

## WATER CODE

## TITLE 4. GENERAL LAW DISTRICTS

## CHAPTER 49. PROVISIONS APPLICABLE TO ALL DISTRICTS

## SUBCHAPTER A. GENERAL PROVISIONS

Sec. 49.001. DEFINITIONS. (a) As used in this chapter:

(1) "District" means any district or authority created by authority of either Sections 52(b)(1) and (2), Article III, or Section 59, Article XVI, Texas Constitution, regardless of how created. The term "district" shall not include any navigation district or port authority created under general or special law, any conservation and reclamation district created pursuant to Chapter 62, Acts of the 52nd Legislature, 1951 (Article 8280-141, Vernon's Texas Civil Statutes), or any conservation and reclamation district governed by Chapter 36 unless a special law creating the district or amending the law creating the district states that this chapter applies to that district.

(2) "Commission" means the Texas Natural Resource Conservation Commission.

(3) "Board" means the governing body of a district.

(4) "Executive director" means the executive director of the commission.

(5) "Water supply corporation" means a nonprofit water supply or sewer service corporation created or operating under Chapter 67.

(6) "Director" means either a supervisor or director appointed or elected to the board.

(7) "Municipal solid waste" has the same meaning assigned by Section 361.003, Health and Safety Code.

(8) "Special water authority" means a river authority as that term is defined in Section 30.003, or a district created by a special Act of the legislature that:

(A) is a provider of water or wastewater service to two or more municipalities; and

(B) is governed by a board of directors appointed or designated in whole or in part by the governor, the Texas Water Development Board, or municipalities within its service area.

(9) "Potable water" means water that has been treated for public drinking water supply purposes.

(10) "District facility" means tangible real and personal property of the district, including any plant, equipment, means, recreational facility as defined by Section 49.462, or instrumentality owned, leased, operated, used, controlled, furnished, or supplied for, by, or in connection with the business or operations of a district. The term specifically includes a reservoir or easement of a district.

(b) These definitions are for use in this chapter only and have no effect on any other statute or code unless specifically referenced by that statute or code.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 1999, 76th Leg., ch. 62, Sec. 18.66, eff. Sept. 1, 1999;

Acts 1999, 76th Leg., ch. 1354, Sec. 4, eff. Sept. 1, 1999; Acts 2003,

78th Leg., ch. 343, Sec. 1.

Sec. 49.002. APPLICABILITY. (a) Except as provided by Subsection (b), this chapter applies to all general and special law districts to the extent that the provisions of this chapter do not directly conflict with a provision in any other chapter of this code or any Act creating or affecting a special law district. In the event of such conflict, the specific provisions in such other chapter or Act shall control.

(b) This chapter does not apply to a district governed by Chapter 36 unless a special law creating the district or amending the law creating the district states that this chapter applies to that district.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 1999, 76th Leg., ch. 1354, Sec. 5, eff. Sept. 1, 1999.

Sec. 49.003. PENALTY. A district that fails to comply with the filing provisions of this code may be subject to a civil penalty of up to

\$100 per day for each day the district wilfully continues to violate these provisions after receipt of written notice of violation from the executive director by certified mail, return receipt requested. The state may sue to recover the penalty.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.004. PENALTY FOR VIOLATION OF DISTRICT RULES. (a) The board may set reasonable civil penalties for the breach of any rule of the district that shall not exceed the jurisdiction of a justice court as provided by Section 27.031, Government Code.

(b) A penalty under this section is in addition to any other penalty provided by the law of this state and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the district's principal office or meeting place is located.

(c) If the district prevails in any suit to enforce its rules, it may, in the same action, recover reasonable fees for attorneys, expert witnesses, and other costs incurred by the district before the court. The amount of the attorney's fees shall be fixed by the court.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

#### SUBCHAPTER B. CREATION

Sec. 49.010. ORDER OR ACT CREATING DISTRICT. Within 60 days after the date a district is created, the district shall file with the executive director a certified copy of the order or legislative Act creating the district or authorizing its creation, unless the district was created by order of the commission.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.011. NOTICE APPLICABLE TO CREATION OF A DISTRICT BY THE COMMISSION. (a) On receipt by the commission of all required documentation associated with an application for creation of a district by the commission under Chapter 36, 50, 51, 54, 55, 58, 65, or 66, the

commission shall issue a notice indicating that the application is administratively complete.

(b) The commission by rule shall establish a procedure for public notice and hearing of applications. The rules must require an applicant to publish the notice issued by the commission under Subsection (a) once a week for two consecutive weeks in a newspaper regularly published or circulated in the county where the district is proposed to be located not later than the 30th day before the date on which the commission may act on the application.

(c) The commission may act on an application without holding a public hearing if a public hearing is not requested by the commission, the executive director, or an affected person in the manner prescribed by commission rule during the 30 days following the final publication of notice under Subsection (b).

(d) If the commission determines that a public hearing is necessary, the commission shall advise all parties of the time and place of the hearing. The commission is not required to provide public notice of a hearing under this section.

Added by Acts 1997, 75th Leg., ch. 1070, Sec. 2, eff. Sept. 1, 1997.

#### SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

Sec. 49.051. BOARD OF DIRECTORS. A district shall be governed by its board, the number of which is otherwise provided by law.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.052. DISQUALIFICATION OF DIRECTORS. (a) A person is disqualified from serving as a member of a board of a district that includes less than all the territory in at least one county and which, if located within the corporate area of a city or cities, includes within its boundaries less than 75 percent of the incorporated area of the city or cities, if that person:

(1) is related within the third degree of affinity or consanguinity to a developer of property in the district, any other

member of the board, or the manager, engineer, attorney, or other person providing professional services to the district;

(2) is an employee of any developer of property in the district or any director, manager, engineer, attorney, or other person providing professional services to the district or a developer of property in the district in connection with the district or property located in the district;

(3) is a developer of property in the district;

(4) is serving as an attorney, consultant, engineer, manager, architect, or in some other professional capacity for the district or a developer of property in the district in connection with the district or property located in the district;

(5) (A) is a party to a contract with or along with the district except for the purchase of public services furnished by the district to the public generally; or

(B) is a party to a contract with or along with a developer of property in the district relating to the district or to property within the district, other than a contract limited solely to the purpose of purchasing or conveying real property in the district for the purpose of either establishing a permanent residence, establishing a commercial business within the district, or qualifying as a director; or

(6) during the term of office, fails to maintain the qualifications required by law to serve as a director.

(b) Within 60 days after the board determines a relationship or employment exists which constitutes a disqualification under Subsection (a), it shall replace the person serving as a member of the board with a person who would not be disqualified.

(c) Any person who wilfully occupies an office as a member of a board and exercises the powers and duties of that office when disqualified under the provisions of Subsection (a) is guilty of a misdemeanor and, on conviction, shall be fined not less than \$100 nor more than \$1,000.

(d) As used in this section, "developer of property in the district" means any person who owns land located within a district covered under this section and who has divided or proposes to divide the

land into two or more parts for the purpose of laying out any subdivision or any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, streets, alleys, or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto.

(e) Any rights obtained by any third party through official action of a board covered by this section are not impaired or affected by the disqualification under this section of any member of the board to serve, provided that the third party had no knowledge at the time the rights were obtained of the fact that the member of the board was disqualified to serve.

(f) This section shall not apply to special water authorities, districts described in Section 49.181(h)(1)(D), or a district where the principal function of the district is to provide irrigation water to agricultural lands or to provide nonpotable water for any purpose.

(g) A board by unanimous vote of its remaining members may remove a board member only if that board member has missed one-half or more of the regular meetings scheduled during the prior 12 months. Any board member so removed may file a written appeal with the commission within 30 days after receiving written notice of the board action. The commission may reinstate a removed director if the commission finds that the removal was unwarranted under the circumstances, including the reasons for absences, the time and place of the meetings missed, the business conducted at the meetings missed, and any other facts or circumstances the commission may deem relevant.

(h) This subsection applies only to a district that is located wholly within the boundaries of a municipality with a population of more than 1.5 million, that is governed by Chapter 375, Local Government Code, and that is governed by an appointed board consisting of nine or more members. Notwithstanding Subsection (f) or (g), a person is considered to have resigned from serving as a member of the board if the person fails to attend three consecutive meetings of the board. The remaining board members by majority vote may waive the resignation under this subsection if fairness requires that the absences be excused on the basis of illness or other good cause.

(i) Notwithstanding any other law, a director is eligible to serve on the board of a district governed by Chapter 375, Local Government Code, regardless of the municipality in which the director resides, if:

(1) the district is located within the boundaries of a municipality with a population of more than 1.8 million; and

(2) all or a part of the district is located more than five miles from the downtown city hall of that municipality.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 2003, 78th Leg., ch. 248, Sec. 6, eff. June 18, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 156 (H.B. 1901), Sec. 2, eff. May 28, 2011.

Sec. 49.053. QUORUM. A majority of the membership of the board constitutes a quorum for any meeting, and a concurrence of a majority of the entire membership of the board is sufficient for transacting any business of the district. This section does not apply to special water authorities.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.054. OFFICERS. (a) After a district is created and the directors have qualified, the board shall meet, elect a president, vice-president, secretary, and any other officers or assistant officers as the board may deem necessary, and begin the discharge of its duties.

(b) After each directors election, the board shall meet and elect officers.

(c) The president is the chief executive officer of the district, presides at all meetings of the board, and shall execute all documents on behalf of the district unless the board by resolution authorizes the general manager or other employee of the district to execute a document or documents on behalf of the district. The vice-president shall act as president in case of the absence or disability of the president. The secretary is responsible for seeing that all records and books of the

district are properly kept and may attest the president's signature on documents.

(d) Repealed by Acts 2003, 78th Leg., ch. 1276, Sec. 18.007.

(e) The board may appoint another director, the general manager, or any employee as assistant or deputy secretary to assist the secretary, and any such person shall be entitled to certify as to the authenticity of any record of the district, including but not limited to all proceedings relating to bonds, contracts, or indebtedness of the district.

(f) After any election or appointment of a director, a district shall notify the executive director within 30 days after the date of the election or appointment of the name and mailing address of the director chosen and the date that director's term of office expires. The executive director shall provide forms to the district for such purpose.

(g) This section does not apply to special water authorities.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1259, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1354, Sec. 6, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 69, Sec. 5, eff. May 14, 2001; Acts 2001, 77th Leg., ch. 1423, Sec. 1, eff. June 17, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 18.007, eff. Sept. 1, 2003.

Sec. 49.055. SWORN STATEMENT, BOND, AND OATH OF OFFICE. (a) As soon as practicable after a director is elected or appointed, that director shall make the sworn statement prescribed by the constitution for public office.

(b) As soon as practicable after a director has made the sworn statement, and before beginning to perform the duties of office, that director shall take the oath of office prescribed by the constitution for public officers.

(c) Before beginning to perform the duties of office, each director shall execute a bond for \$10,000 payable to the district and conditioned on the faithful performance of that director's duties. All bonds of the directors shall be approved by the board and paid for by the district.



