reasons:

- (1) inefficiency or incompetency in performance of duties;
- (2) failure to comply with such reasonable requirements as the board of trustees of the employing school district may prescribe for achieving professional improvement and growth;
- (3) willful failure to pay debts;
- (4) habitual use of addictive drugs or hallucinogens;
- (5) excessive use of alcoholic beverages;
- (6) necessary reduction of personnel by the school district (such reductions shall be made in the reverse order of seniority in the specific teaching fields); or
- (7) for good cause as determined by the local school board, good cause being the failure of a teacher to meet the accepted standards of conduct for the profession as generally recognized and applied in similarly situated school districts throughout Texas.

§ 21.211. Notice

(a) Before any teacher shall be discharged during the year for any of the causes mentioned in Section 21.209 of this code, or before any probationary contract teacher shall be dismissed at the end of a school year before the end of the term fixed in his contract, or before any teacher holding a continuing contract shall be dismissed or returned to probationary contract status at the end of a school year for any of the reasons mentioned in Section 21.210 of this code, he shall be notified in writing by the board of trustees or under its direction of the proposed action and of the grounds assigned therefor.

(b) In the event the grounds for the proposed action relate to the inability or failure of the teacher to perform his assigned duties, the action shall be based upon the written recommendation by the superintendent of schools, filed with the board of trustees. Any teacher so discharged or dismissed or returned to probationary contract status shall be entitled, as

a matter of right, to a copy of each and every evaluation report, or any other memorandum in writing which has been made touching or concerning the fitness or conduct of such teacher, by requesting in writing a copy of the same.

§ 21.212. Hearing

(a) If, upon written notification of the proposed action, the teacher desires to contest the same, he shall notify the board of trustees in writing within 10 days after the date of receipt by him of the official notice above prescribed, of his desire to be heard, and he shall be given a public hearing if he wishes or if the board of trustees determines that a public hearing is necessary in the public interest.

(b) Upon any charges based upon grounds of inefficiency, or inability or failure of the teacher to perform his assigned duties, the board of trustees may in its discretion establish a committee of classroom teachers and administrators, and the teacher may request a hearing before this committee prior to hearing of the matter by the board of trustees.

(c) Within 10 days after request for hearing made by the teacher, the board of trustees shall fix a time and place of hearing, which shall be held before the proposed action shall be effective. Such hearing shall be public unless the teacher requests in writing that it be private.

(d) At such hearing, the teacher may employ counsel, if desired, and shall have the right to hear the evidence upon which the charges are based, to cross-examine all adverse witnesses, and to present evidence in opposition thereto, or in extenuation.

§ 21.213. Suspension Without Pay

If the proposed action be discharged of the teacher for any of the reasons set forth in Section 21.209 of this code, the teacher may be suspended without pay by order of the board of trustees, or by the superintendent of schools if such power has been delegated to him by express regulation previously adopted by the board of trustees, but in such event the hearing shall not be delayed for more than 15 days after request for hearing, unless by written consent of the teacher.

§ 21.214. Decision of Board

If the teacher upon notification of any such proposed action fails to request a hearing within 10 days thereafter, or after a hearing as hereinabove provided, the board of trustees shall take such action and shall enter such order as it deems lawful and appropriate. If the teacher is reinstated, he shall immediately be paid any compensation withheld during any period of suspension without pay. No order adverse to the teacher shall be entered except upon majority vote of the full membership of the board of trustees.

§ 21.215. Appeals

(a) If the board of trustees shall order the teacher discharged during the school year under Section 21.209 of this code, the teacher shall have the right to appeal such action to the commissioner of education, for review by him, provided notice of such appeal is filed with the board of trustees and a copy thereof mailed to the commissioner within 15 days after written notice of the action taken by the board of trustees shall be given to the teacher; or, the teacher may challenge the legality of such

action by suit brought in the district court of any county in which such school district lies within 30 days after such notice of the action taken by the board of trustees has been given to the teacher.

(b) If the board of trustees shall order the continuing contract status of any teacher holding such a contract abrogated at the end of any school year and such teacher returned to probationary contract status, or if the board of trustees shall order that any teacher holding a continuing contract be dismissed at the end of the school year, or that any teacher holding a probationary contract shall be dismissed at the end of a school year before the end of the employment period covered by such probationary contract, the teacher affected by such order, after filing notice of appeal with the board of trustees, may appeal to the commissioner of education by mailing a copy of the notice of appeal to the commissioner within 15 days after written notice of the action taken by the board of trustees has been given to the teacher.

(c) Either party to an appeal to the commissioner shall have the right to appeal from his decision to the State Board of Education, according to the procedures prescribed by the State Board of Education. The decision of the State Board of Education shall be final on all questions of fact, but shall be subject to appeal to the district court of any county in which such school district or portion thereof lies, if the decision of the State Board:

- (1) is not supported in the record by substantial evidence;
- (2) is arbitrary or capricious; or
- (3) is in error in the application of existing law to the facts of the case.

(d) Trial procedure in the district court shall be the same as that accorded other civil cases on the docket of said court, with the decision of the trial court to be subject to the same rights of appeal under the Texas Rules of Civil Procedure as is accorded other civil cases so tried.

§ 21.216. Resignations

(a) Any teacher holding a continuing contract with any school district, or holding a probationary contract with an unexpired term continuing through the ensuing school year, may relinquish the position and leave the employment of the district at the end of any school year without penalty by written resignation addressed to and filed with the board of trustees prior to August 1, preceding the end of the school year that the resignation is to be effective. A written resignation mailed by prepaid certified or registered mail to the superintendent of schools of the district at the post office address of the district shall be considered filed at time of mailing.

(b) Any teacher holding a continuing contract or such unfulfilled probationary contract may resign, with the consent of the board of trustees of the employing school district at any other time mutually agreeable.

(c) A teacher holding a probationary contract or a continuing contract obligating the employing district to employ such person for the ensuing school year, who fails to resign within the time and in the manner allowed under Subsections (a) and (b) of this section, and who fails to perform such contract, shall be ineligible for employment by any other Texas school district during the ensuing school year covered by such contract, and his teaching certificate shall be suspended for that school year only.

SUBCHAPTER H. RECORDS AND REPORTS

§ 21.251. Teachers' Records and Reports

(a) Each teacher in the public free schools of this state shall keep a daily register showing the names, ages, courses of study, and attendance records of all pupils which the teacher is instructing.

(b) The register shall be open to the inspection of all parents, school officers, and all other persons who may be interested.

(c) Each teacher shall make a monthly report following the directives of either the county superintendent or the commissioner of education. The monthly reports must be approved by a majority of the board of trustees of the district and must be filed by the board of trustees with the county superintendent at the time vouchers for teachers' salaries are presented.

(d) Each teacher shall, at the end of the school term, make such reports as may be prescribed by the commissioner of education. Until such reports are made, the trustees shall not approve a voucher for the last month of the teacher's salary, nor shall the county treasurer pay the same.

§ 21.252. Reports to Commissioner

The commissioner of education shall require of judges acting as ex-officio county superintendents of public schools, of county, city, and town superintendents, of county and city treasurers and depositories, and of treasurers and depositories of school boards, and of other school officers and teachers, such school reports relating to the school fund and to other school affairs as he may deem proper for collecting information and advancing the interests of the public schools, and shall furnish the county, city, and town superintendents, treasurers, and depositories, and other school officers and teachers for the use of such teachers and officers the necessary blanks and forms for making such reports and carrying out such instructions as may be required of them.

§ 21.253. Registration Card

All teachers, librarians, school presidents, superintendents, principals, or other school officers employed by all schools supported wholly or partly by the state, shall fill out and send to the State Department of Education, before the expiration of the first school month of each annual session, a registration card, supplied by the State Department of Education, which card shall furnish blanks for useful statistical information; and the teachers, librarians, school presidents, superintendents, and principals shall not be paid the salary for the first month's services, except on the presentation of a receipt certifying that the registration card has been received by the State Department of Education.

§ 21.254. Withholding of Salary

The monthly salary of any county judge acting as ex-officio county superintendent of public schools, or any county, district, city or town superintendent, or principal or any teacher or librarian in any school supported wholly or partly by the state, or any assessor, county treasurer, treasurer in county school depository or treasurer of any school district depository, shall be withheld by the officials or authorities paying the said

salary, on notification by the commissioner of education that the county judge, acting as ex-officio county superintendent of public schools, or the county, district, city, or town superintendent or principal, teacher, librarian, assessor, county treasurer, treasurer of county school depository or treasurer of school district depository has refused or failed to make the reports required of him; provided, that this notification shall not be sent by the commissioner of education until at least two written requests have been made for the desired information and until 30 days have elapsed from the time of the first request without the receipt of the information required; in such case the aforesaid monthly salary shall be withheld until a notice is received from the commissioner of education, certifying that the information requested has been furnished by the delinquent person.

§ 21.255. Financial Reports to Commissioners or Department of Education; Forms

(a) All financial reports made by or for school districts, either independent or common, or by their officers, agents or employees, to the commissioner or to the Department of Education, shall be made on forms prescribed or approved by the state auditor.

(b) It shall be the duty of the state auditor to combine as many forms as possible to the end that multiplicity of reports is avoided. Such forms shall call for all information required by law or the commissioner, as well as such information as is deemed necessary by the state auditor.

(c) The provisions of this section shall take precedence over any other law of this state in conflict herewith.

SUBCHAPTER I. DISCIPLINE, LAW AND ORDER

§ 21.301. Suspension of Incurable Pupil

The board of trustees of any school district may suspend from the privileges of the schools any pupil found guilty of incurable conduct, but such suspension shall not extend beyond the current term of the school.

§ 21.302. Proceedings in Juvenile Court

The school attendance officer shall proceed in juvenile court against any child within the compulsory school attendance age who is reported to him as being insubordinate, disorderly, vicious, or immoral in conduct, or who persistently violates the reasonable rules and regulations of the school which he attends, or who otherwise persistently misbehaves in such a manner as to render himself an incurable.

§ 21.303. Parole

(a)¹ The judge of the juvenile court shall have the power to parole any child found by him to be guilty of the charges brought by the school attendance officer and to require the parent or the person standing in parently² relation to the child to execute a bond in a sum not less than \$10, conditioned that the child shall attend school regularly and comply with all the rules and regulations of the school.

1. There is no paragraph lettered (b) in the enrolled bill.

2. So in enrolled bill.

§ 21.304 Violation of Parole

(a) The principal or superintendent shall report to the school attendance officer any child who violates the conditions of his parole.

(b) The school attendance officer shall proceed in juvenile court against any child reported to him as having violated the conditions of his parole.

(c) The judge of the juvenile court shall give the child a fair and impartial hearing and, if he is found guilty of violating the conditions of the parole, shall declare the bond to be forfeited and order the proceeds paid into the available school fund of the district.

(d) On finding a child guilty of violation of a first parole, the judge may again parole the child, requiring such bond as he may deem prudent and requiring the child again to enter school. On finding a child guilty of violation of a second parole, the judge shall commit the child to a suitable training school as determined by the judge of the juvenile court and the parent of the child convicted.

§ 21.305. Maintenance of Law and Order

(a) In order to maintain law, peace, and order in the operation of the public schools, the board of trustees of any school district may, when in the opinion of the governing board such action is necessary, exercise the powers described in this section.

(b) To prevent violence and to maintain peace and order, the board may call upon the governor for assistance through the Department of Public Safety, but neither the Texas National Guard nor other military force shall be used for the direction or control of the operation of or attendance at such schools.

(c) The board may close the school or schools and suspend operation for such period as the board finds it necessary to maintain order and public peace if:

(1) the governor by written proclamation finds that violence or the danger thereof cannot be prevented except by resort to military force or occupation of a public school;

(2) the board of trustees finds that violence or the danger thereof cannot be prevented except by resort to military force or occupation of a public school; or

(3) the National Guard or any other military troops or personnel are employed or used upon order of any federal authority on public school property or in the vicinity of any public school for direction or control of the order, operation, or attendance at such school.

(d) The board, upon finding that violence or the danger thereof cannot be prevented except by resort to military force or occupation of the public schools, may certify such fact to the governor, in which event it shall be the duty of the governor to close the school and suspend its operation until such time as the school board shall certify to the governor that such closure is no longer necessary in the maintenance of order and public peace. Upon certification that closure is no longer necessary, the governor must cancel and annul the closure and issue a proclamation to that effect.

§ 21.306. Effect of Closing Schools

(a) If a school is closed under authority of Section 21.305 of this code, the provisions of this section are applicable.

(b) School officials, teachers, and other employees shall continue to receive the salaries provided by the terms of their¹ employment, but such persons may be assigned to other duties as may be determined by the board having jurisdiction over the school.

(c) Neither state aid as provided by law nor school accreditation shall be affected.

(d) The board may authorize and provide for the transfer of pupils to another school in the district upon petition of the parents or persons standing in loco parentis.

(e) Compulsory attendance laws shall not be applicable to pupils whose schools are closed.

(f) The local board, in cooperation with the State Board of Education, shall use all personnel, funds, and facilities necessary and available to provide out-of-classroom instruction for the pupils concerned and to facilitate the reopening of the school at the earliest possible time that peace and order can be maintained without the use or occupation of military forces.

1. So in enrolled bill.

§ 21.307. Assistance of Attorney General

In order to help prevent situations which might result in the occupation of public schools by military forces or the closure thereof, the Attorney General of Texas is authorized to assist any public school board which requests his assistance in the defense of any law suit in a federal court which seeks to challenge the constitutionality of a statute of this State. This section shall not apply, however, in the event of a controversy between a public school board and an agency of the state which, under existing law, the Attorney General is authorized or required to represent.

SUBCHAPTER J. SCHOOL-COUNTY LIBRARY FACILITIES

§ 21.351. Contract With County

In compliance with the terms of this subchapter, any school district having boundaries embracing the entire area of a county having a valuation in excess of \$30 million may enter into contracts with the county and with its board of library trustees to provide joint library facilities.

§ 21.352. Procedure to Execute Contract

(a) The procedure by which such contracts may be authorized shall be as prescribed by this section.

(b) The commissioners court of the county shall appoint a board of library trustees consisting of five members who are residents of the county.

(c) The board of library trustees shall organize by appointing a chairman, a secretary, and a treasurer.

(d) The board of library trustees shall call a public meeting for the purpose of presenting to the trustees of the school district and the members of the commissioners court a petition setting forth the need for additional library facilities and the agreement of the board of library trustees to assume the financial obligation of providing and maintaining an adequate public library building upon or adjacent to the school campus or grounds, the building to be used as a county free library and as a school library for the benefit of both the school students and the general public.

(e) The school trustees and the members of the commissioners court, at a joint meeting called for that purpose, shall consider the petition and agreement. If the plan of financing is found to be practicable and feasible and is approved by a majority both of the school trustees and of the commissioners court, a contract in compliance with Section 21.353 of this code may be executed.

§ 21.353. Contract Provisions

(a) Contracts authorized by this Article shall contain the provisions described in this Section in consideration for the agreement of the board of library trustees:

(b) The commissioners court must agree on its part to deliver over to the board of library trustees in trust and keeping the county-owned free library or libraries.

(c) The board of trustees of the school district must agree on its part to convey, with or without added consideration (and is hereby authorized to convey without the necessity of securing the consent of the Texas Education Agency or any officer thereof), the fee simple title to any individual lot or tract of land of any area not greater than two city lots, if any such area is owned by the school district on or adjacent to its campus and is not required under then existing school plans. The conveyance may be conditioned only by reserving to the school district the right to repurchase the tract, in the event of its abandonment for library purposes, at a price not to exceed any outstanding indebtedness against any building constructed thereon by the board of library trustees.

§ 21.354. Construction of Library

(a) The public library building, authorized by the above-described contract, shall be constructed according to the provisions of this Section.

(b) After the execution of the joint contracts and the receipt of conveyance of the tract of land, the board of library trustees, by a majority vote at a meeting called for that purpose, may employ an architect to prepare plans for the construction of a combined library building and assembly hall.

(c) After the approval of the plans by both the board of trustees of the school district and the commissioners court, the board of library trustees may enter into all necessary contracts for the construction of the building and the equipment thereof. The board of library trustees is authorized to mortgage or encumber the building to secure the financing thereof, but the indebtedness so created must be repaid out of revenue funds produced from the rental of the assembly hall or from private contributions and shall never become a debt against the county of the school district. No taxes shall be levied therefor.

§ 21.355. Management of Library

(a) The management and control of the public library building shall be under the supervision and control of the board of library trustees so long as a public free library is maintained therein, subject to the provisions of law as to county free libraries and to the provisions of this Section.

(b) A separate room or rooms shall be provided for the county free library.

(c) The assembly hall and other parts of the building shall be set aside for the use of educational and civic organizations of the county. Educational and civic organizations shall have the right of use of the assembly hall, subject to the rules made by the board of library trustees and the

necessary charges for use and maintenance. County civic organizations may use the assembly hall as a public assembly hall in keeping with the rules adopted by the board of library trustees.

SUBCHAPTER K. CONSOLIDATED ELECTIONS

§ 21.401. Consolidated Elections

The various officers, boards, or bodies charged with the duty of appointing election officers, providing supplies, canvassing returns, and paying the expenses of school board elections may agree to hold joint and consolidated elections and may agree upon the method of allocating the expenses of the elections whenever an election for members of the board of county school trustees, board of education, board of trustees, or other governing board of any school district, or the board of regents, board¹ of trustees, or other governing board of any junior college district, regional college district, or other type of public college district is to be held on the same day and within all or part of the same territory as any other election or elections herein enumerated.

1. So in enrolled bill.

§ 21.402. Agreement

Resolutions reciting the terms of the agreement shall be adopted by each of the participating boards or bodies. The agreement may provide for a single ballot form at each polling place to contain all the officers to be voted on at the place, or may provide for separate ballot forms which may combine two or more of the sets of county or district offices to be voted on, but all of the offices and candidates for any one district or political subdivision must appear on the same ballot.

§ 21.403. Election Officers

One set of election officers may be appointed to conduct the joint election, and any person otherwise qualified who is a resident of any participating district or political subdivision shall be eligible to serve.

§ 21.404. Poll Lists, Ballot Boxes, Etc.

(a) Poll lists, tally sheets, and return forms for the various elections may be combined in any manner convenient and adequate to record and report the results of each election.

(b) One set of ballot boxes and one stub box may be used for receiving all ballots and ballot stubs at any one polling place.

§ 21.405. Returns; Canvass

(a) Returns on joint or separate forms may be made to any¹ the canvass made by each officer, board, or body designated by law to receive and canvass the returns of each election; or one of such officers, boards, or bodies may be designated to receive and canvass the returns for the joint election and to report the results of each election to the proper authorities.

(b) Where the counted ballots for two or more elections are deposited in a single ballot box, the box containing the counted ballots shall be returned to the officer or board designated in the agreement, which shall be an officer or board designated by law to receive and preserve the counted ballots for one of the elections constituting a part of the joint¹ election.

1. So in enrolled bill.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

§ 21.901. Contracts—Competitive Bidding

(a) All contracts proposed to be made by any Texas public school board for the purchase of any personal property shall be submitted to competitive bidding when said property is valued at \$1,000 or more.

(b) All contracts proposed to be made by any Texas public school board for the construction, maintenance, repair or renovation of any building or for materials used in said construction, maintenance, repair or renovation, shall be submitted to competitive bidding when said contracts involve \$1,000 or more.

(c) Nothing in this section shall apply to fees received for professional services rendered, including but not limited to architects fees, attorney's fees, and fees for fiscal agents.

(d) Notice of the time when and place where such contracts will be let and bids opened shall be published in the county where the purchasing school is located, once a week for at least two weeks prior to the time set for letting said contract and in two other newspapers that the school board may designate. Provided, however, that on contracts involving less than \$25,000, such advertising may be limited to two successive issues of any newspaper published in the county in which the school is located, and if there is no newspaper in the county in which the school is located, then said advertising shall be for publication in some newspaper in some county nearest the county seat of the county in which the school is located.

§ 21.902. Late Afternoon and Evening Sessions

The board of trustees of any district having 10,000 or more scholastics may provide late afternoon and evening sessions and determine which pupils shall be admitted or assigned to such school programs. The attendance of eligible pupils as defined from time to time by the policies of the State Board of Education shall be applicable to those pupils attending late afternoon and evening sessions.

§ 21.903. Donations to the Public Schools

(a) All conveyances, devises, and bequests of property for the benefit of the public schools made by anyone for any county, city, town, or district shall, when not otherwise directed by the grantor or devisor, vest the property in the county school trustees, the board of trustees of the city, town, or district, or their successors in office as trustees for those to be benefited thereby.

(b) The funds or other property donated or the income therefrom may be expended by the trustees:

(1) for any purpose designated by the donor so long as that purpose is in keeping with the lawful purposes of the schools for the benefit of which the donation was made; or

(2) for any purpose authorized by the commissioner of education in the event that no specific purpose is designated by the donor.

§ 21.904. Requiring or Coercing Teachers to Join Groups, Clubs, Committees, or Organizations: Political Affairs

(a) No school district, board of education, superintendent, assistant superintendent, principal, or other administrator benefiting by the funds

provided for in this code shall directly or indirectly require or coerce any teacher to join any group, club, committee, organization, or association.

(b) It shall be the responsibility of the State Board of Education to enforce the provisions of this section.

(c) It shall be the responsibility of the State Board of Education to notify every superintendent of schools in every school district of the state of the provisions of this section.

(d) No school district, board of education, superintendent, assistant superintendent, principal, or other administrator shall directly or indirectly coerce any teacher to refrain from participating in political affairs in his community, state or nation.

§ 21.905. Employment Consultation With Teachers

The board of trustees of each independent school district, rural high school district, and common school district, and their administrative personnel, may consult with teachers with respect to matters of educational policy and conditions of employment; and such boards of trustees may adopt and make reasonable rules, regulations and agreements to provide for such consultation. This section shall not limit or affect the power of said trustees to manage and govern said schools.

§ 21.906. Insurance for School Athletes

(a) In compliance with the terms of this section, the board of trustees of any school district in this state is authorized, but not required, to secure for the protection of students who participate in interschool athletic competition, insurance against bodily injuries sustained by such students while training for or engaging in such competition.

(b) The amount of insurance to be obtained shall be in keeping with the financial condition of the school district and shall not exceed the amount which, in the opinion of the board of trustees, is reasonably necessary to afford adequate medical treatment of students so injured.

(c) The insurance herein authorized shall in all cases be obtained from some reliable insurance company authorized to do business in Texas and shall be on forms approved by the State Board of Insurance.

(d) The cost of such insurance shall constitute a legitimate part of the total cost of the athletic program of the school district, but premium payments shall be paid only from receipts accruing to the school from admission charges to school athletic contests or other receipts from such contests and from no other fund.

(e) The failure of any board of trustees to carry the insurance herein authorized shall not be construed as placing any legal liability upon the school district or its officers, agents, or employees, for any injury which may result.

§ 21.907. Deaf and Deaf-Mute Students

A teacher may use the oral, manual, Rochester (combination method), and the language of signs methods of instruction in teaching deaf and deaf-mute students in any school of this state, subject to the recommendation of his supervising teacher.

§ 21.908. Court-Related Children—Liaison Officers

Each school district shall appoint at least one counsellor or teacher to act as liaison officer for court-related children who are scholastics of the

district. The liaison officer shall provide counselling and services for each court-related child and his parents with the objective of establishing or reestablishing normal attendance and progress of the child in the school.

§ 21.909. Protective Eye Devices in Public Schools

(a) Industrial quality eye-protective devices shall be worn by every teacher and pupil in Texas participating in any of the following courses:

(1) vocational or industrial arts shops or laboratories involving experience with:

(A) hot molten metals;

(B) milling, sawing, turning, shaping, cutting or stamping of any solid materials;

(C) heat treatment, tempering, or kiln firing of any metal or other materials;

(D) gas or electric arc welding; or

(E) caustic or explosive materials; or

(2) chemical or combined chemical-physical laboratories involving caustic or explosive chemicals or hot liquids or solids.

(b) In this section, "industrial quality eye-protective devices" means devices meeting the standards set by the State Department of Health.

(c) The governing boards and administrators of Texas school districts offering any of the listed courses are responsible for furnishing free of charge or providing at cost to teachers and pupils participating in the courses the required eye-protective devices.

(d) Whenever an accident occurs during the conduct of any of the courses described in Subsection (a) of this section, and an injury to the eye of a teacher or pupil results, the principal shall make a full written report of the accident and injury to the State Department of Education. The department shall prescribe the form and content of the reports and shall maintain a file of all reports submitted.

CHAPTER 22. COMMON SCHOOL DISTRICTS**Section**

22.01. Government.

22.02. Election of Common and Common Consolidated School District Trustees.

22.03. Terms of Common School District Trustees.

22.04. Terms of Common Consolidated School District Trustees.

22.05. Qualifications of Common and Common Consolidated School District Trustees.

22.06. Removal for Lack of Qualifications.

22.07. Organization of Common School District Trustees.

22.08. Powers and Duties of Common and Common Consolidated School District Trustees.

22.09. Contracts With Teachers and Other School Officials.

22.10. Acquisition and Sale of School Property.

22.11. Taxation.

22.12. Common or Common Consolidated County-Line School Districts.

Section 22.01. Government

(a) A common school district is under the immediate control and management of a board of three trustees, who function under the provisions of this chapter but who are under the general supervision of a county governing board as provided in Chapter 17 of this code.¹

(b) A common consolidated school district is under the immediate control and management of a board of seven trustees, who function under the provisions of this chapter but who are under the general supervision of a county governing board as provided in Chapter 17 of this code.

1. Section 17.01 et seq.

§ 22.02. Election of Common and Common Consolidated School District Trustees

(a) Trustees for common or common consolidated school districts are selected at an election called for that purpose and held on the first Saturday in April of each year, except in those counties with a population of 500,000 or more, according to the last preceding federal census, all elections of school district trustees shall be held on the first Saturday in April or on some other Saturday the school district trustees or board members may select by official resolution, as provided by this section.

(b) All elections of trustees, after the election at which the common or common consolidated school district is first organized, shall be called by the trustees of the district, who shall also:

(1) give notice of the time and place at which the election will be held by posting notices in at least three public places in the district at least 20 days prior to the date of holding the election; and

(2) appoint three qualified voters for each place of voting to hold the election and to make returns thereof, one to be designated presiding officer; and these persons shall receive as compensation for their services the sum of \$3 each, to be paid out of the local funds of the district where the election is held.

(c) Any person desiring to have his name placed on the ballot as a candidate for the office of trustee of a common or common consolidated school district shall, at least 30 days before the day of election, file a written request with the county judge of the county in which the district is located, requesting that his name be placed on the official ballot.

(d) Five or more qualified voters in the district may request that the county judge place any name or names on the ballot, provided such request is made within the time and manner specified in Subsection (c) of this section.

(e) At least 20 days before the election, the county judge shall have the ballots printed as follows:

(1) the ballots shall be of uniform style and dimension and shall be of the stub type provided for in the general election laws;

(2) the ballots shall be printed with black ink on clear white paper of sufficient thickness to prevent the marks thereon from being seen through the paper;

(3) at the top of the ballot there shall be printed "Official Ballot, _____ School District," the number or name of the district to be supplied by the county judge when he orders the ballots printed; and

(4) the name of each person qualifying as a candidate under either Subsection (c) or Subsection (d) of this section, and fulfilling the requirements of Section 22.05 of this code, shall be listed.

(f) At least one day before the election is to be held, the county judge shall deliver to the presiding officer of the election, by mail or other suitable method, a sufficient number of printed ballots, boxes, and other supplies necessary for the election, with these conditions:

(1) the ballots and tally sheets shall be delivered in sealed envelopes;

(2) the envelopes shall not be opened by the election officer until the day on which the election is to be held; and

(3) the officers holding the election shall be required to use the ballots furnished them by the county judge as provided in this chapter.

(g) The expenses of printing the ballots and delivering them to the presiding officer, together with the other expenses incidental to the election, shall be paid out of the available maintenance funds of the school district in which the election is held or to be held.

(h) All qualified voters of the common or common consolidated school district shall be eligible to vote.

(i) The polls shall be open from 8 a.m. until 7 p.m., except in counties of 100,000 or more population, according to the last preceding federal census, where the polls must be open from 7 a.m. to 7 p.m.

(j) The election officers shall make returns of the election to the county clerk within five days after such election, to be delivered by him to the commissioners court at its first meeting after the election, to be canvassed by the court, and the court or its clerk shall certify the result to the district trustees and issue to the person or persons elected their commissions as trustees.

(k) Ballot boxes which have been furnished by local officials shall be sent to the county judge; and the certified election returns and ballot boxes shall be safely preserved for a period of three months after the date of the election.

§ 22.03. Terms of Common School District Trustees

(a) At all elections following that at which the common school district is first organized, each common school district trustee shall be elected for a term of three years, except as otherwise provided by this section.

(b) At the first election following the creation of a common school district, the qualified voters shall elect three trustees, who shall determine their terms by lot with the trustees drawing numbers. The trustee drawing number one shall serve for a term of one year, the trustee drawing number two shall serve for a term of two years, and the trustee drawing number three shall serve for a term of three years.

(c) At each annual election following the first, one trustee shall be elected who shall serve for three years or until his successor is elected and has qualified.

(d) The term of each trustee shall begin on May 1 following his election.

(e) Any vacancy shall be filled by the county school trustees or county board of education for the remainder of the unexpired term in which the vacancy occurs.

§ 22.04. Terms of Common Consolidated School District Trustees

(a) At all elections following that at which a common consolidated school district is first organized, each common consolidated school district trustee shall be elected for a term of three years.

(b) At the first election following the creation of the common consolidated school district, the qualified voters shall elect seven trustees, who shall determine their terms by lot. The three members drawing numbers one, two, and three shall serve for terms of one year; the two members drawing numbers four and five shall serve for terms of two years; and the two members drawing numbers six and seven shall serve for terms of three years.

(c) At each annual election following the first, three or two trustees shall be elected for a term of three years to succeed the trustees whose terms expire.

(d) The members of the board remaining after a vacancy shall fill the same for the unexpired term.

§ 22.05. Qualifications of Common and Common Consolidated School District Trustees

(a)¹ Each person elected to serve as a common school district trustee must

- (1) be able to read and write the English language; and
- (2) have been a resident of the common school district for at least six months prior to his election or appointment and a qualified property taxpaying elector in the district.

1. There is no paragraph lettered (b) in the enrolled bill.

§ 22.06. Removal for Lack of Qualifications

(a) If any person elected or appointed to serve as trustee of a common or common consolidated school district does not in the opinion of the county superintendent possess the qualifications prescribed by law, the county superintendent shall refuse to recognize the person and shall make a written request, within 20 days after such election, to the county attorney or district attorney, if there be no county attorney, to institute and prosecute suit in the name of the state for the removal of the trustee.

(b) On good cause shown, within the discretion of the court where such suit is pending, it shall be lawful to enjoin and restrain such person from acting as trustee during the pendency of the suit.

(c) It shall be lawful to summon the elected trustee before the court in the trial of the cause and there to examine him as to his qualifications to serve as trustee.

(d) The hearing shall be conducted under rules applicable to the trial of civil actions generally and, if the elected trustee is found to be disqualified, the court shall declare the office vacant.

(e) Whenever a person is enjoined from acting as trustee, pending trial by the court, the county school trustees or county board of education for the common school district or the board of trustees for the common consolidated school district shall appoint a suitable person to act as trustee during the enjoinder, and if the trustee enjoined is, by judgment of the court, removed from office, then trustee appointed shall continue to serve for the unexpired term.

(f) Whenever a trustee is removed from office by judgment of the court without an injunction previously having been issued, the county school trustees or county board of education for the common school district or the board of trustees for the common consolidated school district shall appoint a suitable person to fill the vacancy for the unexpired term.

§ 22.07. Organization of Common School District Trustees

(a) Each trustee must take the official oath and, as soon as practicable, file the oath with the county superintendent or, if the county judge is acting as ex officio county superintendent, with the county judge.

(b) Immediately after each election the trustees shall organize by electing one of their number as president and one as secretary and shall file a report of their organization with the county superintendent.

(c) The trustees shall be a body politic and corporate in law and shall be known by and under the title and name of district trustees of district number _____, and county of _____, State of Texas. All reports and other official papers shall be headed with the name and number of the district and the name of the county.

§ 22.08. Powers and Duties of Common and Common Consolidated School District Trustees

(a) Under such powers as are granted under the provisions of this code and/or necessarily implied therefrom, the trustees of a common or common consolidated school district shall have the power to contract and be contracted with for the general good of the school district.

(b) The trustees of a common or common consolidated school district may sue and be sued, plead or be impleaded, in any court of Texas of proper jurisdiction.

(c) The trustees of a common or common consolidated school district may receive any gift, grant, donation, or devise made for the use of the public schools of the district.

(d) The trustees of a common or common consolidated school district shall have the management and control of the public schools, the public school grounds and all other property belonging to the district whether acquired by purchase or lease. They shall determine how many schools shall be maintained in the district and at what points the schools shall be located. They shall determine when the schools shall be open and when closed.

(e) The trustees of a common or common consolidated school district shall have the power to employ teachers and other school officials and to contract with them as provided in Section 22.09 of this code, but in making contracts with teachers or other employees or in contracting for services or supplies, the trustees shall not create a deficiency debt against the district.

(f) The trustees of a common or common consolidated school district may dismiss teachers or other employees, but a teacher or other official dismissed shall have the right of appeal to the county superintendent and to the commissioner of education.

(g) The trustees of a common or common consolidated school district shall approve all claims against the school funds of the district and shall manage and supervise the schools in accordance with the rules and regulations of the county superintendent and the officials of the Central Education Agency.

(h) The amount contracted by trustees to be paid a teacher or other employee shall be paid on a check drawn on the county depository for the district, signed or drawn upon order authorized by a majority of the trustees of the district and approved by the county superintendent.

(i) The trustees of a common or common consolidated school district shall supply all information required of them by the county superintendent or the Central Education Agency for the proper operation of the foun-

ation school program within the district or for carrying out the objectives of the Central Education Agency.

§ 22.09. Contracts With Teachers and Other School Officials

(a) The board of trustees of a common or common consolidated school district shall at all times have the right to enter into written contracts employing a superintendent, principals, teachers, and other executive officers for a term not to exceed three years, provided that:

(1) all contracts for 12 months or more shall begin on July 1 and end on June 30 of the year terminating the contract;

(2) all contracts for 12 months or more shall be approved by the county superintendent of the county having jurisdiction over the district; and

(3) no new contract may be signed by the trustees until the newly elected trustee has qualified and taken the oath of office.

(b) Employment contracts for a term of less than one year need not be approved by the county superintendent and may be entered into at any time and for whatever period the trustees determine.

(c) This section is applicable to any common or common consolidated school district which has not adopted the provisions of the continuing contract law as set out in Chapter 21 of this code.¹

1. Section 21.001 et seq.

§ 22.10. Acquisition and Sale of School Property

(a) The trustees of a common school district may contract for the erection of school buildings, provided that:

(1) no mechanic, contractor, material man, or other person can contract for, or in any other manner acquire, any lien upon a school building or the land upon which it is situated, and all contracts for the erection of school buildings shall expressly stipulate a waiver of such lien;

(2) the district trustees shall superintend the construction and approve all accounts submitted in connection therewith;

(3) payment shall be made by the county superintendent, who shall draw his warrant on the school fund appropriated therefor on the account approved by the district trustees; and

(4) any bonds issued shall be in compliance with the terms of Chapter 20 of this code¹ and such bonds shall be handled in compliance with Chapter 20 of this code.

(b) The trustees of a common or common consolidated school district may sell any property belonging to the school district, provided that:

(1) the terms of the sale must be prescribed and approved by order of the county school trustees or county board of education having jurisdiction over the common school district; and

(2) the proceeds of the sale must be used to purchase necessary grounds or to build or repair school buildings or be placed to the credit of the local maintenance school fund of the district.

1. Section 20.01 et seq.

§ 22.11. Taxation

(a) The county commissioners court of each county shall have the power to levy and cause to be collected taxes and to issue bonds for the com-

mon or common consolidated school districts of the county in compliance with the provisions in Chapter 20 of this code.¹

(b) All property assessed for school purposes in a common or common consolidated school district shall be assessed at the same value as that property is assessed for state and county purposes.

(c) The commissioners court, at the time of levying taxes for county purposes, shall also levy upon all taxable property within any common or common consolidated school district any school tax voted by the district in compliance with Chapter 20 of this code, and if

(1) a specific rate has been voted, the commissioners court shall levy the tax at the rate provided in the election; and

(2) no specific rate has been voted, the commissioners court shall levy the tax at such a rate within the limit voted as determined by the board of trustees of the district and the county superintendent and certified to the commissioners court by the county superintendent.

(d) If the tax has been voted after the levy of county taxes, the tax may be levied at any meeting of the commissioners court prior to the delivery of the assessment rolls by the assessor.

(e) The tax assessor shall assess the school tax as other taxes are assessed and make an abstract showing the amount of special taxes assessed against each school district in his county and furnish the same to the county superintendent on or before September 1 of the year for which such taxes are assessed.

(f) The taxes levied upon the real property in common or common consolidated school districts shall be a lien thereon and the same shall be sold for unpaid taxes in the manner and at the time of sales for state and county taxes.

(g) The county tax collector shall collect taxes levied upon the property of a common or common consolidated school district as other taxes in the district are collected, and shall pay all such taxes to the county treasurer. The tax assessor shall receive a commission of one percent for assessing the taxes, and the tax collector, a commission of one percent for collecting the taxes.

(h) The county treasurer shall credit each common or common consolidated school district with the amount of tax funds received belonging to the district and shall pay out such funds in accordance with law.

1. Section 20.01 et seq.

§ 22.12. Common or Common Consolidated County-Line School Districts

(a) Common or common consolidated county-line school districts shall have all the rights, powers, and privileges of other common or common consolidated school districts as provided in this code.

(b) A common or common consolidated county-line school district shall be managed and controlled by the county named in the order creating the district, and the operation of the schools shall be under the administrative jurisdiction of the county governing board of the county named in the order creating the district.

(c) A petition requesting a tax or bond election or both meeting the provisions of Chapter 20 of this code¹ applicable to common school districts shall be presented to the county judge of the county having jurisdiction of the district. If it has been determined by a majority vote that

such county-line district shall levy such tax or issue such bonds, the commissioners court of the county having jurisdiction of the district shall pass an order levying such tax within the rate authorized or issue such bonds, or both, as the case may be, against the territory within the county, and a like order levying such tax, or issuing bonds and levying a tax for interest and retirement thereof, or both, shall be passed by the commissioners court of each other county having territory within the district, subject to the provisions of this section.

(d) The rate of tax, if not determined at the election, shall be set annually by the commissioners court of the county having jurisdiction within the lawful limit that has been determined by the board of trustees of the district and the county superintendent of the county having jurisdiction and certified to the court by the county superintendent until such tax is diminished or abrogated as provided by law, of such bond obligations, if any, have been fully paid.

(e) Each county shall continue annually to levy the tax or taxes at the rate determined as specified above.

(f) The assessor-collector of each county shall assess the taxes levied by the commissioners court of his county against the territory of the county-line district in his county.

(g) The assessor-collector of each county having territory within the county-line school district shall maintain a separate roll covering any special tax or taxes on the territory in his county included in the county-line school district.

(h) The assessor-collector of each county shall collect the taxes for the county-line district in his county, and all taxes collected for the benefit of the county-line district and recorded in a separate account shall be deposited by the county with the treasurer or depository designated for the county-line district.

1. Section 20.01 et seq.

CHAPTER 23. INDEPENDENT SCHOOL DISTRICTS**SUBCHAPTER A. BOARD OF TRUSTEES****Section**

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SUBCHAPTER A. BOARD OF TRUSTEES**Section 23.01. Districts With 150 or More Scholastics**

The public schools of an independent school district having 150 or more scholastics according to the latest approved scholastic census shall be under the control and management of a board of seven trustees.

§ 23.02. Districts With Fewer Than 150 Scholastics

(a) An independent school district having fewer than 150 scholastics according to the latest approved scholastic census shall have a board of seven trustees as provided in this chapter but shall, unless the trustees determine otherwise as specified below, be governed in the general ad-

ministration of its schools by the laws which apply to common school districts as provided in Chapter 22 of this code.¹

(b) The trustees of an independent school district having fewer than 150 scholastics as shown by last approved census may choose, by majority vote shown on the minutes of the board, not to be governed in the general administration of its schools by the laws which apply to common school districts and be governed instead by the laws which apply to other independent school districts.

(c) By filing, on or before September 1 of each year, certified copies of the minutes adopting such a policy in both the office of the county clerk and the office of the Central Education Agency, an independent school district having fewer than 150 scholastics may be governed as other independent school districts.

1. Section 22.01 et seq.

§ 23.03. Application to Get on Ballot

(a) Applications of candidates for a place on the ballot shall be filed not less than 30 days prior to the day of the election, and no candidate shall have his name printed on said ballot unless there has been compliance with the provisions of this section.

(b) Candidates for office of trustee of an independent school district having fewer than 500 scholastics as shown by the last scholastic census approved by the Central Education Agency must file their applications with the county judge of the county in which the district is located, but any five or more resident qualified voters of the district may request of the county judge that any name or names be listed on the official ballot as candidates.

(c) Candidates for office of trustee of an independent school district having 500 or more scholastics must file their applications with the secretary of the school board of trustees.

(d) In those districts in which the positions on the board of trustees are authorized to be designated by number, as provided in Section 23.11 of this code, each applicant shall also state the number of the position for which he is filing as candidate. No candidate shall be eligible to have his name placed on the official ballot under more than one position to be filled at such election.

(e) In those districts in which the positions on the board of trustees are not authorized to be designated by number, it shall not be necessary for an applicant to state which other candidate, if any, he is opposing.

§ 23.04. Ballots: Deadline for Printing

Ballots for use in the election of trustees of an independent school district shall be printed not less than 20 days prior to the day of the election.

§ 23.05. Ballots: Districts With Fewer Than 500 Scholastics

(a) Ballots for the election of school trustees for independent school districts having fewer than 500 scholastics as shown by the last approved scholastic census shall be ordered by the county judge and must fulfill the requirements of this section.

(b) The ballots must be of uniform style and dimension and must be of the stub type provided for in the general election laws.

(c) The ballots must be printed with black ink on clear white paper of sufficient thickness to prevent the marks thereon from being seen through the paper.

(d) At the top of the ballot there shall be printed "Official Ballot, _____ School District," the name of the district to be filled in by the county judge when he orders the ballots printed.

(e) The names of all eligible candidates whose applications have been duly filed shall be placed thereon.

(f) The printed ballots, boxes, tally sheets, and other supplies necessary for the holding of the election shall be delivered by the county judge, in sealed envelopes, to the presiding officer of the election at least one day before the election is to be held but shall not be opened until the day of the election.

(g) The expenses of printing the ballots and delivering same to the presiding officer, together with the other expenses incidental to the election shall be paid out of the available maintenance funds belonging to the school district in which said election is held.

(h) The officers of the election must use the ballots furnished by the county judge as herein provided.

§ 23.06. Ballots: Districts With 500 or More Scholastics

(a) Ballots for the election of school trustees for independent school districts having 500 or more scholastics as shown by the last approved census shall be prepared as ordered by the trustees of the district and must fulfill the requirements of this section.

(b) The ballots must be of uniform style and dimension and must be of the stub type provided for in the general election laws.

(c) The ballots must be printed with black ink on clear white paper of sufficient thickness to prevent the marks thereon from being seen through the paper.

(d) The ballots shall have printed at the top, "Official Ballot, _____ Independent School District," specifying the name of the school district.

(e) The names of all eligible persons who have properly qualified as candidates for school trustee of the district shall be included, and if the positions on the board are designated by number as provided in Section 23.11 of this code, the position for which each person is a candidate shall be clearly shown.

§ 23.07. Order; Election Officers

(a) The board of trustees of each independent school district shall order all regular elections for trustees and give notice thereof. The order and notice shall be made at least 20 days before the date of election. A notice of the order shall be posted at three public places in the district and shall designate the places where the polls shall be open.

(b) The board of trustees shall appoint to hold the election three or more persons who shall possess the qualifications and receive the compensation provided for election officers under the general election laws.

§ 23.08. Election

(a) Elections for trustees of independent school districts shall be held on the first Saturday in April, except that in counties having a population of 500,000 or more the trustees may by official resolution select any other Saturday.

(b) Elections shall be held either annually or biennially, depending upon the term for which the trustees are to be elected as provided in this subchapter.

(c) Voting machines may be used.

(d) All qualified voters of the district shall be entitled to vote.

(e) The elections shall be governed by the general election laws except where in conflict with this subchapter.

§ 23.09. Determination of Results

(a) In those districts where the positions of trustees are authorized to be designated by number, as provided in Section 23.11 of this code, the candidate receiving the highest number of votes for each respective position voted on shall be entitled to serve as trustee.

(b) In those districts where the positions of trustees are not authorized to be designated by number, the candidates receiving the highest number of votes shall fill the positions the terms of which are normally expiring.

§ 23.10. Returns; Canvass

(a) In those school districts having fewer than 500 scholastics, according to the latest approved scholastic census, the election officers shall make returns of the election to the county clerk within five days after such election, to be delivered by him to the commissioners court at its first meeting thereafter to be canvassed by such court. The court or its clerk shall certify the result to the district trustees and issue to the person or persons elected their commissions as trustees.

(b) In those districts having 500 or more scholastics, according to the latest approved scholastic census, the election returns certified to by the election officers shall be made to the board of school trustees which shall canvass the returns, declare the results of the election, and issue certificates of election to the persons shown to be elected.

§ 23.11. Election by Position

(a) The designation of the positions of trustees by number is or may be required only as specified in this section.

(b) The positions on the board of trustees shall be designated by number in any independent school district wherein the procedure of designating and electing the trustees by number has been authorized and instituted whether under general or special law and whether by resolution of the trustees or by operation of law.

(c) The positions on the board of trustees shall be designated by number in any independent school district in which the scholastic population is 500 or more according to the latest approved scholastic census and in which the board of trustees, by appropriate action as specified below, orders that all candidates for trustee be voted upon and elected separately for positions on the board of trustees and that all candidates be designated on the official ballot according to the number of the positions for which they seek election.

(d) The order of resolution of the board of trustees must be made at least 60 days prior to any trustee election to be controlled by this section.

(e) The board shall also, at least 60 days prior to the election, number the positions on the board in the order in which the terms of office of the trustees expire.

(f) Once the board of trustees of an independent school district has adopted the provisions of this section, neither the board of trustees nor their successors may rescind the action.

(g) In any such independent school district in which procedure of designating and electing trustees by numbered positions has been or may hereafter be instituted, any candidate offering himself for a position as trustee in any election shall indicate in a written notice timely filed the number of the position for which he desires to run, and his application for a place on the ballot shall disclose the position number for which he is a candidate or the name of the incumbent member holding the position for which he desires to run. The names of the candidates for each position shall be arranged by lot by the board of trustees of the district.

§ 23.12. Districts Converted From Common School Districts

(a) This section shall apply to any independent school district incorporated under the provisions of Subchapter G, Chapter 19 of this code, having a board of seven trustees whereunder in alternate years four trustees are elected for two-year terms and three trustees are elected for two-year terms.

(b) Immediately after any next regular election of a board of trustees in any independent school district to which this section applies, members of such board of school trustees may draw lots. Those members drawing numbers 1, 2, and 3 shall serve for a term of one year and until their respective successors are duly elected and qualified. Those members drawing numbers 4 and 5 shall serve for a term of two years and until their respective successors are duly elected and qualified. Those drawing numbers 6 and 7 shall serve for a term of three years and until their respective successors be duly elected and qualified.

(c) Those members of the board of trustees, in any district to which this section applies, who are elected at the expiration of each of the terms provided for in Subsection (b) of this section, shall serve for a term of three years and the term of office of members of such board of school trustees shall continue to be three years with two or three members thereof, as the case may be, being elected each year thereafter.

§ 23.13. Term of Office—General Rule—Three Years

(a) Unless a different term is authorized by Section 23.14 or 23.15 of this code, the term of trustees of independent school districts, other than county-wide independent school districts, shall be three years in any district which does not include within its boundaries a city or town with a population in excess of 75,000 or in any district where a term of three years has been previously instituted under either general or special law of this state.

(b) The term of trustees may be three (3) years in any independent district, other than a county-wide district in which the trustees, by majority vote, adopt a three-year term and, at least 90 days prior to a regular election date, publish in a newspaper printed in the county in which the district is situated notice of the election and the terms for which the trustees are to be elected.

(c) Elections shall be held annually. At the first regular trustee election after the creation of the district or the adoption of the three-year term, as provided above, the seven trustees elected shall determine by lot the terms for which they are to serve, as follows: the three members

drawing numbers 1, 2, and 3 shall serve for a term of one year; the two members drawing numbers 4 and 5 shall serve for a term of two years; and the two members drawing numbers 6 and 7 shall serve for a term of three years.

(d) Each year, following the first election, either three or two trustees shall be elected, the number depending upon that required to constitute a board of seven trustees.

(e) If the procedure of designating and electing trustees by numbered positions, as provided in Section 23.11 of this code, is applicable to the district, the trustees shall be elected in compliance with the terms of that section.

(f) The trustees of any independent school district which has previously instituted a term of three years may continue to be elected for a term of three years.

§ 23.14. Six-Year Terms

(a) Unless a different term is authorized by either Section 23.13 or 23.15 of this code, the term of trustees of independent school districts, other than county-wide independent school districts, shall be six years in those districts which include within their boundaries a city with a population of 75,000 or more and in those districts where a term of six years has been previously instituted under either general or special law of this state.

(b) The term of office may be six years in any district in which there are as many as 30,220 scholastics, according to the last scholastic census, and in which the trustees, by majority vote, adopt a six-year term.

(c) At the first regular trustee election after the creation of the district or the applicability or the adoption of the six-year term, the seven trustees elected shall determine by lot the terms for which they are to serve. The three members drawing numbers 1, 2, and 3 shall serve for a term of six years; the two members drawing numbers 4 and 5 shall serve for a term of four years; and the two members drawing numbers 6 and 7 shall serve for a term of two years.

(d) Elections shall be held biennially. At each election following the first, either two or three trustees shall be elected, the number depending upon that required to compose a board of seven trustees.

(e) If the procedure of designating and electing trustees by numbered positions, as provided in Section 23.11 of this code, is applicable to the district, the trustees shall be elected in compliance with the terms of that section.

§ 23.15. Four-Year Terms

The trustees of any independent school district which has previously, under either general or special law of this state, adopted or instituted a term of four years may continue to be elected for a term of four years. Elections shall be held biennially. Either three or four trustees shall be elected at each election, the number depending upon that required to compose a board of seven trustees.¹ The trustees shall be elected by position number as provided in Section 23.11 of this code.

1. So in enrolled bill.

§ 23.16. County-Wide Districts: Two Year Terms

The trustees of all county-wide independent school districts, previously established or hereafter created as provided in Subchapter C, Chapter 19 of this code,¹ shall serve for a regular term of two years. Each year ei-

ther three or four trustees shall be elected, the number depending upon that required to constitute a board of seven trustees as provided in Section 19.067 of this code.

1. Section 19.061 et seq.

§ 23.17. Length of Term May be Continued

The trustees of any independent school district which has lawfully instituted a particular term of office may, by resolution, continue that term even though the size of the district changes so that the specified term is no longer applicable.

§ 23.18. Vacancies

(a) If a vacancy occurs in the board of trustees, the remaining members of the board of trustees shall fill the vacancy until the next regular election for members of the board of trustees. If at the time of that election, there remains any portion of the term so filled, a person shall be elected to serve out the remainder of the unexpired term.

(b) The provisions of this section shall not apply to school districts where the school board is appointed by the city commission. A trustee appointed by city commission to fill a vacancy shall serve for the unexpired term of his or her predecessor.

§ 23.19. Qualification and Organization of Trustees

(a) Each elected trustee shall qualify by taking the official oath of office.

(b) The trustees first elected or appointed after the creation or incorporation of the independent school district shall file their oaths with the county judge of the county in which the district or a major portion thereof is situated. After all subsequent elections the newly elected trustee shall file their oaths with the president of the board of trustees.

(c) No person shall be elected trustee of an independent school district unless he is a qualified voter.

(d) At the first meeting after each election and qualification of trustees, the members shall organize by selecting:

- (1) a president, who shall be a member of the board;
- (2) a secretary, who may or may not be a member of the board;
- (3) a treasurer, as provided in Section 23.61 of this code;
- (4) an assessor and collector of taxes, as provided in Subchapter F of this chapter;¹ and
- (5) such other officers and committees as the board may deem necessary.

(e) The trustees shall serve without compensation.

1. Section 23.91 et seq.

[Sections 23.20–23.24 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES OF TRUSTEES

§ 23.25. Powers and Duties

The board of trustees of an independent school district shall have the powers and duties described in this subchapter, in addition to any other powers and duties granted or imposed by this code or by law.

§ 23.26. In General

(a) The trustees shall constitute a body corporate and in the name of the school district may acquire and hold real and personal property, sue and be sued, and receive bequests and donations or other moneys or funds coming legally into their hands.

(b) The trustees shall have the exclusive power to manage and govern the public free schools of the district.

(c) All rights and titles to the school property of the district, whether real or personal, shall be vested in the trustees and their successors in office.

(d) The trustees may adopt such rules, regulations, and by-laws as they may deem proper.

§ 23.27. Taxes; Bonds

The trustees shall have the power to levy and collect taxes and to issue bonds in compliance with the applicable provisions in Chapter 20 of this code,¹ and if no specific rate of tax is adopted at an election authorizing a tax, shall determine the rate of tax to be levied within the limit voted and specified by law.

1. Section 20.01 et seq.

§ 23.28. Contracts With Officers and Teachers

(a) The board of trustees of any independent school district may employ by contract a superintendent, a principal or principals, teachers, or other executive officers for a term not to exceed the maximum specified in this section.

(b) In those independent school districts with a scholastic population of fewer than 5,000, the term of such contracts shall not exceed three years.

(c) In those independent school districts with a scholastic population of 5,000 or more, in the last preceding scholastic year, the term of such contracts shall not exceed five years.

(d) All 12 month contracts made with employees above-mentioned shall begin on July 1 of the year beginning the contract and end on June 30 of the year terminating the contract.

(e) This section does not apply to teacher's contracts in those independent school districts which have adopted the provisions of the probationary or continuing contract law as set out in Subchapter G, Chapter 21 of this code.¹

1. Section 21.201 et seq.

§ 23.29. Sale of Minerals

(a) Minerals in land or any part thereof belonging to an independent school district may be sold to any person under the provisions of this section.

(b) The sale must be authorized by a resolution adopted by majority vote of the board of trustees of the independent school district; and the sale and the terms thereof must be approved by the commissioner of education.

(c) When the requirements of Subsection (b) of this section are fulfilled, the president of the board of trustees may execute an oil and/or gas lease or sell, exchange, and convey the minerals, or any part thereof, in land belonging to the school district to any person upon the terms which the trustees deem advisable and which the commissioner of educa-

tion approves. The mineral deed or lease shall recite the approval of the commissioner of education and the resolution of the board authorizing the sale.

(d) If the district has outstanding bonds, the proceeds of the sale shall be applied to the sinking fund account of the district. If the district has no outstanding bonds, the proceeds shall be used for the purchase of necessary grounds or the construction or repairing of school buildings or deposited to the local maintenance school fund of the district.

(e) Any and all sales or leases of mineral heretofore made by any independent school districts in substantial compliance with the provisions of this section, when such sales or leases have been made with the consent of the State Board of Education or the chief administrative officer of the public schools of this state after the same have been authorized by the trustees of the independent school district, shall not be invalid by reason of any lack of authority to make and enter into such sales and leases.

§ 23.30. Sale of Property Other Than Minerals

(a) The board of trustees of any independent school district may, by resolution, authorize the sale of any property, other than minerals, held in trust for free school purposes.

(b) The president of the board of trustees shall execute his deed to the purchaser of such reciting therein the resolution of the board of trustees authorizing the sale.

(c) The proceeds of such sale shall be used for the purchase of more convenient and more desirable school property or for the construction or repairing of school buildings or deposited to the credit of the local maintenance fund of the district.

(d) Any and all sales of school houses, buildings or lands heretofore made by any independent school district in substantial compliance with the provisions of this section, after same has been authorized by the trustees of the independent school district, shall not be invalid by reason of any lack of authority to make and enter into such sales.

§ 23.31. Eminent Domain

(a) All independent school districts, except those covered in Section 17.26 of this code, shall have the power by the exercise of the right of eminent domain to acquire the fee simple title to real property for the purpose of securing sites upon which to construct school buildings or for any other purpose which may be deemed necessary for the independent school district.

(b) In all such condemnations, the trial and all other proceedings, including the assessing of damages, shall be in conformity with the statutes of the state for condemning and acquiring property by railroads.

(c) Whenever final judgment is rendered in a condemnation, the plaintiff shall be awarded the fee simple title to the property condemned and thereafter have, hold, and possess such property in fee simple title, with full power over the same including the right of alienation.

(d) If the school district should desire to enter upon and take possession of the property sought to be condemned pending suit, it may do so at any time after the award of the commissioners, upon the following conditions:

- (1) It shall not be required to give any bond whatsoever, but it shall pay to the defendant the amount of damages awarded or ad-

judged against it by the commissioners or deposit the same in money in court subject to the order of the defendant, and also pay the costs awarded against it.

(2) If on an appeal from the award of the commissioners the judgment shall exceed the amount of the award, the district, in the event it shall have previously taken possession of the property condemned, shall pay the judgment and costs awarded against it, within 60 days from the date of the final judgment in the case and, upon its failure so to do, the court shall upon application of the defendant inquire what damages, if any, have been suffered by the defendant by reason of the temporary possession by plaintiff, and order the same paid out of the award deposited in court and order a writ of possession for the property in favor of the defendant.

(3) If the final judgment on any such appeal shall be less than the amount of the award of the commissioners, the court shall adjudge the excess to be returned to the district.

(4) If the cause should be appealed from the decision of the county court, the appeal shall be governed by the law governing appeals in other cases, except that the judgment of the county court shall not be suspended thereby.

SUBCHAPTER C. BUDGET AND FISCAL ACCOUNTING SYSTEM

§ 23.41. Budget Officer

The president of the board of trustees of each independent school district whether created by general or special law shall be the budget officer for the district and, as such, shall have the duties prescribed in this subchapter.

§ 23.42. Preparation of Budget

(a) Not later than August 20 of each year, the president shall prepare, or cause to be prepared, a budget covering all estimated receipts and proposed expenditures of the district for the next succeeding fiscal year.

(b) The budget must be itemized in detail according to classification and purpose of expenditure, and must be prepared according to the rules and regulations established by the State Board of Education.

§ 23.43. Deputy Budget Officer

To assist him in the professional and technical phases of budget preparation, the president of the board of trustees shall designate as deputy budget officer the business manager, if any, of the district, or the superintendent of schools; and if the district has no superintendent, the chief administrative employee of the district shall be designated as deputy budget officer.

§ 23.44. Records and Reports

The president of the board of trustees shall see to it that records are kept and that copies of all budgets, all forms, and all other reports are filed at the proper times and in the proper offices as required by subsequent sections of this subchapter.

§ 23.45. Budget Meeting

(a) When the budget has been prepared, the president shall call a meeting of the board of trustees, giving five days public notice and stat-

ing that the purpose of the meeting is the adoption of a budget for the succeeding fiscal year.

(b) It shall be the duty of the board of trustees, at the meeting called for that purpose, to adopt a budget to cover all expenditures for the independent school district for the next succeeding fiscal year. Any taxpayer of the district may be present and participate in the hearing.

§ 23.46. Filing of Adopted Budget

Not later than November 1 of the year for which the budget is adopted, copies of the budget must be filed in the office of the county clerk of the county or counties in which the district is located and with the Central Education Agency. All copies must be prepared according to the rules and regulations established by the State Board of Education, upon forms furnished by the Central Education Agency.

§ 23.47. Effect of Adopted Budget; Amendments

(a) No public funds of the independent school district shall be expended in any manner other than as provided for in the budget adopted by the board of trustees, but the board shall have the authority to amend a budget or to adopt a supplementary emergency budget to cover necessary unforeseen expenses.

(b) Copies of any amendment or supplementary budget, when adopted, shall be filed with the county clerk of the county or counties in which the district is situated and with the Central Education Agency. Any amendment or supplementary budget must be prepared on forms prescribed and furnished by the Central Education Agency.

§ 23.48. Accounting System; Report

(a) A standard school fiscal accounting system must be adopted and installed by the board of trustees of each independent school district. The accounting system must be keyed to and correlated with the classifications in the budget with respect to purposes of disbursements and sources of receipts.

(b) The accounting system must meet at least the minimum requirements prescribed by the State Board of Education and approved by the state auditor.

(c) Record must be kept of all expenditures made and all income received during the fiscal year for which a budget is adopted. A report of the disbursements and receipts for the preceding fiscal year shall be filed with the Central Education Agency on forms provided by the agency, at the time the budget for the current fiscal year is filed.

§ 23.49. Review by Department of Education

The budget and fiscal reports filed with the Central Education Agency shall be reviewed and analyzed by the staff of the State Department of Education. The fiscal data collected shall be used by the department in the preparation of school fiscal reports to be submitted to the governor and the legislature.

§ 23.50. Loss of Accreditation

The agency shall drop from the list of accredited schools any district which fails to comply with the provisions of this subchapter or with the rules and regulations of the State Board of Education pursuant thereto.

SUBCHAPTER D. TREASURER OF DEPOSITORY

§ 23.61. Treasurer or Depository

(a) The treasurer or depository of an independent school district having 150 scholastics or more shall be that person or corporation who offers satisfactory bond or other security, as provided in this subchapter, and the best bid of interest on the average daily balances or time deposits for the privilege of acting as treasurer.

(b) The treasurer of depository when selected as provided above shall serve for a term of two years and until his successor shall have been duly selected and qualified.

§ 23.62. Bond

(a) Unless the board of trustees of an independent school district elects to accept a deposit of securities in lieu of a bond, as authorized by Section 23.63 of this code, the treasurer or depository of the independent school district shall be required to make a satisfactory bond as herein specified.

(b) When the bond is a personal bond, it shall be in an amount equal to the estimated amount of the total receipts coming annually into the hands of the treasurer. When the bond is executed by a surety company or is a bond other than a personal bond, it shall be in an amount equal to the highest estimated daily balance for the current biennium as determined by the governing board of the independent school district.

(c) No premium on any bond shall be paid out of the funds of the independent school district.

(d) The bond shall be payable to the president of the board of trustees and his successors in office and conditioned:

(1) that the treasurer shall faithfully discharge the duties of his office and make payment from the funds received by him upon draft of the president of the school board drawn upon order, duly entered, of the board of trustees; and

(2) that the treasurer shall safely keep and faithfully disburse all funds coming into his hands as treasurer and shall faithfully pay over to his successor all balances remaining in his hands.

(e) When the board of trustees of the independent school district has approved the treasurer's bond, the president of the board shall notify the State Department of Education by filing a copy of the bond with the department.

§ 23.63. Deposit of Securities

(a) The board of trustees of an independent school district may, in lieu of the bond specified in Section 23.62 of this code, accept a deposit of approved securities as provided by this section.

(b) Such securities may include bonds of the United States, or bonds of the State of Texas, or bonds of any county, city, town, or independent school district in the state, or anticipation tax warrants and/or anticipation tax notes legally issued by the governing body of the independent school district.

(c) Such securities shall be deposited as the board of trustees of the independent school district may direct in an amount sufficient adequately to protect the funds of the school district in the hands of the selected treasurer.

(d) When the board of trustees of the independent school district has approved the treasurer's deposit of securities, the president of the board of trustees shall notify the State Department of Education by filing a copy of the depository pledge contract listing the securities on deposit.

§ 23.64. Records

Each treasurer or depository receiving or having control of the school funds of an independent school district shall keep a full and separate itemized account of each different classes of school funds coming into his hands and shall make his records available for audit.

[Sections 23.65-23.70 reserved for expansion]

SUBCHAPTER E. SCHOOL DEPOSITORY ACT

§ 23.71. Short Title

This subchapter may be cited as the School Depository Act.

§ 23.72. Adoption of Act Optional

Any independent school district of more than 150 scholastics may elect by a majority vote of its board of trustees to adopt the terms and provisions of this subchapter. Thereafter, the school depository or depositories for said school district shall be selected in accordance with the terms and provisions of this subchapter.

§ 23.73. Definitions

As used in this Act, unless otherwise clearly indicated by the context:

(1) "School district" means any public independent school district of more than 150 scholastics;

(2) "Bank" means a state bank authorized and regulated under the laws of the state pertaining to banking and in particular authorized and regulated by the Banking Department Self-Support and Administration Act, or a national bank authorized and regulated by federal law.

(3) "Time Deposit," including "time certificate" and "time deposit-open account," have the same definitions as adopted for said terms by the Board of Governors of the Federal Reserve System.

(4) "Approved securities" means bonds of the United States, bonds of the State of Texas, bonds of the counties of the State of Texas, bonds of school districts of the State of Texas, bonds of any town or city of the State of Texas, and bonds of any other district or political subdivision of the State of Texas.

§ 23.74. Depository Must be a Bank

A school depository under the terms and provisions of this subchapter shall be a bank, if any, located within the territory of the school district selecting said depository, and, if none, a bank within the territory of an adjoining school district.

§ 23.75. Trustee as Stockholder, Etc., of Bank

In the event a member of the board of trustees of a school district is a stockholder, officer, director, or employee of a bank located in said school district, or a bank located in an adjoining school district, said bank shall

not be disqualified from bidding and becoming the school depository of said school district provided said bank is selected by a majority vote of the board of trustees of said school district or a majority vote of a quorum when only a quorum eligible to vote is present. Common law rules in conflict with the terms and provisions of this Act are hereby modified as herein provided. If a member of the board of trustees of a school district is a stockholder, officer, director, or employee of a bank that has bid to become the depository for said school district, said member of said board of trustees shall not vote on the awarding of the depository contract to said bank and said school depository contract shall be awarded by a majority vote of said board of trustees as above provided who are not either a stockholder, officer, director, or employee of the bank receiving said school district depository contract.

§ 23.76. Term: Bond

The depository bank when thus selected shall serve for a term of two years and until its successor shall have been duly selected and qualified, and shall give bond as hereinafter provided. Said term shall commence on September 1 and terminate on August 31. No premium on any depository bond shall be paid out of funds of the school district.

§ 23.77. Bid Notices; Bid Form

The board of trustees of any school district adopting this subchapter shall, at least 30 days prior to the termination of the then current depository contract, mail to each bank located in said school district, if any, otherwise to each of the banks located in an adjoining school district, a notice stating the time and place in which bid applications will be received for school depository. Attached to said notice shall be a uniform bid blank which shall be substantially in the following form:

Board of Trustees

_____ School District

Gentlemen:

The undersigned, a state or national banking corporation, hereinafter called bidder, for the privilege of acting as Depository of the _____ School District of _____ County, Texas, hereinafter called District, for a term of two years, beginning September 1, 19____, and ending August 31, 19____, and for the further privilege of receiving all funds or only certain funds to be designated by the District if more than one depository is selected, at its option to place on demand or interest bearing time deposits as provided in the School Depository Act, bidder will pay District as follows:

1. _____% interest per annum compounded quarterly on time deposits having a maturity¹ date 90 days or more after the date of deposit or payable upon written notice of 90 days or more.
2. _____% interest per annum compounded quarterly on time deposits having a maturity date less than 90 days after the date of deposit or payable upon written notice of less than 90 days.
3. _____% interest rate to be paid by District to Bidder on overdrafts or their equivalent. (Overdraft as used in this paragraph shall mean that District does not have a compensating balance in other funds or accounts in the then current school year in Bidder's bank.)

4. Bidder will charge District \$_____ for keeping District's deposit records and accounts for the period covered by this bid. Included in and required as a part of this duty are the following:

(a) Preparation of monthly statements showing debits, credits and balance of each separate fund.

(b) Preparation of all accounts, reports, and records as provided in Section 20.00, Article 2919g,² Texas Education Code.

(c) Preparation of such other reports, accounts and records which may, from time to time, be required by District in order to properly discharge the duties as provided by law of Depository.

(d) Furnishing of the quantity, quality and type of checks necessary for District's use during the period for which this bid is submitted.

5. District reserves the right to invest any and all of its funds in bonds of the United States of America or other type of bonds, securities, certificates, warrants, etc., which District is authorized by law to invest in. Bidder will and shall aid and assist District in any investment without charge.

6. Bidder shall furnish to District a bond in the amount and conditioned as provided in The School Depository Act, or in lieu thereof pledged approved securities in an amount sufficient as determined by the Board of Trustees of District to adequately protect the funds of the District deposited with Bidder. District reserves the right to alter from time to time the required amount of securities to be sufficiently adequate to protect said funds and to approve or reject the securities so pledged. Bidder shall have the right and privilege of substituting securities upon obtaining the approval of District, provided the total amount of securities deposited is adequate as herein provided.

7. This bid was requested by District and is made by Bidder with the expressed agreement and understanding that District reserves the right to reject any and all bids and the further right that if any portion or provision of this bid and/or any contract between Bidder and District entered into by virtue thereof is invalid, the remainder of this bid and/or resulting contract at the option of the District shall remain in full force and effect, and not be affected by said invalid portion or provision.

8. Attached hereto is certified, or Cashier's Check in the sum of \$_____ payable to the _____ School District. If this bid to be Depository of all District funds or to be Depository of only a designated amount of said funds, is accepted, said check is to secure the performance of said bid, and if Bidder fails to enter into a contract with District as provided in bid, then said check shall be retained by District as liquidated damages for said failure. In the event this bid is not accepted, the above check is to be returned to the Bidder immediately after the award is made.

DATED this the _____ day of _____, 19____.

BIDDER _____

BY _____

TITLE _____

1. So in enrolled bill.

2. Repealed.

§ 23.78. Award of Contract

(a) If tie bids are received for said school depository contract and each of said tie bidders has bid to pay the school district the maximum interest rate allowed by law by the Board of Governors of the Federal

Reserve System and the Board of Directors of the Federal Deposit Insurance Corporation, and said tie bids are otherwise equal in the judgment and discretion of the board of trustees of said school district and two or more of said tie bidders in the judgment and discretion of said school district have the facilities and ability to render the necessary services of school depository for said school district, said board of trustees may award said depository contract in accordance with any one of the following methods:

(1) Award said contract, at the discretion of the board of trustees, to any one of said tie bidders;

(2) Determine by lot which of said tie bidders shall receive said depository contract; or

(3) Award a depository contract to each of said tie bidders or to as many of said tie bidders as the board of trustees may select.

(b) Said board of trustees shall have the discretion from time to time during the period of said contract to determine the amount of funds to be deposited in each of said depository banks and to determine the account services which are to be rendered by each of said banks in its capacity as school depository. Provided, however, that all funds received by the district from or through the Central Education Agency shall be deposited and retained in one depository bank to be designated by the district as its depository for said funds.

(c) The board of trustees of the school district shall at a regular meeting or special meeting consider all bids received in accordance with the terms and provisions of the above-mentioned procedure; and in determining the highest and best bid, or in case of tie bids as above provided the highest and best tie bids, said board of trustees shall consider the interest rate bid on time deposits, charge for keeping district accounts, records, and reports and furnishing checks, and the ability of the bidder to render the necessary services and perform the duties as school depository, together with all other matters which in the judgment of said board of trustees would be to the best interest of said school district. The board of trustees of said school district shall have the right to reject any and all bids.

§ 23.79. Depository Contract; Bond

(a) The bank or banks selected as school depository or depositories in accordance with the terms and provisions of this Act, and the school district shall make and enter into a depository contract or contracts, bond or bonds, or such other necessary instruments setting forth the duties, responsibilities, and agreements pertaining to said depository, and said depository bank shall attach to said contract and file with the school district a bond in an amount equal to the estimated highest daily balance to be determined by the board of trustees of the district of all deposits which the school district will have in said depository. Said bond shall be payable to the school district and shall be signed by said depository bank and by some surety company authorized to do business in the state.

(b) Said bond shall be conditioned for the faithful performance of all duties and obligations devolving by law upon said depository, and for the payment upon presentation of all checks or drafts upon order of the board of trustees of said school district, in accordance with its orders duly entered by said board of trustees according to the laws of the State of Texas; for the payment upon demand of any demand deposit in said depository; for the payment after the expiration of the period of notice

required, of any time deposit in said depository; and that said school funds shall be faithfully kept by said depository and accounted for according to law and shall faithfully pay over to the successor depository all balances remaining in said accounts. Said bond and the surety thereon shall be approved by the board of trustees of said school district and a copy of said depository contract and bond shall be filed with the State Department of Education.

(c) In lieu of the above-mentioned bond, the depository bank shall have the option of depositing or pledging with the school district or with a trustee designated by the school district approved securities in an amount sufficient to adequately protect the funds of school district deposited with depository bank. The school district shall designate from time to time the amount of approved securities to adequately protect district. The depository bank shall have the right and privilege of substituting approved securities upon obtaining the approval of the school district.

§ 23.80. Investment of District Funds

The school district shall have the right to place on time deposits or to invest any and all of its funds in bonds of the United States of America or other types of bonds, securities, certificates, warrants, etc., which the district is authorized by law to invest in.

§ 23.81. Depository as Treasurer

The bank or banks selected as school depository or depositories under the terms and provisions of this subchapter shall also be known as treasurer for said school district, and all depository duties of a treasurer of a school district provided in other statutes shall be performed by said depository bank or banks without any additional charge.

§ 23.82. Effect of Subchapter

This subchapter shall be an alternate method of selecting a school depository or depositories and shall be applicable only to the districts adopting same as provided in Section 23.72 of this code. A district adopting this subchapter shall select its depository or depositories in accordance with the terms and provisions hereof, and all other statutes pertaining to the selection of a depository shall not apply. A district adopting this subchapter may, by majority vote of its board of trustees, discontinue the selection of its depository as herein provided.

[Sections 23.83–23.90 reserved for expansion]

SUBCHAPTER F. ASSESSMENT AND COLLECTION OF TAXES

§ 23.91. Assessor and Collector: Powers and Duties

The assessor and collector of taxes of an independent school district shall have the same power and shall perform the same duties with reference to the assessment and collection of taxes for free school purposes that are conferred by law upon the assessor and collector of taxes in and for any incorporated city, town, or village, or upon the person or officer legally performing the duties of such assessor and collector.

§ 23.92. Alternate Methods of Selection

The board of trustees of each independent school district other than a municipal school district shall select an assessor and collector of taxes by one of the applicable procedures authorized by this subchapter.

§ 23.93. Assessor-Collector Appointed by Board

(a) The board of trustees of any independent school district may appoint an assessor-collector of taxes for the district. The appointment shall be for a term not to exceed three (3) years as determined by the board.

(b) The assessor-collector shall give bond, to be executed by a surety company authorized to do business in the State of Texas, in an amount sufficient adequately to protect the funds of the school district in the hands of the assessor-collector. In no event shall the bond be less than twice the largest amount collected at any one time in the preceding fiscal or calendar year, or \$50,000, whichever is smaller, to be determined by the governing body in such school district. The conditions of the bond payable to and to be approved by the president of the board, shall be that the assessor-collector will faithfully discharge the duties of his office and that he will pay over to the treasurer of the independent school district all funds coming into his hands by virtue of his office as assessor-collector of taxes for the independent school district.

(c) The assessor-collector so appointed shall assess the taxable property within the limits of the independent school district within the time and in the manner provided by existing law.