(d) The sworn statement shall be filed as prescribed by the constitution. The bond and oath shall be filed with the district and retained in its records. A duplicate original of the oath shall also be filed with the secretary of state within 10 days after its execution and need not be filed before the new director begins to perform the duties of office.

(e) This section does not apply to special water authorities.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 1999, 76th Leg., ch. 249, Sec. 2, eff. Aug. 30, 1999.

Sec. 49.056. GENERAL MANAGER. (a) The board may employ or contract with a person to perform such services as general manager for the district as the board may from time to time specify. The board may delegate to the general manager full authority to manage and operate the affairs of the district subject only to orders of the board.

(b) The board may delegate to the general manager the authority to employ all persons necessary for the proper handling of the business and operation of the district and to determine the compensation to be paid all employees other than the general manager.

(c) Except as provided by Section [49.052](#), a director may be employed as general manager of the district, but the compensation of a general manager who also serves as a director shall be established by the other directors.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

The following section was amended by the 86th Legislature. Pending publication of the current statutes, see S.B. [2](#), 86th Legislature, Regular Session, for amendments affecting the following section.

Sec. 49.057. MANAGEMENT OF DISTRICT. (a) The board shall be responsible for the management of all the affairs of the district. The district shall employ or contract with all persons, firms, partnerships, corporations, or other entities, public or private, deemed necessary by the board for the conduct of the affairs of the district, including, but

not limited to, engineers, attorneys, financial advisors, operators, bookkeepers, tax assessors and collectors, auditors, and administrative staff.

(b) The board shall adopt an annual budget. All district employees are employed at the will of the district unless the district and employee execute a written employment contract.

(c) The board shall set the compensation and terms for consultants.

(d) In selecting attorneys, engineers, auditors, financial advisors, or other professional consultants, the district shall follow the procedures provided in Subchapter A, Chapter 2254, Government Code (Professional Services Procurement Act).

(e) Except as provided by Subsection (i), the board shall require an officer, employee, or consultant, including a bookkeeper, financial advisor, or system operator, who routinely collects, pays, or handles any funds of the district to furnish good and sufficient bond, payable to the district, in an amount determined by the board to be sufficient to safeguard the district. The board may require a consultant who does not routinely collect, pay, or handle funds of the district to furnish a bond. The bond shall be conditioned on the faithful performance of that person's duties and on accounting for all funds and property of the district. Such bond shall be signed or endorsed by a surety company authorized to do business in the state.

(f) The board may pay the premium on surety bonds required of officials, employees, or consultants of the district out of any available funds of the district, including proceeds from the sale of bonds.

(g) The board may adopt bylaws to govern the affairs of the district to perform its purposes. The board may by resolution authorize its general manager or other employee to execute documents on behalf of the district.

(h) The board shall also have the right to purchase all materials, supplies, equipment, vehicles, and machinery needed by the district to perform its purposes.

(i) The board may obtain or require an officer, employee, or consultant of the district to obtain insurance or coverage under an interlocal agreement that covers theft of district funds by officers,

employees, or consultants of the district in lieu of requiring a bond under Subsection (e) if the board determines that the insurance or coverage under an interlocal agreement would adequately protect the interests of the district.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.  
Amended by Acts 1997, 75th Leg., ch. 1070, Sec. 3, eff. Sept. 1, 1997;  
Acts 1999, 76th Leg., ch. 1354, Sec. 7, eff. Sept. 1, 1999; Acts 2001,  
77th Leg., ch. 69, Sec. 2, eff. May 14, 2001; Acts 2001, 77th Leg., ch.  
1423, Sec. 2, eff. June 17, 2001; Acts 2003, 78th Leg., ch. 1276, Sec.  
18.008, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 868 (S.B. [1045](#)), Sec. 1, eff. June 17,  
2005.

Sec. 49.058. CONFLICTS OF INTEREST. A director of a district is subject to the provisions of Chapter [171](#), Local Government Code, relating to the regulation of conflicts of interest of officers of local governments.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.059. TAX ASSESSOR AND COLLECTOR. (a) A district may employ or contract with any person to serve as its tax assessor and collector who is:

(1) an individual certified as a registered Texas assessor-collector; or

(2) a firm, organization, association, partnership, corporation, or other legal entity if an individual certified as a registered Texas assessor-collector owns an interest in or is employed by the firm, organization, association, partnership, corporation, or other legal entity.

(b) A tax assessor and collector employed or contracted for under this section is not required to be a natural person.

(c) A firm, organization, association, partnership, corporation, or

other legal entity serving as district tax assessor and collector shall give a bond as required by Section 49.057 for a natural person.

(d) No person may serve as tax assessor and collector of a district providing potable water or sewer utility services to household users if that person:

(1) is a natural person related within the third degree of affinity or consanguinity to any developer of property in the district, a member of the board, or the manager, engineer, or attorney for the district;

(2) is or was within two years immediately preceding the assumption of assessment and collection duties with the district an employee of any developer of property in the district or any director, manager, engineer, or attorney for the district;

(3) owns an interest in or is employed by any corporation organized for the purpose of tax assessment and collection services, a substantial portion of the stock of which is owned by a developer of property within the district or any director, manager, engineer, or attorney for the district; or

(4) is directly or through a corporation developing land in the district or is a director, engineer, or attorney for the district.

(e) Within 60 days after the board determines a relationship or employment exists which constitutes a disqualification under Subsection (d), it shall replace the person serving as tax assessor and collector with a person who would not be disqualified.

(f) Any person who wilfully violates the provisions of Subsection (d) is guilty of a misdemeanor and on conviction shall be fined not less than \$100 nor more than \$1,000.

(g) As used in this section, "developer of property in the district" has the same meaning as in Section 49.052(d).

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 4, eff. September 1, 2013.

Sec. 49.060. FEES OF OFFICE; REIMBURSEMENT. (a) A director is entitled to receive fees of office of not more than \$150 a day for each day the director actually spends performing the duties of a director. In this subsection, "performing the duties of a director" means substantive performance of the management or business of the district, including participation in board and committee meetings and other activities involving the substantive deliberation of district business and in pertinent educational programs. The phrase does not include routine or ministerial activities such as the execution of documents, self-preparation for meetings, or other activities requiring a minimal amount of time.

(a-1) A district, by resolution of the board, shall set a limit on the fees of office that a director may receive in a year. Except for a district that is a special water authority engaged in the distribution and sale of electric energy to the public, a district may not set the annual limit at an amount greater than \$7,200.

(b) Each director is also entitled to receive reimbursement of actual expenses reasonably and necessarily incurred while engaging in activities on behalf of the district.

(c) In order to receive fees of office and to receive reimbursement for expenses, each director shall file with the district a verified statement showing the number of days actually spent in the service of the district and a general description of the duties performed for each day of service.

(d) Repealed by Acts 2003, 78th Leg., ch. 736, Sec. 2.

(e) Section 49.002 notwithstanding, in all areas of conflict the provisions of this section shall take precedence over all prior statutory enactments. If the enactment of this section results in an increase in the fees of office for any district, that district's fees of office shall not increase unless the board adopts a resolution authorizing payment of the higher fees.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 695, Sec. 1, eff. Sept. 1, 1997;

Acts 2001, 77th Leg., ch. 1423, Sec. 3, eff. June 17, 2001; Acts 2003, 78th Leg., ch. 736, Sec. 1, 2, eff. June 20, 2003.

Sec. 49.061. SEAL. The directors shall adopt a seal for the district.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

The following section was amended by the 86th Legislature. Pending publication of the current statutes, see S.B. 239, 86th Legislature, Regular Session, for amendments affecting the following section.

Sec. 49.062. OFFICES AND MEETING PLACES. (a) The board shall designate from time to time and maintain one or more regular offices for conducting the business of the district and maintaining the records of the district. Such offices may be located either inside or outside the district's boundaries as determined in the discretion of the board.

(b) The board shall designate one or more places inside or outside the district for conducting the meetings of the board. The meeting place may be a private residence or office, provided that the board, in its order establishing the meeting place, declares the same to be a public place and invites the public to attend any meeting of the board. If the board establishes a meeting place or places outside the district, it shall give notice of the location or locations by filing a true copy of the resolution establishing the location or locations of the meeting place or places with the commission and also by publishing notice of the location or locations in a newspaper of general circulation in the district. If the location of any of the meeting places outside the district is changed, notice of the change shall be given in the same manner.

(c) After at least 25 qualified electors are residing in a district, on written request of at least five of those electors, the board shall designate a meeting place and hold meetings within the district if it determines that the meeting place used by the district deprives the residents of a reasonable opportunity to attend district meetings. On the failure to designate the location of the meeting place within the district, five electors may petition the commission to

designate a location. If it determines that the meeting place used by the district deprives the residents of a reasonable opportunity to attend district meetings, the commission may designate a meeting place inside or outside the district which is reasonably available to the public and require that the meetings be held at such place. After the next election, the board may designate different meeting places, including one located outside the boundaries of the district.

(d) Two or more districts may designate and share offices and meeting places. This section does not apply to special water authorities.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.063. NOTICE OF MEETINGS. (a) Notice of meetings of the board shall be given as set forth in the open meetings law, Chapter 551, Government Code, except that if a district does not have a meeting place within the district, the district shall post notice of its meeting at a public place within the district specified by the board in a written resolution, rather than at its administrative office. The board shall specify such public place to be a bulletin board or other place within the district which is reasonably available to the public.

(b) The validity of an action taken at a board meeting is not affected by:

- (1) failure to provide notice of the meeting if the meeting is a regular meeting;
- (2) an insubstantial defect in notice of the meeting; or
- (3) failure of a county clerk to timely or properly post or maintain public access to a notice of the meeting if notice of the meeting is furnished to the county clerk in sufficient time for posting under Section 551.043(a) or 551.045, Government Code.

(c) This subsection applies only to notice for the district's first meeting of each calendar year. A district that does not have a meeting place within the district shall include in the notice required under Subsection (a) a description of the petition process under Section 49.062(c).

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 5, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 907 (S.B. 554), Sec. 1, eff. September 1, 2017.

Sec. 49.064. MEETINGS. The board shall hold such regular and special meetings as may be necessary for the proper conduct of the district's business. All meetings shall be conducted in accordance with the open meetings law, Chapter 551, Government Code. A meeting of a committee of the board, or a committee composed of representatives of more than one board, where less than a quorum of any one board is present is not subject to the provisions of the open meetings law, Chapter 551, Government Code.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.065. RECORDS. (a) The board shall keep a complete account of all its meetings and proceedings and shall preserve its minutes, contracts, records, notices, accounts, receipts, and other records in a safe place.

(b) The records of each district are the property of the district and are subject to the open records law, Chapter 552, Government Code.

(c) The preservation, microfilming, destruction, or other disposition of the records of each district is subject to the requirements of Chapter 201, Local Government Code, and rules adopted under that chapter.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.066. SUITS. (a) A district may sue and be sued in the courts of this state in the name of the district by and through its board. A suit for contract damages may be brought against a district only on a written contract of the district approved by the district's



board. All courts shall take judicial notice of the creation of the district and of its boundaries.

(b) Any court in the state rendering judgment for debt against a district may order the board to levy, assess, and collect taxes or assessments to pay the judgment.