(d) The assessment shall be equalized by a board of equalization appointed for that purpose by the board of trustees of the independent school district. When assessments are so equalized, the assessor-collector shall prepare the tax rolls of said district.

(e) The assessor-collector for such service shall receive such compensation as the board of trustees may allow, not to exceed four percent of the total amount of taxes received by him.

§ 23.94. Designation of County Tax Assessor-Collector

(a) The board of trustees of any independent school district may designate as its assessor and collector of taxes for the school district the county tax assessor-collector.

(b) The property in the school district may be assessed at a greater rate of value than the same property is assessed for state and county purposes.

(c) When the county tax assessor and collector is required to assess and collect the taxes of an independent school district, the board of trustees of such school district may contract with the commissioners court of said county for payment for such services as they may see fit to allow, not to exceed the actual cost incurred in assessing and collecting said taxes.

(d) The county official so selected shall turn over all independent school district taxes collected by him to the depository of the independent school district.

§ 23.95. Appointment of Assessor Only

(a) The board of trustees of any independent school district may appoint an assessor of taxes and by resolution determine and provide that the taxes shall be collected by either the county tax collector or the tax

collector of any city or town wholly or partly within the limits of the school district.

(b) The assessor of taxes shall assess the taxable property within the limits of the independent school district and, when the assessment has been equalized by a board of equalization appointed by the board of trustees of the school district for that purpose, shall prepare the tax rolls of the district and sign and certify them to the county or city officer designated to collect the taxes.

(c) The assessor shall receive a fee of two percent of the whole amount of taxes assessed by him as shown by the completed certified tax rolls.

(d) The city or county collector selected by the trustee to collect the taxes for the independent school district shall accept the rolls prepared by the special assessor as provided above.

(e) When the assessor and collector of an incorporated city, or town, is required to assess and collect the taxes of independent school districts, the board of trustees of such school districts may contract with the governing body of said city for payment for such services as they may see fit to allow, not to exceed the actual cost incurred in assessing and collecting said taxes.

(f) The city or county official so selected shall turn over all independent school district funds collected by him to depository of the independent school district.

§ 23.96. Assessment, Collection, and Equalization by City

(a) Any independent school district located entirely or partly within the boundaries of an incorporated city or town may authorize, by ordinance or resolution, the tax assessor, board of equalization, and tax collector of the municipality in which it is located, entirely or partly, to act as tax assessor, board of equalization, and tax collector, respectively, for the district.

(b) The property in the independent school district utilizing the services of such assessor, board of equalization, and collector shall be assessed at not more than the value for which it is assessed for taxing purposes by the municipality.

(c) When the ordinance or resolution is passed making available their services, said assessor shall assess the taxes for and perform the duties of tax assessor for the independent school district; the board of equalization shall act as and perform the duties of a board of equalization for the independent school district; and the collector shall collect the taxes and assessments for, and turn over as soon as collected to the depository of the independent school district, all taxes or money, so collected, and shall perform the duties of tax collector of the independent school district.

(d) In all matters pertaining to such assessments and collections the tax assessor, board of equalization and tax collector shall be authorized to act as and shall perform respectively the duties of tax assessor, board of equalization and tax collector of the independent school district.

(e) When the tax assessor, board of equalization, and tax collector of any municipality have been authorized by ordinance or resolution to act as and perform the duties, respectively, of tax assessor, board of equalization and tax collector of an independent school district located entirely or partly within its boundaries, such included district shall pay the municipality for said services and for such other incidental expenses as are

necessarily incurred in connection with the rendering of such services, such an amount as may be agreed upon by the governing bodies of the municipality and the independent school district.

§ 23.97. Cooperation Between Districts

(a) The trustees of two or more independent school districts may, by a two-thirds vote of each board of trustees participating, consolidate the assessing and collecting of their taxes by appointing one and the same person as assessor-collector for all the districts entering into the agreement.

(b) The appointment shall be for a term not to exceed two years. The boards of trustees may prescribe additional duties and qualifications to those usually required of such officers.

(c) The assessor-collector shall give bond as prescribed in Section 23.93(b) of this code.

(d) The assessor-collector shall receive such compensation as the boards of trustees may fix, not to exceed two percent for assessing and not to exceed two percent for collecting on the total amount of taxes collected.

(e) If the assessor-collector selected is a regularly licensed attorney, the participating boards of trustees may by agreement include in his duties the collecting of delinquent taxes and provide as extra compensation therefor the percentage provided for the collection of delinquent state and county taxes.

§ 23.98. Enforced Collection

(a) Any independent school district may contract with any competent attorney of this state for the collection of delinquent taxes of the independent school district and compensate him for his services in an amount not to exceed that allowed attorneys collecting delinquent taxes for the state and county.

(b) In the enforced collection of taxes the board of trustees of the independent school district shall perform the duties which devolve in such cases upon the city council of an incorporated city or town; the president of the board of trustees shall perform the duties which devolve in such cases upon the mayor of an incorporated city or town; and the county attorney of the county in which the district is located or the city attorney of the incorporated city in which the district or a part thereof is located shall when instructed perform the duties which in such cases devolve upon the city attorney of an incorporated city or town under the provisions of the law applicable thereto.

CHAPTER 24. MUNICIPAL SCHOOL DISTRICTS**Section**

- 24.01. Definition.
- 24.02. Classification.
- 24.03. Government.
- 24.04. Selection of Trustees.
- 24.05. General Powers of Trustees.
- 24.06. Maintenance Tax.
- 24.07. Levy and Collection of Taxes.

Section 24.01. Definition

The term "municipal school district" includes any independent school district existing under the authority of Article VII, Section 3, or Article XI, Section 10, of the Texas Constitution, which is municipally assumed or controlled; regardless of whether the same is a city or town school district, where the boundaries of the district and the city or town are coterminous, or whether it is an extended independent school district, where the city or town has extended its limits for school purposes only.

§ 24.02. Classification

Municipal school districts, regardless of the manner in which they came into existence and regardless of whether or not the boundaries have been extended for school purposes only, are classified as independent school districts. Once a municipal school district has been established, it shall continue to be an independent school district even though the city or town which assumed or accepted control of the school district abolishes its corporate existence as a municipal corporation. Except as specifically provided otherwise in this chapter, municipal school districts shall be governed and shall function in compliance with the general law relative to independent school districts as provided in Chapter 23 of this code.¹

1. Section 23.01 et seq.

§ 24.03. Government

A municipal school district shall be governed in the general administration of its schools by a board of seven trustees, selected as provided in Section 24.04 of this code.

§ 24.04. Selection of Trustees

(a) The trustees of a municipal school district are elected as provided in Chapter 23 of this code¹ unless a municipal school district qualifies for a different method of choosing trustees under Subsection (b) of this section.

(b) Municipal school districts for which the trustees have heretofore been selected by appointment of the city council or board of aldermen are authorized to continue to choose their trustees by appointment of either two or three trustees each year, the number depending on that required to maintain a board of seven members, each appointed for a term of three years, unless and until that authority is removed under the provisions of Subsection (c) of this section.

(c) Any municipal school district in which the trustees are appointed by the city council or board of aldermen, as provided in Subsection (b) of this section, may discontinue that method of selection and provide for the election of school trustees by the following procedure:

(1) A petition signed by 25 percent of the voters of the city or town, the number to be ascertained by the ballots cast at the last regular city election, requesting an election to determine whether or not the school affairs of the city or town shall be directed by an elected school board shall be presented to the mayor;

(2) On receipt of such a petition, the mayor shall order an election to be held on the proposition;

(3) The election shall be conducted according to the general law regulating elections in the city or town; and

(4) If a majority of the votes cast at the election favor the selection of school trustees by election, the mayor shall immediately order an election for the purpose of choosing a board of seven trustees; and the election shall be conducted in the manner provided in Section 23.08, governing the election of trustees of independent school districts; and the terms of the elected trustees shall be determined by lot as upon the creation of an independent school district as provided in Section 23.11 of this code.

1. Section 23.01 et seq.

§ 24.05. General Powers of Trustees

(a) The board of trustees of a municipal school district shall have the general powers and duties prescribed in this section.

(b) The board shall have the exclusive control and management of the schools of the district.

(c) Title to all houses, land, and other property owned, held, set apart, or in any way dedicated to the use and benefit of the public schools of the city or town, whether acquired before or after the establishment of the municipal school district, shall be vested in the board of trustees and their successors in office, in trust for the use and benefit of the public schools in the city or town.

(d) The board shall constitute a body corporate and shall have full power to protect the title, possession, and use of all school property within the limits of the municipal school district, and may bring and maintain suits in law or in equity in any court of competent jurisdiction when necessary to recover the title or possession of any school property adversely held in the district.

(e) Except where specific provision is made with regard to the conducting of the affairs of a municipal school district, the board of trustees of a municipal school district may exercise any power specifically granted or reasonably implied to the board of trustees of an independent school district.

§ 24.06. Maintenance Tax

¹ The governing body of any city or town constituting a municipal school districts shall upon presentation of a proper petition, signed by 50 or a majority of those entitled to vote at such elections, order such election to determine the proposition of the levy of a maintenance tax and/or the issuance of bonds for purposes of its schools. The provision of the laws applicable to other independent school districts relative to and governing maintenance tax and bonds and the holding of elections therefor shall apply, except as provided by this section.

(b) If the vote of the taxpayers is in favor of the tax, then the governing body of the city annually thereafter shall levy and assess on the taxable property in the limits of the municipal school district, by ordinance duly passed and approved, the school tax, not to exceed the rate voted, for the support and maintenance of the public schools and where bonds are voted, for the erection and equipment of public school buildings, in accordance with the requisition furnished.

(c) The board of trustees of the municipal school district shall determine what amount of the tax, in the limit authorized by law and voted by the people or fixed by special charter, will be necessary for the support of the schools and for the erection and equipment of public school buildings for each fiscal year, and the governing body of the city, on requisi-

tion of the board of trustees, annually shall levy and collect the tax, as other taxes are levied and collected.

(d) The school taxes, when collected, shall be placed at the disposal of the school board, and paid monthly to the depository to the account of the board the amount so collected, to be used for maintenance and support of the public school in the municipal district.

1. Paragraph probably should be lettered

(a).

§ 24.07. Levy and Collection of Taxes

(a) The levy of taxes for school purposes in a municipal school district shall be based upon the same assessment of property upon which the levy for other city purposes is based.

(b) Taxes for a municipal school district may be collected as prescribed by either Subsection (c) or Subsection (d) of this section.

(c) The assessor and collector of taxes for the city or town may assess and collect taxes for the municipal school district, in which event:

(1) The taxes for school purposes shall be assessed and collected at the same time and in the same manner as other city taxes are assessed and collected; and

(2) The city assessor and collector of taxes shall receive no other compensation for collecting school taxes than the compensation paid him for assessing and collecting city taxes.

(d) The board of trustees of a municipal school district may contract with the county assessor-collector of taxes to assess and collect the taxes for the municipal school district on property located in the county and subject to the municipal district tax under the following terms and conditions:

(1) The board of trustees, on or before August 1 of each year, shall pass a resolution authorizing the county assessor and collector of taxes to perform this function for the district and setting forth the rate of taxation for bonds and for local maintenance;

(2) A maximum fee of one percent for assessing and one percent for collecting may be paid to the county tax assessor and collector; and

(3) The county tax collector shall make monthly reports of all taxes collected to the depository of school funds for the municipal school district and shall make all other reports required of collectors of taxes for independent school districts.

CHAPTER 25. RURAL HIGH SCHOOL DISTRICTS

Section

25.01. Classification.

25.02. Applicability of Other Laws.

25.03. Government.

25.04. Election and Terms of Trustees.

25.05. Vacancies on the Board of Trustees.

25.06. Organization and Powers of Trustees.

25.07. Assessment and Collection of Taxes.

25.08. Elementary School Districts.

25.09. Consolidated Rural High School District.

Section 25.01. Classification

(a) Rural high school districts shall be classified as common school districts, and other districts, whether common or independent, composing the rural high school district, shall be classified and referred to as elementary school districts.

(b) A rural high school district may be converted into an independent school district as provided in Chapter 19 of this code.¹

1. Section 19.001 et seq.

§ 25.02. Applicability of Other Laws

Except as specifically provided in this chapter or in a particular provision of a general statute, all rural high school districts shall operate and function as other common school districts as provided in Chapter 22 of this code.¹

1. Section 22.01, et seq.

§ 25.03. Government

The control and management of the schools of each rural high school district shall be vested in a board of seven trustees.

§ 25.04. Election and Terms of Trustees

(a) The trustees of a rural high school district shall be elected in the manner provided for the election of trustees of a common school district except as may be otherwise provided in this chapter.

(b) At least one voting box shall be provided in each elementary district composing the rural high school district.

(c) The trustees shall be elected by the qualified voters of the district at large, but if the district is composed of seven or fewer elementary districts, at least one trustee must be a resident of each original elementary district included in the rural high school district;

(d) In a rural high school district consisting of more than 100 square miles of territory or embracing more than seven districts, the board of trustees shall be elected from the district at large.

(e) In the event a rural high school district is created at a time other than the trustee election time, it shall be the duty of the county governing board to appoint a board of trustees as prescribed herein, to serve until the next regular election day for trustees of common school districts.

(f) Elections shall be held annually. At the first election after the establishment of the rural high school district the trustees shall determine by lot the terms for which they shall serve, and those drawing numbers one, two, and three shall serve for a term of one year, those drawing numbers four and five shall serve for a term of two years, and those drawing numbers six and seven shall serve for a term of three years, or until their successors are elected and qualified. At all subsequent elections either two or three trustees shall be elected to succeed the trustees whose terms expire at that time.

(g) The regular term for trustees of a rural high school district shall be three years.

§ 25.05. Vacancies on the Board of Trustees

Any vacancy on the board of trustees of a rural high school district shall be filled for the unexpired term by appointment by the members of the board remaining after the vacancy.

§ 25.06. Organization and Powers of Trustees

(a) The board of trustees of a rural high school district shall organize by electing a president and a secretary, each of whom shall be a member of the board.

(b) All funds of every nature to which a rural high school district may be entitled shall be paid out on warrants issued by the secretary and signed by the secretary and president of the board and approved by the county superintendent.

(c) The secretary shall keep an itemized account of all receipts and disbursements in a well-bound book owned and acquired by the district, and his accounts shall be approved by the county superintendent.

(d) All funds belonging to a rural high school district shall be deposited in the county depository of the county having jurisdiction of the district.

(e) The board of trustees of a rural high school district shall have those powers granted to the boards of trustees of other common school districts and shall be subject to the same restrictions as other common school districts except as provided herein.

§ 25.07. Assessment and Collection of Taxes

(a) Except as provided in this chapter, the taxes for a rural high school district shall be assessed and collected by the county tax assessor-collector in the manner provided for the assessment and collection of taxes for a common school district, but no tax shall be levied and no bonds assumed or issued by the board of trustees of the rural high school district until after election in accordance with the law governing such elections in independent school districts.

(b) The board of trustees of a rural high school district may appoint an assessor of taxes who shall assess the taxable property within the limits of the district and the assessment shall be equalized by a board of equalization composed of three members, legally qualified voters residing in the district, appointed by the board of trustees, in which event:

(1) The tax assessor so appointed shall make a complete list of all assessments made by him and when the list is approved, shall submit it to the county tax collector not later than September 1 of each year, and the tax assessor shall receive compensation for his services as the trustees of the district may allow, not to exceed two percent of the taxes assessed by him;

(2) The board of equalization shall have the same powers and be subject to the same restrictions as apply to such boards in independent school districts; and

(3) The county tax assessor-collector shall collect the taxes and shall deposit the funds so collected in the county depository to the credit of the rural high school district, and he shall be compensated at the rate of one-half of one percent for his services for collecting the taxes.

(c) If a rural high school district has an assessed valuation in excess of \$4,000,000 and an average daily attendance of more than 550 students during the preceding school year, the board of trustees of the rural high school district may, by majority vote, appoint a collector of taxes for the district who shall perform the duties ordinarily required of a county tax collector who collects taxes for a common school district. He shall receive such compensation for his services as the trustees of the district may allow, not to exceed five percent of the total amount of taxes re-

ceived by him. He shall give bond in the estimated amount of taxes coming annually into his hands. The bond shall be payable to and approved by the president of the board of trustees and conditioned that he will faithfully discharge his duties and will pay over to the depository for the rural high school district all funds coming into his hands by virtue of his office. Any premium on the bond shall be payable out of funds of the district.

(d) If a rural high school district is situated in or subject to the jurisdiction of a county having a population of 350,000 or more, according to the last preceding federal census, the board of trustees of the rural high school district may, by majority vote, choose to have the taxes for the district assessed and collected by an assessor-collector appointed by the board and to have the taxes equalized by the board of equalization of the district. In the event the board so chooses, the following regulations shall apply:

(1) The assessor-collector appointed by the board shall assess the taxable property within the limits of the district in the time and manner provided by the general law applicable to taxation within the district, insofar as the law is applicable, and collect the taxes;

(2) The assessor-collector shall receive such compensation for his services as the board of trustees may allow;

(3) The assessor-collector shall give bond, fulfilling the qualifications that the bond shall be:

(A) executed by a surety company authorized to do business in the State of Texas;

(B) in an amount determined by the board of trustees to be sufficient adequately to protect the funds of the rural high school district;

(C) payable to the president of the board of trustees of the rural high school district and approved by the board of trustees; and

(D) conditioned that the assessor-collector will faithfully discharge his duties and will deposit in the county depository to the credit of the rural high school district all funds coming into his hands by virtue of his office; and

(4) The board of trustees may also appoint one or more deputy tax assessor-collectors for the district who shall receive for their services such compensation as the board may allow.

(e) Local taxes previously authorized by a district or districts included in a rural high school district shall be continued in force until such time as a tax election in the rural high school district may authorize a uniform tax for the benefit of the rural high school district.

§ 25.08. Elementary School Districts

(a) The elementary schools in each rural high school district shall be classified by the county board of school trustees, which shall at the same time designate the number of grades to be taught in the elementary schools. When the classification is made, the board of trustees of the rural high school district shall maintain each elementary school for the same length of term as the other schools in the rural high school district.

(b) The board of trustees of a rural high school district shall have the right to be heard by the county board of school trustees relative to the classification of schools within the district and shall have the right of appeal from that classification to the commissioner of education.

(c) No elementary school district shall be abolished, annexed, or consolidated with any other elementary school district except in the following manner:

(1) An elementary school district may be abolished by the board of trustees of the rural high school district if the district has had an average daily attendance of fewer than 20 pupils during the preceding school year;

(2) An elementary school district whose school(s) have been discontinued may be annexed to any other contiguous elementary school district within the rural high school district by the county board of school trustees acting on the petition of the board of trustees of the rural high school district, in which event:

(A) The annexation shall be for all purposes and the former elementary district so annexed will then be regarded as abolished; and

(B) The board of trustees of the rural high school district shall have authority to move or otherwise dispose of the buildings and other property of the abolished elementary district in any manner deemed by the board to be proper and beneficial to the rural high school district; and

(3) Any number or all of the component elementary districts within a rural high school district may be consolidated by an election following the procedure set out in Subchapter H of Chapter 19 of this code¹ and under the following terms:

(A) If all of the elementary districts within the rural high school district are consolidated into a single elementary school district identical in area with that of the rural high school district, the consolidation shall not affect the status of the district as a rural high school district; and

(B) If fewer than all of the component elementary districts petition for election to consolidate, they must be contiguous elementary districts.

1. Section 19.231 et seq.

§ 25.09. Consolidated Rural High School District

When all the component elementary districts within a rural high school district have been consolidated into a single elementary district and all scholastics in the district are transferred to a central school in the rural high school district where both elementary and high school grades are maintained under one administration, the elementary district and the rural high school district may be consolidated in the manner provided in Subchapter H of Chapter 19 of this code.¹ The consolidated district may maintain its status as a rural high school district or it may be converted into an independent school district in the manner provided in Subchapter G of Chapter 19 of this code.²

1. Section 19.231 et seq.

2. Section 19.201 et seq.

**CHAPTER 26. REHABILITATION DISTRICTS
FOR HANDICAPPED PERSONS****SUBCHAPTER A. GENERAL PROVISIONS****Section**

26.01. Definitions.

[Sections 26.02–26.10 reserved for expansion]

SUBCHAPTER B. CREATION OF DISTRICT

- 26.11. Purpose.
- 26.12. Creation of District.
- 26.13. Petition.
- 26.14. Election.
- 26.15. Proposition to Voted Upon.¹
- 26.16. Voters.
- 26.17. Results of Election.
- 26.18. Annexation of New Counties.

[Sections 26.19–26.30 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

- 26.31. Board of Directors.
- 26.32. Initial Directors.
- 26.33. Term of Office for Initial Directors.
- 26.34. Subsequent Selection of Directors.
- 26.35. Term of Officer for Successors.
- 26.36. Oath of Office.
- 26.37. Officers.
- 26.38. Compensation.
- 26.39. Meetings.
- 26.40. Rules of Procedure; Quorum.
- 26.41. Board Office.

[Section 26.42–26.60 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES

- 26.61. Suits.
- 26.62. General Powers of Board of Directors.
- 26.63. Residential Program; Curriculum; Trainees.
- 26.64. Admission.
- 26.65. Exceptional Children Teacher Units.
- 26.66. Tuition; Fees.
- 26.67. Donations; Gifts; Etc.
- 26.68. Federal Aid.
- 26.69. Taxes.
- 26.70. Group Residence Centers.
- 26.71. Employment of Trainees.
- 26.72. Additional Powers.

1. So in enrolled bill.

SUBCHAPTER A. GENERAL PROVISIONS**Section 26.01. Definitions**

As used in this chapter:

(1) "Handicapped person" means a physically handicapped person or a mentally retarded person, not including blind, whose educational or vocational opportunities are limited as the result of physical or mental limitations.

(2) "Physically handicapped person" means any person six years of age or over, of reasonably normal educable mentality, whose body functions or members are so impaired that they cannot be safely or adequately educated or trained for gainful employment in regular classes of normal persons or without special training and special services not usually available in public schools or without training cannot enjoy independent living.

(3) "Mentally retarded person" means any person six years of age or older, who, because of retarded intellectual development, cannot be educated safely and adequately in the public schools with normal children or in readily accessible training institutions in the home environs of such person, but who may be expected to benefit from special education or training facilities designed to make him economically useful and socially adjusted.

(4) "District" (unless otherwise indicated by the context) means any rehabilitation district as described in this chapter.

(5) "Trainee" means any handicapped person who is or has been enrolled in a district.

(6) "Board of directors" means the board of directors of any district.

(7) "Independent living" shall mean any degree of improvement achieved by a handicapped person whether by freedom from institutional or attendental care or reduction of such care.

[Sections 26.02-26.10 reserved for expansion]

SUBCHAPTER B. CREATION OF DISTRICT**§ 26.11. Purpose**

Rehabilitation districts may be created to provide education, training, special services, and guidance to handicapped persons peculiar to their condition and needs, to develop their full capacity for usefulness to themselves and society, and to prevent them from becoming or remaining, in whole or in part, dependent on public or private charity.

§ 26.12. Creation of District

A rehabilitation district may be established by voters of a county, or a combination of contiguous counties, containing taxable property, the total assessed valuation of which must be not less than \$200,000,000, according to the most recent tax rolls of the county or combination of counties making up the proposed district, as described in this subchapter.

§ 26.13. Petition

A petition signed by a number of qualified property taxpaying voters in each county in the proposed rehabilitation district equal to not less than one percent of the total number of votes cast for governor in such county at the most recent election for governor held therein, must be filed with the commissioners courts of the respective counties. The signatures on the petition must be separated according to the counties in which the signers reside, under appropriate headings indicating the county of residence. If there is more than one county in the proposed district, the petition must be in two or more parts, one part for each county to be included in the district. The name of the proposed district must be set forth in the petition, and must include the words, "Rehabilitation District for Handicapped Persons." The petition must be dated, and must pray for an election, to be held not less than 30 nor more than 60 days after the date of the petition, to determine whether or not there shall be created a rehabilitation district for handicapped persons, with power to levy taxes to acquire or construct residence centers and such other facilities, if any, as the board of directors may deem necessary or proper for the training and guidance of handicapped trainees and to maintain and operate said district.

§ 26.14. Election

Promptly on receipt of a petition, each commissioners court must order an election to be held in his county on the date prayed for in the petition. The order must designate polling places, appoint election officers, provide supplies for the election, and set forth the name of the proposed rehabilitation district as specified in the petition. The election precincts must conform to the regular election precincts of each county. Each commissioners court must cause notice of election to be published once each week for two alternate weeks in one or more newspapers having general circulation in its county, the first publication to be at least 21 days before the election, and must cause notice to be posted in a public place in each commissioners precinct, and at the courthouse door of its county. If a regular session of a commissioners court receiving a petition is not to be held in time to order the election and give notice of it, the county judge of that county must, upon the petition being called to his attention, timely call a special session of the commissioners court for this purpose. Except as herein provided, the election in each county shall be conducted in accordance with the general laws of Texas.

§ 26.15. Proposition to be Voted Upon

The proposition shall be submitted at the election in each county, and the ballots shall be printed to provide for voting for or against the proposition:

"The creation of the rehabilitation district for handicapped persons, with power to levy taxes for residence centers and such other facilities, if any, as the board of directors may deem necessary or proper for the training and guidance of such persons and for maintenance and operation of said district."

§ 26.16. Voters

Only qualified voters who reside and own taxable property in the county in which they offer to vote and who have duly rendered their property for taxation are eligible to vote.

§ 26.17. Results of Election

(a) Within 10 days after the election, each commissioners court must make a canvass of the returns and declare the results of the election. If a majority of those voting in the election in each county vote for the proposition, the establishment of a rehabilitation district is thereby effected. If the proposition fails to carry in any county, the formation of the rehabilitation district in counties in which it passed is not affected, unless the counties in which it passed are not contiguous, or do not have a total assessed valuation of property of \$200,000,000, according to their most recent tax rolls, in which case no rehabilitation district can be established.

(b) If the election does not create a rehabilitation district, no subsequent election for the creation of a rehabilitation district may be had in the affected counties within one year of the date of the election.

§ 26.18. Annexation of New Counties

(a) Any county or combination of counties, contiguous to an existing rehabilitation district may be annexed to it and become a part of it by following the procedures in and meeting the requirements of Subsections (a), (b), and (d) of this section, with the exceptions as described in this section.

(b) The petition in Section 26.13 of this chapter must be signed by a number of qualified property taxpaying voters in each county in which annexation is desired equal to one percent of the number of votes cast for governor in such county at the most recent general election for governor held therein. The petition must contain the name of the district to which annexation is desired, and must pray for an election to determine whether or not the county shall be annexed to the rehabilitation district.

(c) The proposition shall be voted upon in an election held under this section, and the ballots shall be printed to provide for voting for or against the proposition:

“Annexation to (here insert the name of the rehabilitation district).”

(d) The commissioners court election order in Section 26.14 of this chapter, must set forth the name of the rehabilitation district to which annexation is proposed.

(e) Within 10 days after the election, the commissioners court of each county in which there was an election, must canvass the returns and declare the results of the election in that county, and shall forthwith certify the results of such election to the board of directors of such existing district. In each county, if any, in which a majority of those voting at the election vote for the proposition, the annexation of such county to said rehabilitation district shall be thereby effected.

(f) The provisions of this chapter prescribing the qualifications of electors to vote in elections to create rehabilitation districts shall apply to elections for the annexation of counties to such rehabilitation districts; and all of the provisions of this chapter relating to the number and classes of directors of said rehabilitation district in each county; the manner of their initial and subsequent selection; the manner of determining the initial terms of office, and fixing the regular terms of office of directors, as provided for in this chapter concerning the original district, shall be applicable to each annexed county.

[Sections 26.19–26.30 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

§ 26.31. Board of Directors

The board of directors of a district shall be composed of one director from each county commissioners precinct located in the district, and one director at large for each county, and in addition, one director at large for each 50,000 inhabitants, or major fraction of such number of inhabitants, in each county in the special school district.

§ 26.32. Initial Directors

Within 30 days after the election creating the district:

(1) each county commissioner from each precinct in the district must recommend to the county judge of his county, one director, and the county judge must appoint the recommended person director; and

(2) the county judge must appoint the directors at large authorized for each county by Section 26.11 of this code.

§ 26.33. Term of Office for Initial Directors

(a) The four directors selected from the commissioners precincts of each county must determine by lot, in a manner to be prescribed by the board of directors, which two shall hold office for a long term and which two for a short term.

(b) If there is more than one director at large from any county, half of them must serve a long term and half a short term, as also determined by lot. If there is an odd number of directors at large from any county, the majority of them must serve for the long term and the minority of them for the short term. If there is only one director at large from any county, he shall serve a short term.

(c) The term of office for those directors serving a short term runs until the first Saturday in April of the second calendar year after the calendar year in which they were appointed. The term of office for those directors serving a long term runs until the first Saturday in April of the fourth calendar year after the calendar year in which they were appointed. The term of office for an initial director from an annexed county must be shortened one year, if necessary, to make elections to his office coincide with the elections for directors in the other counties in the district.

(d) The determinations by lot in Subsections (a) and (b) of this section must be accomplished at the first meeting of the initial board of directors of the first meeting after an annexation, or as soon thereafter as is practicable.

(e) The board of directors must cause a permanent record to be made and preserved of the terms of office of each appointed director determined by lot as herein provided.

§ 26.34. Subsequent Selection of Directors

(a) At the expiration of the term of office of each director from a commissioners precinct, his successor must be elected at an election held in that commissioners precinct at the same time, and by the same election officers as provided for the election of the county school trustees of that county, except that the names of the candidates for the board of directors shall appear on a ballot in every voting precinct in the commissioners

precinct in which the candidate is running, provided that all such elections must be called by the board of directors, who must give public notice of elections in advance thereof, in a manner to be determined by the board of directors, to call the attention of the voting public thereto. The forms of ballots to be used conformable to general law, may also be determined by the board of directors, and at the discretion of the board of directors, the same ballot for the election of county trustees may be used for the election of directors. If there is no election for county trustees on the first Saturday in April when the election of directors of a district is to be held the election shall nevertheless be called and held for district directors from commissioners precincts whose terms expire on said date. The commissioners court of each county in which any election of directors is held must receive and canvass the returns thereof, and declare the results thereof, at the same time and in the same manner as provided by law in the case of the election of county school trustees, and must forthwith certify the results thereof, at the same time and in the same manner as provided by law in the case of the election of county school trustees, and must forthwith certify the results of the election to the board of directors. The district must pay its pro rata part of the expenses of the election of its directors to the commissioners court of the county affected.

(b) At the expiration of the term of office of each director at large, the county judge of the county from which the director was appointed must appoint his successor.

(c) Vacancies in the offices of directors must be filled by appointment by the original appointing powers that appointed the initial directors for the unexpired term.

§ 26.35. Term of Office for Successors

The terms of office of all directors after those initially appointed shall be for four years.

§ 26.36. Oath of Office

Every director and every officer, whether appointed or elected, must, before assuming the duties of his office, qualify by taking the official oath prescribed for state officers.

§ 26.37. Officers

(a) At the first meeting of the initial board of directors, it must select from among its members, a president and a vice president, and must also select a secretary and a treasurer, who need not be directors. The secretary and treasurer shall have and perform duties and powers as are usually incident to their offices, in the case of private corporation, and such other duties and powers as may be provided by the board of directors. The secretary and treasurer may be the same person.

(b) The treasurer must execute a bond, with good and sufficient surety or sureties, in an amount to be determined by the board of directors, payable to the president of the board of directors, or his successors in office conditioned that the treasurer will faithfully perform the duties of his office, and faithfully account for all sums of money or other property belonging to the district coming into his hands as treasurer. The amount of the bond may, at any time, be increased or decreased by the board of directors, according as they may deem necessary for the protection of the property and funds of the district for which the treasurer is accountable.

The premiums, if any, for such bond or bonds shall be payable out of funds of the district.

(c) At the first meeting following each election or appointment of directors, the president and vice president's terms of office shall end, and the board of directors must again select a president and vice president.

(d) The secretary and the treasurer shall hold office at the will and pleasure of the board of directors.

(e) The board of directors may appoint assistant secretaries as it may deem necessary for the proper conduct of the duties of that office.

§ 26.38. Compensation

The board of directors may authorize the payment of actual expenses of directors (including travel expenses) incurred by directors in attending regular or special meetings, or otherwise rendering services of the district on the authority and at the direction of the board of directors. The treasurer and secretary, and any assistant secretaries shall receive such compensation, if any, as may be determined by the board of directors.

§ 26.39. Meetings

The first meeting of the initial board of directors shall be within 21 days of the time the directors are appointed, at a time and place appointed by the county judge of the county of the district containing the greatest population according to the most recent officially proclaimed federal census. Thereafter, meetings must be held at such times as may be provided in the rules and bylaws of the board of directors. Special meetings may be called by the president, or by any five members of the board.

§ 26.40. Rules of Procedure; Quorum

The board of directors may adopt its own rules of procedure, but a majority of the directors shall constitute a quorum, and a majority of those in attendance may transact any business.

§ 26.41. Board Office

The board of directors must select and maintain within the district a regular office for its meetings and for the transaction of business, at such place within the district as it may determine.

[Sections 26.42–26.60 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES**§ 26.61. Suits**

A rehabilitation district may sue and be sued in its name. In any suit against a district, process may be served on the president or vice president.

§ 26.62. General Powers of Board of Directors

(a) In addition to other powers granted herein, the board of directors is empowered and required to govern the district; employ all administrators, teachers, special and/or exceptional children teachers, psychologist, social workers, housekeeping, and other personnel as may be required to carry out the purposes of the district; and to discharge persons so employed. Teachers and other employees of any such rehabilitation

district shall be eligible to become members of the Teacher Retirement System of Texas on the same basis and under the circumstances as teachers and employees of an independent school district.

(b) The board shall conduct the business affairs of the district with the same powers and duties provided by law for the board of trustees of independent school districts.

(c) The board shall adopt an official seal and name for the rehabilitation district.

§ 26.63. Residential Program; Curriculum; Trainees

The board shall:

(1) plan the residential program and the curriculum of the district, or have them planned under its direction; but in any event, plans must be approved by the board of directors and also by the state commissioner of education and by the executive director of the Texas Department of Mental Health and Mental Retardation;

(2) make reasonable limitation on the duration of residence and attendance by trainees, according to standards adopted by it; and

(3) by itself, or through an agency established by it for attending to such matters, terminate the training of any trainee who proves to be unadaptable to the training program of the district, or who is so disturbing in conduct to the other trainees as to be detrimental to the district; and the exercise of the termination power is unreviewable.

§ 26.64. Admission

(a) Any handicapped person six years of age or older not subject to the exceptions in the subsections of this section may be admitted into a district for education and training.

(b) No handicapped person shall be admitted into a rehabilitation district whose parent or guardian, or who himself, if without a parent or guardian, has not lived within the district at least one year next prior to application for admission, unless full remuneration be received from his home county, family, or other sources.

(c) No handicapped person in attendance at a regular public school, between the ages of six and 21, shall be admitted to a rehabilitation district without having been referred or assigned to it by the independent school district in which he resides, or by the county school superintendent. If a handicapped person applying to a rehabilitation district for admission is over 16 years of age or under 21 years of age and is in attendance at a regular public school, he shall not be admitted to the rehabilitation district for education and training without having been referred to it for that purpose by the county school superintendent, if such public school be situated without an independent school district, or by an independent school district if such public school is within such independent school district.

(d) No handicapped person shall be admitted into a district for education or training as such, without application having been made therefor to it and until he has been found acceptable for education¹ and training by the entrance committee of the district which shall set admission standards, such standards having been approved by the board of directors. The finding of the entrance committee, to be created by the board of directors, as to the eligibility or ineligibility of an applicant shall be final except that appeal may be made therefrom to the board of directors

according to an appellate procedure prescribed by the board. The decision of the board of directors shall be final and nonappealable.

1. So in enrolled bill.

§ 26.65. Exceptional Children Teacher Units

(a) To provide for the continuance of an educational program for handicapped persons between the ages of six and 21, inclusive, the training facility(s) operated by and within the district shall be eligible for and allotted exceptional children teacher units to the extent herein provided, directly through the Foundation School Program of the Central Education Agency.

(b) The basis for establishing, operating, and the formula to be used for determining allocation of said exceptional teacher units shall be as required by the Central Education Agency of independent school districts except that the district's allocation shall be limited, computed upon and restricted to include only exceptional children between the ages of 14 and 21, both inclusive. Provided, however, that no local fund assignment shall be charged to a rehabilitation district.

(c) The cost of approved professional units authorized including the per unit operational cost provided by law shall be considered by the Foundation Program Committee in estimating the funds needed for Foundation Program purposes.

§ 26.66. Tuition; Fees

The board may fix such fees and tuition rates as are deemed necessary to supplement other sources of funds for maintaining and operating the district in carrying out its functions, with authority, however, to reduce fees and tuition, or waive them altogether, in cases where the parents or guardians of trainees are able to pay a portion only or none of such tuition or fees, in the judgment of the board of directors, or in the judgment of an agency created by the board of directors to determine such matters.

§ 26.67. Donations; Gifts; Etc.

The board may accept donations, gifts, and endowments for the district, to be taken in trust and administered by the board of directors for such purposes, and under such directions, limitations, and provisions, if any, as may be prescribed in writing by the donor, not inconsistent with the proper management and objects of the rehabilitation district.

§ 26.68. Federal Aid

The board may apply to any agency of the federal government for funds made available, as loans or grants, by the United States Government to carry out the purposes of such rehabilitation district, in the same manner, according to the same procedures, and in all respects as provided for the receipt of such funds by independent school districts; provided, further, that for rehabilitation program purposes only and to receive any funds available for rehabilitation purposes for which the district otherwise may be eligible, the authority of the district shall be restricted and enlarged to include persons not over 25 years of age.