(c) The president or the general manager of any district shall be the agent of the district on whom process, notice, or demand required or permitted by law to be served upon the district may be served.

(d) Except as provided in Subsection (e), no suit may be instituted in any court of this state contesting:

- (1) the validity of the creation and boundaries of a district created under this code;
- (2) any bonds or other obligations created under this code; or
- (3) the validity or the authorization of a contract with the United States by the district.

(e) The matters listed in Subsection (d) may be judicially inquired into at any time and determined in any suit brought by the State of Texas through the attorney general. The action shall be brought on good cause shown, except where otherwise provided by other provisions of this code or by the Texas Constitution. It is specifically provided, however, that no such proceeding shall affect the validity of or security for any bonds or other obligations theretofore issued by a district if such bonds or other obligations have been approved by the attorney general as provided by Section 49.184.

(f) A district or water supply corporation shall not be required to give bond for appeal, injunction, or costs in any suit to which it is a party and shall not be required to deposit more than the amount of any award in any eminent domain proceeding.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 1999, 76th Leg., ch. 1354, Sec. 8, eff. Sept. 1, 1999.

Sec. 49.067. CONTRACTS. (a) A district shall contract, and be contracted with, in the name of the district.

(b) Notwithstanding any other law, a contract for technical,

scientific, legal, fiscal, or other professional services must be approved by the board unless specifically delegated by board action. The terms and conditions of such a contract, including the terms for payment, are subject to the decision of the board unless specifically delegated by board action. The board through such action cannot abrogate its fiscal responsibility.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 2003, 78th Leg., ch. 248, Sec. 7, eff. June 18, 2003.

Sec. 49.068. CONTRACTS WITH GOVERNMENTAL AGENCIES. (a) The provisions of this chapter pertaining to bids and the Local Government Code notwithstanding, a district may purchase property from any governmental entity by negotiated contract without the necessity of securing appraisals or advertising for bids.

(b) The provisions of other law or a home-rule municipal charter notwithstanding, a municipality may contract with a district. The term of a contract under this subsection may be of unlimited duration.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 2003, 78th Leg., ch. 248, Sec. 8, eff. June 18, 2003.

Sec. 49.069. EMPLOYEE BENEFITS. (a) The board may provide for and administer retirement, disability, and death compensation funds for the employees of the district.

(b) The board may establish a public retirement system in accordance with the provisions of Chapter 810, Government Code. The board may also provide for a deferred compensation plan described by Section 457 of the Internal Revenue Code of 1986 (26 U.S.C. Section 457).

(c) The board may include hospitalization and medical benefits to its employees as part of the compensation paid to the officers and employees and may adopt any plan, rule, or regulation in connection with it and amend or change the plan, rule, or regulation as it may determine.

(d) The board may establish a sick leave pool for employees of the district in the same manner as that authorized for the creation of a sick

leave pool for state employees by Subchapter A, Chapter 661, Government Code.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 1999, 76th Leg., ch. 1354, Sec. 9, eff. Sept. 1, 1999.

Sec. 49.070. WORKERS' COMPENSATION. The board may become a subscriber under Title 5, Labor Code (Texas Workers' Compensation Act), with any insurance company authorized to write the policies in the State of Texas.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.071. DISTRICT NAME CHANGE. (a) On petition by a district showing reasonable grounds for a name change, the commission by order may change the name of the district to the name requested by the district. The new name must be generally descriptive of the location of the district followed by the type of district as provided by the title of the chapter of the Water Code governing the district. If a district is located wholly within one county that contains more than one district of that type, the district may be differentiated, if necessary, by adding to the new name the proper consecutive number. The new name may not be the same as the name of any other district in the county.

(b) A name change takes effect on the date of issuance of the commission order making the name change.

(c) Not later than the 30th day after the date of issuance of the commission order making the name change, the district shall publish notice of the name change in a newspaper or newspapers of general circulation in the county or counties in which the district is located. Within that same period, the district shall also give notice of the name change by mail to utility customers or permittees, if any, and, to the extent practicable, to the holders of bonds, obligations, and other indebtedness of the district. Failure of the district to comply with this subsection does not affect the validity of the name change.

(d) A change in the name of a district does not affect bonds,

obligations, or other indebtedness of the district existing before the name change occurred.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.072. LIMITATION ON FUTURE EMPLOYMENT. (a) A person who has served as a director of a district may not contract with that district or be employed by an organization to which the district has awarded a contract for one year following the date on which the person ceased to serve as a director.

(b) This section does not apply to a person who has served as a director of a district that performs agricultural irrigation functions under Chapter 51, 55, or 58 if the person, when serving as a director, was required to own land as a qualification for office.

Added by Acts 2003, 78th Leg., ch. 469, Sec. 1, eff. Sept. 1, 2003.

#### SUBCHAPTER D. ELECTION PROVISIONS

Sec. 49.101. GENERAL. All elections shall be generally conducted in accordance with the Election Code except as otherwise provided for by this code. Write-in candidacies for any district office shall be governed by Subchapter C, Chapter 146, Election Code.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

The following section was amended by the 86th Legislature. Pending publication of the current statutes, see S.B. 911, 86th Legislature, Regular Session, for amendments affecting the following section.

Sec. 49.102. CONFIRMATION AND DIRECTOR ELECTION. (a) Before issuing any bonds or other obligations, an election shall be held within the boundaries of the proposed district on a uniform election date provided by Section 41.001, Election Code, to determine if the proposed district shall be established and, if the directors of the district are required by law to be elected, to elect permanent directors.

(b) Notice of a confirmation or director election shall state the day and place or places for holding the election, the propositions to be voted on, and, if applicable, the number of directors to be voted on.

(c) The ballots for a confirmation election shall be printed to provide for voting "For District" and "Against District." Ballots for a directors election shall provide the names of the persons appointed by the governing body who qualified and are serving as temporary directors at the time the election is called. If the district has received an application by a write-in candidate, the ballots shall also have blank places after the names of the temporary directors in which a voter may write the names of any candidates appearing on the list of write-in candidates required by Section 146.031, Election Code.

(d) Immediately after the confirmation and director election, the presiding judge shall take returns of the results to the temporary board. The temporary board shall canvass the returns and declare the results at the earliest practicable time.

(e) If a majority of the votes cast in the election favor the creation of the district, then the temporary board shall declare that the district is created and enter the result in its minutes. If a majority of the votes cast in the election are against the creation of the district, the temporary board shall declare that the district was defeated and enter the result in its minutes. A copy of the order shall be filed with the commission.

(f) The order canvassing the results of the confirmation election shall contain a description of the district's boundaries and shall be filed with the executive director and in the deed records of the county or counties in which the district is located.

(g) The temporary board shall also declare the persons receiving the highest number of votes for directors to have been elected as permanent directors.

(h) Unless otherwise agreed, the elected directors shall decide the initial terms of office by lot, with a simple majority of the elected directors serving until the second succeeding directors election and the remaining elected directors serving until the next directors election.

(i) A district, at an election required under Subsection (a), may

submit to the qualified voters of the district the proposition of whether a plan as authorized by Section 49.351 should be implemented or entered into by the district.

(j) The provisions of this section shall not be applicable to any district exercising the powers of Chapter 375, Local Government Code, or any district created by a special Act of the legislature that does not require a confirmation election.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 2001, 77th Leg., ch. 1423, Sec. 4, eff. June 17, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 6, eff. September 1, 2013.

Sec. 49.1025. QUALIFIED VOTERS IN CONFIRMATION ELECTION. (a) In this section, "developer of property in the district" has the meaning assigned by Section 49.052(d).

(b) A voter in a confirmation election or an election held jointly with a confirmation election on the same date and in conjunction with the confirmation election to authorize taxes and bonds must be a qualified voter of the district. For the purposes of an election described by this subsection, a person is not a qualified voter if the person:

(1) on the date of the election:

(A) is a developer of property in the district;

(B) is related within the third degree of affinity or consanguinity to a developer of property in the district;

(C) is an employee of a developer of property in the district; or

(D) has resided in the district less than 30 days; or

(2) received monetary consideration from a developer of property in the district in exchange for the person's vote.

(c) In addition to the procedures for accepting a voter under Section 63.001, Election Code, the election officer shall provide to the voter the form of the affidavit required by this section. The election officer must receive a completed affidavit before marking the voter as

accepted under Section 63.001(e), Election Code. If the voter does not submit a completed affidavit to the election officer or the information stated on the affidavit demonstrates the voter is not a qualified voter as provided by this section, the voter may be accepted only to vote provisionally under Section 63.011, Election Code.

(d) The district shall submit original or certified copies of voter affidavits to the office of the attorney general in a transcript of the proceedings of the confirmation election.

(e) The office of the attorney general shall prescribe the form of the voter affidavit.

(f) The voter affidavit must require the voter to state under oath:

(1) the address of the voter and that the voter resides in the territory of the district;

(2) the date the voter changed the voter's residence to the address provided under Subdivision (1); and

(3) that the voter, to the best of the voter's knowledge, believes that the voter's registration is effective on the date of the election.

(g) The affidavit must include the following statement:

"I am not a developer of property in the district, related within the third degree of affinity or consanguinity to a developer of property in the district, or an employee of a developer of property in the district. I have not received monetary consideration from a developer of property in the district for my vote in this election."

(h) Compliance with this section or the validity of a voter affidavit may only be challenged in an election contest under Title 14, Election Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 848 (H.B. 2358), Sec. 1, eff. January 1, 2018.

Sec. 49.103. TERMS OF OFFICE OF DIRECTORS. (a) Except as provided by Section 49.102, the members of the board of a district shall serve staggered four-year terms.

(b) Unless a district holds its general election for officers on a

date as otherwise provided by statute, after confirmation of a district, an election shall be held on the uniform election date, provided by Section 41.001, Election Code, in May of each even-numbered year to elect the appropriate number of directors.

(c) The permanent directors may assign a position number to each director's office, in which case directors shall thereafter be elected by position and not at large.

(d) A district may provide for the election of all directors, or a majority of directors, from single-member districts, which shall be geographically described within the boundaries of the district in a manner that is equitable for the electors within such districts and within the district generally.

(e) Section 49.002 notwithstanding, in all areas of conflict the provisions of Subsections (a) and (b) shall take precedence over all prior statutory enactments.

(f) This section does not apply to:

(1) any special law district or authority that is not required by the law creating the district or authority to elect its directors by the public; or

(2) a special utility district operating under Chapter 65.

(g) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 105, Sec. 32, eff. September 1, 2013.

(h) If authorized by the board in the proceedings calling a director election, the secretary of the board or the secretary's designee, on receipt of the certification required by Section 2.052(b), Election Code, shall post notice that the election is not to be held. The notice must be posted, on or before the commencement of early voting, at each polling place that would have been used in the election. If the notice is timely posted:

(1) the board or the board's designee is not required to:

(A) post or publish notice of the election;

(B) prepare or print ballots and election materials; or

(C) hold early and regular voting; and

(2) the board shall meet at the earliest practicable time to declare each unopposed candidate elected to office.



Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.  
Amended by Acts 1997, 75th Leg., ch. 1070, Sec. 4, eff. Sept. 1, 1997;  
Acts 2001, 77th Leg., ch. 340, Sec. 5, eff. Sept. 1, 2001; Acts 2003,  
78th Leg., ch. 248, Sec. 9, eff. June 18, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 471 (H.B. 57), Sec. 5, eff. October 1,  
2005.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 26.006, eff.  
September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 7, eff.  
September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 32, eff.  
September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 127 (H.B. 999), Sec. 1, eff.  
September 1, 2017.

Sec. 49.104. ALTERNATIVE ELECTION PROCEDURES. (a) Notwithstanding the provisions and requirements of the Election Code and general laws, any two or more districts situated in the same county and in which substantially all of the land is being or has been developed as part of a single community development plan and which are served by common water supply and waste disposal systems may by mutual agreement designate a common election office and common early and regular polling places within one or more of the districts, but outside the boundaries of one or more of the districts, for the conduct of director election proceedings and early and regular balloting in director elections. This alternative election procedure may only be used if the common election office and polling places so designated:

- (1) are within buildings open to the public;
- (2) are within the boundaries of at least one of the districts;
- (3) meet the requirements of the Election Code and general laws as polling places; and
- (4) are located not more than five miles from any portion of the boundaries of any of the participating districts.

(b) Such districts may also agree on and designate a common

election officer and common early and regular voting officials for some or all of the director elections to be simultaneously conducted at a common location, any of whom may be nonelective employees of one or more of the districts, so long as the early and regular voting officials are qualified voters within at least one of the districts.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.1045. CERTIFICATION OF ELECTION RESULTS IN LESS POPULOUS DISTRICTS. (a) This section applies only to a district that:

- (1) has 10 or fewer registered voters; and
- (2) holds an election jointly with a county in which the district is wholly or partly located.

(b) A district may provide for an inquiry into and certification of the voting results of an election under this section if:

(1) the election results indicate that the number of votes cast in the election was greater than the number of registered voters in the district;

(2) the board determines that the election results are likely to be disputed in court; and

(3) the board can determine from the official list of registered voters prepared by the county voter registrar or county elections administrator for the district election which voters were qualified to vote in the district election and can determine from the signature roster from the joint election who voted in the joint election.

(c) To certify the district votes, the board by rule shall adopt a procedure to determine for each person who signed the signature roster as a voter in the joint election:

(1) whether the person's address on the day of the election was in the district; and

(2) how the person voted in the district election.

(d) The certified votes are the official election results.

(e) Certification of the results under this section does not preclude the filing of an election contest.

Added by Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 8, eff.

September 1, 2013.

Sec. 49.105. VACANCIES. (a) Except as otherwise provided in this code, a vacancy on the board and in other offices shall be filled for the unexpired term by appointment of the board not later than the 60th day after the date the vacancy occurs.

(b) If the board has not filled a vacancy by appointment before the 61st day after the date the vacancy occurs, a petition, signed by more than 10 percent of the registered voters of the district, requesting the board to fill the vacancy by appointment may be presented to the board.

(c) If the number of directors is reduced to fewer than a majority or if a vacancy continues beyond the 90th day after the date the vacancy occurs, the vacancy or vacancies may be filled by appointment by the commission if the district is required by Section 49.181 to obtain commission approval of its bonds or by the county commissioners court if the district was created by the county commissioners court, regardless of whether a petition has been presented to the board under Subsection (b). An appointed director shall serve for the unexpired term of the director he or she is replacing.

(d) In the event of a failure to elect one or more members of the board of a district resulting from the absence of, or failure to vote by, the qualified voters in an election held by the district, the current members of the board or temporary board holding the positions not filled at such election shall be deemed to have been elected and shall serve an additional term of office, or, in the case of a temporary board member deemed elected under this subsection, the initial term of office.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 1999, 76th Leg., ch. 1354, Sec. 10, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 9, eff.

September 1, 2013.

Sec. 49.106. BOND ELECTIONS. (a) Before an election is held to authorize the issuance of bonds, other than refunding bonds, there shall

be filed in the office of the district and open to inspection by the public an engineer's report covering the land, improvements, facilities, plants, equipment, and appliances to be purchased or constructed and their estimated cost, together with maps, plats, profiles, and data fully showing and explaining the report. The engineer's report is not:

- (1) part of the proposition or propositions to be voted on; or
- (2) a contract with the voters.

(b) Notice of a bond election shall contain the proposition or propositions to be voted on, which includes the estimate of the probable cost of design, construction, purchase, and acquisition of improvements and additions thereto, and incidental expenses connected with such improvements and the issuance of bonds.

(c) A bond election may be held on the same day as any other district election. The bond election may be called by a separate election order or as a part of any other election order. The board may submit multiple purposes in a single proposition at an election.

(d) A bond election may be called as a result of an agreement to annex additional territory into the district.

(e) A district's authorization to issue bonds resulting from an election held under this section, or any other law that allows for the qualified voters of a district to authorize the issuance of bonds by a district, remains in effect after the election unless the district is dissolved or is annexed by another district.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1070, Sec. 5, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1423, Sec. 5, eff. June 17, 2001; Acts 2003, 78th Leg., ch. 248, Sec. 10, eff. June 18, 2003.

The following section was amended by the 86th Legislature. Pending publication of the current statutes, see H.B. [2590](#) and S.B. [2](#), 86th Legislature, Regular Session, for amendments affecting the following section.

Sec. 49.107. OPERATION AND MAINTENANCE TAX. (a) A district may levy and collect a tax for operation and maintenance purposes, including

funds for planning, constructing, acquiring, maintaining, repairing, and operating all necessary land, plants, works, facilities, improvements, appliances, and equipment of the district and for paying costs of proper services, engineering and legal fees, and organization and administrative expenses.

(b) An operation and maintenance tax may not be levied by a district until it is approved by a majority of the electors voting at an election held for that purpose. After such a tax has been authorized by the district's voters, the board shall be authorized to levy the tax and have it assessed and collected as other district taxes.

(c) An operation and maintenance tax election may be held at the same time and in conjunction with any other district election. The election may be called by a separate election order or as part of any other election order.

(d) The proposition in an operation and maintenance tax election may be for a specific maximum rate or for an unlimited rate.

(e) If a district has any surplus operation and maintenance tax funds that are not needed for the purposes for which they were collected, the funds may be used for any lawful purpose.

(f) Before a district reimburses a developer of property in the district, as that term is defined in Section 49.052(d), or its assigns, from operation and maintenance tax funds, for planning, constructing, or acquiring facilities, the district shall obtain approval by the executive director.

(g) Sections 26.04, 26.05, and 26.07, Tax Code, do not apply to a tax levied and collected under this section or an ad valorem tax levied and collected for the payment of the interest on and principal of bonds issued by a district.

(h) To the extent authorized by Section 59, Article XVI, Texas Constitution, an operation and maintenance tax to be used for recreational facilities, as defined by Section 49.462, levied by a district located in a county with a population of more than 3.3 million or in a county adjacent to that county may not exceed 10 cents per \$100 of assessed valuation of taxable property in the district.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 2001, 77th Leg., ch. 1423, Sec. 6, eff. June 17, 2001; Acts 2003, 78th Leg., ch. 343, Sec. 2.

The following section was amended by the 86th Legislature. Pending publication of the current statutes, see S.B. 2, 86th Legislature, Regular Session, for amendments affecting the following section.

Sec. 49.108. CONTRACT ELECTIONS. (a) A contract may provide that the district will make payment under the contract from proceeds from the sale of notes or bonds, from taxes, or from any other income of the district or any combination of these.

(b) A district may make payments under a contract from taxes other than operation and maintenance taxes after the provisions of the contract have been approved by a majority of the qualified voters voting at an election held for that purpose. A contract approved by the qualified voters of a district may contain a provision stating that the contract may be modified or amended by the board without voter approval.

(c) A contract election may be held at the same time and in conjunction with any other district election. The election may be called by a separate election order or as part of any other election order.

(d) A contract approved by the voters will constitute an obligation against the taxing power of the district to the extent provided in the contract.

(e) A district that is required under Section 49.181 to obtain approval by the commission of the district's issuance of bonds must obtain approval by the executive director before the district enters into an obligation under this section to collect tax for debt that exceeds three years. This subsection does not apply to contract taxes that are levied to pay for a district's share of bonds that have been issued by another district and approved by the commission or bonds issued by a municipality.

(f) Sections 26.04, 26.05, and 26.07, Tax Code, do not apply to a tax levied and collected for payments made under a contract approved in accordance with this section.

(g) On or before the first day for early voting by personal

appearance at an election held to authorize a contract, a substantially final form of the contract must be filed in the office of the district and must be open to inspection by the public. The contract is not required to be attached as an exhibit to the order calling the election to authorize the contract.

(h) A single contract may contain multiple purposes or provisions for multiple facilities authorized by one or more constitutional provisions. The contract may generally describe the facilities to be acquired or financed by the district without reference to specific constitutional provisions. A contract described by this subsection may be submitted for approval in a single proposition at an election.

(i) A contract between districts to provide facilities or services is not required to specify the maximum amount of bonds or expenditures authorized under the contract if:

(1) the contract provides that the service area cannot be enlarged without the consent of at least two-thirds of the boards of directors of the districts that are:

(A) included in the service area as proposed to be enlarged; or

(B) served by the facilities or services provided in the contract;

(2) the contract provides that bonds or expenditures, payable wholly or partly from contract taxes, are issued or made:

(A) on an emergency basis; or

(B) to purchase, construct, acquire, own, operate, repair, improve, or extend services or facilities necessary to comply with changes in applicable regulatory requirements; or

(3) the contract provides that the bonds or expenditures require prior approval by any district that is obligated to pay debt service on those bonds or to pay for those expenditures wholly or partly with contract taxes.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1070, Sec. 6, eff. Sept. 1, 1997;

Acts 2001, 77th Leg., ch. 1160, Sec. 1, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1423, Sec. 7, eff. June 17, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 10, eff. September 1, 2013.

Sec. 49.109. AGENT DURING ELECTION PERIOD. The board may appoint a person, including a district officer, employee, or consultant, to serve as the district's agent under Section 31.123, Election Code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 11, eff. September 1, 2013.

Sec. 49.110. ELECTION JUDGE. (a) The notice requirements for the appointment of a presiding election judge under Section 32.009, Election Code, do not apply to an election held by a district.

(b) To serve as an election judge in an election held by a district, a person must be a registered voter of the county in which the district is wholly or partly located. To the extent of any conflict with Section 32.051, Election Code, this section controls.

Added by Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 11, eff. September 1, 2013.

Sec. 49.111. EXEMPTIONS FROM USE OF ACCESSIBLE VOTING SYSTEMS. (a) Notwithstanding Sections 61.012 and 61.013, Election Code, a district is exempt from the acquisition, lease, or use of an electronic voting system for an election if:

(1) the election is a confirmation election or an election held jointly with a confirmation election on the same date and in conjunction with the confirmation election, except for an election in which a federal office appears on the ballot;

(2) the most recently scheduled district directors' election was not held, as provided by Section 2.053(b), Election Code; or

(3) fewer than 250 voters voted at the most recently held district directors' election.