§ 26.69. Taxes

(a) The board may levy taxes and make such distribution of such taxes as it may deem necessary for providing needed housing and facilities, and for the support of the rehabilitation program, except that the total annual tax for all district purposes shall not exceed the rate of five cents

on each \$100 of assessed valuation of taxable property located in such district.

(b) The tax assessors and collectors of each county in a rehabilitation district must assess and collect taxes on taxable property in the county on levies made and rates fixed by the board of directors of that district, not exceeding the rate of five cents on each \$100 of valuation. The valuations assessed on property for state and county taxes must be used as the valuations for district taxes. Each tax collector must collect district taxes at the same time that he collects state and county taxes. All taxes collected for a rehabilitation district must be accounted for and paid over to the treasurer of the district and the tax collector must receive the same compensation for assessing and collecting rehabilitation district taxes as is provided by law for like services rendered for junior college districts.

§ 26.70. Group Residence Centers

Each district may, by itself, or in conjunction with service clubs, women's clubs, or other organizations interested in serving the disabled, cities or counties, or any organization or person deemed equipped by the board of directors, provide for group residence rehabilitation centers within the rehabilitation district. Such group residence centers shall be used as living units, with or without board, for those students or trainees of the rehabilitation district, who have become gainfully employable and/or employed, and who, in the opinion of the board of directors, would benefit from group living while adjusting to work and to general society.

§ 26.71. Employment of Trainees

Rehabilitation districts shall cooperate with the Texas Employment Commission and the Vocational Rehabilitation Division of the Texas Education Agency in finding employment for their employable trainees.

§ 26.72. Additional Powers

All powers relating to the acquisition of land and to the construction or acquisition of facilities except the issuance of bonds, and to taxation, vested by law in independent school districts, shall be applicable to any rehabilitation district, subject to a tax limitation of five cents on each \$100 valuation.

**CHAPTER 27. COUNTY INDUSTRIAL TRAINING
SCHOOL DISTRICTS**

Section

- 27.01. Establishment and Location; Purpose.
- 27.02. Petition and Election; Board of Trustees.
- 27.03. Powers and Duties.
- 27.04. Power of District to Levy, Assess and Collect Tax.
- 27.05. Compensation of the Board of Trustees.
- 27.06. Bonds and Revenues of the District.
- 27.07. Restriction of Establishing District in Counties with Vocational or Technical High Schools.
- 27.08. Abolition of Districts.

Section 27.01. Establishment and Location; Purpose

A district to be known as the “_____ County Industrial Training School District” may be established and located any county of this state to provide vocational training for residents and nonresidents of such county.

§ 27.02. Petition and Election; Board of Trustees

(a) Upon a petition signed by five percent of the resident qualified taxpaying voters in any such county, the commissioners court shall call and cause to be held an election within 30 days after petition has been duly presented for the purpose of electing three members of the board of trustees of such county industrial training school district. The three trustees elected shall then appoint four persons, one each from the following classes:

- (1) a member of the city council of any incorporated city or town located within the county;
- (2) a member of the governing body of any other school district in the county;
- (3) a juvenile judge for that county; and
- (4) the county judge or a member of the commissioners court.

(b) These appointive trustees shall be full voting members of the board of trustees, except as provided in this chapter.

(c) All members of the board shall be residents of the county where the county industrial training school district is established.

(d) The first trustees elected for the district shall by lots divide themselves into three classes: class one, consisting of one member, who shall serve for two years; class two, consisting of one member, who shall serve for four years; and class three consisting on¹ one member, who shall serve for six years. Each trustee elected thereafter shall be elected for a term of six years.

(e) The appointive trustees for the district shall serve terms of two years.

(f) Any vacancy occurring on the board shall be filled for the unexpired term by an appointee decided on by at least two of the elected trustees.

1. So in enrolled bill.

§ 27.03. Powers and Duties

(a) In the management and control of the District, the board of trustees is authorized to exercise the powers and duties as described in this section.

(b) The board of trustees shall select a chairman of the board and define his duties, and shall have the power to remove him when in its judgment the interest of the district shall require it.

(c) The board of trustees shall appoint other officers of the district, the teaching staff, and other employees, and fix their respective salaries, and shall have the power to remove them when in its judgment the interest of the district shall require it.

(d) The board of trustees shall arrange for and operate whatever facilities they deem necessary for the establishment of any vocational school within said district.

(e) The board of trustees shall enact such bylaws, rules, and regulations as may be necessary for the successful management and government of any vocational school within said district.

(f) The board of trustees shall determine what departments of instruction shall be maintained and what subjects of study shall be pursued in the various department.

(g) The board of trustees shall have the authority to make proper arrangements by contract with other educational institutions, private individuals, corporate institutions, or the state, for the use of facilities and for the services of qualified personnel; and to make such other arrangements as it deems necessary for the proper training and education of students in the district.

(h) The board of trustees shall have general supervision and control of all expenditures of the district.

(i) The board of trustees shall determine the qualifications for admission of students to any school established by the district.

(j) The board of trustees is authorized and empowered to determine the tuition and/or fees, if any, charged students attending any vocational training school established in the district.

(k) The board of trustees is authorized and empowered to grant diplomas for successful completion of any type of vocational training taught.

(l) The board of trustees is authorized to accept donations, gifts, and endowments for the district to be held in trust and administered by the board for such purposes and under such directions, limitations, and provisions as may be declared in writing in the donation, gift or endowment, not inconsistent with the objectives and proper management of the district.

(m) The board of trustees may issue revenue bonds (new or refunding) and notes for the purposes of acquiring, constructing, improving and/or equipping buildings, structures, additions to buildings or structures, and other types of permanent improvements not inconsistent with this chapter. In addition, the board may fix, charge, collect and pledge to the payment of the principal and interest on any such bonds or notes reasonable use fees from the students for the use of any type of building, structure, facility, or property. The laws governing the issuance of bonds (new or refunding) shall be governed by the laws applicable to school districts located in such counties.

§ 27.04. Power of District to Levy, Assess and Collect Tax

The district is hereby authorized and empowered to levy, assess, and have collected through the county tax office, the rate of tax as set by the

board and confirmed by a favoring majority vote of the resident qualified taxpaying voters of such county in an election, except that such rate shall not exceed that provided by law relating to school districts located in such counties upon such property values as established for county purposes, and the election shall be held in compliance with provisions governing such elections.

§ 27.05. Compensation of the Board of Trustees

The board of trustees shall serve without compensation.

§ 27.06. Bonds and Revenues of the District

Every such district shall be operated on its bond and/or note revenues, tax revenues, tuition, if any, gifts, donations, and endowments, and shall never become a charge against the state, or require appropriations therefrom.

§ 27.07. Restriction of Establishing District in Counties With Vocational or Technical High Schools

No industrial training school district may be established within any county, if any school district in that county has established or is in the process of establishing a vocational or technical high school.

§ 27.08. Abolition of Districts

(a) Any county industrial training school district may be abolished in the manner provided in this section.

(b) A petition requesting the abolition of the district, signed by at least five percent of the qualified voters residing in the district shall be presented to the county judge of the county in which the district is located. On receipt of such a petition, the county judge shall:

(1) Issue an order designating the time and place within the district and county of his court at which there shall be held an election to determine whether the district shall be abolished;

(2) Appoint to preside an officer who shall select two judges and two clerks to assist in holding the election; and

(3) Cause notice of the election to be given by posting advertisements for at least 10 days prior to the date of the election at three public places within such county.

(c) Except as provided in this section the election shall be held in the manner prescribed by law for holding general elections.

(d) All persons who are legally qualified taxpaying voters of the state and of the county in which the district is situated and who have resided within the county for at least six months next preceding shall be entitled to vote.

(e) The officers holding the election shall make return thereof to the county judge within 10 days after the election is held.

(f) If a majority of the voters voting at the election, shall vote to abolish the district, the county judge shall declare the district abolished and enter an order to that effect upon the minutes of the commissioners court, and from the date of such order, the district shall cease to exist.

(g) Upon abolishment of such district, the commissioners court shall manage, control, and dispose of all property belonging to the abolished district, and all taxes from outstanding bonds or other indebtedness, if any, against the property of the abolished district shall remain in full force and effect and shall be levied and collected by the proper officers

of the county until the entire indebtedness is fully paid. The commissioners court shall have the power to do any and all things necessary for the payment of such bonds or other indebtedness, if any, which the district, or the trustees thereof, could have done had such district not been abolished.

(h) Any creditor of the abolished district may, within 60 days after the district has been abolished, and not thereafter, bring suit in any court of competent jurisdiction, to assert any claim against such district. The commissioners court shall institute and defend suits in the name of the abolished district, and may make such settlement of any such litigation as it deems advisable.

CHAPTER 28. COUNTYWIDE VOCATIONAL SCHOOL DISTRICT AND TAX

Section

- 28.01. Creation of Countywide Vocational School Districts.
- 28.02. Taxing Power of School Districts; Election.
- 28.03. Election: Petition; Order; Notice; Ballots; Conduct; Expenses.
- 28.04. Canvass of Returns; Authority to Levy and Assess Tax; Revocation of Tax.
- 28.05. Annual Levy and Collection of Tax; Deposit of Funds.
- 28.06. Duties of Commissioners Court.
- 28.07. Apportionment of Money; Formula Basis.
- 28.08. Monthly Settlements With Eligible Independent School Districts.
- 28.09. Alteration or Enlargement of Duties and Powers of Commissioners Court.
- 28.10. Eligibility to Attend School District Operating Vocational School Program; Tuition Average Daily Attendance.
- 28.11. Changing Duties or Powers of School District Trustees.

Section 28.01 Creation of Countywide Vocational School Districts

This chapter is applicable to every county of this state. For the purpose of levying, assessing, and collecting a countywide vocational school tax for the countywide support of area vocational school programs set forth and authorized in this chapter and for such further administrative functions set forth in this chapter, the territory of each of such counties is hereby created into a school district, described as the countywide vocational school district, this taxing power to be exercised as provided.

§ 28.02. Taxing Power of School Districts; Election

There shall be exercised in and for the entire territory of each of such counties to the extent prescribed in this chapter, the taxing power conferred on school districts by Article VII, Section 3 of the Texas Constitution. Such taxing authority shall not be exercised until and unless authorized by the qualified property taxpaying voters residing therein at an election to be held for that purpose as hereinafter provided.

§ 28.03. Election: Petition; Order; Notice; Ballots; Conduct; Expenses

(a) Whenever a petition is presented to the county judge of any such county, signed by at least 100 qualified property taxpaying voters resid-

ing therein, asking for an election to be ordered for the purpose of determining whether or not a countywide vocational school tax shall be levied, assessed, and collected on taxable property within that county for the support of area vocational school program(s) so designated by the Texas Central Education Agency pursuant to a state plan for vocational education, and operated by local school district(s) in that county, not exceeding 20 cents on the \$100 of assessed valuation of taxable property, it shall be the duty of the county judge immediately to order an election to be held throughout the county to determine said question. The finding of the county judge that such petition is sufficient and signed by the number of taxpaying voters required by this law shall be conclusive.

(b) The county judge shall give notice of the election by publication of the election order in a newspaper of general circulation in said county once a week for at least two weeks, the date of the first publication to be not less than 20 days, prior to the date fixed for holding said election. Further notice shall be given by the posting of a copy of said election order within the boundaries of each school district having territory in the county, and one copy of the notice shall be posted at county courthouse door, posted at least 20 days prior to the date fixed for the election.

(c) The ballots for such election shall be printed to provide for voting for or against:

“Countywide vocational school tax.”

(d) Except as otherwise provided in this chapter, the manner of holding the election shall be controlled by the general laws of the state, and only legally qualified property taxpaying voters residing in the county who own taxable property in such county and who have duly rendered the same for taxation shall be qualified to vote at such election. The election shall be held at the regular polling places within the county with duly appointed election officers holding the election. The officers holding the election shall make returns thereof to the county judge within five days after the same is held.

(e) All expenses for the election shall be paid from the general fund of the county.

§ 28.04. Canvass of Returns; Authority to Levy and Assess Tax; Revocation of Tax

(a) The commissioners court shall, within 10 days after holding the election, make a canvass of the results of said election. If a majority of the votes cast shall favor such tax, the court shall declare the results which shall be recorded in the minutes of the commissioners court, and certify same to the county tax assessor-collector. The commissioners court shall be authorized to levy said tax and the county tax assessor-collector shall be authorized to assess and collect the same.

(b) No election to revoke the tax shall be ordered until the expiration of three years from the date of the election at which the tax was adopted.

§ 28.05. Annual Levy and Collection of Tax; Deposit of Funds

(a) It shall be the duty of the commissioners court, after such tax shall have been voted, at the time other taxes are levied in the county, annually to levy a tax under this law of not to exceed 20 cents on the \$100 valuation in the county at the same rate of valuation as is assessed for state and county purposes. Such taxes shall be assessed by the tax assessor and collected by the tax collector as other taxes are assessed and collected.

(b) The county tax assessor-collector shall deposit the money as collected from said tax to a separate fund in the county depository to be known as the county vocational school district fund, to be allocated and distributed for the support of area vocational school programs operated by designated school district or districts in the county. He shall have the same authority and the same laws shall apply as in the collection of other county ad valorem tax.

§ 28.06. Duties of Commissioners Court

As soon as the commissioners court of said county shall determine the total of assessed value of taxable property, which value shall be the same as those fixed by it as the board of equalization for state and county purposes, it shall

(1) determine the estimated total receipts from the levying and collecting of said tax of not exceeding 20 cents on the property in such countywide district according to such valuation;

(2) determine the estimated amount of money apportionable for the ensuing school year to school district or districts under the jurisdiction of the county, which operate designated area vocational school(s), on the formula basis hereinafter prescribed; and

(3) transmit a copy of the order fixing the estimated proportioned amount available, to the president of the board of trustees of each such designated school district of districts eligible therefor.

§ 28.07. Apportionment of Money; Formula Basis

The money collected from any taxes levied by the commissioners court under this chapter shall be distributed to such designated eligible school district(s) in the county to be apportioned on the following formula basis: The combined average daily membership (ADM) of students in vocational programs of designated area vocational school(s) as determined for the preceding school year divided into the average daily memberships in vocational programs of each such area vocational school; except that for the first year of operation the apportionment will be upon average daily membership (ADM) in grades 9 through 12 inclusive, determined for the preceding year, in all of the school districts operating designated area vocational school programs.

§ 28.08. Monthly Settlements With Eligible Independent School Districts

The tax collector of the county shall make monthly settlements of taxes collected with the independent school districts eligible therefor and situated in such county. Money shall be received and held by the independent school districts and protected in accordance with the existing depository laws. The tax collector shall place to the credit of the common or other school districts using the county depository such money as is apportioned to them.

§ 28.09. Alteration or Enlargement of Duties and Powers of Commissioners Court

Until and unless a countywide vocational school tax has been authorized by an election held in such county, the duties and powers of the commissioners court shall not be considered as having been changed, altered, or enlarged by this chapter.

§ 28.10. Eligibility to Attend School District Operating Vocational School Program; Tuition Average Daily Attendance

(a) Irrespective of whether a countywide school district tax has been voted: Any resident of the countywide vocational school district who shall have attained the age of 14 years prior to September 1 shall be considered eligible to attend a school district in his county designated as operating an area vocational school program, provided he is accepted by such district as qualifying under its entrance requirements.

(b) No tuition shall be charged any such eligible resident of the county enrolled in the area vocational school program, if the county has voted and collects a countywide tax to support such program.

(c) Any pupil under 21 years of age on September 1 and who has not completed the 12th grade shall be eligible to be counted in average daily attendance (ADA) for foundation school program purposes by the designated area school district in accordance with policies of the Central Education Agency. However, where such a pupil attends school in his home district a part of a day and attends part of a day in vocational class(es) offered only in a designated area vocational school district, his ADA shall be counted by each district in approximate proportion to the time of attendance in each district, determinable under regulations of the Agency; his state per capita, if any, to remain with the home district.

(d) Any eligible child residing in a school district which is under agreement with a neighboring school district designated to operate and accept such in its area vocational school program shall, on timely application of his parents for enrollment in the vocational program, be received by the designated area district free of tuition without the necessity of a formal transfer, any existing law to the contrary notwithstanding.

(e) Any eligible child residing in a school district which is not listed under any agreement with a school district designated to operate and accept such in its area vocational school program may, on timely application of his parents for enrollment in its vocational program, be received by a designated area district in his county or in an adjoining county if there is none in his county, on such terms as the receiving district may deem just and proper, without the necessity of a formal transfer, any existing law to the contrary notwithstanding.

(f) Upon certification of the acceptance and vocational program enrollment of such children from one district to another, by the superintendent of the receiving district, the State Department of Education shall adjust its records to pay over directly the state per capita apportionment to the respective district in which such children are received and educated.

§ 28.11. Changing Duties or Powers of School District Trustees

(a) This chapter shall not have the effect of changing any duties imposed or powers conferred on the trustees of any school district of this state except as expressly provided herein; it being the intention of this law that said respective boards of trustees shall continue to administer their lawful duties and powers as now authorized by law, that the countywide vocational school tax herein authorized, if voted, shall be levied by the commissioners court and assessed and collected by the county tax assessor-collector to be distributed and used for the purpose expressed in this chapter.

(b) This law shall not affect the right and duty of the respective local school districts of the counties to levy, assess, and collect local maintenance and/or bond taxes authorized for local school district purposes by the property taxpayers in said respective districts.

CHAPTER 51. PUBLIC JUNIOR COLLEGES**SUBCHAPTER A. GENERAL PROVISIONS****Section**

- 51.001. Supervision by Coordinating Board, Texas College and University System.
- 51.002. Duties of Commissioner of Higher Education.
- 51.003. State Appropriation for Public Junior Colleges.
- 51.004. Authorized Types of Public Junior Colleges.

[Sections 51.005–51.010 reserved for expansion]

SUBCHAPTER B. INDEPENDENT SCHOOL DISTRICT OR CITY JUNIOR COLLEGE

- 51.011. Establishment of Independent School District or City Junior College.
- 51.012. Petition to Establish.
- 51.013. Order to Establish.
- 51.014. Election.
- 51.015. Control of Independent School District or City Junior College.
- 51.016. Separate Board of Trustees in Certain Instances.
- 51.017. Petition to Divest School Board of Authority.
- 51.018. Separate Board of Trustees—Terms, Etc.

[Sections 51.019–51.030 reserved for expansion]

SUBCHAPTER C. UNION, COUNTY, OR JOINT-COUNTY JUNIOR COLLEGES

- 51.031. Establishment of Union, County, or Joint-County Junior College.
- 51.032. Restrictions.
- 51.033. Petition to Establish.
- 51.034. Tax Levy.
- 51.035. Legality of Petition.
- 51.036. Order to Establish.
- 51.037. Calling Election; Submission of Questions.
- 51.038. Election.
- 51.039. Election Returns, Canvass, and Result.
- 51.040. Board of Trustees: Union, County, or Joint-County Junior College.
- 51.041. Election of Trustees of Union, County, and Joint-County Junior College.
- 51.042. Original Board.
- 51.043. Organization.

[Sections 51.044–51.060 reserved for expansion]

SUBCHAPTER D. CHANGES IN DISTRICT BOUNDARIES

Section

- 51.061. Extension of Boundaries of a Junior College District Coextensive With an Independent School District.
- 51.062. Enlarged District: Creation; Resolution; Order.
- 51.063. Extension of Junior College District Boundaries for Junior College Purposes Only.
- 51.064. Annexation by Contract.
- 51.065. Annexation by Election.
- 51.066. Annexation of County-Line Districts for Junior College Purposes.
- 51.067. Annexation of Non-Included Parts of Counties.
- 51.068. Disannexation of Overlapped Territory.

[Sections 51.069–51.070 reserved for expansion]

SUBCHAPTER E. BOARDS OF TRUSTEES OF JUNIOR COLLEGE DISTRICTS

- 51.071. Governing Board of Junior College of Independent School District.
- 51.072. Governing Board of Junior College of Other Than Independent School District.
- 51.073. Powers and Duties.

[Sections 51.074–51.080 reserved for expansion]

SUBCHAPTER F. REGIONAL COLLEGE DISTRICTS

- 51.081. Creation and Regulation of Regional College Districts.
- 51.082. Petition for Election.
- 51.083. Election.
- 51.084. Canvass of Returns and Declaration of Result; Effect of Vote.
- 51.085. Board of Regents.
- 51.086. Property, Funds and Resources of Junior College District; Contracts.
- 51.087. Assessed Tax Values and Scholastic Census; Number of Regents; Conduct of Election; Vacancies; Organization of Board; Meetings; Office.
- 51.088. Rules of Procedure; Quorum; Seal; Suits.
- 51.089. Compensation and Expenses of Board.
- 51.090. Powers of Board.
- 51.091. Annexation of Contiguous County or Independent Districts.
- 51.092. Taxes.
- 51.093. President of College.
- 51.094. Establishment of College; Divisions; Support.
- 51.095. Buildings, Property and Resources of Junior College District; Fees and Tuition; Tax Levy; Bonds.
- 51.096. Donations, Gifts and Endowments.
- 51.097. Power of Eminent Domain.
- 51.098. Delinquent Taxes After Transfer of Assets.
- 51.099. Transfer of Assets of Certain Regional College Districts.

SUBCHAPTER G. FISCAL PROVISIONS**Section**

- 51.101. Tax Assessment, Equalization, and Collection.
- 51.102. Tax Bonds and Maintenance Tax.
- 51.103. Revenue Bonds.

[Sections 51.104–51.200 reserved for expansion]

**SUBCHAPTER H. TRANSFER OF ASSETS ON DISSOLUTION
OF DISTRICTS**

- 51.201. Dissolution and Transfer of Property Upon Creation of Senior College.
- 51.202. Abolition of Junior College Districts.
- 51.203. Transfer of Properties of County Junior College Districts After Creation of Senior College.

SUBCHAPTER A. GENERAL PROVISIONS**Section 51.001. Supervision by Coordinating Board, Texas College and University System**

(a) The Coordinating Board, Texas College and University System, referred to as the coordinating board, shall exercise general control of the public junior colleges of Texas.

(b) The coordinating board shall have the responsibility for adopting policies, enacting regulations, and establishing general rules necessary for carrying out the duties with respect to public junior colleges as prescribed by the legislature, and with the advice and assistance of the commissioner of higher education, shall have authority to:

(1) authorize the creation of public junior college districts as provided in the statutes, giving particular attention to the need for a public junior college in the proposed district and the ability of the district to provide adequate local financial support;

(2) dissolve any public junior college district which has failed to establish and maintain a junior college within three years from the date of its authorization;

(3) adopt standards for the operation of public junior colleges and prescribe the rules and regulations for such colleges;

(4) require of each public junior college such reports as deemed necessary in accordance with the coordinating board's rules and regulations; and

(5) establish advisory commissions composed of representatives of public junior colleges and other citizens of the state to provide advice and counsel to the coordinating board with respect to public junior colleges.

§ 51.002. Duties of Commissioner of Higher Education

(a) The commissioner of higher education shall be responsible for carrying out the policies and enforcing the rules and regulations adopted by the coordinating board. He shall have the duty also to:

(1) file with the state auditor and the state comptroller of public accounts on or before October 1 of each year which have complied

with the standards, rules, and regulations as prescribed by the coordinating board.

(2) certify the names of those public junior colleges as prescribed by the coordinating board.

(b) All authority not vested by this chapter or by other laws of the state in the coordinating board or in the Central Education Agency is reserved and retained locally in each of the respective public junior college districts or in the governing boards of such junior colleges as provided in the laws applicable.

§ 51.003. State Appropriation for Public Junior Colleges

(a) There shall be appropriated biennially from money in the state treasury not otherwise appropriated an amount sufficient to supplement local funds for the proper support, maintenance, operation, and improvement of those public junior colleges of Texas that meet the standards prescribed by this chapter. The sum shall be allocated on a basis and in a manner provided in Subsection (b).

(b) To be eligible for and to receive a proportionate share of the appropriation, a public junior college must:

(1) be certified as a public junior college as prescribed in Section 51.002(a)(2) of this code;

(2) offer a minimum of 24 semester hours of vocational and/or terminal courses;

(3) have complied with all existing laws, rules, and regulations governing the establishment and maintenance of public junior colleges;

(4) collect, from each full-time and part-time student enrolled, matriculation and other session fees in the amounts required and provided by law for other state-supported institutions of higher education; and

(5) grant when properly applied for, the scholarships and tuition exemptions provided for in this code.

(c) All funds allocated under the provisions of this code, with the exception of those necessary for paying the costs of audits as provided, shall be used exclusively for the purpose of paying salaries of the instructional and administrative forces of the several institutions and the purchase of supplies and materials for instructional purposes.

(d) Only those colleges which have been certified as prescribed in Section 51.002(a)(2) of this code shall be eligible for and may receive any appropriation made by the legislature to public junior colleges.

§ 51.004. Authorized Types of Public Junior Colleges

(a) By complying with the provisions of the appropriate following sections of this chapter a public junior college and/or district of any one of the following classifications may be established:

(1) an independent school district junior college;

(2) a city junior college;

(3) a union junior college;

(4) a county junior college;

(5) a joint-county junior college; and

(6) a public junior college as a part or division of a regional college district.

(b) As used in this chapter, the two general authorized types of junior colleges are:

(1) public junior colleges, which must consist of freshman and sophomore college work taught separately or in conjunction with the

junior and senior years of high school and the course of study of such work must be submitted to and approved before being offered by the Coordinating Board, Texas College and University System; and

(2) a junior college division of a regional college, as that type of institution is defined in Subchapter F of this chapter, which operates under the laws applicable to public junior colleges in Texas.

(c) All junior college districts, whether established, organized, and/or created, or attempted to be established, organized, and/or created, by vote of the people residing in those districts, or by action of the county school boards, or by action of the county judge, or by action of the commissioners courts, or by action of state educational officers or agencies, or by a combination of any two or more of the same, which districts have previously been recognized by either state or county authorities as junior college districts, are hereby validated in all respects as though they had been duly and legally established in the first instance. Without in any way limiting the generalization of the provisions above,

(1) all additions of territory to or detachments of territory from such junior college districts are hereby in all things validated, whether the same were accomplished or attempted to be accomplished by action of the county school boards, or by action of the county judge, or by action of the commissioners court, or by action of state educational officers or agencies, or by vote of the people residing in such territory, or by a combination of any two or more of the same;

(2) the boundary lines of all such junior college districts are hereby in all things validated; and

(3) all acts of the governing boards of such junior college districts ordering an election or elections, declaring the results of such elections, levying, attempting, or purporting to levy taxes for and on behalf of such districts, and all bonds issued and now outstanding, and all bonds previously voted but not issued, and all tax elections, bond elections, and bond assumption elections are hereby in all things validated; all revenue bonds issued and outstanding and all revenue bonds authorized but not yet issued for and on behalf of such districts are hereby in all things validated.

(d) Subsection (c) of this section shall not apply to any district which has previously been declared invalid by a court of competent jurisdiction of Texas, nor shall it apply to any district which is now involved in litigation in any district court of Texas, the court of civil appeals, or the Supreme Court of Texas, in which litigation the validity of the organization or creation of such district or of the addition of territory to or detachment of territory from such districts is attacked, or to any district involved in proceedings now pending before the coordinating board in which proceedings the validity of the organization or creation of such district or of the addition of territory to or detachment of territory from such district is attacked.

[Sections 51.005-51.010 reserved for expansion]

**SUBCHAPTER B. INDEPENDENT SCHOOL DISTRICT OR CITY
JUNIOR COLLEGE**

§ 51.011. Establishment of Independent School District or City Junior College

(a) An independent school district junior college may be established in either of the following types of units:

(1) any independent school district or city which has assumed control of its schools having in either case:

(A) an assessed property valuation of not less than \$12,000,000 or having an income provided by endowment or otherwise that will meet the needs of the proposed junior college district as determined by the Coordinating Board, Texas College and University System; and

(B) an average daily attendance of the next preceding school year of not fewer than 400 students in the last four grades in the classified high schools within the district or city; or

(2) any independent school district or city which has assumed control of its schools having in either case:

(A) an assessed property valuation of \$20,000,000 or more and the coordinating board finds that such district or city is in a growing section and that there is a public convenience and necessity for such junior college; and

(B) an average daily attendance of the next preceding school year of fewer than 400 but not fewer than 300 students in the last four grades of classified high schools.

(b) Any such college district established and maintained as provided in this chapter shall be known as a junior college district.

§ 51.012. Petition to Establish

Whenever it is proposed to establish a junior college district in any type of unit authorized by Section 51.011 of this code, a petition praying for an election, signed by not less than five percent of the qualified tax-paying electors of the proposed district shall be presented to the school board of trustees of the district or city, which shall:

- (1) pass upon the legality and genuineness of the petition; and
- (2) forward the petition, if approved, to the coordinating board.

§ 51.013. Order to Establish

It shall be the duty of the coordinating board with the advice of the commissioner of higher education to determine whether or not the conditions set forth in Sections 51.011 and 51.012 of this code have been complied with, and also whether, considering the geographic location of colleges already established, it is feasible and desirable to establish the proposed junior college district. It shall be the duty of the coordinating board to consider the needs and the welfare of the state as a whole, as well as the welfare of the community involved. The decision of the coordinating board shall be final and shall be transmitted through the commissioner of higher education to the local school board, along with the order of the coordinating board authorizing further procedure in the establishment of the junior college district, if the coordinating board endorses its establishment.

§ 51.014. Election

(a) If the coordinating board approves of the establishment of the junior college district, it shall then be the duty of the local school board to enter an order for an election to be held in the proposed territory within a time not less than 20 days and not more than 30 days after such order is issued, to determine whether or not such junior college district shall be created and formed. Such order shall:

- (1) contain a description of the metes and bounds of the junior college district to be formed; and
- (2) fix the date for the election.

(b) If a majority of the votes cast by the qualified property taxpaying electors of the district at the election shall be in favor of the creation of a junior college district, the district shall be deemed to be formed and created. The local school board shall make a canvass of the returns and declare the result of the election within 10 days after holding the election; and enter an order on the minutes of the board as to the result of the election.

§ 51.015. Control of Independent School District or City Junior College

A junior college established by an independent school district or city that has assumed control of schools already validated or established pursuant to the provisions of this chapter may be governed, administered, and controlled by and under the direction of the board of trustees of that independent or city school district.

§ 51.016. Separate Board of Trustees in Certain Instances

A junior college established by an independent school district or city that has assumed control of schools already validated or established pursuant to the provisions of this chapter may be governed, administered, and controlled by and under the direction of a separate board of trustees, which may be placed in authority by either of the following procedures:

(1) the board of trustees of an independent school district or city school district which has the management, control, and operation of a junior college may divest itself of the management, control, and operation of that junior college so maintained and operated by the school board by appointing for the junior college district a separate board of trustees of nine members; or

(2) the board of trustees of any independent school district or city school district which has the control and management of a junior college may be divested of its control and management of that junior college by the procedure prescribed in Section 51.017 of this code.

§ 51.017. Petition to Divest School Board of Authority

(a) On a petition signed by 10 percent of the qualified electors of the independent school district or city school district, the board of trustees shall call an election within 30 days after the petition has been duly presented for the purpose of determining whether the school board of trustees shall be divested of its authority as governing board of such junior college district.

(b) If a majority of the votes cast in the election are in favor of divesting the board of trustees of the independent school district or city school district of its authority as the governing board of the junior college district, the board of trustees shall, within 30 days after the official

canvass of the election, appoint for the junior college district a separate board of trustees of nine members to serve as the governing board of the junior college district.

§ 51.018. Separate Board of Trustees—Terms, Etc.

(a)¹ In the event a separate board of trustees for the junior college district is appointed under either procedure set out in Section 51.016 or Section 51.017, the board of trustees, consisting of nine members, shall be organized and constituted pursuant to the provisions of Section 51.072 of this code, and be governed by the provisions thereof.

1. There is no paragraph (b) in the enrolled bill.

[Sections 51.019–51.030 reserved for expansion]

SUBCHAPTER C. UNION, COUNTY, OR JOINT-COUNTY JUNIOR COLLEGES

§ 51.031. Establishment of Union, County, or Joint-County Junior College

The following types of junior colleges may be established in the following units:

(1) a union junior college district may be established by two or more contiguous independent school districts or two or more contiguous common school districts or a combination composed of one or more independent school districts with one or more common school districts of contiguous territory meeting the requirements set out in Section 51.032 of this code;

(2) a county junior college district may be established by any county meeting the requirements set out in Section 51.032 of this code; and

(3) a joint-county junior college district may be established by any combination of contiguous counties in the state meeting the requirements set out in Section 51.032 of this code.

§ 51.032. Restrictions

In order for any territorial unit set out in Section 51.031 of this code to establish the applicable type of junior college, the proposed district must have:

(1) a taxable property valuation of not less than \$9,500,000 in the next preceding year;

(2) not less than 400 students in grades 9 through 12 within the proposed territory during the next preceding school year; and

(3) a total scholastic population of not less than 7,000 in the next preceding school year, provided:

(A) if the Coordinating Board, Texas College and University System, finds that the proposed junior college district is in a growing section of the state and that the junior college is necessary and would be a public convenience, the proposed district may have less than 7,000 scholastic enrollment but not less than 5,000 in the next preceding school year; or

(B) for counties having a population of not less than 20,000 nor more than 30,000 inhabitants according to the last preceding federal census and having either an existing junior college which has been created, operated, and maintained for at least 25

years, or a taxable property evaluation of \$100,000,000 or more, the coordinating board may waive the scholastic enrollment requirement of this section, but in no case shall a proposed district qualify with less than 4,500 scholastics.

§ 51.033. Petition to Establish

(a) Whenever it is proposed to establish a junior college of any type specified in Section 51.031 of this code a petition praying for an election therefor shall be presented in the applicable manner as prescribed in Subsections (b)-(d) of this section.

(b) In the case of a union junior college district, the petition shall be signed by not fewer than 10 percent of the qualified taxpaying electors of each of the school districts within the territory of the proposed junior college district and shall be presented to the county school board or county school boards of the respective counties if the territory encompasses more than one county; but if there is no county school board, the petition shall be presented to the commissioners court of the county or counties involved.

(c) In the case of a county junior college district, the petition shall be signed by not fewer than 10 percent of the qualified taxpaying electors of the proposed college district and shall be presented to the county school board of the county; but if there is no county school board, the petition shall be presented to the commissioners court of the county.

(d) In case of a joint-county junior college district, the petition shall be signed by not fewer than 10 percent of the qualified taxpaying electors of each of the proposed counties and shall be presented to the respective county school boards of the counties to be included in the proposed district; in case there is no county school board, the petition shall be presented to the commissioners court of the county or counties involved.

§ 51.034. Tax Levy

Any petition authorized by Section 51.033 of this code may also incorporate therein a request for the proper authorities, in the event an election is ordered for the creation of such district, to submit at the same election the questions of issuing bonds and levying bond taxes, and levying maintenance taxes, in the event the district is created, not to exceed the limits provided in Section 51.102 of this code.

§ 51.035. Legality of Petition

It shall be the duty of the county school board or boards or the commissioners court or courts petitioned in compliance with Section 51.033 of this code to:

- (1) pass upon the legality of the petition and the genuineness of the same; and
- (2) forward the petition, so approved, to the Coordinating Board, Texas College and University System.

§ 51.036. Order to Establish

It shall be the duty of the coordinating board, with the advice of the commissioners of higher education to determine whether or not the conditions set forth in the preceding sections of this chapter have been complied with, and also whether, considering the geographic location of colleges already established, it is feasible and desirable to establish a junior

college district. It shall be the duty of the coordinating board in making its decision to consider the needs approving of the state, the welfare of the state as a whole, as well as the welfare of the community involved. The decision of the coordinating board shall be transmitted through the commissioner of higher education to the county school board or boards or the commissioners court or courts, as the case may be, along with the order of the coordinating board authorizing further procedure in the establishment of the junior college district.

§ 51.037. Calling Election; Submission of Questions

If the coordinating board approves the establishment of the junior college district, it shall then be the duty of the commissioners court or courts to enter an order for an election to be held in the proposed territory within a period of not less than 20 days and not more than 30 days after the order is issued, to determine whether or not such junior college district shall be created and formed; and in the event the petition for the creation of the junior college is accompanied by a request to submit the questions of issuing bonds and levying bond taxes, and levying maintenance taxes, in the event the district is created, then the election order shall also submit such questions in accordance with the petition; and except for the body that calls the election, the election as to bonds and taxes shall be held as provided in Section 51.092(b). The order shall contain a description of the metes and bounds of the junior college district to be formed and fix the date of the election.

§ 51.038. Election

A majority of the qualified voters in the proposed district, voting in the election, shall determine the question of creation of the junior college district submitted in the order and the election of the original trustees. If the order also submits questions of and issuing bonds and levying taxes, a majority of the resident, qualified electors of the proposed district, who own taxable property therein and who have duly rendered the same for taxation, voting in such election, shall determine such question submitted in the order. In the case of a joint-county junior college district, or a union junior college district, the election shall, by mutual agreement of the court or courts, be held on the same day throughout the proposed district.

§ 51.039. Election Returns, Canvass, and Result

(a) The commissioners court or courts within 10 days after holding of an election shall make a canvass of the returns and declare the results of the election.

(b) The court or courts shall enter an order on the minutes of the court or courts as to the results.

§ 51.040. Board of Trustees: Union, County, or Joint-County Junior College

A union junior college, a county junior college, or a joint-county junior college shall be governed, administered, and controlled by and under the direction of a board of trustees of seven members.

§ 51.041. Election of Trustees of Union, County, and Joint-County Junior College

The original trustees of a union or a county junior college shall be elected at large from the junior college district by the qualified voters of

the district under the rules and regulations provided for in Section 51.042 of this code.

§ 51.042. Original Board

(a) The original trustees shall be elected at the same election at which the creation of the district is determined.

(b) Any candidate desiring to be voted upon as a first trustee shall present a petition to the commissioners court or courts within three days before the order authorizing the election is issued by the commissioners court or courts, and shall accompany his petition with a petition signed by not less than two percent of the qualified voters in the district, requesting that his name be placed on the ticket as a candidate for trustee.

(c) The seven candidates for junior college trustee receiving the highest number of votes at the election shall be declared trustees of the district.

§ 51.043. Organization

After the election of the original trustees, the board of trustees shall be organized and constituted, pursuant to the provisions of Section 51.072 of this code and be governed by the provisions thereof.

[Sections 51.044–51.060 reserved for expansion]

SUBCHAPTER D. ENLARGED DISTRICTS

§ 51.061. Extension of Boundaries of a Junior College District Coextensive With an Independent School District

The district boundaries of an independent school district junior college shall automatically be extended so that the boundary lines of the two districts, independent school district and junior college district, shall remain identical when:

(1) the junior college district was created with the same boundary lines as an independent school district;

(2) the boundaries of the independent school district are extended by consolidation, attachment of territory, or otherwise; and

(3) the board of trustees of the independent school district is also the governing board of the junior college.

§ 51.062. Enlarged District: Creation; Resolution; Order

(a) If the creation of the junior college district and the extension of the boundaries of the independent school district both occurred prior to March 17, 1950, the added territory of the independent school district may be brought into the junior college district in the manner prescribed by this section.

(b) A petition requesting that such territory be added to the junior college district signed by a majority of the qualified property taxpaying voters of the territory may be presented to the governing board of the junior college district.

(c) The board shall determine whether the petition is signed by the required majority, based upon the latest approved tax rolls of the independent school district, and if such determination is affirmative and if the board shall also determine that the facilities of the junior college district may be extended to cover adequately the scholastics of the added territory, the board shall pass an order admitting such territory. The order

shall describe by metes and bounds the junior college district as extended; and a copy of the order shall be filed with the county superintendent. Thereafter, the territory shall be a part of the junior college district for all intents and purposes.

§ 51.063. Extension of Junior College District Boundaries for Junior College Purposes Only

Territory consisting of school districts or parts of school districts adjoining or lying adjacent to any junior college district may be annexed to the junior college district for junior college purposes only, by either contract or election.

§ 51.064. Annexation by Contract

If the annexation is by contract, a petition shall be presented to the governing board of any junior college district, executed by all property owners of all property situated in the territory proposed for annexation. The petition shall contain a legally sufficient description of the territory proposed for annexation. The governing board of the junior college district, if it deems the annexation to be in the best interest of the district, may effect the annexation by:

- (1) entering its order authorizing the annexation of the territory by contract; and
- (2) then entering into a written agreement duly executed and acknowledged by all persons, corporations, and entities owning property within the territory.

§ 51.065. Annexation by Election

(a) If the annexation is by election, a petition signed by five percent of the property taxpaying electors in the territory seeking to be annexed shall be presented to the county school board of the county, or to the commissioners court of the county in case there is no county school board.

(b) The petition shall contain a legally sufficient description of the territory proposed for annexation, and shall be accompanied by a certified copy of an order by the governing board of the junior college district affected approving the proposed annexation of the territory to the junior college district for junior college purposes only.

(c) The county school board, or the commissioners court, shall issue an order for an election to be held in the territory proposed for annexation, not less than 20 nor more than 30 days from the date of the order, and shall give notice of the date of the election by posting notices of such election in three public places within the territory proposed for annexation.

(d) Only those legally qualified electors residing in the territory proposed for annexation shall be permitted to vote.

(e) The county school board, or the commissioners court shall canvass the returns at a meeting held not more than five days after the election. If the votes cast in the election show a majority in favor of annexation, the territory shall be declared annexed to the junior college district for junior college purposes only.

(f) The county school board or commissioners court shall cause a certified copy of the order to be transmitted to the governing board of the junior college district.

(g) At the next regular or special meeting of the governing board of the junior college district, the board shall, in the event of annexation by election, enter its order concurring in the order of the county school board or the commissioners court and shall enter an order redefining the boundary lines of the junior college district as enlarged and extended, and shall cause the order to be recorded on the minutes of the board of the junior college district.

§ 51.066. Annexation of County-Line Districts for Junior College Purposes

(a) Parts of county-line school districts may be annexed to adjacent county or joint-county junior college districts for junior college purposes only, as provided in this section.

(b) The county or joint-county junior college district as originally created and organized must have included in its boundaries a part of a county-line school district, and the part of the county-line school district to be annexed is not included in any other junior college district.

(c) The county or joint-county junior college districts to which this section is applicable are those where the junior college district as originally created and organized had the same boundaries as a county or as a group of contiguous counties and included all of the territory in a county or group of counties and did not include a part of any county without including the entire territory of such county in such junior college district.

(d) A "county-line school district" as used in this section is any type of public school district created or organized under general or special laws of Texas, which includes within its boundaries territory that extends into or is located in two or more counties of Texas.

§ 51.067. Annexation of Non-Included Parts of Counties

(a) The non-included portion or portions of such county-line districts may be annexed to the county or joint-county junior college district by either of two methods as provided by Subsections (b) and (c) of this section.

(b) On the petition of 20 or a majority of the legally qualified voters residing in that part of a county-line district not a part of a junior college district as described in Section 51.066 of this code praying for the annexation for junior college purposes only, of that part of the county-line school district to the junior college district in which the remainder of the county-line district is a part, the county judge of that county which has jurisdiction of the county-line school district shall issue an order for an election to be held in the non-included portion of the county-line school district praying to be annexed to the county or joint-county junior college district. The county judge shall give notice of the date of the election by posting notices at three public places in the part of the county-line school district wherein the election is to be held. Only those legally qualified voters residing in that part of the county-line school district shall be permitted to vote. The commissioners court shall at its next meeting canvass the returns of the election, and if the votes cast in the election show a majority in favor of annexation, then the court shall declare that part of the county-line school district annexed to the junior college district for junior college purposes only. The court shall cause certified copies of the order to be transmitted to the commissioners court of every county in which the junior college district and the county-line school district have territory, and each court shall make orders concur-

ring in the order and shall cause them to be entered on the minutes of each commissioners court.

(c) Where a petition, signed by a majority of the legally qualified voters residing in that part of a county-line school district praying for annexation for junior college purposes only, of that part of the county-line school district to the junior college district in which the remainder of the county-line district is a part, is presented to the county judge of that county which has jurisdiction of the county-line school district together with a certified copy of an order by the governing board of the junior college district approving the proposed annexation to the junior college district for junior college purposes only; instead of ordering an election to be held as provided in Subsection (b) of this section, the county judge shall certify the filing of the petition and order to the commissioners court. The court at its next meeting shall pass an order declaring such non-included part of the county-line school district annexed to the junior college district for junior college purposes only and cause certified copies of the order to be transmitted to the commissioners court of every county in which the junior college district and the county-line school district have territory. Each such court shall make orders concurring in the order and cause same to be entered on the minutes of each commissioners court.

§ 51.068. Disannexation of Overlapped Territory

(a) All junior college districts whose boundaries have or may hereafter become established so that they include territory which prior to such establishment lay, and shall continue to lie, within the boundaries of another junior college district shall have the power to disannex such overlapped territory.

(b) Upon certification by the governing board of such a junior college district to the county board of school trustees of the county in which its college is located that such an overlapping condition exists, the county board may by resolution disannex the overlapped territory from the district, describing such territory by metes and bounds.

[Sections 51.069–51.070 reserved for expansion]

SUBCHAPTER E. BOARDS OF TRUSTEES OF JUNIOR COLLEGE DISTRICTS

§ 51.071. Governing Board of Junior College of Independent School District

In each junior college district which is controlled and managed by, and under the jurisdiction of, the governing board of an independent school district or a city school district, such governing board shall be constituted and chosen in accordance with the laws of this state applicable to the governing board of such independent school district or city school district.

§ 51.072. Governing Board of Junior College of Other Than Independent School District

(a) The governing boards of all junior college districts except those as described in Section 51.071 of this code shall be constituted and chosen as described in the provisions of this section.

(b) The official name of the governing board of the junior college district shall be the board of trustees.

(c) The official name of a junior college district shall be the "_____ Junior College District" and the board shall designate an appropriate and locally pertinent descriptive word or words to be filled in the aforesaid blank (and may change such designation when deemed advisable) by resolution or order; provided that no two districts shall have the same or substantially similar names. All resolutions or orders designating or changing names shall be filed immediately with the Coordinating Board, Texas College and University System, and the first name filed shall have priority, and the district shall be advised of any previous filing of any identical or substantially similar name. The name of any junior college district existing on the effective date of this code shall remain the same until and unless it is changed pursuant hereto, and no other district shall use the name of any such existing district.

(d) The number of members or trustees of the governing board shall be either seven or nine, in accordance with the laws applicable to the junior college district on the effective date of this code or on the date of the creation of a new district or a new board. Any seven-member board may be increased to nine, and the two additional members shall be appointed by resolution or order of the board for terms of office as prescribed in Subsection (e) of this section. Any vacancy occurring on the board through death, resignation, or otherwise, shall be filled by appointment by resolution or order of the board, and any person so appointed shall serve until the expiration of the term of office for which the vacating member of the board had been elected or appointed. Each member of the board shall be a resident, qualified voter of the district and shall take the proper oath of office before taking up the duties thereof. Members of a board shall not receive any remuneration or emolument of office, but they shall be entitled to reimbursement for their actual expenses incurred in performing their duties, to the extent authorized and permitted by the board. The board shall elect one of its members as president of the board, and the president shall preside at meetings of said board and perform such other duties and functions as are prescribed by the board. The president of the board shall have a vote the same as the other members. The board shall elect a secretary of the board who may or may not be a member of the board, and who shall be the official custodian of the minutes, books, records, and seal of said board, and who shall perform such other duties and functions as are prescribed by the board. The board shall be authorized to elect any other officers as deemed necessary or advisable. Officers of the board shall be elected at the first regular meeting of the board following the regular election of members of the board in even-numbered years, or at any time thereafter in order to fill a vacancy. Said board shall be authorized to appoint or employ such agents, employees, and officials as deemed necessary or advisable to carry out any power, duty, or function of said board; and to employ a president, dean or other administrative officer, and upon the president's recommendation to employ faculty and other employees of the junior college. Said board shall act and proceed by and through resolutions or orders adopted or passed by the board and the affirmative vote of a majority of all members of the board shall be required to adopt or pass a resolution or order, and the board shall adopt such rules, regulations, and bylaws as it deems advisable, not inconsistent with this section.

(e) The basic term of office of a member of the board shall be six years, and one-third of the members of the board shall be elected at large

in the district at regular elections to be held on the first Saturday in April in each even-numbered year; provided that with a seven member board two members shall be elected in two consecutive even-numbered years and three members shall be elected in the following even-numbered year. The members of each board in office at the effective date of this act, and all subsequent members of the board, shall remain in office until the expiration of the terms for which they were elected or appointed, and until their successors shall have been elected and qualified; provided that where any existing board has held its regular elections for members of the board in odd-numbered years prior to the effective date of this act, the board shall nevertheless hold its next regular election on the first Saturday in April of the next even-numbered year following the effective date of this act, and the term of office of each incumbent member of the board shall, in effect, be lengthened by one year so as to comply with the foregoing provisions of this act. Upon the creation of a new board, or in any other situation where necessary, the members of the board shall choose by lot the terms for which they shall serve, so as to comply with the foregoing provisions. If a board is increased from seven to nine members, one of the members shall be appointed to serve until the first election at which two members otherwise would have been elected, and the other shall be appointed to serve until the second election at which two members otherwise would have been elected, and three members shall be elected for six-year terms at each election.

(f) Members of a board shall be elected at large from each junior college district at regular elections to be called and held by the board for such purpose, at the expense of the district, on the first Saturday in April in each even-numbered year. Said elections shall be held in accordance with the Texas Election Code except as hereinafter provided, and all resident, qualified electors of the district shall be permitted to vote. Each such election shall be called by resolution or order of the board, and notice of each such election shall be given by publishing an appropriate notice, in a newspaper of general circulation in the district, at least 10 days prior to the date of the election, setting forth the date of the election, the polling place or places, the numbers of the positions to be filled, the candidates for each position, and any other matters deemed necessary or advisable.

(g) The board shall designate a number for the position held by each member of the board, from one upward in consecutive numerical order in such manner that the lowest numbers shall be assigned to the members whose terms of office expire in the shortest length of time, provided that any such position number designations on existing boards under existing law at the effective date of this act shall remain in effect. At each election candidates shall be voted upon and be elected separately for each position on the board, and the name of each candidate shall be placed on the official ballot according to the number of the position for which he or she is running. A candidate receiving a majority of the votes cast for all candidates for a position shall be declared elected. If no candidate receives such a majority, then the two candidates receiving the highest number of votes shall run against each other for the position. The run-off election for all positions shall be held on the last Saturday in April and shall be ordered, notice thereof given, and held, as provided herein for regular elections. Any resident, qualified elector of the district may have his or her name placed as a candidate on the official ballot for any position to be filled at each regular election by filing with the secretary of the board a written application therefor signed by the applicant, not

less than 30 nor more than 60 days prior to the date of the election. Such application must state the number of the position for which he or she is a candidate, or the name of the incumbent member of the board holding the position for which he or she desires to run. The location on the ballot of the names of candidates for each position shall be chosen by lot by the board. A candidate shall be eligible to run for only one position at each election.

(h) Notwithstanding anything in this code to the contrary, the provisions of all or any part of the laws of this state in effect immediately prior to the effective date of this act and relating to the name of any junior college district or the name of its governing board, or to the number of members of its governing board, or the procedures and times of electing or choosing said members, shall remain in effect under the following conditions. If, at any time before the effective date of this act (but not thereafter), the governing board of any junior college district shall specify by resolution or order the particular provisions of the aforesaid laws applicable to it which it desires to remain in effect, then such particular provisions shall continue to apply to said board and its district; provided that at any time thereafter the governing board may make this section in its entirety applicable to it and its district by appropriate resolution or order, and thereby permanently cancel the effect of the aforesaid particular provisions of other laws. All resolutions and orders permitted by this section shall be filed immediately with the Coordinating Board, Texas College and University System.

§ 51.073. Powers and Duties

The board of trustees of junior college districts shall be governed in the establishment, management and control of the junior college by the general law governing the establishment, management and control of independent school districts insofar as the general law is applicable.

[Sections 51.074–51.080 reserved for expansion]

SUBCHAPTER F. REGIONAL COLLEGE DISTRICTS

§ 51.081. Creation and Regulation of Regional College Districts

(a) A regional college district may be established according to the method outlined herein by a county which contains a public junior college district, or by a combination of counties if one of such counties contains a public junior college district, and if the county seat of said county, or if the proposed regional college district is composed of a combination of counties, the respective county seats of such counties, is located at least 90 miles by the then direct regularly traveled road or highway from the county seat of any county containing a state-supported senior college or university, provided that the assessed property valuation of the proposed regional college district, for state and county purposes according to the most recent tax rolls is at least \$52,000,000 and that the scholastic population of such proposed district is not less than 20,000 scholastics according to the most recent scholastic census thereof, as approved by the appropriate state authority, and provided that the population of such county containing a public junior college district is not less than 80,000 according to the last preceding federal census.

(b) Any college created under the authority of this subchapter shall be subject to all provisions of Chapter 487, Acts of the 54th Legislature,

Regular Session, 1955, as amended by Chapter 488, Acts of the 56th Legislature, 1959, as amended by Chapter 12, Acts of the 59th Legislature, Regular Session, 1965 (codified as Article 2919e—2, Vernon's Texas Civil Statutes), and it is further provided that the Coordinating Board, Texas College and University System, shall determine the date upon which any college of any grade or level created hereunder shall begin courses of instruction, such date to be determined only if a feasibility study by the Coordinating Board, Texas College and University System, shall establish a need for any such college.

§ 51.082. Petition for Election

Whenever it is proposed to establish a regional college district, a petition signed by not fewer than 100 of the qualified property taxpaying voters of said public junior college district and not fewer than 100 of the qualified property taxpaying voters of each of the counties in the territory of such proposed regional college district shall be addressed and presented to the commissioners court of the county or the commissioners courts of the respective counties of such proposed regional college district, praying that an election shall be held upon a stated date in such county or counties which date shall be not less than 30 nor more than 60 days after the date of such petitions for the purpose of determining whether or not such a regional college district shall be formed and such regional college shall be established and whether or not such junior college district shall be merged into said regional college district and whether or not such regional college district shall assume the bonded indebtedness of such junior college district and whether or not such proposed district shall have the power to levy taxes for the payment of such bonded indebtedness and for the maintenance and operation of said regional college and for providing buildings and facilities therefor, all of which questions shall be submitted as parts of one proposition to be printed on the ballots at such election. The signatures for such petition shall be segregated according to the county in which the signers reside and the signatures of the petitioners residing in such public junior college district shall also be segregated, under appropriate headings indicating the county or district of residence. Such petition may be in two or more counterparts according to the number of counties proposed to be included in such regional college district and respective counterparts of said petition may be filed with and presented to the commissioners courts of said respective counties. The name of such proposed regional college district shall be set forth in said petition and shall include therein the words "regional college district."

§ 51.083. Election

It shall be the duty of the said commissioners court or courts of said county or respective counties, promptly after receiving said petition or petitions to order an election to be held throughout their respective county or counties on the date fixed in said petition, and said order shall designate the polling places for said election in said county or counties and appoint officers thereof and provide the supplies therefor and shall set forth the name of such proposed district. The election precincts for said election shall conform as nearly as practicable to the regular election precincts of said county or respective counties, but the election precincts within the boundaries of such public junior college district shall not embrace any territory outside of said public junior college district. Each

such commissioners court shall give notice of said election in its county by causing such notice to be published once each week for two alternate weeks before said election in some newspaper having general circulation in said county, the first publication being at least 21 days before said election. If there be no newspaper published having general circulation in such county, the notice of the election to be held in said county shall be published in some newspaper published outside of said county having general circulation in said county and such notice shall also be posted in a public place in each of the commissioner's precincts of said county, one of which shall be at the courthouse door of said county. If a regular session of any such commissioners court is not to be held in time to order such election and give such notice thereof, it shall be the duty of the county judge of such county, upon petition being called to his attention to timely call a special session of such court for this purpose.

The proposition to be submitted at said election in each county, and to be printed on the ballots therefor, shall be as follows:

"FOR the college merger, assumption of bonded indebtedness thereof, and for the establishment of a regional college and the levying of taxes for the maintenance and operation thereof, and for providing buildings and facilities therefor."

"AGAINST the college merger, assumption of bonded indebtedness thereof, and the establishment of a regional college and the levying of taxes for the maintenance and operation thereof, and providing buildings and facilities therefor."

Only qualified electors who own taxable property in the county in which they offer to vote and who have duly rendered their property for taxation shall be permitted to vote at said election.

Except as otherwise herein provided, such election in each county shall be conducted in accordance with the general election laws of the state.

§ 51.084. Canvass of Returns and Declaration of Result; Effect of Vote

Such commissioners court or courts, as the case may be, shall within 10 days after holding such election, make a canvass of the returns and declare the results of the election. If a majority of those voting at said election within the boundaries of such public junior college district, and a majority of those voting at said election in each of such counties, vote for the proposition submitted, the merger of such public junior college district into and with such regional college district, and the assumption by such regional college district of the bonded indebtedness of such public junior college district shall be deemed to have been effected, and a regional college shall be established in such regional college district, conformably to the further provisions hereof, but the failure of the proposition submitted in any county not containing a public junior college district shall in nowise affect the formation of the proposed regional college district in any other county in which such election is held wherein a majority of the qualified property taxpaying voters voting in such election in such county vote for the proposition submitted in the election order; provided, that a majority of the qualified property taxpaying voters voting in such election in the public junior college district and in the county in which such public junior college district is located, vote for the proposition submitted in the election order. If the regional college district is not created by virtue of such election, another election for such purpose may be held in said proposed regional college district, or portion thereof

containing a public junior college district, not less than one year from the date of such previous election, provided it be initiated by the same procedure above prescribed for the first election.

§ 51.085. Board of Regents

(a) If the merger herein provided for is effected by said election or any subsequent election held for said purposes, under the further provisions hereof, such regional college district shall thereafter be governed by a board of regents, constituted as herein provided. Said board of regents shall be made up in part of one regent at large, from each of the counties approving participation in the regional college district. In addition, there shall be one regent from each county for each 15,000 scholastics of the respective counties or a major fraction thereof, as determined by the proper state authority and provided further in addition there shall be one regent from each county for each \$50,000,000 of assessed property valuation, or major fraction thereof, as determined by the county tax assessor-collector of each approving county of said district. The first regents, constituting said board of regents, from each of such counties, shall be appointed by the commissioners court of said respective counties except as modified herein and shall be made within 30 days after the election at which said merger shall have been effected; however, in the event that only the county containing the junior college votes favorably for the proposed regional senior college district, the board of regents of the junior college district may decide:

(1) whether to activate the regional college district or

(2) whether to continue the present junior college district and in the event that the decision is to activate the regional college district, the present junior college board will continue as the board of regents for the regional college and shall operate under all present and future junior college statutes as pertaining to junior colleges; that is to say, that in the event that more than one county votes to participate in the regional college, the board of regents shall be constituted as follows:

(A) one regent at large from each approving county;

(B) one regent from each approving county for each 15,000 scholastics or major fraction thereof; and

(C) one regent from each approving county for each \$50,000,000 assessed property evaluation or major fraction thereof; and further the first regents, constituting said board of regents, shall be appointed as follows:

(1) from the original junior college district, the board of regents of the junior college district shall appoint the members of the board from that county,

(2) from each of the several counties, the commissioners court shall appoint the members of the board of regents from that county. All appointments shall be made within 30 days from the date of the election. Each and every regent shall take the oath of office as prescribed for junior college board members.

(b) The board of regents thus appointed shall first meet within 21 days of the time the members are appointed at a time and place appointed by the then president of the board of regents of the junior college district and shall proceed to organize by electing from its members a president, a vice president, a secretary and an assistant secretary from members of the board. At the first meeting of said board of regents, the regents from each county shall draw lots for terms of office. The appoint-

ed regents from each county shall elect one of its members to draw for terms and all regents from the county drawing the lowest number shall serve a term of two years; all regents from the county drawing the second lowest number shall serve four years; all regents from the county drawing the third lowest number shall serve six years. In case there are more than three counties, there shall be two lowest lots; then two next lowest lots, etc.; that is to say that no board member shall serve longer than six years and all regents from any one county shall have the same term. If only the county in which the junior college is located forms the senior college district, the terms of office shall remain the same as under the statute under which the junior college district presently operates. The board of regents shall cause a permanent record to be made and preserved of the term of office of each appointed regent determined by lot as herein provided. At the expiration of the terms of office of each regent, a successor shall be elected at elections held within the respective counties at large, at the same time and in the same manner as is now presently prescribed for the existing junior college district, provided that such elections shall be called and conducted in the manner presently prescribed for junior colleges. Costs of such regent election shall be paid for from college funds. The returns of such board elections shall be canvassed and certified by the board of regents as is now presently prescribed for junior colleges. All provisions hereof with reference to elections of regents in counties originally constituting said regional college district shall extend and apply to election of regents in entire counties that may hereafter be annexed to said college district under the further provisions hereof.

§ 51.086. Property, Funds and Resources of Junior College District; Contracts

Upon the merger of said public junior college district into and with the regional college district, all property, funds and resources of the public junior college district are authorized and shall pass to and belong to said regional college district, and all contracts of such public junior college district shall extend to and be binding upon such regional college district; provided that the management and control of the property and affairs of the public junior college district shall continue in the board of trustees of such public junior college district until the appointment and organization of the board of regents of the regional college district, at which time the board of trustees of said public junior college district shall turn over all records, property and affairs of the said public junior college district to the board of regents of said regional college district and shall cease to exist as a junior college board of trustees.

§ 51.087. Assessed Tax Values and Scholastic Census; Number of Regents; Conduct of Election; Vacancies; Organization of Board; Meetings; Office

The amount of assessed tax values of said counties, for the purposes herein provided, shall be determined in the first instance, and from time to time, according to the most recent figures available, by the county tax assessor-collector of each approving county in the district. Such assessed tax values for ascertaining the number of regents at large to which said respective counties are entitled hereunder, to be appointed under the provisions hereof, shall first be made by the county tax-assessor-collector of said county or respective counties. Such determination shall

thereafter be made and certified before each biennial election of regents, by the board of regents. The number of scholastics of each of said counties, for the purposes herein provided, shall be determined in the first instance and from time to time, according to the most recent scholastic census of each of said respective counties, as approved by the state agency then authorized to approve such census. Such scholastic census of said respective counties for ascertaining the number of regents at large to which said respective counties are entitled hereunder, to be appointed under the provisions hereof, shall first be made by the superintendent of schools of the prospective independent school districts located in the respective counties. Such determination shall thereafter be made and certified before each biennial election of regents at large, by the board of regents. All elections herein provided for shall be conducted according to the general election laws of the State of Texas, except as herein otherwise provided. All vacancies occurring in the board of regents shall be filled by appointment by the board of regents. After each election of regents the board of regents shall organize as herein provided. The board of regents shall select and maintain a regular office for their meetings and the transaction of their business, at such place as they determine, and shall hold regular meetings at such times as may be provided in the rules or bylaws of said board of regents, and may hold special meetings at the call of the president of the board.

§ 51.088. Rules of Procedure; Quorum; Seal; Suits

(a) The board of regents may adopt its own rules of procedure, but a majority of said regents shall constitute a quorum, and a majority of those in attendance may transact any business.

(b) The board of regents of such regional college district shall adopt an official seal for the district, and said district may sue and be sued in its name. In any suit against said district, process may be served on the president or vice-president.

§ 51.089. Compensation and Expenses of Board

The board of regents of such regional college district may authorize the payment of a per diem of not to exceed \$10 to each member of such board of regents in attendance at a regular or special meeting of such board of regents. In addition, members of said board of regents may be allowed such actual expenses as may be incurred by them in performing their duties as may be authorized and allowed by the board of regents, provided, that per diem payments may not be made in addition to payments for actual expenses.

§ 51.090. Powers of Board

The said board of regents shall have all the power and duties in respect of the business and affairs of the regional college district as provided by law in respect of the board of trustees of junior college districts, and such other powers as herein provided and as may be hereafter provided by law.

§ 51.091. Annexation of Contiguous County or Independent Districts

(a) The entire area of any county located in Texas, the county seat of which is located at least 90 miles by the then direct regularly traveled road or highway from the county seat of any county containing a state-supported senior college or university, or the area of any one or more in-

dependent school districts of a county in Texas who meets the requirements above, may be annexed to, and assume its pro rata part of the bonded indebtedness of said regional college district, in the manner herein provided. A petition of 100 of the property taxpaying voters of any such county or of any such independent school district, proposing that the entire area of such county, or of such independent school district, as the case may be, be annexed to, and that such county-wide area or such district area assume its pro rata part of the bonded indebtedness of said regional college district, may be submitted to the board of regents of such regional college district. If the said board of regents determines that it would be to the interest of said regional college district and of the area proposed to be annexed, that such annexation be accomplished, said board of regents shall adopt a resolution so finding, and said petition and certified copy of said resolution shall be submitted to the commissioners court of said county, and it shall be the duty of said commissioners court, within 15 days after the presentation of such petition any copy of such resolution, to order an election to be held in said county at large, or in such school district, or districts, as the case may be, for the purpose of determining if the area of said county, or the area of such school district, or districts, shall be annexed to said regional college district, and assume its pro rata part of the bonded indebtedness of said regional college district; said election to be held not earlier than 60 days nor later than 90 days after passage of such order. The proposition to be voted on at said election and to be printed on the ballots therefor shall be:

(1) "FOR annexation to be the regional college district and assumption of pro rata part of its bonded indebtedness."

(2) "AGAINST annexation to be the regional college district and assumption of pro rata part of its bonded indebtedness."

The name of such district shall be inserted in the proposition.

(b) Said commissioners court shall designate the polling place of said election and appoint the officers thereof, and furnish the supplies therefor. Only qualified electors who own taxable property in said county or school district, as the case may be, and who have duly rendered the same for taxation, shall be qualified to vote at said election. Said election shall be conducted in accordance with the general election laws of Texas, insofar as applicable. Returns of said election shall be made to said commissioners court and canvassed by said court.

(c) If the majority of the votes cast at such election are in favor of said proposition, such fact shall be certified by the commissioners court to the board of regents of said regional college district, and the entire area of said county, or of said school district, or districts, as the case may be, shall be deemed to have been annexed to and shall be a part of said regional college district and shall be subject to taxation for the payment of the existing bonded indebtedness and the maintenance of said regional college district the same as other property in the area of said regional college district.

(d) In the event an entire county is so annexed, the commissioners court of such county shall forthwith appoint a regent or regents for said college from the county in accordance with the number of regents allowed as herein above provided. All such regents shall, before entering upon the duties of their offices, take the oath as herein prescribed for regents. Such appointment shall be certified by the clerk of the commissioners court to the board of regents of said college district. At the first meeting of the board of regents after the appointment and qualification of regents from such annexed county, the regents shall determine by lot

in the manner provided by the board of regents, their term of office. Thereafter, successors to the regents from said annexed county shall be elected in the manner provided for other counties in said district.

(e) In the event the area of one or more independent school districts of a county, instead of the entire county, is annexed to said regional college district, said annexed territory shall be entitled to the number of regents as they may qualify for in terms of scholastics and tax values. Immediately after such annexation the commissioners court of the county in which such area is situated shall appoint from said area, the number of regents to which such area is entitled. This regent or regents as the case may be, so appointed, shall hold office until the expiration of the term of office of the regents of said county of which they are a part. At the expiration of the term of each regent from such annexed territory his successor shall be elected at an election to be held in the annexed area, to be called by the board of regents, which shall designate the polling place or places, the officers of the election, provide the supplies therefor and pay the expenses thereof.

§ 51.092. Taxes

The tax assessors and collectors of the county or respective counties containing territory embraced within the boundaries of such regional college district shall assess and collect the taxes of said college district on the taxable property in the territory of said district located in said county or respective counties on levies made and rates fixed by the board of regents of said district. The assessed valuations of said property for state and county taxes shall be used as the valuations for said college district taxes. Such tax collectors shall collect the college district taxes at the same time that he collects the state and county taxes. All taxes collected for such regional college district shall be accounted for to and paid over to the treasurer of said college district by such tax collector, and he shall receive the same compensation for assessing and collecting such taxes as provided by law for like services rendered for junior college districts.

§ 51.093. President of College

The board of regents shall choose the president of the regional college, fix his term of office, designate his salary, and define his duties. The president shall be the executive officer of the board of regents and shall work under its direction. He shall recommend the plan of organization of the college and shall recommend the appointment of all employees.

§ 51.094. Establishment of College; Divisions; Support

(a) The board of regents shall proceed as soon as practicable to establish a regional college in said regional college district, which shall consist of three divisions, as follows:

(1) a junior college division, which shall operate under all laws applicable to public junior colleges in Texas.

(2) an adult education division for adults regardless of age or former education for

(A) basic education to emphasize citizenship, english, and training in elemental mathematics and science

(B) terminal, vocational, and technological education and training in their generally accepted sense

(C) work and study groups based on needs and interests as displayed by the residents of the area served by the regional college. The adult education division shall emphasize continuation of education of adults with emphasis upon democracy and citizenship.

(3) a senior college division which shall be guided by educational practices and principles applicable to upper division work in first-class colleges and universities; provided that any bachelor's degree shall be based on four years of college work and that any higher degree with appropriate courses may be offered when in the judgment of the board of regents, the educational welfare of the people served by the college demands and justifies such work and such courses. All of which shall be organized and blended into an educational program by the president of the college and his staff.

(b) It is understood and provided that no funds shall ever be appropriated from the treasury of the State of Texas or public moneys of this state for the support or partial support by the legislature of Texas of any adult and senior college divisions of such regional colleges created under the provisions of this act, provided, however, that nothing herein contained shall in any manner prevent or interfere with the provisions of law now or hereafter existing authorizing state aid to the junior college divisions of such regional college districts in the same manner and to the same extent as that granted to junior college districts.

§ 51.095. Buildings, Property and Resources of Junior College District; Fees and Tuition; Tax Levy; Bonds

(a) All buildings, property, and other educational resources of the public junior college district at the time of said merger shall be available for all divisions of the regional college in accordance with the laws of Texas governing public junior college districts and as determined by the board of regents of the regional college district. The board of regents shall have the power to fix such fees and tuition rates as shall be deemed to be necessary. In addition, the board of regents shall have the power to levy taxes and make such distribution of such taxes as it may deem necessary for the adequate support of said college; provided that the total annual tax levy for all regional college purposes shall not exceed a rate of 50¢ on each \$100 of assessed valuation of taxable property located in such regional college district. All powers relating to the issuance of bonds, the construction or acquisition of buildings and facilities, taxation, and otherwise, vested by law in public junior college districts shall be applicable to said regional college district, subject, however, to the limitation of 50¢ on each \$100 of valuation above mentioned.

(b) All bonds and notes issued pursuant to the authority herein granted shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, saving and loan associations and insurance companies. Such bonds and notes shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and such bonds and notes shall be lawful and sufficient security for said deposits to the extent of the principal amount thereof, or their value on the market, whichever is the lesser, when accompanied by all unmatured coupons appurtenant thereto.

§ 51.096. Donations, Gifts and Endowments

Said board of regents is authorized, in behalf of said regional college, to accept donations, gifts, and endowments for the college to be held in trust and administered by the board of regents for such purpose and under writing by the donor, not inconsistent with the proper management and objects of the college.

§ 51.097. Power of Eminent Domain

(a) The power of eminent domain is hereby conferred on regional college districts, for the purpose of acquiring buildings, lands for building or campus sites, or other property determined by the boards of regents of such districts to be needed to carry out the authorized functions of such districts.

(b) Said power of eminent domain shall be exercised in the manner provided by Title 52 of the Revised Civil Statutes of Texas, 1925.¹

1. Vernon's Ann.Civ.St. art. 3264 et seq.

§ 51.098. Delinquent Taxes After Transfer of Assets

Any regional college district which has conveyed all, or substantially all, of its property and assets to a state-supported senior college or university located in such regional college district and which regional college district has no outstanding bonded indebtedness is hereby abolished and shall cease to exist and function; provided, however, that all delinquent and uncollected taxes in said regional college district shall not hereby be discharged, but shall be and remain fully due, payable and collectible. The tax assessor and collector of the county in which said regional college district is located shall cause all delinquent and uncollected taxes of said regional college district to be collected in accordance with the general laws applicable to regional college districts. All of said taxes, as collected, shall be turned over to any such state-supported senior college or university. All taxes turned over to any such state-supported senior college or university in accordance with this act may be used by it for any lawful purpose.

§ 51.099. Transfer of Assets of Certain Regional College Districts

All regional college districts which have been converted to fully state supported institutions of higher learning are hereby authorized to transfer all assets of such districts, real, personal, tangible or intangible to the governing boards of such institutions provided that each such governing board shall continue the payment of all notes and bonds payable from revenues theretofore issued by such districts and each county in which any such regional college district is located continues to levy and collect taxes in support of all tax obligations theretofore authorized and issued by such district.

SUBCHAPTER G. FISCAL PROVISIONS**§ 51.101. Tax Assessment, Equalization, and Collection**

(a) The governing board of each junior college district, and each regional college district, for and on behalf of its junior college division, annually shall cause the taxable property in its district to be rendered and assessed for ad valorem taxation, and the value of such taxable property to be equalized, and the ad valorem taxes in the district to be

collected, in accordance with any one of the methods set forth in this section, and any method adopted shall remain in effect until changed by the board.

(b) The laws of this state applicable to general law cities and towns may be adopted and shall be used to the extent pertinent and practicable.

(c) The laws of this state applicable to counties may be adopted and shall be used to the extent pertinent and practicable, provided that the board shall have the authority to act as its own board of equalization, or to appoint three resident, qualified voters of the district who own taxable property therein to act as the board of equalization of the district, and in either case the board of equalization shall qualify and perform the duties prescribed by law for county commissioners courts acting as boards of equalization.

(d) Each governing board shall be authorized to have the taxable property in its district assessed, its values equalized, and/or its taxes collected, in whole or in part, by the tax assessors, board of equalization, and/or tax collectors, respectively, of any county, city, taxing district, or other governmental subdivision in which all or any part of the junior college district is located; and such property may be assessed and the values thereof equalized on the same basis or a different basis than that used by any such governmental subdivision. Such property shall be assessed, the values thereof equalized, and such taxes collected, in the manner and for such compensation as shall be agreed upon between the appropriate parties, and the functions thus assumed by the officials of any such governmental subdivision shall be additional duties pertaining to their offices, respectively. The ad valorem tax law applicable to each such governmental subdivision shall apply to its officials in carrying out such functions for the junior college district.

(e) It is specifically provided, however, that under any method used all taxable property within a district shall be assessed on the same basis and the values thereof shall be equalized by only one board of equalization, in an equal and uniform manner, as required by the Texas Constitution. If a governing board desires that taxable property shall be assessed and taxes collected by the tax assessors and/or collectors of more than one governmental subdivision, the governing board of the district shall either act as its own board of equalization, or appoint three resident, qualified voters of the district who own taxable property therein to act as the board of equalization, and in either case the board of equalization shall qualify and perform the duties prescribed by law for county commissioners courts acting as boards of equalization.

(f) Any other method or procedure authorized or permitted by any other statute of the State of Texas may be adopted, in whole or in part, to the extent pertinent and practicable.