(b) A district eligible for the exemption under Subsection (a) must



publish notice in a newspaper of general circulation in an area that includes the district or mail notice to each voter in the district regarding the district's intention to hold an election without providing a voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) on election day and during the period for early voting by personal appearance. The notice must be published or mailed not later than the later of:

- (1) the 75th day before the date of the election; or
- (2) the date on which the district adopts the order calling the election.

(c) The notice required by Subsection (b) must:

- (1) provide that any voter in the district may request the use of a voting station that meets the accessibility requirements for voting by a person with a disability; and
- (2) provide information on how to submit such a request.

(d) The district shall comply with a request for an accessible voting station if the request is received not later than the 45th day before the date of the election.

Added by Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 11, eff. September 1, 2013.

Sec. 49.112. CANCELLATION OF ELECTION; REMOVAL OF BALLOT MEASURE. Before the first day of early voting by personal appearance, the board by order or resolution may cancel an election called at the discretion of the district or may remove from the ballot a measure included at the discretion of the district. A copy of the order or resolution must be posted during the period for early voting by personal appearance and on election day at each polling place that is used or that would have been used in the election.

Added by Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 11, eff. September 1, 2013.

Sec. 49.113. NOTICE FOR FILING FOR PLACE ON BALLOT. A notice

required by Section 141.040, Election Code, must be posted at the district's administrative office in the district or at the public place established by the district under Section 49.063 of this chapter not later than the 30th day before the deadline for a candidate to file an application for a place on the ballot of a district directors' election.

Added by Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 11, eff. September 1, 2013.

#### SUBCHAPTER E. FISCAL PROVISIONS

Sec. 49.151. EXPENDITURES. (a) Except as hereinafter provided, a district's money may be disbursed only by check, draft, order, or other instrument that shall be signed by at least a majority of the directors.

(b) The board may by resolution allow the general manager, treasurer, bookkeeper, or other employee of the district to sign disbursements.

(c) The board may allow disbursements of district money to be transferred by federal reserve wire system or by electronic means. The board by resolution may allow the wire or electronic transfers to accounts in the name of the district or accounts not in the name of the district.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 2001, 77th Leg., ch. 1423, Sec. 8, eff. June 17, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 12, eff. September 1, 2013.

Sec. 49.152. PURPOSES FOR BORROWING MONEY. The district may issue bonds, notes, or other obligations to borrow money for any corporate purpose or combination of corporate purposes only in compliance with the methods and procedures provided by this chapter or by other applicable law.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 1999, 76th Leg., ch. 1354, Sec. 11, eff. Sept. 1, 1999.

Sec. 49.153. REVENUE NOTES. (a) The board, without the necessity of an election, may borrow money on negotiable or nonnegotiable notes of the district to be paid solely from the revenues derived from the ownership of all or any designated part of the district's works, plants, improvements, facilities, or equipment after deduction of the reasonable cost of maintaining and operating the facilities.

(b) The notes may be first or subordinate lien notes within the discretion of the board, but no obligation may ever be a charge on the property of the district or on taxes levied or collected by the district but shall be solely a charge on the revenues pledged for the payment of the obligation. No part of the obligation may ever be paid from taxes levied or collected by the district.

(c) Except as provided by Subsection (e), a district may not execute a note for a term longer than three years unless the commission issues an order approving the note.

(d) This section does not apply to special water authorities.

(e) Subsection (c) does not apply to:

(1) a note issued to and approved by:

(A) the Farmers Home Administration;

(B) the United States Department of Agriculture;

(C) the Texas Water Development Board;

(D) the North American Development Bank; or

(E) a federally chartered instrumentality of the United States authorized under 12 U.S.C. Section 2128(f) to provide financing for water and waste disposal facilities, provided that the district that executes the note is located wholly in a county that:

(i) does not contain a municipality that has a population of more than 750,000; and

(ii) is not adjacent to a county described by Subparagraph (i); or

(2) a district described by Section [49.181\(h\)](#).

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1070, Sec. 7, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 248, Sec. 11, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 608, Sec. 7, eff. June 20, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.19, eff. September 1, 2013.

Sec. 49.154. BOND ANTICIPATION NOTES; TAX ANTICIPATION NOTES. (a) The board may declare an emergency in the matter of funds not being available to pay principal of and interest on any bonds of the district payable in whole or in part from taxes or to meet any other needs of the district and may issue tax anticipation notes or bond anticipation notes to borrow the money needed by the district without advertising or giving notice of the sale. A district's bond anticipation notes or tax anticipation notes are negotiable instruments within the meaning and purposes of the Business & Commerce Code notwithstanding any provision to the contrary in that code. Bond anticipation notes and tax anticipation notes shall mature within one year of their date.

(b) Tax anticipation notes may be issued for any purpose for which the district is authorized to levy taxes, and tax anticipation notes shall be secured with the proceeds of taxes to be levied by the district in the succeeding 12-month period. The board may covenant with the purchasers of the notes that the board will levy a sufficient tax to pay the principal of and interest on the notes and pay the costs of collecting the taxes.

(c) Bond anticipation notes may be issued for any purpose for which bonds of the district may be issued or for the purpose of refunding previously issued bond anticipation notes. A district may covenant with the purchasers of the bond anticipation notes that the district will use the proceeds of sale of any bonds in the process of issuance for the purpose of refunding the bond anticipation notes, in which case the board will be required to use the proceeds received from sale of the bonds in the process of issuance to pay principal, interest, or redemption price on the bond anticipation notes.

(d) Districts required to seek commission approval of bonds must

have an application for such approval on file with the commission prior to the issuance of bond anticipation notes.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 13, eff. September 1, 2013.

Sec. 49.155. PAYMENT OF EXPENSES. (a) The district may pay out of bond proceeds or other available funds of the district all expenses of the district authorized by this section, including expenses reasonable and necessary to effect the issuance, sale, and delivery of bonds as determined by the board, including, but not limited to, the following:

- (1) interest during construction;
- (2) capitalized interest not to exceed three years' interest;
- (3) reasonable and necessary reserve funds not to exceed two years' interest on the bonds;
- (4) interest on funds advanced to the district;
- (5) financial advisor, bond counsel, attorney, and other consultant fees;
- (6) paying agent, registrar, and escrow agent fees;
- (7) right-of-way acquisition;
- (8) underwriter's discounts or premiums;
- (9) engineering fees, including surveying expenses and plan review fees;
- (10) commission and attorney general fees;
- (11) printing costs;
- (12) all organizational, administrative, and operating costs during creation and construction periods;
- (13) the cost of investigation and making plans, including preliminary plans and associated engineering reports;
- (14) land required for stormwater control;
- (15) costs associated with requirements for federal stormwater permits; and
- (16) costs associated with requirements for endangered species

permits.

(b) For purposes of this section, construction periods shall mean any periods during which the district is constructing its facilities or there is construction by third parties of above ground improvements within the district, but in no event longer than five years.

(c) The district may reimburse any person for money advanced for the purposes in Subsection (a) and may be charged interest on such funds.

(d) These payments may be made from money obtained from the issuance of notes or the sale of bonds issued by the district or out of maintenance taxes or other revenues of the district.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 1999, 76th Leg., ch. 1354, Sec. 12, eff. Sept. 1, 1999;  
Acts 2001, 77th Leg., ch. 1423, Sec. 9, eff. June 17, 2001.

Sec. 49.156. DEPOSITORY. (a) The board, by order or resolution, shall designate one or more banks or savings associations within the state to serve as the depository for the funds of the district. The board shall not be required to advertise or solicit bids in selecting its depositories.

(b) To the extent that funds in the depository banks or savings associations are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of funds by Chapter 2257, Government Code (Public Funds Collateral Act).

(c) The board may authorize a designated representative to supervise the substitution of securities pledged to secure the district's funds.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.157. INVESTMENTS. (a) All district deposits and investments shall be governed by Subchapter A, Chapter 2256, Government Code (Public Funds Investment Act).

(b) The board may provide that an authorized representative of the

district may invest and reinvest the funds of the district and provide for money to be withdrawn from the appropriate accounts of the district for the investments on such terms as the board considers advisable.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.1571. INVESTMENT OFFICER. (a) Notwithstanding Section 2256.005(f), Government Code, the board may contract with a person to act as investment officer of the district.

(b) The investment officer of a district shall:

(1) not later than the first anniversary of the date the officer takes office or assumes the officer's duties, attend a training session of at least six hours of instruction relating to investment responsibilities under Chapter 2256, Government Code; and

(2) attend at least four hours of additional investment training within each two-year period after the first year.

(c) Training under this section must be from an independent source approved by:

(1) the board; or

(2) a designated investment committee advising the investment officer.

(d) Training under this section must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with Chapter 2256, Government Code.

(e) During January of each year, each individual, association, business, organization, governmental entity, or other person that provides training under this section shall report to the comptroller a list of the districts for which the person provided required training under this section during the previous calendar year. An individual's reporting requirements under this subsection are satisfied by a report of the individual's employer or the sponsoring or organizing entity of a training program or seminar.

Added by Acts 2001, 77th Leg., ch. 69, Sec. 3, eff. May 14, 2001.

Sec. 49.158. FISCAL YEAR. Within 30 days after a district becomes financially active, the board shall adopt a fiscal year by a formal board resolution. The district shall notify the executive director of the adopted fiscal year within 30 days after adoption. The district may change its fiscal year at any time; provided, however, it may not be changed more than once in any 24-month period. After any change in the district's fiscal year, the district shall notify the executive director of the changed fiscal year within 30 days after adoption.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

#### SUBCHAPTER F. ISSUANCE OF BONDS

Sec. 49.181. AUTHORITY OF COMMISSION OVER ISSUANCE OF DISTRICT BONDS.

(a) A district may not issue bonds to finance a project for which the commission has adopted rules requiring review and approval unless the commission determines that the project is feasible and issues an order approving the issuance of the bonds. This section does not apply to:

(1) refunding bonds if the commission issued an order approving the issuance of the bonds or notes that originally financed the project;

(2) refunding bonds that are issued by a district under an agreement between the district and a municipality allowing the issuance of the district's bonds to refund bonds issued by the municipality to pay the cost of financing facilities;

(3) bonds issued to and approved by:

(A) the Farmers Home Administration;

(B) the United States Department of Agriculture;

(C) the North American Development Bank;

(D) the Texas Water Development Board; or

(E) a federally chartered instrumentality of the United States authorized under 12 U.S.C. Section 2128(f) to finance such a project, provided that the district that issues the bonds is located wholly in a county that:

(i) does not contain a municipality that has a



population of more than 750,000; and

(ii) is not adjacent to a county described by Subparagraph (i);

(4) refunding bonds issued to refund bonds described by Subdivision (3); or

(5) bonds issued by a public utility agency created under Chapter 572, Local Government Code, any of the public entities participating in which are districts if at least one of those districts is a district described by Subsection (h)(1)(E).

(b) A district may submit to the commission a written application for investigation of feasibility. An engineer's report describing the project, including the data, profiles, maps, plans, and specifications prepared in connection with the report, must be submitted with the application.