§ 51.102. Tax Bonds and Maintenance Tax

(a) The governing board of each junior college district, and each regional college district for and on behalf of its junior college division, shall be authorized to issue negotiable coupon bonds for the construction and equipment of school buildings and the purchase of the necessary sites therefor, and levy and pledge annual ad valorem taxes sufficient to pay the principal of and interest on said bonds as the same come due, and to levy annual ad valorem taxes for the further maintenance of its public junior college or junior colleges; provided that the annual bond tax shall never exceed 50 cents on the \$100 valuation of taxable property in

the district, and the annual bond tax, if any, together with the annual maintenance tax shall never exceed the aggregate of \$1 on the \$100 valuation of taxable property in the district. Such bonds may be issued in various series or issues, and shall mature serially or otherwise not more than 40 years from their date, and shall bear interest at such rate or rates as shall be determined within the discretion of the board. Said bonds, and the interest coupons appertaining thereto, shall be negotiable instruments, and they may be made redeemable prior to maturity, and may be issued in such form, denominations, and manner, and under such terms, conditions, and details, and shall be signed and executed, as provided by the board in the resolution or order authorizing the issuance of said bonds. All bonds shall be sold to the highest bidder for not less than their par value and accrued interest.

(b) No such bonds shall be issued and none of the aforesaid taxes shall be levied unless authorized by a majority of the resident, qualified, electors of the district who own taxable property therein and who have duly rendered the same for taxation, voting at an election held for such purpose, at the expense of the district, in accordance with the Texas Election Code, except as hereinafter provided. Each such election shall be called by resolution or order of the board, which shall set forth the date of the election, the proposition or propositions to be submitted and voted on, the polling place or places, and any other matters deemed necessary or advisable by the board. Notice of said election shall be given by publishing a substantial copy of the election resolution or order one time, at least 10 days prior to the date set for the election, in a newspaper of general circulation in the district. The board shall canvass the returns and declare the results of such election.

(c) The governing board of each junior college district, and each regional college district, shall be authorized to refund or refinance all or any part of any of its outstanding bonds and matured but unpaid interest coupons payable from ad valorem taxes by the issuance of negotiable coupon refunding bonds payable from ad valorem taxes. Said refunding bonds shall mature serially or otherwise not more than 40 years from their date, and shall bear interest at such rate or rates as shall be determined within the discretion of the board. Said refunding bonds may be issued without an election in connection therewith, provided that in no event shall any series or issue of refunding bonds be issued in a principal amount greater than the face or par value of the obligations being refunded thereby, and provided that if a maximum interest rate was voted for the bonds being refunded, the refunding bonds shall not bear interest at a rate higher than such voted maximum rate. Said refunding bonds, and the interest coupons appurtenant thereto, shall be negotiable instruments and they may be made redeemable prior to maturity, and may be issued in such form, denomination, and manner, and under such terms, conditions and details, and shall be signed and executed, as provided by the board in the resolution or order authorizing the issuance of said refunding bonds. The refunding bonds shall be issued and delivered in lieu of, and upon surrender to the comptroller of public accounts of the State of Texas and cancellation of, the obligations being refunded thereby, and the comptroller of public accounts shall register the refunding bonds and deliver the same in accordance with the provisions of the resolution or order authorizing the refunding bonds. Such refunding may be accomplished in one or in several installment deliveries. Said refunding bonds also may be issued and delivered in accordance with the provisions of and procedures authorized by any other applicable law.

(d) All bonds issued pursuant to this section, and the appropriate proceedings authorizing their issuance, shall be submitted to the attorney general of the State of Texas for examination. If he finds that such bonds have been authorized in accordance with law he shall approve them, and thereupon they shall be registered by the comptroller of public accounts of the State of Texas; and after such approval and registration such bonds shall be incontestable in any court, or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes.

(e) All bonds issued pursuant to this section shall be legal and authorized investments for all banks, trust companies, building and loan associations, savings and loan associations, small business investments corporations, insurance companies of all kinds and types, fiduciaries, trustees, and guardians, and for all interest and sinking funds and other public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies and bodies politic. Said bonds also shall be eligible and lawful security for all deposits of public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of said bonds, when accompanied by any unmatured interest coupons appurtenant thereto.

(f) Each junior college district, and each regional college district (with reference to the operation and maintenance of its junior college division) heretofore or hereafter created pursuant to the laws of this state, is hereby declared to be, and constituted as, a school district within the meaning of Article 7, Section 3, of the Texas Constitution.

(g) All tax bonds voted in any district in accordance with law but unissued at the effective date of this code may be issued in the manner provided in this section, without an additional election; and all maintenance taxes heretofore voted in any district in accordance with law may be levied and collected in the manner provided in this act, without an additional election.

1. So in enrolled bill.

§ 51.103. Revenue Bonds

(a) The governing board (hereinafter called the "board") of each junior college district and each regional college district shall be authorized and have the power to acquire, purchase, construct, improve, enlarge, equip, operate, and/or maintain any property, buildings, structures, activities, operations, or facilities, of any nature, for and on behalf of its institution or institutions.

(b) For the purpose of carrying out any one or more of the aforesaid powers each board shall be authorized to issue its revenue bonds to be payable from and secured by liens on and pledges of all or any part of any of the revenues from any rentals, rates, charges, fees, or other resources of such board, in the manner hereinafter provided. Said bonds may be issued to mature serially or otherwise not more than 50 years from their date. In the authorization of any such bonds, each board may provide for the subsequent issuance of additional parity bonds, or subordinate lien bonds, or other types of bonds, under such terms or conditions as may be set forth in the resolution or order authorizing the issuance of said bonds, all within the discretion of the board. Said bonds, and any

interest coupons appertaining thereto, shall be negotiable instruments (provided that such bonds may be issued registrable as to principal alone or as to both principal and interest), and shall be executed, and may be made redeemable prior to maturity, and may be issued in such form, denominations, and manner, and under such terms, conditions, and details, and may be sold in such manner, at such price, and under such terms, and said bonds shall bear interest at such rate or rates, as shall be determined and provided by the board in the resolution or order, authorizing the issuance of said bonds. If so permitted in the bond resolution, and required part of the proceeds from the sale of the bonds may be used for paying interest thereon during the period of the construction of any facilities to be provided through the issuance of said bonds, and for the payment of operation and maintenance expenses of said facilities to the extent, and for the period of time, specified in said bond resolution, and also for the creation of reserves for the payment of the principal of and interest on the bonds; and such moneys be invested, until needed, to the extent, and in the manner provided, in said bond resolution or order.

(c) Each board shall be authorized to fix and collect rentals, rates, charges, and/or fees from students and others for the occupancy, use and/or availability of all or any of its property, buildings, structures, activities, operations, or facilities, of any nature, in such amounts and in such manner as may be determined by such board.

(d) Each board shall be authorized to pledge all or any part of any of its revenues from any of the aforesaid rentals, rates, charges, and/or fees to the payment of any bonds issued hereunder, including the payment of principal, interest, and any other amounts required or permitted in connection with said bonds. When any of the revenues from any such rentals, rates, charges, and/or fees are pledged to the payment of bonds, they shall be fixed and collected in such amounts as will be at least sufficient, together with any other pledged resources, to provide for all payments of principal, interest, and any other amounts required in connection with said bonds, and, to the extent required by the resolution or order authorizing the issuance of said bonds, to provide for the payment of operation, maintenance, and other expenses. Each board shall be authorized to establish and enforce such parietal rules for students and others, and to enter into such agreements regarding occupancy, use, and availability, and the amounts and collection of pledged revenues, fees, or other resources as will assure making all said required payments. Fees for the use or availability of all or any property, buildings, structures, activities, operations, or facilities, of any nature, may be pledged to the payment of said bonds, and shall be fixed and collected from all or any designated part of the students enrolled in the institution or institutions, in such amounts and in such manner as shall be determined and provided by the board in the resolution or order authorizing the issuance of the bonds, and said fees may be collected in the full amounts required or permitted herein, without regard to actual use or availability, commencing at any time designated by the board. Said fees may be fixed and collected for the use of availability of any specifically described property, buildings, structures, activities, operations, or facilities, of any nature; or said fees may be fixed and collected as general fees for the general use or availability of the institution or institutions. Such specific and/or general fees may be fixed and collected and pledged to the payment of any issue or series of bonds issued hereunder, in the full amounts required or permitted herein, in addition to, and regardless of the existence of, any other specific or general fees at the institution or institutions; provided that

each board may restrict its power to pledge such additional specific or general fees in any manner that may be provided in the resolution or order authorizing the issuance of any bonds issued hereunder, and provided that no such additional specific fees shall be pledged if prohibited by any resolution or order which authorized the issuance of any then outstanding bonds issued pursuant to any Texas statute.

(e) In addition to the revenues, fees, and other resources authorized to be pledged to the payment of bonds issued hereunder, each board further shall be authorized to pledge irrevocably to such payment, out of the tuition charges required or permitted by law to be imposed at its institution or institutions, an amount not exceeding \$15 from each enrolled student for each regular semester and \$7.50 from each enrolled student for each summer term, and each board also shall be authorized to pledge to such payment all or any part of any grant, donation, or income received or to be received from the United States government or any other public or private source, whether pursuant to an agreement or otherwise.

(f) Any revenue bonds issued by any such board under this act, and any revenue bonds or notes issued by any such board under any other Texas statute and payable from tuition fees and charges and/or any part of the use fees from or revenues of any property, buildings, structures, activities, operations, or facilities at the institution or institutions, may be refunded or otherwise refinanced by such governing board, and in such case all pertinent and appropriate provisions of this section shall be fully applicable to such refunding bonds. In refunding or otherwise refinancing any such bonds or notes the governing board may, in the same authorizing proceedings, refund or refinance bonds issued pursuant to this section and bonds or notes issued pursuant to any other such Texas statute and combine all said refunding bonds and any other additional new bonds to be issued pursuant to this section into one or more issues or series of bonds, and may provide for the subsequent issuance of additional parity bonds, or subordinate lien bonds, or other type of bonds. All refunding bonds shall be issued and delivered under such terms and conditions as may be set forth in the authorizing proceedings.

(g) All bonds permitted to be issued under this section, and the appropriate proceedings authorizing their issuance, shall be submitted to the attorney general of the State of Texas for examination. If he finds that such bonds have been authorized in accordance with law he shall approve them, and thereupon they shall be registered by the comptroller of public accounts of the State of Texas; and after such approval and registration such bonds shall be incontestable in any court, or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes.

(h) All bonds issued under this section shall be legal and authorized investments for all banks, trust companies, building and loan associations, savings and loan associations, small business investments corporations, insurance companies of all kinds and types, fiduciaries, trustees, and guardians, and for all interest and sinking funds and other public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies and bodies politic. Said bonds also shall be eligible and lawful security for all deposits of public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of

said bonds, when accompanied by any unmatured interest coupons appurtenant thereto.

(i) All revenue bonds heretofore approved by the attorney general of the State of Texas and registered by the comptroller of public accounts of the State of Texas which were issued, sold, and delivered by any board, and which are payable from or secured by a pledge of any revenues, use fees, tuition, or other resources of such board, are hereby validated in all respects, together with all proceedings authorizing the issuance thereof, and said bonds and proceedings shall be valid as though they had been duly and legally issued and authorized originally.

[Sections 51.104–51.200 reserved for expansion]

SUBCHAPTER H. TRANSFER OF ASSETS ON DISSOLUTION OF DISTRICTS

§ 51.201. Dissolution and Transfer of Property Upon Creation of Senior College

(a) Whenever the legislature shall create within the boundary of any union junior college district a state-supported senior college of the first rank offering at least four years of college work, and whenever such union junior college district has been dissolved in the manner provided for in Sections 19.361–19.364 of this code which said method of dissolution of such district is hereby authorized, the trustees of such union junior college district shall transfer the corporeal properties and facilities of such union junior college district to such state-supported senior college, and such trustees, after such dissolution and transfer of properties of such district, shall not further maintain a junior college and shall function only for the purpose of carrying out the provisions of this section and shall have no authority to create any additional indebtedness against such district, and when the bonded indebtedness of such district has been fully paid, such union junior college district shall cease to exist; provided that in the order calling such election and in the notice thereof, the authorities calling such election shall designate the date when such district shall be dissolved and such transfer shall be made, which date shall be within two years from the date of the election, and on or prior to said date.

(b) When any union junior college district has been dissolved and its properties transferred as provided in Subsection (a) of this section, or in any other lawful manner, having at the time of such dissolution outstanding bonds or other indebtedness enforceable either at law or in equity, then the county commissioners court, for the purpose of paying such bonds, or other indebtedness, shall have power and be authorized to annually levy and collect ad valorem taxes sufficient only to pay the interest and create a sinking fund to retire the bonded indebtedness of such district, and the expense of collecting such taxes and paying such bonded indebtedness, and for no other purpose; provided such tax shall not exceed the rate voted by such district for junior college purposes; said county commissioners court shall have power to bring and defend litigation in the name of said union junior college district.

§ 51.202. Abolition of Junior College Districts

(a) The term “applicable district,” as used in this section, shall mean any junior college district which has conveyed all, or substantially all, of

its property and assets to a state-supported senior college or university located in such junior college district, and which junior college district has no outstanding bonded indebtedness.

(b) All applicable districts and their governing boards are hereby abolished and shall cease to exist and function; provided, however, that all delinquent and uncollected taxes in said applicable districts shall not hereby be discharged, but shall be and remain fully due, payable and collectible. The persons formerly acting as the governing board and officers of each applicable district shall turn over all remaining property and assets of said applicable district, including all tax collections on hand, directly to the state-supported senior college or university located therein. The governing board of the independent school district in which any such state-supported senior college or university is located shall, for and on behalf of any such applicable district, cause, through its tax collector and other officers, all delinquent and uncollected taxes of any such applicable district to be collected in accordance with the general laws applicable to independent school districts. All of said taxes, as collected, shall be turned over to any such state-supported senior college or university. All taxes turned over to any such state-supported senior college or university in accordance with this section may be used by it for any lawful purpose.

§ 51.203. Transfer of Properties of County Junior College Districts After Creation of Senior College

(a) Whenever the legislature has created or shall create within the boundaries of any county junior college district a state-supported senior college offering at least four years college work upon the condition that the board of trustees of said county junior college district shall convey all of the assets, real, personal, tangible and intangible held in its name as of the date fixed for the establishment of said senior college and containing the other provision that said properties shall be conveyed to the governing body of the senior college free and clear of any indebtedness or indebtednesses, encumbrance or encumbrances of any kind or character and of whatsoever nature, the board of trustees of said county junior college district is hereby fully authorized and empowered to convey to the governing body of the senior college all of such assets, real, personal, tangible and intangible held by it on the date fixed for such conveyance in the act creating such senior college, except monies on hand for the payment of outstanding obligations of the district.

(b) From and after the conveyance of the properties of said county junior college district to the governing body of said senior college, the county junior college district shall not further maintain a junior college and shall function only for the purpose of carrying out the provisions of this section.

(c) Where such county junior college district had or has outstanding tax obligations in the nature of bonds or other indebtedness, the board of trustees of said county junior college district shall continue to make the necessary tax levies annually for the purpose of paying necessary administrative expenses of the board of trustees and paying off and discharging such bonded or other indebtedness, both principal and interest, until all of the same has been fully paid off and discharged.

(d) Where said county junior college district has outstanding any bonds payable from the revenues from any building or buildings which revenue bonds constitute an encumbrance upon the income of such building or buildings, the board of trustees of the county junior college district is hereby authorized to issue bonds of said county junior college dis-

trict payable from ad valorem taxes of said district and to sell such tax-supported bonds and pay off such revenue bonds or to exchange such tax-supported bonds for said revenue bonds. No such tax-supported bonds shall be issued, however, until authorized¹ at an election held for that purpose and at which election a majority of the qualified electors of said district who own taxable property and who have duly rendered the same for taxation voting thereon shall have voted in favor of the issuance of said bonds.

(e) The board of trustees of the county junior college district is hereby authorized to perform all acts necessary toward the final discharge of all the indebtedness of said county junior college district and to perform all necessary administrative acts in connection therewith. Said board of trustees is specifically authorized to continue to levy and collect sufficient taxes annually within the limits prescribed by law and authorized by the required election for the purpose of discharging the principal and interest on all outstanding bonded and other indebtedness, including the repayment of any temporary loans which said board may find necessary to obtain in order to pay all current operating expenses of the junior college up to the date of the conveyance of the properties until all such obligations have been fully discharged, and such temporary loans are hereby authorized, and such temporary loans heretofore obtained are hereby ratified and validated.

1. So in enrolled bill.

Section 2. The following laws are repealed:

(a) The following articles of Vernon's Texas Civil Statutes:

634(B), 634(C), 689a—17a, 689a—19a, 695i, 1109c, 2654—1, 2654—1a, 2654—1b, 2654—1c, 2654—2, 2654—3, 2654—3a, 2654—3b, 2654—3c, 2654—3d, 2654—3e, 2654—4, 2654—5, 2654—6, 2654—7, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663a, 2663b—1, (Sections 1 and 3 only), 2663b—3, 2664, 2665, 2666, 2667, 2668, 2669, 2671, 2672, 2673, 2674, 2675, 2675—1, 2675b—1, 2675b—2, 2675b—3, 2675b—4, 2675b—5, 2675b—6, 2675b—8, 2675b—9, 2675b—10, 2675c—2, 2675j, 2675k, 2676, 2677, 2678a, 2679, 2680, 2681, 2681a, 2682, 2683, 2683a, 2683b, 2684, 2685, 2686, 2687, 2687a, 2688, 2688a, 2688e, 2689, 2690, 2691, 2692, 2693, 2694, 2694a, 2695, 2696, 2697, 2698, 2699, 2699a, 2700, 2701, 2703, 2704, 2705, 2706, 2707, 2708, 2709, 2710, 2711, 2712, 2713, 2714, 2715, 2716, 2717, 2718, 2719, 2720, 2721, 2722, 2723, 2724, 2725, 2726, 2727, 2728, 2729, 2729a, 2730, 2731, 2732, 2733, 2734, 2735, 2736, 2737, 2738, 2739, 2740, 2741, 2741a, 2742, 2742b, 2742e—1, 2742f, 2742j, 2742m, 2743, 2744, 2744b, 2745, 2745a, 2745b, 2745c, 2746, 2746a, 2746b, 2746c, 2747, 2748, 2749, 2750, 2750a, 2750a—1, 2750a—2, 2751, 2751a, 2752, 2752a, 2753, 2754, 2755, 2756, 2756b, 2756c, 2757, 2758, 2759, 2760, 2761, 2761a, 2762, 2763, 2764, 2766, 2767, 2767a, 2767b, 2767c, 2767d, 2767e, 2767f, 2767—1, 2768, 2769, 2770, 2771, 2772, 2773, 2773a, 2774, 2774c, 2775, 2776, 2777, 2777—1, 2778, 2779, 2779b, 2780, 2781, 2781a, 2783, 2783c, 2784e, 2784e—1, 2785, 2785a, 2786, 2786a, 2786b, 2786c, 2786d, 2786e, 2787, 2787a, 2788, 2789, 2789a, 2789b, 2789c, 2789d, 2789e, 2790, 2790e, 2791, 2792, 2792a, 2793, 2794, 2795, 2796, 2797, 2798, 2799, 2800, 2801, 2802, 2802—1, 2802e, 2802e—1, 2802e—5, 2802f—3, 2802i—18, 2802i—24, 2802j, 2802k, 2803, 2803a, 2804, 2805, 2805a, 2806, 2806e, 2807, 2808, 2809, 2803b, 2810, 2811, 2812, 2813, 2814, 2815, 2815—1, 2815h, 2815h—1a, 2815h—5, 2815h—8, 2815h—9, 2815j—1, 2815j—2, 2815m, 2815o, 2815o—1, 2815h—3b, 2815o—1b, 2815p—1, 2815q, 2815q—1, 2815q—2, 2815r, 2815r—1, 2815r—2, 2815s, 2815s—1, 2815t—1, 2815t—2, 2815t—3, 2816, 2817a, 2816a, 2817, 2818, 2819, 2820,

2821, 2822, 2822a, 2823, 2824, 2825, 2826, 2827, 2827a, 2827c, 2828, 2829, 2830, 2831, 2832c, 2833, 2833a, 2834, 2835, 2835a, 2835b, 2835c, 2836, 2837, 2838, 2839, 2840, 2841, 2842, 2843, 2843a, 2845, 2846, 2847, 2848, 2849, 2850, 2851, 2852, 2853, 2854, 2855, 2856, 2857, 2858, 2860, 2861, 2862, 2863, 2864, 2865, 2866, 2867, 2868, 2869, 2870, 2871, 2872, 2873, 2874, 2875, 2876, 2876a, 2876b, 2876c, 2876d, 2876e, 2876f, 2876g, 2876h, 2876i, 2876j, 2876k, 2876l, 2877, 2878, 2879, 2880, 2881, 2883a, 2884, 2885, 2886, 2887, 2887a, 2888, 2889, 2889a, 2889b, 2891a, 2891b, 2891c, 2891—1, 2891—2, 2891—50, 2892, 2893, 2894, 2895, 2896, 2897, 2898, 2898a, 2899, 2899a, 2900, 2900a, 2901, 2901a, 2902, 2903, 2904, 2904a, 2905, 2905b, 2906, 2906—1, 2906—2, 2906—3, 2908, 2908a, 2909, 2909b, 2010,¹ 2911, 2911a, 2911b, 2912, 2913, 2915, 2916, 2917, 2918, 2919, 2919f, 2919g, 2919h, 2919i, 2922a, 2922aa, 2922b, 2922c, 2922d, 2922e, 2922f, 2922g, 2922h, 2922i, 2922j, 2922k, 2922l, 2922l(1), 2922l(4), 2922l(5), 2922l(6), 2922l(7), 2922zz—1, 2922—1, 2922—1a, 2922—1b, 2922—1c, 2922—1d, 2922—1e, 2922—1f, 2922—1g, 2922—1h, 2922—11, 2922—12, 2922—13, 2922—13a, 2922—13b, 2922—13c, 2922—13d, 2922—14, 2922—14a, 2922—14b, 2922—14c, 2922—15, 2922—16, 2922—16a, 2922—16c, 2922—16d, 2922—16e, 2922—17, 2922—18, 2922—19, 2922—20, 2922—21, 2922—21a, 2922—21b, 2922—22, 2922—23, 2922—24, 2922—26, 3202—c, 3203, 3204, 3205, 3205a, 3207, 3888, 3888b, 4378, 4447b, 5416, 5416a, 6228a—4, 7150a.

(b) The following articles of Vernon's Texas Penal Code:

97, 288, 289, 290, 291, 292, 293, 293a, 293b, 294, 294a, 295, 296, 299, 300, 301, 301b, 301c, 301d, 424, 666—25b, 994, 995, 1152, 1153, 1154, 1155.

1. Probably should read "2910".

Section 3. The enactment of the Texas Education Code does not affect the validity or change the effect of any of the following Articles of Vernon's Texas Civil Statutes:

2668a, 2668b,¹ 2668c, 2668d, 2668e, 2676a, 2676b, 2676c, 2685a, 2685b, 2685b—1, 2687b, 2687c, 2687d, 2688b, 2688d, 2688f, 2688g, 2688h, 2688h—1, 2688i, 2688i—1, 2688i—2, 2688j, 2688k, 2688k—1, 2688l, 2688m, 2688n, 2688n—1, 2688o, 2688p, 2700a, 2700b, 2700c, 2700d, 2700d—1, 2700d—2, 2700d—3, 2700d—4, 2700d—5, 2700d—6, 2700d—7, 2700d—8, 2700d—9, 2700d—10, 2700d—11, 2700d—12, 2700d—13, 2700d—14, 2700d—15, 2700d—16, 2700d—17, 2700d—18, 2700d—19, 2700d—20, 2700d—21, 2700d—22, 2700d—23, 2700d—24, 2700d—25, 2700d—26, 2700d—27, 2700d—28, 2700d—29, 2700d—30, 2700d—31, 2700d—32, 2700d—33, 2700d—34, 2700d—35, 2700d—36, 2700d—37, 2700d—38, 2700d—39, 2700d—40, 2700d—41, 2700d—42, 2700d—43, 2700d—44, 2700e, 2700e—1, 2700e—2, 2701a, 2701b, 2701c, 2701d, 2701d—1, 2701d—2, 2701d—2a, 2701d—3, 2701d—4, 2701d—5, 2701e—1, 2702, 2702A, 2740a, 2740b, 2740c, 2740d, 2740f—2, 2740f—3, 2740f—4, 2740f—5, 2740g, 2740h, 2742a, 2742c, 2742c—1, 2742d, 2742e, 2742f—1, 2742f—2, 2742g, 2742h, 2742i, 2742k, 2742l, 2742n, 2742o, 2744a, 2744a—1, 2744c, 2744e, 2744e—1, 2744e—2, 2744e—3, 2744e—4, 2744e—5, 2744e—6, 2753a, 2756d, 2761b, 2763a, 2764a, 2766a, 2766b, 2766c, 2767g, 2767h, 2774a, 2774b, 2775a, 2775a—1, 2775a—2, 2775a—3, 2775a—4, 2775a—5, 2775a—6, 2775a—7, 2775a—8, 2775a—9, 2775b, 2775c, 2775c—1, 2775d, 2775e, 2775f, 2775f—1, 2777a, 2777b, 2777c, 2777d, 2777d—1, 2777d—2, 2777d—3, 2777d—4, 2777e, 2777f, 2779a, 2782, 2783a, 2783b, 2783d, 2783e, 2783f, 2783g, 2784a, 2784b, 2784c, 2784d, 2784e—2, 2784e—3, 2784e—4, 2784e—5, 2784e—6, 2784e—7, 2784e—8, 2784e—9, 2784e—10, 2784f, 2784g, 2784g—1, 2784h, 2786f, 2787b, 2787c, 2787d, 2788a, 2790a, 2790a—1, 2790a—3, 2790a—4, 2790a—5, 2790a—6, 2790b, 2790c, 2790d, 2790d—1, 2790d—2, 2790d—3, 2790d—4,

2790d—5, 2790d—6, 2790d—7, 2790d—8, 2790d—9, 2790d—10, 2790d—11, 2790d—12, 2790f, 2790g, 2790h, 2790i, 2790j, 2790k, 2790l, 2790m, 2790n, 2792—1, 2792b, 2796a, 2799a, 2802a, 2802b, 2802c, 2802e—2, 2802e—3, 2802e—4, 2802f, 2802f—1, 2802f—2, 2802g, 2802h, 2802i, 2802i—1, 2802i—2, 2802i—3, 2802i—4, 2802i—5, 2802i—6, 2802i—7, 2802i—8, 2802i—9, 2802i—10, 2802i—11, 2802i—12, 2802i—13, 2802i—14, 2802i—15, 2802i—16, 2802i—17, 2802i—19, 2802i—20, 2802i—20, 2802i—21, 2802i—22, 2802i—23, 2802i—25, 2802i—26, 2802i—27, 2802i—28, 2802i—29, 2802i—30, 2802i—31, 2802i—32, 2803—1, 2803c, 2803d, 2804a, 2806a, 2806b, 2806c, 2806d, 2806d—1, 2815—3, 2815—4, 2815a—1, 2815g—1, 2815g—1a, 2815g—1b, 2815g—1c, 2815g—1d, 2815g—2, 2815g—3, 2815g—4, 2815g—5, 2815g—6, 2815g—7, 2815g—8, 2815g—9, 2815g—10, 2815g—11, 2815g—12, 2815g—13, 2815g—14, 2815g—15, 2815g—16, 2815g—17, 2815g—18, 2815g—19, 2815g—20, 2815g—21, 2815g—22, 2815g—23, 2815g—24, 2815g—25, 2815g—26, 2815g—27, 2815g—28, 2815g—29, 2815g—30, 2815g—31, 2815g—32, 2815g—49, 2815g—33, 2815g—34, 2815g—35, 2815g—36, 2815g—37, 2815g—38, 2815g—39, 2815g—40, 2815g—41, 2815g—42, 2815g—43, 2815g—44, 2815g—45, 2815g—46, 2815g—47, 2815g—48, 2815g—50, 2815g—51, 2815g—52, 2815g—53, 2815g—54, 2815g—55, 2815g—56, 2815g—57, 2815g—58, 2815g—59, 2815h—1, 2815h—2, 2815h—3, 2815h—3a, 2815h—4, 2815h—6, 2815h—7, 2815h—10, 2815h—11, 2815i, 2815j, 2815k, 2815k—1, 2815k—3, 2815k—4, 2815l, 2815m—1, 2815m—2, 2815m—3, 2815n, 2815n—1, 2815o—1a, 2815p, 2815t, 2824a, 2827b, 2827d, 2827e, 2831a, 2832, 2832a, 2832b, 2885a, 2919a, 2919b, 2919g—1, 2922a—1, 2922a—2, 2922a—3, 2922l(2), 2922l(3), 2922l(3.1), 2922l(8), 2922—16b, 2922—25.

1. Probably should read "2668b".

Section 4. Except for certain miscellaneous provisions relating to higher education in Titles 1 and 2, and the chapter on public junior colleges in Title 3, the enactment of the Texas Education Code does not affect the statutes of this state relating to higher education; and the laws relating to higher education which are not included in the code remain unaffected by its enactment. It is intended that these laws will be added to the code at a later session of the legislature.

Section 5. If any act passed at the same session of the legislature conflicts with any provision of the Texas Education Code, the act prevails.

Section 6. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Section 7. This act does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun, before its effective date. It is further intended that the repeal of statutes by this act shall not repeal or affect any tax or authority or power heretofore granted by the legislature under which any tax has heretofore been authorized, or attempted to be authorized, by an election held under any act or acts of the legislature heretofore enacted whether general or special.

Section 8. This act takes effect on September 1, 1969.

Section 9. The importance of this legislation and the crowded condition of the calendar in both houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and the Rule is hereby suspended; and that this act take effect and be in force from and after September 1, 1969, and it is so enacted.

Passed by the House on May 5, 1969, by a non-record vote; House concurred in Senate amendments on June 2, 1969, by a non-record vote; passed by the Senate, as amended, on May 31, 1969, by a viva-voce vote.

Approved June 21, 1969.

Effective September 1, 1969.

TABLE 1

1969 Amendments

Acts 1969, 61st Leg., ch. 889, enacting the Education Code, provides in section 5 that any other act passed at the same session prevails over conflicting provisions of the Code. A number of the Articles of Vernon's Texas Civil Statutes repealed by Acts 1969, 61st Leg., ch. 889, § 2, were also amended by other Acts at the same session. The Table following lists the Code sections which cover the subject matter of Articles which were both repealed and amended.

Code Section	Repealed Civ.St. Article	Amended by Acts 1969, Chapter
3.01	2922—1	41
4.25	P.C. 299	551
11.11	2654—1b	870
11.15	2654—1c	90
14.02	2816	75
14.03	2817	377
14.04	2817	377
14.07	2819	75
15.01(b)	2823	75
15.02	2669	88
16.11 et seq.	2922—13	95, 863, 872, 873
16.31 et seq.	2922—14	872, 873
16.45	2922—15, § 1	872, § 3
16.56	2922—15, § 2	872, § 5
16.62	2922—13, § 1	867
16.72	2922—16, § 2	872, § 6
16.75	2922—16, § 4	872, § 7
16.76	2922—16, § 5	883
16.76(d)	2922—16e, §§ 1, 2	372
16.77	2922—16, § 5	883
17.09	2687(c)	321
17.29(b)	2700	595
17.52	2700, § 2	595
17.60	2691	211c
17.82	2824	32 (2nd C.S.)
20.43(c)	2786e	245
21.033	2893	289, 532, 664
21.061 et seq.	2697	168
23.98	2802—1	799
26.64	2675k, § 6	164
26.65	2675k, § 6(d)	164
26.66	2675k, § 7(i)	164
28.10(c)	2802k, § 10 sub. c	655
51.031	2815h, § 17	770
51.032	2815h, § 17(a)	294
51.043	2815m, § 1a	702

TABLE 2

1969 Enactments

Acts 1969, 61st Leg., ch. 889, enacting the Education Code, provides in section 5 that any other act passed at the same session prevails over conflicting provisions of the Code. The Table following lists the Code sections which cover the same subject matter as other 1969 Acts which have been allocated to Vernon's Texas Civil Statutes, and gives the parallel citation of such other Acts.

Code Section	New Civ.St. Article	Enacted by Acts 1969, Chapter
3.01	2922—1k	285
4.01 et seq.	P.C. 292a	675
4.28	P.C. 295a	21
	P.C. 295b	740
11.03	2654—1f	882
11.10	3222b	613
11.31	2891d	861
11.33	2654—3f	866
13.01 et seq.	2654—8	874
	2891—101 et seq.	451
	2906a	661
	2922—1j	176
16.74	2922—16f	330
16.91	2922—27	879
21.061 et seq.	2696a	175
21.108	2654—1e	484
21.109	2654—1d	289
21.170	2922—15a	548
26.01 et seq.	2675l	40
27.01	6203b—2	17
28.01 et seq.	2675m	49
	2675n	89
51.065	2815h—1b	788
51.072	2815o—1c	279

TABLE 3

Listing Articles repealed by the Education Code and showing the Code sections covering the same subject matter.

Civil Statutes Repealed Articles	Education Code Sections	Civil Statutes Repealed Articles	Education Code Sections
634(B) -----	21.164 to 21.169	2661 -----	11.52(e)
634(C) -----	21.163	2662 -----	-----
689a-17a -----	4.03	2663a -----	-----
	23.41 to 23.50	2663b-1, §§ 1, 3 -----	21.106
689a-19a -----	4.03	2663b-3 -----	21.112
	11.63(b)	2664 -----	11.21
	17.56 to 17.58	2665 -----	11.26
695i -----	17.91	2666 -----	11.28
	17.92	2667 -----	11.28
1109c -----	23.31	2668 -----	11.28
2654-1 -----	11.01 to 11.03	2669 -----	15.02
	11.06	2671 -----	15.02
2654-1a -----	11.09	2672 -----	15.02
2654-1b -----	11.11	2673 -----	15.02
2654-1c -----	11.15		15.04
2654-2 -----	4.27	2674 -----	15.09
	11.21 to 11.23	2675 -----	15.02
2654-3 -----	11.24	2675-1 -----	11.42
	11.26		11.43
	11.34	2675b-1 -----	11.21
	11.41		11.22
	11.42	2675b-2 -----	11.22
2654-3a -----	15.03	2675b-3 -----	11.23
2654-3b -----	11.29	2675b-4 -----	11.23
	11.30	2675b-5 -----	11.26
2654-3c -----	11.26(b)		12.11 to 12.13
2654-3d -----	11.32		12.21
2654-3e -----	11.33	2675b-6 -----	11.51
2654-4 -----	12.11 to 12.13	2675b-8 -----	11.26(a) (8)
2654-5 -----	11.25	2675b-9 -----	15.02
	11.51	2675b-10 -----	11.22(m)
	11.52	2675c-2 -----	11.27
2654-6 -----	11.61 to 11.63	2675j -----	26.01
2654-7 -----	11.13	2675k -----	26.01 et seq.
	11.14	2676 -----	17.01 to 17.04
	11.25(f)	2677 -----	17.03
2655 -----	11.25		17.05
2656 -----	11.52		17.06
2657 -----	11.52(l)	2678a -----	17.24
2658 -----	11.52(m)	2679 -----	17.24
2659 -----	-----	2680 -----	21.107
2660 -----	11.52(n)		

TABLE 3

Civil Statutes Repealed Articles	Education Code Sections	Civil Statutes Repealed Articles	Education Code Sections
2681	17.07	2716	14.02
	17.27	2717	17.31
	17.55	2718	17.31
	19.001	2719	17.31
2681a	27.01 et seq.	2720	17.31
2682	19.001	2721	17.31
2683	17.21	2722	17.31
	17.22	2723	17.31
	17.31	2724	18.02
2683a	21.903	2725	18.07
2683b	17.28	2726	18.13
2684	17.07	2727	17.59
	17.08	2728	—
	17.55	2729	—
2685	17.29	2729a	17.01
2686	17.63	2730	17.01
2687	17.08	2731	17.08
	17.09	2732	17.31
2687a	21.170	2733	—
2688	17.41 to 17.45	2734	—
	17.48	2735	—
	17.50	2736	17.22
2688a	17.41	2737	—
2688e	17.64	2738	—
2689	17.40	2739	—
2690	17.59	2740	—
2691	17.60	2741	19.031
2692	17.73	2741a	21.006
2693	17.59	2742	19.031
2694	17.61	2742b	19.231
2694a	—		19.431 to 19.437
2695	—	2742e—1	19.401
2696	17.25	2742f	19.001
	21.061 to 21.065		19.261
2697	—	2742j	19.206
2698	21.066	2742m	19.401 to 19.403
2699	—	2743	19.101
2699a	21.073	2744	22.11
2700	17.29	2744b	19.031 to 19.036
	17.51 to 17.54	2745	22.01 to 22.04
2701	17.47	2745a	19.104
	17.49	2745b	17.03
	17.51		22.02
2703	17.01	2745c	17.03
	17.05		22.02
	17.08		23.03
2704	17.09	2746	22.02
2705	17.46	2746a	22.02
2706	17.55		23.03 to 23.05
2707	—		23.10
2708	17.21	2746b	22.02
	17.22	2746c	21.401 to 21.405
2709	17.24	2747	22.03
2710	17.31	2748	22.04
2711	17.23		22.05
2712	19.103	2749	22.01
2713	—		22.08
2714	—	2750	22.09
2715	—	2750a	22.09

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Civil Statutes Repealed Articles	Education Code Sections	Civil Statutes Repealed Articles	Education Code Sections
2750a—1	22.09	2784e	20.01 to 20.04 22.08
2750a—2	22.09	2784e—1	20.01 to 20.04
2751	22.08(h)	2785	20.04
2751a	17.30	2785a	23.97
2752	22.10	2786	20.01 20.06
2752a	21.901	2786a	—
2753	22.10(b)	2786b	—
2754	22.08(d)	2786c	20.41
2755	—	2786d	20.42
2756	21.903	2786e	20.43
2756b	11.28	2787	20.01 20.04
2756c	11.28	2787a	15.05
2757	19.201 to 19.205	2788	20.01 20.04
2758	19.203 19.205 23.01 23.08 23.19	2789	20.05
2759	19.162	2789a	20.05
2760	19.162	2789b	20.05
2761	19.162	2789c	20.05
2761a	19.163 24.02	2789d	20.05
2762	19.162	2789e	20.05
2763	23.01 23.02	2790	20.02
2764	19.106	2790e	—
2766	19.261	2791	23.91 23.93 23.95 23.98
2767	19.361 to 19.364	2792	23.94 23.95
2767a	19.368	2792a	—
2767b	19.368(h)	2793	—
2767c	19.368	2794	—
2767d	19.368	2795	22.11
2767e	19.368	2796	—
2767f	19.367	2797	—
2767—1	19.365	2798	—
2768	19.161	2799	24.06
2769	19.161	2800	24.06
2770	19.163	2801	23.27 24.06
2771	19.163	2802	24.07
2772	24.05	2802—1	23.98
2773	23.30	2802e	20.21 to 20.27
2773a	23.29	2802e—1	20.21 to 20.27
2774	24.04	2802e—5	20.50
2774c	23.12	2802f—3	20.45
2775	23.08	2802i—18	—
2776	23.07	2802i—24	—
2777	23.09	2802j	24.07
2777—1	23.18	2802k	28.01 to 28.11
2778	23.19	2803	19.164
2779	23.19	2803a	19.165
2779b	23.93	2803b	19.262
2780	23.26	2804	19.301
2781	23.28	2805	19.301
2781a	21.905	2805a	19.461 19.462
2783	—	2806	19.231 to 19.242
2783c	19.166 24.01		

TABLE 3

1604

Civil Statutes Repealed Articles	Education Code Sections	Civil Statutes Repealed Articles	Education Code Sections
2806e	19.237	2827	20.49
	19.241	2827a	17.73
	19.242	2827c	20.49
2807	19.243	2828	17.71
2808	22.01	2829	17.72
2809	22.09	2830	17.73
2810	22.09	2831	17.73
2811	—	2832c	23.71 to 23.82
2812	—	2833	—
2813	—	2833a	21.255
2814	—	2834	15.10
2815	19.244	2835	15.10
2815-1	19.245	2835a	15.06
2815h	51.004	2835b	15.07
	51.011 to 51.015		15.11
	51.031 to 51.043	2835c	15.08
	51.063 to 51.065	2836	15.10
2815h-1a	51.001	2837	15.11
2815h-3b	51.102	2838	15.11
2815h-5	51.102	2839	12.11
2815h-8	51.102	2840	—
2815h-9	—	2841	12.11
2815j-1	51.003	2842	12.34
2815j-2	51.003	2843	12.14 to 12.16
2815m	51.041,		12.24
	51.042		12.62
2815o	51.071	2843a	—
2815o-1	51.085	2845	12.28
2815o-1b	51.072	2846	12.17
2815p-1	51.068		12.18
2815q	51.203	2847	12.18
2815q-1	51.202		12.20
2815q-2	51.201	2848	12.23
2815r	51.103	2849	12.18
2815r-1	51.103	2850	12.28
2815r-2	51.103	2851	12.26
2815s	51.061	2852	12.25
	51.062	2853	12.22
2815s-1	51.066	2854	12.27
	51.067	2855	12.19
2815t-1	51.097	2856	12.30(a)
2815t-2	51.098	2857	12.30(b)
2815t-3	51.099	2858	12.31
2816	14.02	2860	—
	14.03	2861	12.23(d)
2816a	14.05	2862	—
2817	14.04	2863	12.33
2817a	14.04	2864	12.32(a)
2818	14.06	2865	12.11(f)
2819	14.07	2866	12.01
2820	14.08	2867	12.02(b)
2821	14.09	2868	12.02(a)
2822	14.02	2869	12.02(c) to (e)
2822a	14.05	2870	12.35(a)
2823	15.01	2871	12.31
2824	17.82		12.32
2825	17.83		12.35
2826	17.81	2872	12.63(e)
		2873	12.63(a) (e) (g)

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Civil Statutes Repealed Articles	Education Code Sections	Civil Statutes Repealed Articles	Education Code Sections
2874	12.64	2903	21.001
2875	12.35(b) 12.61	2904	21.301
2876	12.02(f) 12.35(f)	2904a	21.031
2876a	12.63(c) 12.65(d)	2905	17.26
2876b	12.63(b) 12.65(e)	2905b	21.111
2876c	12.65(b) (c) (f)	2906	21.002 to 21.005 21.902
2876d	12.66	2906—1	21.305 21.306
2876e	12.63(d)	2906—2	21.307
2876f	12.32(c)	2906—3	4.28
2876g	12.61(i)	2908	—
2876h	—	2908a	2.06
2876i	—	2909	—
2876j	—	2909b	21.351 to 21.355
2876k	12.03	2910	2.08
2876l	12.62(f)	2911	21.101 21.104 21.105 21.108
2877	13.01	2911a	21.108
2878	13.02	2911b	21.907
2879	13.03	2912	21.251
2880	13.04	2913	—
2881	—	2915	—
2883a	2.07	2916	—
2884	13.16	2917	—
2885	13.05	2918	—
2886	13.11	2919	21.131 to 21.134
2887	13.11	2919f	21.110
2887a	13.11	2919g	—
2888	13.11	2919h	—
2889	13.11	2919i	21.909
2889a	13.11	2922a	19.131 19.136 19.231
2889b	13.13	2922aa	19.239
2891a	—	2922b	19.133 25.01
2891b	13.02 to 13.14	2922c	19.132
2891c	11.31	2922d	19.102
2891—1	16.31	2922e	19.134 25.03 to 25.05
2891—2	16.39	2922f	25.08 25.09
2891—50	21.201 to 21.216	2922g	25.08
2892	21.032	2922h	—
2893	21.033	2922i	25.06
2894	21.035	2922j	25.06
2895	21.036 to 21.038	2922k	25.02 25.06
2896	21.039	2922l	25.07
2897	21.034	2922l(1)	21.068 to 21.072
2898	21.039 21.301 to 21.304	2922l(4)	19.135 25.01
2898a	21.908	2922l(5)	19.105 19.135
2899	15.12(b)		
2899a	4.07 4.08		
2900	15.11		
2900a	—		
2901	21.031(b)		
2901a	21.074 to 21.079		
2902	14.01 21.031(a)		

TABLE 3

Civil Statutes Repealed Articles	Education Code Sections	Civil Statutes Repealed Articles	Education Code Sections
2922l(6)	25.07(d)	2922-16c	—
2922l(7)	19.231	2922-16d	—
	19.240	2922-16e	—
2922zz-1	—	2922-17	16.03
2922-1	—	2922-18	16.80 to 16.82
2922-1a	—		19.366
2922-1b	—	2922-19	11.13(c)
2922-1c	—	2922-20	16.79
2922-1d	—	2922-21	4.02
2922-1e	—	2922-21a	21.904
2922-1f	—	2922-21b	—
2922-1g	—	2922-22	—
2922-1h	—	2922-23	—
2922-11	16.01	2922-24	—
2922-12	16.02	2922-26	16.91 to 16.95
	16.07	3202-c	11.04
	16.11		11.07
2922-13	16.11 to 16.19	3203	11.05
	16.62	3204	11.05
2922-13a	16.11(k)	3205	11.05
2922-13b	16.21	3205a	11.04
2922-13c	16.13(10)	3207	11.08
2922-13d	16.20	3888	17.51(e)
2922-14	16.31 to 16.40	3888b	17.51(e)
2922-14a	16.37(d)	4378	15.11
2922-14b	16.37(b)	4447b	2.09
2922-14c	16.98	5416	15.01
2922-15	16.45	5416a	15.01
	16.52 to 16.63	6228a-4	—
2922-16	16.71 to 16.78	7150a	17.84
	16.83		
2922-16a	—		

Penal Code Repealed Articles	Education Code Sections	Penal Code Repealed Articles	Education Code Sections
97	4.04(a)	301	4.05
288	4.17		21.252
	21.109		21.253
289	4.16		21.254
	21.102	301b	4.18
290	4.16		21.170(e)
	21.103	301c	4.07(c)
291	4.11		4.08
292	4.12	301d	4.20
293	4.24		4.21
293a	4.13	424	4.04(b)
293b	4.14	666-25b	4.22
294	4.01	994	4.10
294a	4.26	995	—
295	4.23	1152	4.19(a) (b)
296	4.09	1153	4.19(c)
299	4.25(a)	1154	4.19(d)
300	4.25(b)	1155	4.19(e)

TABLE 4

Listing the sections of the Education Code and showing the Civil Statutes and Penal Code Articles which formerly covered the same subject matter.

Education Code Sections	Civil Statutes Repealed Articles	Education Code Sections	Civil Statutes Repealed Articles
1.01	-----	4.26	----- P.C. 294
1.02	-----	4.27	----- 2654-2, § 10
1.03	-----	4.28	----- 2906-3
1.04	-----	11.01	----- 2654-1, § 1
2.01	-----	11.02	----- 2654-1, §§ 2, 3
2.02	-----	11.03	----- 2654-1, § 4
2.03	-----	11.04	----- 3202-c
2.04	-----		----- 3205a
2.05	-----	11.05	----- 3203 to 3205
2.06	----- 2908a	11.06	----- 2654-1
2.07	----- 2883a	11.07	----- 3202-c
2.08	----- 2910	11.08	----- 3207
2.09	----- 4447b	11.09	----- 2654-1a
2.10	-----	11.10	----- see 3222b
3.01	-----	11.11	----- 2654-1b
4.01	----- P.C. 294a	11.12	----- see 6701d, § 105
4.02	----- 2922-21	11.13	----- 2654-7, § 1
4.03	----- 689a-17a, § 4		----- 2922-19
	----- 689a-19a, § 4	11.14	----- 2654-7, § 5
4.04	----- P.C. 97	11.15	----- 2654-1c
	----- 424	11.21	----- 2654-2, § 1
4.05	----- P.C. 301	11.22	----- 2654-2
4.07	----- 2899a	11.23	----- 2654-2, § 8
	----- P.C. 301c	11.24	----- 2654-3, § 1
4.08	----- 2899a	11.25	----- 2654-5, § 1
	----- P.C. 301c		----- 2654-7, § 2
4.09	----- P.C. 296	11.26	----- 2654-3, § 3
4.10	----- P.C. 994		----- 2654-3c
4.11	----- P.C. 291		----- 2675b-5
4.12	----- P.C. 292		----- 2675b-8
4.13	----- P.C. 293a	11.27	----- 2675c-2
4.14	----- P.C. 293b	11.28	----- 2756b
4.15	----- P.C. 290		----- 2756c
4.16	----- P.C. 289	11.29	----- 2654-3b, §§ 1-4
4.17	----- P.C. 288	11.30	----- 2654-3b, § 5
4.18	----- P.C. 301b	11.31	----- 2891c
4.19	----- P.C. 1152 to 1155	11.32	----- 2654-3d
4.20	----- P.C. 301d	11.33	----- 2654-3c
4.21	----- P.C. 301d	11.34	----- 2654-3, § 1
4.22	----- P.C. 666-25b	11.41	----- 2654-3, § 2
4.23	----- P.C. 295	11.42	----- 2654-3, §§ 1, 2
4.24	----- P.C. 293		----- 2675-1
4.25	----- P.C. 299	11.43	----- 2675-1
	----- 300	11.51	----- 2654-5, §§ 2 7

TABLE 4

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Education Code Sections	Civil Statutes Repealed Articles	Education Code Sections	Civil Statutes Repealed Articles
11.52	2654—5, § 8 2656 to 2658 2660	12.64	2874
11.61	2654—6, § 1	12.65	2876a to 2876c
11.62	2654—6, § 2	12.66	2876d
11.63	2654—6, § 3	13.01	2877
12.01	2866	13.02	2878
12.02	2867 to 2869 2876		2891b, § 2
12.03	2868	13.03	2879
	2876k		2891b, § 3
12.11	2675b—5	13.04	2880
	2839		2891b, § 4
	2841	13.05	2885
	2865		2891b, § 7
12.12	2675b—5	13.06	2891b, § 8
12.13	2675b—5	13.07	2891b, § 9
12.14	2843	13.08	2891b, § 9
12.15	2843	13.09	2891b, § 10
12.16	2843	13.10	2891b, § 11
12.17	2846	13.11	2891b, § 12
12.18	2846	13.12	2891b, § 13
	2847	13.13	2889b
	2849	13.14	2891b, § 5
12.19	2855	13.15	2891b, § 6
12.20	2847	13.16	2884
12.21	2675b—5	14.01	2902
12.22	2853	14.02	2716
12.23	2848		2816
	2861	14.03	2816
12.24	2843	14.04	2817
12.25	2852		2817a
12.26	2851	14.05	2816a
12.27	2854		2822a
12.28	2845	14.06	2818
	2850	14.07	2819
12.29	2870	14.08	2820
12.30	2856	14.09	2821
	2857	15.01	2823
12.31	2858		5416
	2871		5416a
12.32	2864	15.02	2669
	2870		2671
	2876f		2672
12.33	2863		2673
12.34	2842		2675b—9
12.35	2870	15.03	2654—3a
	2871	15.04	2673
	2875	15.05	2787a
	2876	15.06	2835a
12.61	2875	15.07	2835b
	2876(g)	15.08	2835c
12.62	2843	15.09	2835c
	2876l	15.10	2834
12.63	2872		2835
	2873		2836
	2876a	15.11	2835b
	2876b		2835c
	2876e		2837
			2838
			2900
			4378

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Education Code Sections	Civil Statutes Repealed Articles	Education Code Sections	Civil Statutes Repealed Articles
15.12	2899	16.92	2922-26, § 2
16.01	2922-11	16.93	2922-26, § 3
16.02	2922-12, § 1	16.94	2922-26, § 4
16.03	2922-17	16.95	2922-26, § 5
16.07	2922-12, § 2	16.98	2922-14c
16.11	2922-12, § 2	17.01(a)	2676
	2922-13a		2703
16.12	2922-13, § 1		2729a
16.13	2922-13, § 1(1)	17.02	2676, §§ 1, 3
	2922-13c	17.03	2676, § 1
16.14	2922-13, § 1(2)		2677
16.15	2922-13, § 1(3)		2745b
16.16	2922-13, § 1(4)		2745c
16.17	2922-13, § 1(5)	17.04	2676, § 3
16.18	2922-13, § 1(6)	17.05	2677
16.19	2922-13, § 1(7)		2703
16.20	2922-13d	17.06	2677
16.21	2922-13b	17.07	2681
16.31	2891-1		2684
	2922-14, § 1	17.08	2684
16.32	2922-14, § 1(1)		2687
16.33	2922-14, § 1(2)		2704
16.34	2922-14, § 1(3)	17.09	2687
16.35	2922-14, § 1(4)		2706
16.36	2922-14, § 1(5)	17.21	2683
16.37	2922-14, § 1(6)		2708
	2922-14(b)	17.22	2683
	2922-14(d)		2708
16.38	2922-14, § 1(7)	17.23	2711
16.39	2891-2	17.24	2678a
16.40	2922-14, § 2	17.25	2696
16.45	2922-15, § 1	17.26	2905
16.51	—	17.27	2681
16.52	2922-15, § 2(1)	17.28	2683b
16.53	2922-15, § 2(1)	17.29	2685
16.54	2922-15, § 2(1)		2700
16.55	2922-15, § 2(1)	17.30	2751a
16.56	2922-15, § 2(2)	17.31	2683
16.57	2922-15, § 2(3)		2717
16.58	2922-15, § 2(3)	17.41	2688
16.59	2922-15, § 2(3)		2688a
16.60	2922-15, § 2(3)	17.42	2688
16.61	2922-15, § 2(4)	17.43	2688
16.62	2922-13, § 1(4A)	17.44	2688
16.63	2922-15, § 2A	17.45	2688
16.71	2922-16, § 1	17.46	2706
16.72	2922-16, § 2	17.47	2701
16.73	2922-16, § 2	17.48	2688
16.74	2922-16, § 3	17.49	2689
16.75	2922-16, § 4		2701
16.76	2922-16, § 5	17.50	2688
16.77	2922-16, § 5	17.51	2700
16.78	2922-16, § 5		2701
16.79	2922-20		3888
16.80	2922-18		3888b
16.81	2922-18	17.52	2700
16.82	2922-18	17.53	2700
16.83	2922-16, § 4A	17.54	2700
16.91	2922-26, § 1		

TABLE 4

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Education Code Sections	Civil Statutes Repealed Articles	Education Code Sections	Civil Statutes Repealed Articles
17.55	2681	19.035	2744b, § 2
	2684	19.036	2744b, § 3
	2706	19.061	
17.56	689a—19a, § 1		to
17.57	689a—19a, § 2	19.070	see 2744e et seq.
17.58	689a—19a, § 2	19.101	2743
17.59	2690	19.102	2922d
	2693	19.103	2712
17.60	2691	19.104	2745a
17.61	2694	19.105	2922i(5)
17.62	—	19.106	2764
17.63	2686	19.131	2922a
17.64	2688e	19.132	2922c
17.71	2828	19.133	2922b
17.72	2829	19.134	2922e
17.73	2692	19.135	2922i(4)
	2827a		2922i(5)
	2830	19.136	2922a
	2831	19.161	2768
17.74	—		2769
17.81	2826	19.162	2759 to 2762
17.82	2824	19.163	2761a
17.83	2825		2770
17.84	7150a		2771
17.91	695i, § 1	19.164	2803
17.92	695i, § 3	19.165	2803a
18.01	—	19.166	2783c
18.02	2724	19.167	—
18.03	see 2702	19.201	2757
18.04	see 2702	19.202	2757
18.05	see 2702	19.203	2757
18.06	see 2703		2758
18.07	2725	19.204	2757
18.08	—	19.205	2757
18.09	—		2758
18.10	—	19.206	2742j
18.11	—	19.207	—
18.12	—	19.231	2742b
18.13	2726		2806
18.14	—		2922a
18.15	—		2922i(7)
18.21	—	19.232	2806
18.22	—	19.233	2806
18.23	—	19.234	2806
18.24	—	19.235	2742b, § 5a
18.25	—		2806
18.26	—	19.236	2806
18.27	—	19.237	2806
18.28	—		2806e
18.29	—	19.238	2806
18.30	—	19.239	2806
19.001	2681		1922aa
	2742f	19.240	2806
19.031	2741		2922i(7)
	2742	19.241	2806
	2744b		2806e
19.032	2744b, § 1	19.242	2806
19.033	2744b, § 1		2806e
19.034	2744b, § 1	19.243	2807

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Education Code Sections	Civil Statutes Repealed Articles	Education Code Sections	Civil Statutes Repealed Articles
19.244	2815	20.25	2802e
19.245	2815-1		2802e-1
19.261	2742f	20.26	2802e
	2766		2802e-1
19.262	2803b	20.27	2802e
19.263	—		2802e-1
19.301	2804	20.41	2786c
	2805	20.42	2786d
19.302	—	20.43	2786e
19.331	—	20.44	—
19.332	—	20.45	2802f-3
19.361	2767	20.46	—
19.362	2767	20.47	—
19.363	2767	20.48	—
19.364	2767	20.49	2827
19.365	2767-1		2827c
19.366	2922-18	20.50	2802e-5
19.367	2767f	21.001	2903
19.368	2767a to 2767e	21.002	2906
19.401	2742m	21.003	2906
19.402	2742m	21.004	2906
19.403	2742m	21.005	2906
19.431	2742b, § 9	21.006	2741a
19.432	2742b, § 9	21.031	2901
19.433	2742b, § 9		2902
19.434	2742b, § 10		2904a
19.435	2742b, § 10	21.032	2892
19.436	2742b, § 11	21.033	2893
19.437	2742b, § 12	21.034	2897
19.461	2805a	21.035	2894
19.462	2805a	21.036	2895
20.01	2784e	21.037	2895
	2784e-1	21.038	2895
	2786	21.039	2896
	2787		2898
	2788	21.040	—
20.02	2784e	21.061	2696
	2784e-1	21.062	2696
	2790	21.063	2696
20.03	2784e	21.064	2696
	2784e-1	21.065	2696
20.04	2784e	21.066	2698
	2784e-1	21.067	—
	2785	21.068	2922i(1), § 1
	2787	21.069	2922i(1), § 3
	2788	21.070	2922i(1), § 3
20.05	2789 to 2789e	21.071	2922i(1), § 4
20.06	2786	21.072	2922i(1), § 1
20.07	—	21.073	2699a
20.08	—	21.074	2901a, §§ 1, 2
20.21	2802e	21.075	2901a, § 4
	2802e-1	21.076	2901a, § 4
20.22	2802e	21.077	2901a, § 7
	2802e-1	21.078	2901a, §§ 7, 8
20.23	2802e	21.079	21.079, § 5
	2802e-1	21.101	2911
20.24	2802e	21.102	P.C. 289
	2802e-1	21.103	P.C. 290
		21.104	2911

TABLE 4

Education Code Sections	Civil Statutes Repealed Articles	Education Code Sections	Civil Statutes Repealed Articles
21.105	2911	21.401	2746c
21.106	2663b—1, §§ 1, 3	21.402	2746c
21.107	2680	21.403	2746c
21.108	2911	21.404	2746c
	2911a	21.405	2746c
21.109	P.C. 288	21.901	2752a
21.110	2919f	21.902	2906
21.111	2905b	21.903	2683a
21.112	2663b—3		2756
21.131	2919, § 1	21.904	2922—21a
21.132	2919, § 2	21.905	2781a
21.133	2919, § 2	21.906	—
21.134	2919, § 3	21.907	2911b
21.161	—	21.908	2898a
21.162	—	21.909	2919i
21.163	634(C)	22.01	2745
21.164	634(B)		2749
21.165	634(B)		2808
21.166	634(B)	22.02	2745
21.167	634(B)		2745b
21.168	634(B)		2745c
21.169	634(B)		2746
21.170	2687a		2746a
	P.C. 301b		2746b
21.171	—	22.03	2745
21.201	2891—50, § 2		2747
21.202	2891—50, § 3	22.04	2745
21.203	2891—50, § 3		2748
21.204	2891—50, § 3	22.05	2748
21.205	2891—50, § 3	22.06	—
21.206	2891—50, § 4	22.07	—
21.207	2891—50, § 4	22.08	2749
21.208	2891—50, § 4		2751
21.209	2891—50, § 5		2754
21.210	2891—50, § 6		2784e
21.211	2891—50, § 7	22.09	2750
21.212	2891—50, § 7		2750a
21.213	2891—50, § 7		2750a—1
21.214	2891—50, § 7		2750a—2
21.215	2891—50, § 7	22.10	2752
21.216	2891—50, § 8		2753
21.251	2912	22.11	2744
21.252	P.C. 301		2795
21.253	P.C. 301	22.12	—
21.254	P.C. 301	23.01	2758
21.255	2833a		2763
21.301	2898	23.02	2763
	2904	23.03	2745c
21.302	2898		2746a
21.303	2898	23.04	2746a
21.304	2898	23.05	2746a
21.305	2906—1	23.06	—
21.306	2906—1	23.07	2776
21.307	2906—2	23.08	2758
21.351	2909b, § 1		2775
21.352	2909b, § 2	23.09	2777
21.353	2909b, § 2	23.10	2746a
21.354	2909b, § 3	23.11	—
21.355	2909b, § 4	23.12	2774c

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Education Code Sections	Civil Statutes Repealed Articles	Education Code Sections	Civil Statutes Repealed Articles
23.13	-----	24.06	----- 2799
23.14	-----		2800
23.15	-----		2801
23.16	-----	24.07	----- 2802
23.17	-----		2802j
23.18	----- 2777—1	25.01	----- 2922b
23.19	----- 2758		2922i(4)
	2778	25.02	----- 2922k
	2779	25.03	----- 2922e
23.25	-----	25.04	----- 2922e
23.26	----- 2780	25.05	----- 2922c
23.27	----- 2801	25.06	----- 2922i to 2922k
23.28	----- 2781	25.07	----- 2922l
23.29	----- 2773a		2922i(6)
23.30	----- 2773	25.08	----- 2922f
23.31	----- 1109c		2922g
23.41	----- 689a—17a, § 1	25.09	----- 2922f
23.42	----- 689a—17a, § 1	26.01	----- 2675k, § 1
23.43	----- 689a—17a, § 1	26.11	----- 2675k, § 2
23.44	----- 689a—17a, § 2	26.12	----- 2675k, § 8
23.45	----- 689a—17a, § 1	26.13	----- 2675k, § 8(a)
23.46	----- 689a—17a, § 1	26.14	----- 2675k, § 8(b)
23.47	----- 689a—17a, § 1	26.15	----- 2675k, § 8(c)
23.48	----- 689a—17a, § 2	26.16	----- 2675k, § 8(d)
23.49	----- 689a—17a, § 3	26.17	----- 2675k, § 8(e)
23.50	----- 689a—17a, § 5	26.18	----- 2675k, § 8(g)
23.61	-----	26.31	----- 2675k, § 7(a)
23.62	-----	26.32	----- 2675k, § 7(b)
23.63	-----	26.33	----- 2675k, § 7(c)
23.64	-----	26.34	----- 2675k, § 7(d)
23.71	----- 2832c, § 1	26.35	----- 2675k, § 7(e)
23.72	----- 2832c, § 2	26.36	----- 2675k, § 7(f)
23.73	----- 2832c, § 3	26.37	----- 2675k, § 7(g)
23.74	----- 2832c, § 4	26.38	----- 2675k, § 7(h)
23.75	----- 2832c, § 4	26.39	----- 2675k, § 7(j)
23.76	----- 2832c, § 5	26.40	----- 2675k, § 7(k)
23.77	----- 2832c, § 6	26.41	----- 2675k, § 7(l)
23.78	----- 2832c, §§ 7, 8	26.61	----- 2675k, § 10
23.79	----- 2832c, § 9	26.62	----- 2675k, § 7(i)
23.80	----- 2832c, § 10	26.63	----- 2675k, § 7(i)
23.81	----- 2832c, § 11	26.64	----- 2675k, § 6
23.82	-----	26.65	----- 2675k, § 6
23.91	----- 2791	26.66	----- 2675k, § 7(i)
23.92	-----	26.67	----- 2675k, § 7(i)
23.93	----- 2779b	26.68	----- 2675k, § 7(i)
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FAMILY CODE

CHAPTER 888

H. B. No. 53

Effective January 1, 1970

An Act adopting Title 1 of the Family Code, a substantive revision of the statutes relating to husband and wife—entering the marriage relationship; validity of marriage; dissolution of marriage; rights, duties, powers, and liabilities of spouses; and marital property; amending certain laws to conform to the new code, as follows: amending Article 495, Penal Code of Texas, 1925, relating to punishment for incest; amending Article 5460, Revised Civil Statutes of Texas, 1925, as amended, relating to the requirements for securing a lien on the homestead of a married person; amending Section 17A, Chapter 41, Acts of the 40th Legislature, 1st Called Session, 1927, as amended (Rule 50b, Article 4477, Vernon's Texas Civil Statutes), relating to the record-keeping and information-providing function of the Bureau of Vital Statistics; adding an Article 3930a—1 to Title 61, Revised Civil Statutes of Texas, 1925, providing a fee for certain services rendered by county clerks and county recorders; repealing the statutes replaced by Title 1 of the Family Code; declaring the effect of conflicting laws passed at the same session; declaring the applicability of the Code Construction Act (Article 5429b—2, Vernon's Texas Civil Statutes); providing for severability; providing a saving clause; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Title 1 of the Family Code is adopted to read as follows:

FAMILY CODE

TITLE 1. HUSBAND AND WIFE

SUBTITLE A. THE MARRIAGE RELATIONSHIP

CHAPTER 1. ENTERING THE MARRIAGE RELATIONSHIP

SUBCHAPTER A. APPLICATION FOR MARRIAGE LICENSE

Section

- 1.01. Marriage License.
- 1.02. Application for License.
- 1.03. Application Form.
- 1.04. Proof of Identity and Age.
- 1.05. Certain Information or Formalities may be Omitted.
- 1.06. Execution of Application.
- 1.07. Issuance of License.
- 1.08. Recording.
- 1.09. Violation by County Clerk.

[Sections 1.10–1.20 reserved for expansion]

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- 1.21. Medical Examination Certificate Required.
- 1.22. Exemption Order.
- 1.23. Form and Content of Certificate.
- 1.24. Serologic Tests.
- 1.25. Tests to be Prescribed by Health Department.
- 1.26. Duties of Laboratory.
- 1.27. Content of Laboratory Statement.
- 1.28. Detailed Laboratory Report.
- 1.29. Public Laboratories to Conduct Tests Free of Charge.
- 1.30. List of Approved Private Laboratories.
- 1.31. Examination; Issuance of Certificate.
- 1.32. Content of Physician's Statement.
- 1.33. Physician.
- 1.34. Nonresident Applicants.
- 1.35. Reporting of Venereal Disease Cases.
- 1.36. Violation by County Clerk.
- 1.37. Giving False Information.

[Sections 1.38–1.50 reserved for expansion]

SUBCHAPTER C. UNDERAGE APPLICANTS

- 1.51. Age Requirements: General Rules.
- 1.52. Underage Applicant: Parental Consent.

[Sections 1.53–1.80 reserved for expansion]

SUBCHAPTER D. CEREMONY AND RETURN OF LICENSE**Section**

- 1.81. Expiration of License.
- 1.82. Ceremony.
- 1.83. Persons Authorized to Conduct Ceremony.
- 1.84. Return of License; Penalty for Violation.
- 1.85. Recording of License; Delivery to Licensees.

[Sections 1.86–1.90 reserved for expansion]

SUBCHAPTER E. MARRIAGE WITHOUT FORMALITIES

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- 2.02. Fraud, Mistake, or Illegality in Obtaining License.
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- 2.23. Certain Void Marriages Validated.
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- 2.43. Impotency.
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- 2.45. Mental Incompetency.
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- 3.02. Cruelty.
- 3.03. Adultery.
- 3.04. Conviction of Felony.
- 3.05. Abandonment.
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TITLE 1. HUSBAND AND WIFE**SUBTITLE A. THE MARRIAGE RELATIONSHIP****CHAPTER 1. ENTERING THE MARRIAGE RELATIONSHIP****SUBCHAPTER A. APPLICATION FOR MARRIAGE LICENSE****Section 1.01. Marriage License**

Persons desiring to enter into a ceremonial marriage shall obtain a marriage license from the county clerk of any county of this state.

§ 1.02. Application for License

Persons applying for a marriage license shall:

- (1) appear together or separately before the county clerk;
- (2) submit for each applicant:
 - (A) proof of identity and age as prescribed by Section 1.04 of this code;
 - (B) a medical examination certificate or an exemption order as prescribed by Subchapter B of this chapter;
 - (C) if applicable, the county judge's order prescribed by Section 1.05 of this code; and
 - (D) if required, the documents establishing parental consent, or a court order, as prescribed by Subchapter C of this chapter;
- (3) provide the information for which spaces are provided in the application for a marriage license; and
- (4) take the oath printed on the application and sign the application before the county clerk.

§ 1.03. Application Form

(a) The county clerk shall furnish the application form as prescribed by the Bureau of Vital Statistics of the State Department of Health.

(b) The application form shall contain:

- (1) a heading entitled "Application for Marriage License, _____ County, Texas";

(2) spaces for each applicant's full name (including the woman's maiden surname), address, date of birth, place of birth (including city, county, and state), and race;

(3) a space for indicating the document tendered by each applicant as proof of identity and age;

(4) spaces for indicating whether each applicant has been divorced, and if so, whether the applicant has been divorced during the six-month period preceding the date of the application;

(5) a printed oath reading: "I SOLEMNLY SWEAR (OR AFFIRM) THAT THE INFORMATION I HAVE GIVEN IN THIS APPLICATION IS CORRECT, THAT I AM NOT PRESENTLY MARRIED, AND THAT I AM NOT RELATED TO THE OTHER APPLICANT WITHIN THE DEGREES PROHIBITED BY LAW.";

(6) spaces immediately below the printed oath for the applicants' signatures;

(7) the jurat of the county clerk;

(8) spaces for indicating the date of the marriage and the county in which it is performed; and

(9) a space for the address to which the applicants desire the executed license to be mailed.

§ 1.04. Proof of Identity and Age

The county clerk shall require proof of identity and age of each applicant to be established by a certified copy of the applicant's birth certificate or by some certificate, license, or document issued by this state or another state, the United States, or a foreign government.

§ 1.05. Certain Information or Formalities May be Omitted

Any information pertaining to an applicant, other than the applicant's name, may be omitted from the application, and any formality required by Subchapters A, B, and D of this chapter may be waived on the county judge's written order, issued for good cause shown, and submitted to the county clerk at the time the application is made.

§ 1.06. Execution of Application

The county clerk shall:

(1) determine that all necessary information (other than the date of the marriage ceremony, the county in which it is conducted, and the name of the person who performs the ceremony) is entered in the application and that all necessary documents are submitted to him;

(2) administer the oath to each applicant;

(3) have each applicant sign the application in his presence; and

(4) execute his certificate on the application.

§ 1.07. Issuance of License

(a) On execution of the application, the county clerk shall prepare the license. On the reverse side of the license he shall enter the names of the licensees and, for each of them, the date of the medical examination or the fact that an exemption order was obtained.

(b) The county clerk shall not issue a license to the applicants if he knows any facts which would make the marriage void or voidable under this code.

(c) If it is revealed that either applicant has been divorced during the six-month period preceding the date of the application, the county clerk shall not issue the license unless it is shown that the subsequent marriage within the six-month period is permitted under Section 3.66 of this code.

§ 1.08. Recording

The county clerk shall record all licenses issued by him and shall record all documents submitted with applications for licenses or note a summary of them on the application.

§ 1.09 Violation by County Clerk

A county clerk or deputy county clerk who violates or fails to comply with any provision of this subchapter is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$200 nor more than \$500.

[Sections 1.10–1.20 reserved for expansion]

SUBCHAPTER B. MEDICAL EXAMINATION**§ 1.21. Medical Examination Certificate Required**

Except as provided by Section 1.22 of this code, the county clerk shall not issue a marriage license unless each applicant submits at the time of the application a medical examination certificate as prescribed by this code.

§ 1.22. Exemption Order

On the joint application of both applicants for a marriage license, the judge of any county or district court of the county in which the license is to be issued may issue a written order exempting the applicants from the medical examination requirements of this chapter if he is satisfied by proof that sufficient grounds exist for the exemption and that the exemption will not adversely affect the public health and welfare. The hearing on the application shall be private, and all records relating to the application shall be held in absolute confidence and shall not be opened to public inspection.

§ 1.23. Form and Content of Certificate

The medical examination certificate shall be made on a two-part form prescribed and supplied by the State Department of Health. One part of the form shall be for the laboratory statement and the other part shall be for the physician's statement.

§ 1.24. Serologic Tests

The first step in obtaining a medical examination certificate is to have a standard serologic test made by a state, county, or city laboratory, or a private laboratory approved by the State Department of Health. The applicant may apply to the laboratory in person for the test or may have a blood specimen taken by the physician for transmittal to the laboratory.

§ 1.25. Tests to be Prescribed by Health Department

The State Department of Health shall prescribe standard serologic tests for determining the existence of infectious syphilis in applicants for marriage licenses.

§ 1.26. Duties of Laboratory

The laboratory shall:

- (1) conduct a standard serologic test prescribed by the State Department of Health;

(2) complete the laboratory statement and the detailed laboratory report on the prescribed forms and have them signed by the person in charge or a person authorized to enter the results of the test;

(3) transmit the laboratory statement and one copy of the detailed laboratory report to the designated physician; and

(4) transmit a copy of the detailed laboratory report to the State Department of Health.

§ 1.27. Content of Laboratory Statement

The laboratory statement shall specify the name and address of the person tested, the name and address of the physician to whom the report is sent, the name of the test, and the date of the test. This statement shall not include the result of the test.

§ 1.28. Detailed Laboratory Report

The detailed laboratory report shall include the result of the test. The copy submitted to the State Department of Health shall be held confidential and shall not be opened to public inspection. However, on the order of the court, the report is admissible as evidence in any judicial proceeding if it is relevant and material to any issue involved in the proceeding. The department may use these reports, without disclosing identities of persons, in compiling statistics for any purpose.

§ 1.29. Public Laboratories to Conduct Tests Free of Charge

All state, county, and city laboratories shall conduct the standard serologic tests and make the reports required by this chapter free of charge.

§ 1.30. List of Approved Private Laboratories

The State Department of Health shall furnish each county clerk a list of approved private laboratories. The department shall keep the list current with necessary additions and deletions.

§ 1.31. Examination; Issuance of Certificate

After receiving the laboratory report and examining the applicant, the physician may execute the physician's statement on the prescribed form and issue the completed medical examination certificate to the applicant. However, the physician shall not issue the certificate if he knows or has reason to believe that the applicant has any infectious condition of syphilis or other venereal disease.

§ 1.32. Content of Physician's Statement

The physician's statement must declare that on a specified date (which must be within the 21-day period immediately preceding the date the marriage license is applied for), the applicant was given a thorough examination for infectious venereal disease, including a standard serologic test, and that the results of the examination, test, and history showed that the applicant was free of any infectious condition of syphilis or other venereal disease.

§ 1.33. Physician

Except as provided by Section 1.34 of this code, the physician's statement must be executed by a physician licensed to practice medicine in this state.

§ 1.34. Nonresident Applicants

An applicant who resides in another state or territory may present a medical examination certificate executed by a physician who is licensed to practice medicine in that state or territory and by a laboratory approved by the official health agency of that state or territory, on the forms prescribed by the Texas State Department of Health under this chapter. If the standard serologic test was conducted by a private laboratory, the certificate must be accompanied by the affidavit of the director of the laboratory that the laboratory is certified by the state or territorial health agency.

§ 1.35. Reporting of Venereal Disease Cases

Nothing in this chapter affects any law, rule, or regulation relating to reporting of cases of venereal disease discovered by physicians in the course of their practice.

§ 1.36. Violation by County Clerk

A county clerk or deputy county clerk who violates or fails to comply with any provision of this subchapter is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$200 nor more than \$500.