(c) The executive director shall examine the application and the report and shall inspect the project area. The district shall, on request, supply the executive director with additional data and information necessary for an investigation of the application, the engineer's report, and the project.

(d) The executive director shall prepare a written report on the project and include suggestions, if any, for changes or improvements in the project. The executive director shall retain a copy of the report and send a copy of the report to both the commission and the district.

(e) The commission shall consider the application, the engineer's report, the executive director's report, and any other evidence allowed by commission rule to be considered in determining the feasibility of the project.

(f) The commission shall determine whether the project to be financed by the bonds is feasible and issue an order either approving or disapproving, as appropriate, the issuance of the bonds. If the commission determines that an application for the approval of bonds complies with the requirements for financial feasibility and the district submitting the application is not required to comply with rules regarding project completion, the commission may not disapprove the issuance of bonds for all or a portion of a project or require that the funding for

all or a portion of a project be escrowed solely on the basis that the construction of the project is not complete at the time of the commission's determination. The commission shall retain a copy of the order and send a copy of the order to the district.

(g) Notwithstanding any provision of this code to the contrary, the commission may approve the issuance of bonds of a district without the submission of plans and specifications of the improvements to be financed with the bonds. The commission may condition the approval on any terms or conditions considered appropriate by the commission.

(h) This section does not apply to:

(1) a district if:

(A) the district's boundaries include one entire county;

(B) the district was created by a special Act of the legislature and:

(i) the district is located entirely within one county;

(ii) the district is located entirely within one or more home-rule municipalities;

(iii) the total taxable value of the real property and improvements to the real property zoned by one or more home-rule municipalities for residential purposes and located within the district does not exceed 25 percent of the total taxable value of all taxable property in the district, as shown by the most recent certified appraisal tax roll prepared by the appraisal district for the county; and

(iv) the district was not required by law to obtain commission approval of its bonds before the effective date of this section;

(C) the district is a special water authority;

(D) the district is governed by a board of directors appointed in whole or in part by the governor, a state agency, or the governing body or chief elected official of a municipality or county and does not provide, or propose to provide, water, sewer, drainage, reclamation, or flood control services to residential retail or commercial customers as its principal function;

(E) the district on September 1, 2003:

(i) is a municipal utility district that includes territory in only two counties;

(ii) has outstanding long-term indebtedness that is rated BBB or better by a nationally recognized rating agency for municipal securities; and

(iii) has at least 5,000 active water connections; or

(F) the district:

(i) is a conservation and reclamation district created under Section 59, Article XVI, Texas Constitution, that includes territory in at least three counties; and

(ii) has the rights, powers, privileges, and functions applicable to a river authority under Chapter 30; or

(2) a public utility agency created under Chapter 572, Local Government Code, any of the public entities participating in which are districts if at least one of those districts is a district described by Subdivision (1)(E).

(i) An application for the approval of bonds under this section may include financing for payment of creation and organization expenses. Expenses are creation and organization expenses if the expenses were incurred through the date of the canvassing of the confirmation election. A commission rule regarding continuous construction periods or the length of time for the payment of expenses during construction periods does not apply to expenses described by this section.

(j) The commission shall approve an application to issue bonds to finance the costs of spreading and compacting fill to remove property from the 100-year floodplain made by a levee improvement district if the application otherwise meets all applicable requirements for bond applications.

(k) The commission shall approve an application to issue bonds to finance the costs of spreading and compacting fill to provide drainage that is made by a municipal utility district or a district with the powers of a municipal utility district if the costs are less than the cost of constructing or improving drainage facilities.

(l) If a district is approved for the issuance of bonds by the commission to use a certain return flow of wastewater, the approval

applies to subsequent bond authorizations unless the district seeks approval to use a different return flow of wastewater.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1070, Sec. 8, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 248, Sec. 12, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 608, Sec. 8, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 904, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 249 (H.B. 828), Sec. 1, eff. May 30, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 36 (S.B. 914), Sec. 1, eff. May 9, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 156 (H.B. 1901), Sec. 1, eff. May 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 14, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 21.004, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 207 (H.B. 4), Sec. 2.20, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 965 (S.B. 2014), Sec. 1, eff. September 1, 2017.

Sec. 49.182. COMMISSION SUPERVISION OF PROJECTS AND IMPROVEMENTS.

(a) During construction of projects and improvements approved by the commission under this subchapter, no substantial alterations may be made in the plans and specifications without the approval of the commission in accordance with commission rules.

(b) The executive director may inspect the improvements at any time during construction to determine if the project is being constructed in accordance with the plans and specifications approved by the commission.

(c) If the executive director finds that the project is not being constructed in accordance with the approved plans and specifications, the executive director shall give written notice immediately by certified mail to the district's manager and to each board member.

(d) If within 10 days after the notice is mailed the board does not take steps to ensure that the project is being constructed in accordance with the approved plans and specifications, the executive director shall give written notice of this fact to the attorney general.

(e) After receiving this notice, the attorney general may bring an action for injunctive relief or quo warranto proceedings against the directors. Venue for either suit is exclusively in a district court in Travis County.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.183. BOND SALES. (a) Except for refunding bonds, or bonds sold to a state or federal agency or to the North American Development Bank, bonds issued by a district shall be sold after advertising for and receiving competitive sealed bids and shall be awarded to the bidder whose bid produces the lowest net effective interest rate to the district.

(b) Except for refunding bonds, or bonds sold to a state or federal agency or to the North American Development Bank, before any bonds are sold by a district, the board shall publish an appropriate notice of the sale:

(1) at least one time not less than 10 days before the date of sale in a newspaper of general circulation in the county or counties in which the district is located; and

(2) at least one time in one or more recognized financial publications of general circulation in the state as approved by the state attorney general.

(c) If the district is issuing bonds and refunding bonds as one issue and if the initial principal amount of refunding bonds is 50 percent or more of the total initial principal amount of bonds being issued, for the purposes of this section, the issue shall be considered to be refunding bonds and competitive bids shall not be required.

(d) A district's bonds are negotiable instruments within the meaning and purposes of the Business & Commerce Code. A district's bonds may be issued and bear interest in accordance with Chapters 1201, 1204,

and 1371, Government Code, and Subchapters A-C, Chapter 1207, Government Code. Except for this subsection, this section does not apply to special water authorities or districts described in Section 49.181(h)(1)(D).

(e) Subsections (a) and (b) do not apply to district bonds issued pursuant to Chapter 1371, Government Code.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.  
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.421, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1423, Sec. 10, eff. June 17, 2001; Acts 2003, 78th Leg., ch. 248, Sec. 13, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 608, Sec. 9, eff. June 20, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 156 (H.B. 1901), Sec. 3, eff. May 28, 2011.

Sec. 49.184. APPROVAL OF BONDS BY ATTORNEY GENERAL; REGISTRATION OF BONDS. (a) Before bonds issued by a district are delivered to the purchasers, a certified copy of all proceedings relating to organization of the district for first bond issues and issuance of the bonds and other relevant information shall be sent to the attorney general.

(b) The attorney general shall carefully examine the bonds, with regard to the record and the constitution and laws of this state governing the issuance of bonds, and the attorney general shall officially approve and certify the bonds if he or she finds that they conform to the record and the constitution and laws of this state and are valid and binding obligations of the district.

(c) After the attorney general approves and certifies the bonds, the comptroller shall register them in a book kept for that purpose and shall record the certificate of the attorney general.

(d) After the approval and registration of the bonds by the comptroller, they 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) A contract or lease in which the proceeds of the contract or lease are pledged to the payment of a bond may be submitted to the

attorney general along with the bond records, and, if submitted, the approval by the attorney general of the bonds shall constitute an approval of the contract or lease and the contract or lease shall be incontestable. A contract or lease, other than a contract or lease in which the proceeds of the contract or lease are pledged to the payment of a bond, may be submitted to the attorney general along with the bond records, and, if reviewed and approved by the attorney general, the approval of the bonds shall constitute an approval of the contract or lease and the contract or lease shall be incontestable.

(f) In any proceeding concerning the validity of the creation of a district or the annexation of property by a district, a certificate of ownership as certified by the central appraisal district of the county or counties in which the property is located creates a presumption of ownership, and additional proof of ownership is not required unless there is substantial evidence in the official deed records of the county in which the property is located to rebut the presumption. On request by a district, the central appraisal district of the county or counties in which the district is located shall furnish certificates of ownership and may charge reasonable fees to recover the actual costs incurred in preparing the certificates.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 2001, 77th Leg., ch. 1423, Sec. 11, eff. June 17, 2001.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 352 (H.B. 1946), Sec. 1, eff. September 1, 2017.

Sec. 49.185. EXEMPTIONS. This subchapter shall not apply to districts engaged in the distribution and sale of electric energy to the public.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.186. AUTHORIZED INVESTMENTS; SECURITY FOR FUNDS. (a) All bonds, notes, and other obligations issued by a district 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, and trustees, and for all interest and sinking funds and other public funds of the state, and all agencies, subdivisions, and instrumentalities of the state, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic.

(b) A district's bonds, notes, and other obligations are eligible and lawful security for all deposits of public funds of the state, and all agencies, subdivisions, and instrumentalities of the state, 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 the bonds, notes, and other obligations when accompanied by any unmatured interest coupons attached to them.

Added by Acts 1997, 75th Leg., ch. 1070, Sec. 9, eff. Sept. 1, 1997.

#### SUBCHAPTER G. AUDIT OF DISTRICTS

Sec. 49.191. DUTY TO AUDIT. (a) The board shall have the district's fiscal accounts and records audited annually at the expense of the district.

(b) In all areas of conflict, the provisions of this subchapter shall take precedence over all prior statutory enactments.

(c) The person who performs the audit shall be a certified public accountant or public accountant holding a permit from the Texas State Board of Public Accountancy.

(d) The audit required by this section shall be completed within 120 days after the close of the district's fiscal year.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.192. FORM OF AUDIT. The executive director shall adopt accounting and auditing manuals and, except as otherwise provided by the manuals, the district audit shall be performed according to the generally accepted auditing standards adopted by the American Institute of



Certified Public Accountants. Financial statements shall be prepared in accordance with generally accepted accounting principles as adopted by the American Institute of Certified Public Accountants.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.193. FINANCIAL REPORTS. The district's depository, the district's treasurer, and the district's bookkeeper, if any, who receives or has control over any district funds shall keep a full and itemized account of district funds in its, his, or her possession. Such itemized accounts and records shall be available for audit.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.194. FILING OF AUDITS, AFFIDAVITS, AND FINANCIAL REPORTS.

(a) Except as provided by Subsection (h), after the board has approved the audit report, it shall submit a copy of the report to the executive director for filing within 135 days after the close of the district's fiscal year.

(b) Except as provided by Subsection (h), if the board refuses to approve the annual audit report, the board shall submit a copy of the report to the executive director for filing within 135 days after the close of the district's fiscal year, accompanied by a statement from the board explaining the reasons for its failure to approve the report.

(c) Copies of the audit report, the annual financial dormancy affidavit, or annual financial report described in Sections 49.197 and 49.198 shall be filed annually in the office of the district.

(d) Each district shall file with the executive director an annual filing affidavit in a format prescribed by the executive director, executed by a duly authorized representative of the board, stating that all copies of the annual audit report, annual financial dormancy affidavit, or annual financial report have been filed under this section.

(e) The annual filing affidavit shall be submitted with the applicable annual document when it is submitted to the executive director for filing as prescribed by this subchapter.

(f) The executive director shall file with the attorney general the names of any districts that do not comply with the provisions of this subchapter.

(g) A submission to the executive director required by this section may be made electronically.

(h) A special water authority shall submit a copy of the audit report to the executive director for filing not later than the 160th day after the date the special water authority's fiscal year ends.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 2003, 78th Leg., ch. 248, Sec. 14, eff. June 18, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. [902](#)), Sec. 15, eff. September 1, 2013.

The following section was amended by the 86th Legislature. Pending publication of the current statutes, see S.B. [911](#), 86th Legislature, Regular Session, for amendments affecting the following section.

Sec. 49.195. REVIEW BY EXECUTIVE DIRECTOR. (a) The executive director may review the audit report of each district.

(b) Subject to Subsection (f), the commission may request that the state auditor assist in the establishment of standards and procedures for review of district audits by the executive director.

(c) If the executive director has any objections or determines any violations of generally accepted auditing standards or accounting principles, statutes, or board rules, or if the executive director has any recommendations, he or she shall notify the board and the district's auditor.

(d) Before the audit report may be accepted by the executive director as being in compliance with the provisions of this subchapter, the board and the auditor shall remedy objections and correct violations of which they have been notified by the executive director.

(e) If the audit report indicates that any penal law has been violated, the executive director shall notify the appropriate county or district attorney and the attorney general.

(f) Participation by the state auditor under Subsection (b) is subject to approval by the legislative audit committee for inclusion in the audit plan under Section 321.013(c), Government Code.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 2003, 78th Leg., ch. 785, Sec. 54, eff. Sept. 1, 2003.

The following section was amended by the 86th Legislature. Pending publication of the current statutes, see S.B. 911, 86th Legislature, Regular Session, for amendments affecting the following section.

Sec. 49.196. ACCESS TO AND MAINTENANCE OF DISTRICT RECORDS. (a) The executive director shall have access to all vouchers, receipts, district fiscal and financial records, and other district records the executive director considers necessary.

(b) All district fiscal records shall be prepared on a timely basis and maintained in an orderly manner in accordance with generally accepted accounting principles. The fiscal records shall be available for public inspection during regular business hours. A district's fiscal records may be removed from the district's office for the purposes of recording its fiscal affairs and preparing an audit, during which time the fiscal records are under the control of the district's auditor.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.197. FINANCIALLY DORMANT DISTRICTS. (a) A financially dormant district is a district that had:

- (1) \$500 or less of receipts from operations, tax assessments, loans, contributions, or any other sources during the calendar year;
- (2) \$500 or less of disbursements of funds during the calendar year;
- (3) no bonds or other long-term (more than one year) liabilities outstanding during the calendar year; and
- (4) no cash or investments that exceeded \$5,000 at any time during the calendar year.

(b) A financially dormant district may elect to submit to the

executive director a financial dormancy affidavit instead of complying with the audit requirements of Section 49.191.

(c) The annual financial dormancy affidavit shall be prepared in a format prescribed by the executive director and shall be submitted for filing by a duly authorized representative of the district.

(d) The affidavit must be filed annually on or before January 31 with the executive director until such time as the district becomes financially active and the board adopts a fiscal year; thereafter, the district shall file annual audit reports as prescribed by this subchapter.

(e) A district that becomes financially dormant after having been financially active shall be required to file annual financial dormancy affidavits on or before January 31, until the district is either dissolved or again becomes financially active.

(f) Districts governed by this section are subject to periodic audits by the executive director.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.198. AUDIT REPORT EXEMPTION. (a) A district may elect to file annual financial reports with the executive director in lieu of the district's compliance with Section 49.191 provided:

(1) the district had no bonds or other long-term (more than one year) liabilities outstanding during the fiscal period;

(2) the district did not have gross receipts from operations, loans, taxes, or contributions in excess of \$250,000 during the fiscal period; and

(3) the district's cash and temporary investments were not in excess of \$250,000 during the fiscal period.

(b) The annual financial report must be accompanied by an affidavit attesting to the accuracy and authenticity of the financial report signed by a duly authorized representative of the district.

(c) The annual financial report and affidavit in a format prescribed by the executive director must be on file with the executive director within 45 days after the close of the district's fiscal year.

(d) Districts governed by this section are subject to periodic audits by the executive director.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1070, Sec. 10, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 444 (S.B. 1361), Sec. 1, eff. August 29, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1021 (H.B. 2694), Sec. 4.23, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1037 (H.B. 3002), Sec. 1, eff. June 17, 2011.

Sec. 49.199. POLICIES AND AUDITS OF DISTRICTS. (a) Subject to the law governing the district, the board shall adopt the following in writing:

(1) a code of ethics for district directors, officers, employees, and persons who are engaged in handling investments for the district;

(2) a policy relating to travel expenditures;

(3) a policy relating to district investments that ensures that:

(A) purchases and sales of investments are initiated by authorized individuals, conform to investment objectives and regulations, and are properly documented and approved; and

(B) periodic review is made of district investments to evaluate investment performance and security;

(4) policies and procedures for selection, monitoring, or review and evaluation of professional services;

(5) a uniform method of accounting and reporting for industrial development bonds and pollution control bonds that complies with requirements of the commission; and

(6) policies that ensure a better use of management information including:

(A) budgets for use in planning and controlling cost;

(B) an audit committee of the board; and

(C) uniform reporting requirements that use "Audits of State and Local Governmental Units" as a guide on audit working papers and that use "Governmental Accounting and Financial Reporting Standards."

(b) The state auditor may audit the financial transactions of any district if the state auditor determines that the audit is necessary.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.1991. EFFICIENCY REVIEW OF RIVER AUTHORITIES. A district that is a river authority is subject to an efficiency review by the Legislative Budget Board.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1293 (H.B. 2362), Sec. 1, eff. September 1, 2013.

Sec. 49.200. REVIEW AND COMMENT ON BUDGET OF CERTAIN DISTRICTS. A district that provides wholesale potable water and wastewater services shall adopt a program that provides such wholesale customers an opportunity to review and comment on the district's annual budget that applies to their services before that budget is adopted by the board.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

#### SUBCHAPTER H. POWERS AND DUTIES

Sec. 49.211. POWERS. (a) A district shall have the functions, powers, authority, rights, and duties that will permit accomplishment of the purposes for which it was created or the purposes authorized by the constitution, this code, or any other law.

(b) A district is authorized to purchase, construct, acquire, own, operate, maintain, repair, improve, or extend inside and outside its boundaries any and all land, works, improvements, facilities, plants, equipment, and appliances necessary to accomplish the purposes of its creation or the purposes authorized by this code or any other law.

(c) A district that is authorized by law to engage in drainage or

flood control activities may adopt:

(1) a master drainage plan, including rules relating to the plan and design criteria for drainage channels, facilities, and flood control improvements;

(2) rules for construction activity to be conducted within the district that:

(A) reasonably relate to providing adequate drainage or flood control; and

(B) use generally accepted engineering criteria; and

(3) reasonable procedures to enforce rules adopted by the district under this subsection.

(d) If a district adopts a master drainage plan under Subsection (c)(1), the district may adopt rules relating to review and approval of proposed drainage plans submitted by property developers. The district, by rule, may require that a property developer who proposes to subdivide land located in the district, and who is otherwise required to obtain approval of the plat of the proposed subdivision from a municipality or county, submit for district approval a drainage report for the subdivision. The drainage report must include a map containing a description of the land to be subdivided. The map must show an accurate representation of:

(1) any existing drainage features, including drainage channels, streams, flood control improvements, and other facilities;

(2) any additional drainage facilities or connections to existing drainage facilities proposed by the property developer's plan for the subdivision; and

(3) any other parts of the property developer's plan for the subdivision that may affect drainage.

(e) The district shall review each drainage report submitted to the district under this section and shall approve a report if it shows compliance with:

(1) the requirements of this section;

(2) the district's master drainage plan adopted under Subsection (c)(1); and

(3) the rules adopted by the district under Subsections (c)(2)

and (d).

(f) On or before the 30th day after the date a drainage report is received, the district shall send notice of the district's approval or disapproval of the drainage report to:

(1) the property developer; and

(2) each municipal or county authority with responsibility for approving the plat of the proposed subdivision.

(g) If the district disapproves a drainage report, the district shall include in the notice of disapproval a written statement:

(1) explaining the reasons for the rejection; and

(2) recommending changes, if possible, that would make a revised version of the drainage report acceptable for approval.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1070, Sec. 11, eff. Sept. 1, 1997;

Acts 2003, 78th Leg., ch. 486, Sec. 1, eff. June 20, 2003.

Sec. 49.212. FEES AND CHARGES. (a) A district may adopt and enforce all necessary charges, mandatory fees, or rentals, in addition to taxes, for providing or making available any district facility or service, including fire-fighting activities provided under Section [49.351](#).

(b) A district may require a deposit for any services or facilities furnished and the district may or may not provide that the deposit will bear interest.

(c) Subject to observance of the procedure appropriate to the circumstances, a district may discontinue any or all facilities or services to prevent an abuse or to enforce payment of an unpaid charge, fee, or rental due the district, including taxes that have been delinquent for not less than six months.

(d) Notwithstanding any provision of law to the contrary, a district that charges a fee that is an impact fee as described in Section [395.001](#)(4), Local Government Code, must comply with Chapter [395](#), Local Government Code. A charge or fee is not an impact fee under that chapter if:



(1) the charge or fee is imposed by a district for construction, installation, or inspection of a tap or connection to district water, sanitary sewer, or drainage facilities, including all necessary service lines and meters, for capacity in storm water detention or retention facilities and related storm water conveyances, or for wholesale facilities that serve such water, sanitary sewer, drainage, or storm water detention or retention facilities; and

(2) the charge or fee:

(A) does not exceed three times the actual costs to the district for such tap or connection;

(B) if made to a nontaxable entity for retail or wholesale service, does not exceed the actual costs to the district for such work and for all facilities that are necessary to provide district services to such entity and that are financed or are to be financed in whole or in part by tax-supported or revenue bonds of the district; or

(C) is made by a district for retail or wholesale service on land that at the time of platting was not being provided with water, wastewater, drainage, or storm water detention or retention service by the district.

(d-1) Actual costs under Subsections (d)(1) and (d)(2), as determined by the board in its reasonable discretion, may include nonconstruction expenses attributable to the design, permitting, financing, and construction of those facilities, and reasonable interest on those costs calculated at a rate not to exceed the net effective interest rate on any district bonds issued to finance the facilities.

(d-2) A district may pledge the revenues of the district's utility system to pay the principal of or interest on bonds issued to construct the capital improvements for which a charge or fee is imposed under Subsection (d), and money received from the fees shall be considered revenues of the district's utility system for purposes of the district's bond covenants.