§ 1.37. Giving False Information

A person who knowingly gives false information in any medical examination certificate or detailed laboratory report is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$200 nor more than \$500.

[Sections 1.38–1.50 reserved for expansion]

SUBCHAPTER C. UNDERAGE APPLICANTS**§ 1.51. Age Requirements: General Rules**

(a) A male under 16 years of age may not marry. A female under 14 years of age may not marry.

(b) Except with parental consent as prescribed by Section 1.52 of this code, the county clerk shall not issue a marriage license if the male applicant is under 19 years of age or if the female applicant is under 18 years of age.

§ 1.52. Underage Applicant: Parental Consent

(a) If the male applicant is 16 years of age or older but under 19 years of age, or if the female applicant is 14 years of age or older but under 18 years of age, the county clerk shall issue the license if parental consent is given as prescribed by this section.

(b) Parental consent must be evidenced by a written declaration on a form supplied by the county clerk in which the person consents to the marriage and swears that he or she is a natural guardian of the person (when there is no judicially designated custodian or guardian of the person of the applicant), an actual custodian of the person (when there is no natural guardian of the person or judicially designated custodian or guardian of the person of the applicant), or a judicially designated cus-

todian or guardian of the person (whether an individual, authorized agency, or court) of the applicant.

(c) Except as otherwise provided by this section, consent must be acknowledged before the county clerk at the time the application is made for the marriage license.

(d) If the consenting parent or guardian resides in another state or territory of the United States, the consent may be acknowledged before an officer authorized to issue marriage licenses in that state or territory.

(e) If the consenting parent or guardian is unable to be present because of illness or incapacity, the consent may be acknowledged before any officer authorized to take acknowledgments; but it must be accompanied by a physician's affidavit stating that the parent or guardian is unable to be present because of illness or incapacity.

[Sections 1.53–1.80 reserved for expansion]

SUBCHAPTER D. CEREMONY AND RETURN OF LICENSE

§ 1.81. Expiration of License

(a) Unless both applicants were exempted by court order from the medical examination requirements of this chapter, the marriage license expires at the end of the 21-day period immediately following the date of the medical examinations (or the earlier of the two examinations if they were conducted on different days), if the marriage ceremony has not been conducted within that period. The person who is to conduct the marriage ceremony shall determine this information from the county clerk's endorsement on the license.

(b) A person who conducts a marriage ceremony after the license has expired is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$200 nor more than \$500.

§ 1.82. Ceremony

On receiving possession of the unexpired marriage license, any authorized person may conduct the marriage ceremony.

§ 1.83. Persons Authorized to Conduct Ceremony

The following persons are authorized to conduct marriage ceremonies:

- (1) licensed or ordained Christian ministers and priests;
- (2) Jewish rabbis;
- (3) persons who are officers of religious organizations and who are duly authorized by the organization to conduct marriage ceremonies; and
- (4) justices of the supreme court, judges of the court of criminal appeals, justices of the courts of civil appeals, judges of the district, county, and probate courts, judges of the county courts at law, courts of domestic relations and juvenile courts, justices of the peace, and judges of the federal courts of this state.

§ 1.84. Return of License; Penalty for Violation

(a) The person who conducts the ceremony shall enter on the license the date and county in which it was performed and his or her name as the person who performed the ceremony, subscribe it and return the li-

cense to the county clerk who issued it within 30 days after the ceremony is conducted.

(b) A person who violates or fails to comply with any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$200 nor more than \$500.

§ 1.85. Recording of License; Delivery to Licensees

The county clerk shall record the returned license and shall mail the license to the address indicated in the application. On the application form the county clerk shall record the date of the marriage ceremony, the county in which it was conducted, and the name of the person who conducted the ceremony.

[Sections 1.86–1.90 reserved for expansion]

SUBCHAPTER E. MARRIAGE WITHOUT FORMALITIES

§ 1.91. Proof of Certain Informal Marriages

(a) In any judicial, administrative, or other proceeding, the marriage of a man and woman may be proved by evidence that:

- (1) a declaration of their marriage has been executed under Section 1.92 of this code; or
- (2) they agreed to be married, and after the agreement they lived together in this state as husband and wife and there represented to others that they were married.

(b) In any proceeding in which a marriage is to be proved under Subsection (a)(2) of this section, the agreement of the parties to marry may be inferred if it is proved that they lived together as husband and wife and represented to others that they were married.

§ 1.92. Declaration and Registration

(a) A declaration of informal marriage shall be executed on a form prescribed by the Bureau of Vital Statistics of the State Department of Health and provided by the county clerk. Each party to the declaration shall provide the information for which spaces are provided in the form.

(b) The declaration form shall contain:

- (1) a heading entitled "Declaration and Registration of Informal Marriage, _____ County, Texas";
- (2) spaces for each party's full name (including the woman's maiden surname), address, date of birth, place of birth (including city, county, and state), and race;
- (3) a printed declaration reading: "We, the undersigned declare that we are married to each other by virtue of the following facts:

(date)

On or about _____, we agreed to be married, and after that date we lived together in this state as husband and wife and in this state represented to others that we were married."

- (4) a printed oath reading: "I SOLEMNLY SWEAR (OR AFFIRM) THAT THE ABOVE DECLARATION IS TRUE, THAT THE INFORMATION I HAVE GIVEN HEREIN IS CORRECT, THAT I AM NOT PRESENTLY MARRIED TO ANY OTHER PERSON, AND THAT I AM NOT RELATED TO THE OTHER PARTY TO THE DECLARATION WITH THE DEGREES PROHIBITED BY LAW.";

(5) spaces immediately below the printed oath for the parties' signatures; and

(6) a certificate of the county clerk that the applicant made the oath and place and date it was made.

(c) The county clerk shall:

(1) determine that all necessary information is entered on the form;

(2) administer the oath to each party;

(3) have each party sign the declaration in his presence; and

(4) execute his certificate on the declaration.

(d) The county clerk shall record the declaration, deliver the original of the declaration to the parties, and transmit a copy to the Bureau of Vital Statistics.

(e) A declaration executed under this section is prima facie evidence of the marriage.

CHAPTER 2. VALIDITY OF MARRIAGE

SUBCHAPTER A. GENERAL PROVISIONS

Section 2.01. State Policy

In order to promote the public health and welfare and to provide the necessary records, this code prescribes detailed and specific rules to be followed in establishing the marriage relationship. However, in order to provide stability for those entering into the marriage relationship in good faith and to provide legitimacy and security for the children of the relationship, it is the policy of this state to preserve and uphold each marriage against claims of invalidity unless strong reasons exist for holding it void or voidable. Therefore, every marriage entered into in this state is considered valid unless it is expressly made void by this chapter or unless it is expressly made voidable by this chapter and is annulled as provided by this chapter. When two or more marriages of a person to different spouses are alleged, the most recent marriage is presumed to be valid as against each marriage that precedes it until one who asserts the validity of a prior marriage proves its validity.

§ 2.02. Fraud, Mistake, or Illegality in Obtaining License

Except as otherwise provided by this chapter, the validity of a marriage is not affected by any fraud, mistake, or illegality that occurred in obtaining the marriage license.

§ 2.03. Ceremony Conducted by Unauthorized Person

The validity of a marriage is not affected by any lack of authority of the person conducting the marriage ceremony if there was a reasonable appearance of authority by that person and at least one party to the marriage participated in the ceremony in good faith and that party treats the marriage as valid.

[Sections 2.04–2.20 reserved for expansion]

SUBCHAPTER B. VOID MARRIAGES**§ 2.21. Consanguinity**

- (a) A person may not marry:
- (1) an ancestor or descendant, by blood or adoption;
 - (2) a brother or sister, of the whole or half blood or by adoption;
- or
- (3) a parent's brother or sister, of the whole or half blood.
- (b) A marriage entered into in violation of this section is void.

§ 2.22. Marriage During Existence of Prior Marriage

A marriage is void if either party was previously married and the prior marriage is not dissolved. However, the marriage becomes valid when the prior marriage is dissolved if since that time the parties have lived together as husband and wife and represented themselves to others as being married.

§ 2.23. Certain Void Marriages Validated

Except for marriages that would have been void under Section 2.21 of this code, all marriages that were entered into before January 1, 1970, in violation of the prohibitions of Article 496, Penal Code of Texas, 1925, are validated from the beginning if the parties continued until January 1, 1970, to live together as husband and wife and to represent themselves to others as being married.

§ 2.24. Suit to Declare Marriage Void

- (a) Either party to a marriage made void by this subchapter may sue to have the marriage declared void, or the marriage may be declared void in any collateral proceeding.
- (b) A suit to have a marriage declared void may be maintained in this state only if the purported marriage was contracted in this state or if either party is domiciled in this state.
- (c) A suit to have a marriage declared void is a suit in rem, affecting the status of the parties to the purported marriage. Process shall be served as in a suit for divorce.

[Sections 2.25-2.40 reserved for expansion]

SUBCHAPTER C. VOIDABLE MARRIAGES**§ 2.41. Underage**

(a) The marriage of a male 16 years of age or older but under 19 years of age, or a female 14 years of age or older but under 18 years of age, without parental consent as provided by Section 1.52 of this code, is voidable and subject to annulment at the discretion of the court on the petition of a next friend for the benefit of the underage party, or on the petition of the parent or the guardian of the person of the underage party. However, a suit may not be brought under this subsection more than 90 days after the date of the marriage.

(b) In exercising its discretion under this section, the court shall consider all pertinent facts concerning the welfare and best interests of both parties to the marriage, including whether or not the woman is pregnant.

§ 2.42. Under Influence of Alcohol or Narcotics

On the suit of a party to a marriage, the marriage is voidable and subject to annulment if:

(1) at the time of the marriage the petitioner was under the influence of alcoholic beverages or narcotics and as a result did not have the capacity to consent to the marriage; and

(2) the petitioner has not voluntarily cohabited with the other party to the marriage since the effects of the alcoholic beverages or narcotics ended.

§ 2.43. Impotency

On the suit of a party to a marriage, the marriage is voidable and subject to annulment if:

(1) either party, for physical or mental reasons, was permanently impotent at the time of the marriage;

(2) the petitioner did not know of the impotency at the time of the marriage; and

(3) the petitioner has not voluntarily cohabited with the other party since learning of the impotency.

§ 2.44. Fraud, Duress, Force

On the suit of a party to a marriage, the marriage is voidable and subject to annulment if:

(1) the other party used fraud, duress, or force to induce the petitioner to enter into the marriage; and

(2) the petitioner has not voluntarily cohabited with the other party since learning of the fraud or since being released from the duress or force.

§ 2.45. Mental Incompetency

(a) On the suit of a party to a marriage, or on the suit of the party's guardian or next friend (if the court finds it to be in his best interest to be represented by a guardian or next friend), the marriage is voidable and subject to annulment if:

(1) at the time of the marriage, as a result of a mental disease or defect, the petitioner did not have the mental competency to consent to marriage or to understand the nature of the marriage ceremony; and

(2) since the marriage ceremony, the petitioner has not voluntarily cohabited with the other party during any period when the petitioner possessed the mental competency to recognize the marriage relationship.

(b) On the suit of a party to a marriage, the marriage is voidable and subject to annulment if:

(1) at the time of the marriage, as a result of a mental disease or defect, the other party did not have the mental competency to consent to marriage or to understand the nature of the marriage ceremony;

(2) at the time of the marriage, the petitioner neither knew nor reasonably should have known of the mental disease or defect; and

(3) since the petitioner discovered or reasonably should have discovered the mental disease or defect, the petitioner has not voluntarily cohabited with the other party.

§ 2.46. Concealed Divorce

(a) On the suit of a party to a marriage, the marriage is voidable and subject to annulment if:

(1) the other party was divorced from a third party within the six-month period preceding the day of the marriage ceremony, and the prohibition against marrying again within the six-month period was not waived under Section 3.66 of this code;

(2) at the time of the marriage ceremony, the petitioner did not know, and a reasonably prudent person would not have known, of the divorce; and

(3) since the petitioner discovered, or a reasonably prudent person would have discovered, the fact of the divorce, the petitioner has not voluntarily cohabited with the other party.

(b) A suit may not be brought under this section more than one year after the date of the marriage.

§ 2.47. Death of Party to Voidable Marriage

A marriage voidable under this subchapter is not subject to challenge in any proceeding instituted after the death of either party.

CHAPTER 3. DISSOLUTION OF MARRIAGE**SUBCHAPTER A. GROUNDS FOR DIVORCE; DEFENSES****Section 3.01. Insupportability**

On the petition of either party to a marriage, a divorce may be decreed without regard to fault if the marriage has become insupportable because of discord or conflict of personalities that destroys the legitimate ends of the marriage relationship and prevents any reasonable expectation of reconciliation.

§ 3.02. Cruelty

A divorce may be decreed in favor of one spouse if the other spouse is guilty of cruel treatment toward the complaining spouse of a nature that renders further living together insupportable.

§ 3.03. Adultery

A divorce may be decreed in favor of one spouse if the other spouse has committed adultery.

§ 3.04. Conviction of Felony

(a) A divorce may be decreed in favor of one spouse if since the marriage the other spouse:

(1) has been convicted of a felony;

(2) has been imprisoned for at least one year in the state penitentiary, a federal penitentiary, or the penitentiary of another state; and

(3) has not been pardoned.

(b) A divorce may not be decreed under this section against a spouse who was convicted on the testimony of the other spouse.

§ 3.05. Abandonment

A divorce may be decreed in favor of one spouse if the other spouse left the complaining spouse with the intention of abandonment and remained away for at least one year.

§ 3.06. Living Apart

A divorce may be decreed in favor of either spouse if the spouses have lived apart without cohabitation for at least three years.

§ 3.07. Confinement in Mental Hospital

A divorce may be decreed in favor of one spouse if at the time the suit is filed:

(1) the other spouse has been confined in a mental hospital, a state mental hospital, or private mental hospital, as defined in Section 4, Texas Mental Health Code, as amended (Article 5547—4, Vernon's Texas Civil Statutes), in this state or another state for at least three years; and

(2) it appears that the spouse's mental disorder is of such a degree and nature that he is not likely to adjust, or that if he adjusts it is probable that he will suffer a relapse.

§ 3.08. Defenses

(a) The defense of recrimination is abolished.

(b) Condonation, if proved, is a valid defense only if it is also proved that there is a reasonable expectation of reconciliation.

[Sections 3.09–3.20 reserved for expansion]

**SUBCHAPTER B. JURISDICTION AND VENUE;
RESIDENCE QUALIFICATIONS****§ 3.21. Residence—General Rule**

No suit for divorce shall be maintained unless at the time the suit is filed the petitioner has been a domiciliary of this state for the preceding 12-month period and a resident of the county in which the suit is filed for the preceding six-month period.

§ 3.22. Resident with Out-of-State Military Service

A resident who has been absent from this state for more than six months in the military, naval, or other service of the United States or of this state may sue for divorce in the county where he resided before entering the service.

§ 3.23. Military Personnel not Previously Residents

A person not previously a resident of this state who is serving in the armed forces of the United States and has been stationed at one or more military installations in this state for at least the last 12 months and at one or more military installations in a county of this state for at least the last six months is considered to have been a domiciliary of this state and a resident of the county for those periods for the purpose of bringing suit for divorce or annulment or to declare a marriage void.

§ 3.24. Suit by Nonresident Spouse

If one spouse has been a domiciliary of this state for at least the last 12 months, a spouse domiciled in another jurisdiction may sue for divorce in the county where the domiciled spouse is domiciled at the time the petition is filed.

§ 3.25. Annulment Suit

(a) A suit for annulment of a marriage may be maintained in this state only if the parties were married in this state or if either party is domiciled in this state.

(b) A suit for annulment of a marriage is a suit in rem, affecting the status of the parties to the marriage. Process shall be served as in a suit for divorce.

[Sections 3.26–3.50 reserved for expansion]

SUBCHAPTER C. SUIT**§ 3.51. Caption**

Pleadings in a divorce or annulment suit shall be entitled, "In the Matter of the Marriage of _____ and _____."

§ 3.52. Pleadings; Statement of Facts

(a) Any pleading praying for a divorce or annulment shall allege the grounds relied on as nearly as possible in the language of the statute and without a detailed statement of the facts.

(b) The opposing party shall be furnished on request a separate statement of the facts relied on to support a decree. Each fact alleged in the statement shall be considered as denied by the opposing party unless expressly admitted.

(c) A copy of the statement shall be furnished to the judge but shall not become a part of the record of the case. However, if the court's judgment is appealed on any ground relating to an allegation in the statement, then the statement shall be included in the record on appeal.

§ 3.53. Answer

In a suit for divorce or annulment, the defendant need not answer upon oath, and the petition shall not be taken as confessed for want of an answer.

§ 3.54. Counseling

(a) After a petition for divorce is filed, the court may, in its discretion, direct the parties to counsel with a person or persons named by the court, who shall submit a written report to the court before the hearing on the petition.

(b) In his report, the counselor shall give only his opinion as to whether there exists a reasonable expectation of reconciliation of the parties, and if so, whether further counseling would be beneficial. The sole purpose of the report is to aid the court in determining whether the suit for divorce should be continued pending further counseling, and the report shall not be admitted as evidence in the suit. Copies of the report shall be furnished to the parties.

(c) If the court is of the opinion that there exists a reasonable expectation of the parties' reconciliation, the court may by written order continue the proceedings and direct the parties to any person or persons named by the court for further counseling for a period of time fixed by the court not to exceed 60 days, subject to any terms, conditions, and limitations the court deems desirable. The court shall consider the circumstances of the parties, including the needs of the parties' family, and the availability of counseling services, in making its order. At the expiration of the period of time specified by the court, the counselor to whom the parties were directed shall report to the court whether the parties have complied with the court's order. Thereafter, the court shall proceed as in divorce suits generally.

(d) No person who has counseled parties to a suit for divorce under this section is competent to testify in any action involving the parties or their children.

(e) The expenses of counseling may be taxed as costs against either or both parties.

§ 3.55. Child Custody and Support

Until Title 2 of this code is enacted and takes effect, nothing in this code affects the existing statutes relating to the awarding of custody and support of children in a divorce suit.

§ 3.56. Inventory and Appraisalment

At any time during a suit for divorce or annulment either spouse may, for the preservation of his or her rights, require an inventory and appraisalment of all property in the possession of the other spouse, and may obtain an injunction restraining the other spouse from disposing of any of the property in any manner.

§ 3.57. Transfers and Debts Pending Decree

After a petition for divorce or annulment is filed and until a final decree is entered

- (1) a transfer of real or personal community property or
- (2) a debt incurred which would subject community property to liability by either spouse is void with respect to the other spouse if the transfer was made or the debt incurred with the intent to injure the rights of the other spouse. A transfer is not void if the person dealing with the transferor or debtor spouse did not have notice of the intent to injure the rights of the other spouse.

§ 3.58. Temporary Orders

After a petition for divorce or annulment is filed, the court or judge may make temporary orders respecting the property and parties as deemed necessary and equitable.

§ 3.59. Temporary Support

After a petition for divorce or annulment is filed, the judge, after due notice may order payments for the support of the wife, or for the support of the husband if he is unable to support himself, until a final decree is entered.

§ 3.60. Waiting Period

A divorce shall not be granted until at least 60 days have elapsed since the day the suit was filed. However, a decree entered in violation of this section is not subject to collateral attack.

§ 3.61. Jury

Either party may demand a jury trial.

§ 3.62. Testimony of Husband or Wife

In all such suits and proceedings the husband and wife shall be competent witnesses for and against each other, but neither party shall be compelled to testify as to any matter that will criminate himself or herself; and where the husband or wife testifies, the court or jury trying the case shall determine the credibility of such witness and the weight to be given such testimony.

§ 3.63. Division of Property

In a decree of divorce or annulment the court shall order a division of the estate of the parties in a manner that the court deems just and right, having due regard for the rights of each party and any children of the marriage.

§ 3.64. Decree

The court shall base its decree for divorce or annulment on full and satisfactory evidence.

§ 3.65. Costs

In a divorce or annulment suit, the court may award costs to either party as it deems reasonable. However, costs may not be adjudged against a party against whom a divorce is granted under Section 3.07 of this code.

§ 3.66. Remarriage

Neither party to a divorce may marry a third party for a period of six months immediately following the date the divorce is decreed, but the parties divorced may marry each other at any time. The court granting the divorce, for good cause shown, may at the time of the divorce decree or thereafter waive the prohibition of this section as to either or both parties.

CHAPTER 4. RIGHTS, DUTIES, POWERS, AND LIABILITIES OF SPOUSES

Section 4.01. Persons Married Elsewhere

The law of this state applies to persons married elsewhere who are domiciled in this state.

§ 4.02. Duty to Support

Each spouse has the duty to support his or her minor children. The husband has the duty to support the wife, and the wife has the duty to support the husband when he is unable to support himself. A spouse

who fails to discharge a duty of support is liable to any person who provides necessaries to those to whom support is owed.

§ 4.03. Capacity of Spouses

Except as expressly provided by statute or by the constitution, every person who has been married in accordance with the law of this state, regardless of age, has the power and capacity of an adult, including the capacity to contract.

§ 4.04. Joinder in Civil Suits

(a) A spouse may sue and be sued without the joinder of the other spouse.

(b) When claims or liabilities are joint and several, the spouses may be joined under the rules relating to joinder of parties generally.

SUBTITLE B. PROPERTY RIGHTS AND LIABILITIES

CHAPTER 5. MARITAL PROPERTY

SUBCHAPTER A. SEPARATE AND COMMUNITY PROPERTY

Section 5.01. Marital Property Characterized

(a) A spouse's separate property consists of:

- (1) the property owned or claimed by the spouse before marriage;
- (2) the property acquired by the spouse during marriage by gift, devise, or descent; and
- (3) the recovery for personal injuries sustained by the spouse during marriage, except any recovery for loss of earning capacity during marriage.

(b) Community property consists of the property, other than separate property, acquired by either spouse during marriage.

§ 5.02. Presumption

Property possessed by either spouse during or on dissolution of marriage is presumed to be community property.

§ 5.03. Recordation of Separate Property

A subscribed and acknowledged schedule of a spouse's separate property may be recorded in the deed records of the county in which the parties, or one of them, reside and in the county or counties in which the real property is located. As to real property, a schedule of a spouse's separate property is void as against a good faith purchaser for value or a creditor without notice unless the instrument is acknowledged and recorded in the county in which the real property is located.

[Sections 5.04–5.20 reserved for expansion]

**SUBCHAPTER B. MANAGEMENT, CONTROL AND
DISPOSITION OF MARITAL PROPERTY**

§ 5.21. Separate Property

Each spouse has the sole management, control, and disposition of his or her separate property.

§ 5.22. Community Property: General Rules

(a) During marriage, each spouse has the sole management, control, and disposition of the community property that he or she would have owned if single, including but not limited to:

- (1) personal earnings;
- (2) revenue from separate property;
- (3) recoveries for personal injuries; and
- (4) the increase and mutations of, and the revenue from, all property subject to his or her sole management, control, and disposition.

(b) If community property subject to the sole management, control, and disposition of one spouse is mixed or combined with community property subject to the sole management, control, and disposition of the other spouse, then the mixed or combined community property is subject to the joint management, control, and disposition of the spouses, unless the spouses provide otherwise by power of attorney or other agreement in writing.

(c) Except as provided in Subsection (a) of this section, the community property is subject to the joint management, control, and disposition of the husband and wife, unless the spouses provide otherwise by power of attorney or other agreement in writing.

§ 5.23. Earnings of Child

The earnings of an unemancipated minor are subject to the management, control, and disposition of the parent or parents having custody of the minor.

§ 5.24. Presumption

(a) During marriage, property is presumed to be subject to the sole management, control, and disposition of a spouse if it is held in his or her name, as shown by muniment, contract, deposit of funds, or other evidence of ownership, or if it is in his or her possession and is not subject to such evidence of ownership.

(b) A third person dealing with a spouse is entitled to rely (as against the other spouse or anyone claiming from that spouse) on that spouse's authority to deal with the property if:

- (1) the property is presumed to be subject to the sole management, control, and disposition of the spouse; and
- (2) the person dealing with the spouse:
 - (A) is not a party to a fraud upon the other spouse or another person; and
 - (B) does not have notice of the spouse's lack of authority.

(c) As to personal property, recording of a schedule of separate property under Section 5.03 of this code, or an order under Section 5.25 of this code, or a marital property agreement under Section 5.41 of this

code, or a partition or exchange agreement under Section 5.42 of this code, shall not be deemed constructive notice of the schedule, order, marital property agreement, or partition or exchange agreement for the purposes of Subsection (b)(2)(B) of this section. As to real property, recording of a schedule of separate property under Section 5.03 of this code, or an order under Section 5.25 of this code, or a marital property agreement under Section 5.41 of this code, or a partition or exchange agreement under Section 5.42 of this code, in the deed records of the county in which the real property is located is constructive notice for the purposes of Subsection (b)(2)(B) of this section.

§ 5.25. Unusual Circumstances

(a) If (1) a spouse is unable to manage, control, or dispose of the community property subject to his or her sole or joint management, control, and disposition, (2) a spouse disappears and his or her location remains unknown to the other spouse, (3) a spouse permanently abandons the other, or (4) the spouses are permanently separated, then not less than 60 days thereafter the capable spouse, or the remaining spouse, or the abandoned spouse, or either spouse in the case of permanent separation, may file a sworn petition stating the facts that make it desirable for the petitioning spouse to manage, control, and dispose of community property (described or defined in the petition) that would otherwise be subject to the sole or joint management, control, and disposition of the other.

(b) The petition shall be filed in a district court of the county in which the petitioning spouse resided at the time the incapacity or separation began, or the abandonment or disappearance occurred. If both spouses are nonresidents of the state at that time, the petition shall be filed in the district court of any county in which any part of the described or defined community property is located.

(c) A notice stating that the petition has been filed and specifying the date of the hearing, accompanied by a copy of the petition, shall be issued and served on the respondent spouse as in other cases.

(d) If the residence of the respondent is unknown, notice shall be published in a newspaper of general circulation published in the county in which the petition was filed. If that county has no newspaper of general circulation, then notice shall be published in a newspaper of general circulation in an adjacent county or in the nearest county in which a newspaper of general circulation is published. The notice shall be published once a week for two consecutive weeks before the hearing, but the first publication shall not be less than 20 days before the date set for the hearing.

(e) After hearing the evidence, the court, on terms it deems just and equitable, shall enter an order describing or defining the community property at issue that will be subject to the management, control, and disposition of each spouse during marriage.

(f) The jurisdiction of the court is continuing, and on motion of either spouse, after notice has been given in the same manner that notice is given under Subsection (c) or (d) of this section, the court shall amend or vacate the original order if:

- (1) the incapable spouse's capacity is restored;
- (2) the spouse who disappeared reappears; or
- (3) the abandonment or permanent separation ends.

(g) An order authorized by Subsection (e) of this section affecting real property is void as against a good faith purchaser for value or

against a creditor without notice unless the order is recorded in the deed records of the county in which the real property is located.

(h) In the exercise of its equity powers, the court may impose any conditions and restrictions it deems necessary to protect the rights of the other spouse. The court may require a bond conditioned on faithful administration of the proceeds or may require payment of all or a portion of the proceeds to the registry of the court, to be disbursed in accordance with the court's further directions.

(i) This section is cumulative of the rights, powers, and remedies otherwise afforded the spouses by law.

[Sections 5.26-5.40 reserved for expansion]

SUBCHAPTER C. PROPERTY AGREEMENTS

§ 5.41. Agreement in Contemplation of Marriage

(a) Before marriage, persons intending to marry may enter into a marital property agreement as they may desire.

(b) The agreement must be in writing and subscribed by all parties.

(c) A minor capable of marrying but not otherwise capable of entering into a binding agreement may enter into a marital property agreement with the subscribed, written consent of the guardian of the minor's estate and with the approval of the probate court after the application, notice, and hearing required in the Probate Code for the sale of a minor's real estate.

(d) A marital property agreement does not prejudice the rights of preexisting creditors.

(e) A marital property agreement may be recorded in the deed records of the county in which the parties, or one of them, reside and in the county or counties in which the real property affected or to be affected is located. As to real property, a marital property agreement is void as against a good faith purchaser for value or a creditor without notice unless the instrument is acknowledged and recorded in the county in which the real property is located.

§ 5.42. Partition or Exchange of Community Property

(a) At any time, the spouses may partition between themselves, in severalty or in equal undivided interests, all or any part of their community property. They may exchange between themselves the interest of one spouse in any community property for the interest of the other spouse in other community property. A partition or exchange must be in writing and subscribed by both parties.

(b) Subject to the rules stated in Subsections (c) and (d) of this section, property or a property interest transferred to a spouse under a partition or exchange becomes his or her separate property.

(c) A partition or exchange does not prejudice the rights of preexisting creditors.

(d) A partition or exchange agreement may be recorded in the deed records of the county in which the parties, or one of them, reside and in the county or counties in which the real property affected is located. As to real property, a partition or exchange agreement is void as against a good faith purchaser for value or a creditor without notice unless the in-

strument is acknowledged and recorded in the county in which the real property is located.

[Sections 5.43–5.60 reserved for expansion]

SUBCHAPTER D. MARITAL PROPERTY LIABILITIES

§ 5.61. Rules of Marital Property Liability

(a) A spouse's separate property is not subject to liabilities of the other spouse unless both spouses are liable by other rules of law.

(b) Unless both spouses are liable by other rules of law, the community property subject to a spouse's sole management, control, and disposition is not subject to:

- (1) any liabilities that the other spouse incurred before marriage;
- or
- (2) any nontortious liabilities that the other spouse incurs during marriage.

(c) The community property subject to a spouse's sole or joint management, control, and disposition is subject to the liabilities incurred by him or her before or during marriage.

(d) All the community property is subject to tortious liability of either spouse incurred during marriage.

§ 5.62. Order in Which Property is Subject to Execution

(a) A judge may determine, as he deems just and equitable, the order in which particular separate or community property will be subject to execution and sale to satisfy a judgment, if the property subject to liability for a judgment includes any combination of:

- (1) a spouse's separate property;
- (2) community property subject to a spouse's sole management, control, and disposition;
- (3) community property subject to the other spouse's sole management, control, and disposition; and
- (4) community property subject to the spouses' joint management, control, and disposition.

(b) In determining the order in which particular property will be subject to execution and sale, the judge shall consider the facts surrounding the transaction or occurrence upon which the suit is based.

[Sections 5.63–5.80 reserved for expansion]

SUBCHAPTER E. HOMESTEAD RIGHTS

§ 5.81. Sale, Conveyance, or Encumbrance of Homestead

Whether the homestead is the separate property of either spouse or community property, neither spouse may sell, convey, or encumber it without the joinder of the other spouse except as provided in Section 5.82, 5.83, 5.84, or 5.85 of this code or by other rules of law.

§ 5.82. Separate Homestead: Incompetent Spouse; Sale Without Joinder

If the homestead is the separate property of a spouse and the other spouse has been judicially declared incompetent, the owner may sell, convey, or encumber it without the joinder of the other spouse.

§ 5.83. Separate Homestead: Unusual Circumstances; Sale Without Joinder

(a) If the homestead is the separate property of a spouse and the other spouse (1) is incompetent (whether judicially declared incompetent or not), (2) disappears and his or her location remains unknown to the owner, (3) permanently abandons the homestead and the owner, or (4) permanently abandons the homestead and the spouses are permanently separated, then not less than 60 days thereafter the owner may file a sworn petition giving a description of the property and stating the facts that make it desirable for the owner to sell, convey, or encumber the homestead without the joinder of the other spouse.

(b) The petition shall be filed in a district court of the county in which any portion of the property is located. Notice shall be issued and served in the manner provided in Subsection (c) or (d) of Section 5.25 of this code.

(c) After hearing the evidence, the court shall enter an order it deems just and equitable with respect to sale, conveyance, or encumbrance of the homestead.

§ 5.84. Community Homestead: Incompetent Spouse; Sale Without Joinder

If the homestead is the community property of the spouses and one spouse has been judicially declared incompetent, the competent spouse may sell, convey, or encumber the homestead without the joinder of the other spouse.

§ 5.85. Community Homestead: Unusual Circumstances; Sale Without Joinder

(a) If the homestead is the community property of the spouses and if (1) a spouse is incompetent (whether judicially declared incompetent or not), (2) a spouse disappears and his or her location remains unknown to the other spouse, (3) a spouse permanently abandons the homestead and the other spouse, or (4) a spouse permanently abandons the homestead and the spouses are permanently separated, then not less than 60 days thereafter the competent spouse, the remaining spouse, the abandoned spouse, or the spouse who has not abandoned the homestead in a case of permanent separation, who desires to sell, convey, or encumber the community homestead of the spouses, may file a sworn petition giving a description of the property and stating the facts that make it desirable for the petitioning spouse to sell, convey, or encumber the homestead without the joinder of the other spouse.

(b) The petition shall be filed in a district court of the county in which any portion of the property is located. Notice shall be issued and served in the manner provided in Subsection (c) or (d) of Section 5.25 of this code.

(c) After hearing the evidence, the court shall enter an order granting relief if it appears necessary or advisable, and on terms the court deems advisable.

(d) In the exercise of its equity powers, the court may impose any conditions and restrictions it deems necessary to protect the rights of the other spouse. The court may require a bond conditioned on faithful administration of the proceeds or may require payment of all or a portion of the proceeds to the registry of the court, to be disbursed in accordance with the court's further directions.

§ 5.86. Remedies and Powers Cumulative

The remedies provided by Sections 5.83 and 5.85 of this code, and the powers of a spouse under Sections 5.82 and 5.84 of this code, are cumulative of the rights, powers, and remedies otherwise afforded the spouses by law.

Sec. 2. Article 495, Penal Code of Texas, 1925, is amended to read as follows:

“Article 495. PUNISHMENT FOR INCEST. Persons who are forbidden to marry by Section 2.21 of the Family Code who intermarry or carnally know each other shall be confined in the penitentiary for not less than two years nor more than ten years.”

Sec. 3. Article 5460, Revised Civil Statutes of Texas, 1925, as amended by Section 5, Chapter 309, Acts of the 60th Legislature, Regular Session, 1967, is amended to read as follows:

“Article 5460. LIEN ON HOMESTEAD. When material is furnished, labor performed, or improvements as defined in this title are made, or when erections or repairs are made upon homesteads, if the owner thereof is a married man or woman, then to fix and secure the lien upon the same it shall be necessary for the person or persons who furnish the material or perform the labor, before such material is furnished or such labor is performed, to make and enter into a contract in writing, setting forth the terms thereof, which shall be signed by both the husband and wife. And such contract shall be recorded in the office of the county clerk in the county where such homestead is situated, in a well bound book to be kept for that purpose. When such contract has been made and entered into by the husband and wife and the contractor or builder, and the same has been recorded, as heretofore provided, then the same shall inure to the benefit of any and all persons who shall furnish material or labor thereon for such contractor or builder.”

Sec. 4. Section 17A, Chapter 41, Acts of the 40th Legislature, 1st Called Session, 1927, as added by Section 2, Chapter 543, Acts of the 59th Legislature, Regular Session, 1965 (Rule 50b, Article 4477, Vernon's Texas Civil Statutes), is amended by adding a Subsection (b-1) to read as follows:

“(b-1) After December 31, 1969, the county clerk of each county shall transmit to the Bureau of Vital Statistics, within 90 days after execution, a copy of each declaration of informal marriage executed under Section 1.92 of the Family Code. The Bureau shall incorporate the information in each declaration in the state-wide alphabetical index established under Subsection (b) of this section, and the information shall be treated as provided in Subsection (c) of this section.”

Sec. 5. Title 61, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding an Article 3930a—1 to read as follows:

“Article 3930a—1. COUNTY CLERKS AND COUNTY RECORDERS—OTHER SERVICES. (1) In addition to the fees authorized and required by Article 3930 of this title, as amended, county clerks and county recorders are authorized and required to collect the fees specified by this article for services rendered by them to all persons, firms, corporations, legal entities, governmental agencies, and governmental representatives.

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Unless otherwise specified, each fee shall be collected at the time the service is rendered.

"(2) A total fee of \$5 shall be collected for services rendered in connection with the execution of each declaration of informal marriage under Section 1.92 of the Family Code."

Sec. 6. The following laws are repealed:

(1) Articles 4602 through 4610 inclusive, 4613 through 4615 inclusive, 4617 through 4638 inclusive, 4640, 4641, 6632, and 6647, Revised Civil Statutes of Texas, 1925, as amended;

(2) Section 1, Chapter 114, Acts of the 41st Legislature, Regular Session, 1929 (Article 4604c, Vernon's Texas Civil Statutes); and Chapter 547, Acts of the 51st Legislature, Regular Session, 1949 (Article 4604d, Vernon's Texas Civil Statutes);

(3) Articles 404, 406, 492, 493, 496, and 497, Penal Code of Texas, 1925.

Sec. 7. Any other Act passed at the same session of the legislature prevails over this Act to the extent of any conflict.

Sec. 8. The Code Construction Act (Article 5429b—2, Vernon's Texas Civil Statutes) applies to the construction of the Family Code except to the extent that the context of a provision may otherwise require.

Sec. 9. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Sec. 10. This Act does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun, before its effective date.

Sec. 11. This Act takes effect January 1, 1970.

Sec. 12. The importance of this legislation and the crowded condition of the calendar in both houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and the Rule is hereby suspended; and that this Act take effect and be in force from and after January 1, 1970, and it is so enacted.

Passed by the House on May 16, 1969, by a non-record vote; House concurred in Senate amendments on June 2, 1969, by a non-record vote; passed by the Senate, as amended, on May 31, 1969, by a viva-voce vote.

Approved May 14, 1969.

Effective January 1, 1970.

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ABBREVIATIONS

Bus Corp	Business Corporation Act.
CCP	Code of Criminal Procedure.
Const	Constitution.
Elec Code	Election Code.
Ins Code	Insurance Code.
PC	Penal Code.
Prob Code	Probate Code.
Tax-Gen	Taxation-General.

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