(e) Chapter 2007, Government Code, does not apply to a tax levied, a standby fee imposed, or a charge, fee, or rental adopted or enforced by a district under this chapter, another chapter of this code, or Chapter 395, Local Government Code.

(f) Except as provided by Subsections (g) and (h), a district may not impose an impact fee, standby fee, or assessment on the property, including the equipment, rights-of-way, easements, facilities, or improvements, of:

(1) an electric utility or a power generation company as defined by Section 31.002, Utilities Code;

(2) a gas utility as defined by Section 101.003 or 121.001, Utilities Code, or a person who owns pipelines used for the transportation or sale of oil or gas or a product or constituent of oil or gas;

(3) a person who owns pipelines used for the transportation or sale of carbon dioxide;

(4) a telecommunications provider as defined by Section 51.002, Utilities Code; or

(5) a cable service provider or video service provider as defined by Section 66.002, Utilities Code.

(g) A district may impose an impact fee, standby fee, or assessment on property described by Subsection (f) that is used as office space.

(h) A district may impose an impact fee on property described by Subsection (f) on the same terms as the district imposes an impact fee on other property if the owner of the property requests water or sewer services for that property from the district.

(i) Subsection (f) does not affect a district's authority to impose an ad valorem tax on property in the boundaries of the district under this chapter or other law.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1070, Sec. 12, eff. Sept. 1, 1997;

Acts 2001, 77th Leg., ch. 1423, Sec. 12, eff. June 17, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 955 (H.B. 3435), Sec. 1, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 16, eff. September 1, 2013.

Sec. 49.2121. ACCEPTANCE OF CREDIT CARDS. (a) In this section, "credit card" means a card, plate, or similar device authorizing a designated person or bearer to obtain goods, services, money, or any other thing of value on credit.

(b) A district may:

- (1) accept a credit card for the payment of any fees and charges imposed by the district;
- (2) collect a fee that is reasonably related to the expense incurred by the district in processing the payment by credit card; and
- (3) collect a service charge for the expense incurred by the district in collecting the original fee or charge if the payment by credit card is not honored by the credit card company on which the funds are drawn.

(c) The service charge under Subsection (b) (3) may not exceed the amount charged for the collection of a check drawn on an account with insufficient funds.

(d) The district may not collect the service charge under Subsection (b) (3) if:

- (1) the district is notified at the time of payment that the payment is not honored; and
- (2) the customer immediately submits to the district an alternative form of payment.

Added by Acts 2005, 79th Leg., Ch. 260 (H.B. 1935), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 17, eff. September 1, 2013.

Sec. 49.2122. ESTABLISHMENT OF CUSTOMER CLASSES. (a) Notwithstanding any other law, a district may establish different charges, fees, rentals, or deposits among classes of customers that are based on any factor the district considers appropriate, including:

- (1) the similarity of the type of customer to other customers in the class, including:

- (A) residential;
- (B) commercial;
- (C) industrial;
- (D) apartment;
- (E) rental housing;
- (F) irrigation;
- (G) homeowner associations;
- (H) builder;
- (I) out-of-district;
- (J) nonprofit organization; and
- (K) any other type of customer as determined by the

district;

(2) the type of services provided to the customer class;

(3) the cost of facilities, operations, and administrative services to provide service to a particular class of customer, including additional costs to the district for security, recreational facilities, or fire protection paid from other revenues; and

(4) the total revenues, including ad valorem tax revenues and connection fees, received by the district from a class of customers relative to the cost of service to the class of customers.

(a-1) Notwithstanding Subsection (a), a district that provides nonsubmetered master metered utility service, as defined by Section 13.087(a)(1), to a recreational vehicle park, as defined by Section 13.087(a)(3):

(1) shall determine the rates for that service on the same basis the district uses to determine the rates for other commercial businesses that serve transient customers and receive nonsubmetered master metered utility service from the district; and

(2) may not charge a person who owns or operates a recreational vehicle park that receives nonsubmetered master metered utility service from the district an administrative fee for the services provided.

(b) A district is presumed to have weighed and considered appropriate factors and to have properly established charges, fees, rentals, and deposits absent a showing that the district acted arbitrarily and capriciously.

Added by Acts 2007, 80th Leg., R.S., Ch. 1430 (S.B. 3), Sec. 7.01, eff. September 1, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 6 (S.B. 569), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 613 (S.B. 1268), Sec. 7, eff. September 1, 2013.

Sec. 49.2125. FEES AND OTHER CHARGES OF CERTAIN REGIONAL WATER AUTHORITIES AFTER ANNEXATION. (a) This section applies to a regional water authority that:

(1) was established after January 1, 1999;

(2) is located entirely within a county with a population greater than 3.4 million according to the 2000 federal decennial census; and

(3) has a population greater than 375,000 according to the 2000 federal decennial census.

(b) Notwithstanding any other law, except to the extent an authority to which this section applies agrees in writing, a municipality's annexation of territory within the authority has no effect on the authority's ability to assess and collect inside the territory annexed by the municipality the types of fees, rates, charges, or special assessments that the authority was assessing and collecting at the time the municipality initiated the annexation; provided, however, that the authority's ability to assess and collect such fees, rates, charges, or special assessments shall terminate on the later to occur of (i) the date of final payment or defeasance of any bonds or other indebtedness, including any refunding bonds, that are secured by such fees, rates, charges, or special assessments or (ii) the date that the authority no longer provides services inside the annexed territory. An authority to which this section applies shall continue to provide services to the annexed territory in accordance with contracts in effect at the time of the annexation unless a written agreement between the governing body of the authority and the governing body of the municipality provides otherwise.

Added by Acts 2003, 78th Leg., ch. 248, Sec. 15, eff. June 18, 2003.

Sec. 49.213. AUTHORITY TO ISSUE CONTRACTS. (a) A district may contract with a person or any public or private entity for the joint construction, financing, ownership, and operation of any works, improvements, facilities, plants, equipment, and appliances necessary to accomplish any purpose or function permitted by a district, or a district may purchase an interest in any project used for any purpose or function permitted by a district.

(b) A district may enter into contracts with any person or any public or private entity in the performance of any purpose or function permitted by a district.

(c) A district may enter into contracts, which may be of unlimited duration, with persons or any public or private entities on the terms and conditions the board may consider desirable, fair, and advantageous for:

(1) the purchase or sale of water;

(2) the collection, transportation, treatment, and disposal of its domestic, industrial, and communal wastes or the collection, transportation, treatment, and disposal of domestic, industrial, and communal wastes of other persons;

(3) the gathering, diverting, and control of local storm water, or other local harmful excesses of water;

(4) the continuing and orderly development of the land and property within the district through the purchase, construction, or installation of works, improvements, facilities, plants, equipment, and appliances that 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 the land and property may be placed in a position to ultimately receive the services of the works, improvements, plants, facilities, equipment, and appliances;

(5) the maintenance and operation of any works, improvements, facilities, plants, equipment, and appliances of the district or of another person or public or private entity;

(6) the collection, treatment, and disposal of municipal solid wastes; and

(7) the exercise of any other rights, powers, and duties granted to a district.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.214. CONFLICTS OF INTEREST IN CONTRACTS. The provisions of Chapter 171, Local Government Code, shall apply to the award of district contracts.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.2145. USE OF MONEY RECEIVED UNDER CERTAIN CONTRACTS. (a) This section applies only to a district located in:

(1) a county included in the Harris-Galveston Subsidence District; or

(2) a county included in the Fort Bend Subsidence District.

(b) A district that receives money from a municipality under the terms of a contract with the municipality, including a strategic partnership agreement authorized by Section 43.0751, Local Government Code, may use the money for any purpose of the district or the municipality, unless the contract requires the district to use the money for a specified purpose. For purposes of this chapter, a district purpose includes a municipal purpose for which money is used under this section.

Added by Acts 2005, 79th Leg., Ch. 581 (H.B. 1599), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 21.005, eff. September 1, 2013.

Sec. 49.215. SERVICE TO AREAS OUTSIDE THE DISTRICT. (a) A district may purchase, construct, acquire, own, operate, repair, improve, or extend all works, improvements, facilities, plants, equipment, and

appliances necessary to provide any services or facilities authorized to be provided by the district to areas contiguous to or in the vicinity of the district provided the district does not duplicate a service or facility of another public entity. A district providing potable water and sewer utility services to household users shall not provide services or facilities to serve areas outside the district that are also within the corporate limits of a city without securing a resolution or ordinance of the city granting consent for the district to serve the area within the city.

(b) To secure money for this purpose, a district is authorized to issue and sell negotiable bonds and notes payable from the levy and collection of ad valorem taxes on all taxable property within the district or from all or any designated part of the revenues received from the operation of the district's works, improvements, facilities, plants, equipment, and appliances or from a combination of taxes and revenues.

(c) Any bonds and notes may be issued upon the terms and conditions set forth in this code.

(d) A district shall not be required to hold a certificate of convenience and necessity as a precondition for providing retail water or sewer service to any customer or service area, notwithstanding the fact that such customer or service area may be located either within or outside the boundaries of the district or has previously received water or sewer service from an entity required by law to hold a certificate of convenience and necessity as a precondition for such service. This subsection does not authorize a district to provide services within an area for which a retail public utility holds a certificate of convenience and necessity or within the boundaries of another district without that district's consent, unless the district has a valid certificate of convenience and necessity to provide services to that area.

(e) A district is authorized to establish, maintain, revise, charge, and collect the rates, fees, rentals, tolls, or other charges for the use, services, and facilities that provide service to areas outside the district that are considered necessary and may be higher than those charged for comparable service to users within the district.

(f) The rates, fees, rentals, tolls, or other charges shall be at



least sufficient to meet the expense of operating and maintaining the services and facilities for a water and sanitary sewer system serving areas outside the district and to pay the principal of and interest and redemption price on bonds issued to purchase, construct, acquire, own, operate, repair, improve, or extend the services or facilities.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.216. ENFORCEMENT BY PEACE OFFICERS. (a) A district may contract for or employ its own peace officers with power to make arrests when necessary to prevent or abate the commission of:

(1) any offense against the rules of the district when the offense or threatened offense occurs on any land, water, or easement owned or controlled by the district;

(2) any offense involving injury or detriment to any property owned or controlled by the district; and

(3) any offense against the laws of the state.

(b) A district may appoint reserve peace officers who may be called to serve as peace officers by the district during the actual discharge of their official duties.

(c) A reserve peace officer serves at the discretion of the district and may be called into service if the district considers it necessary to have additional officers to preserve the peace in or enforce the law of the district.

(d) A reserve peace officer on active duty and actively engaged in assigned duties has the same rights, privileges, and duties as any other peace officer of the district.

(e) Any peace officer who is directly employed by a district, before beginning to perform any duties and at the time of appointment, must take an oath and execute a bond conditioned on faithful performance of such officer's duties in the amount of \$1,000 payable to the district. The oath and the bond shall be filed in the district office.

(f) A peace officer contracted for by the district, individually or through a county, sheriff, constable, or municipality, is an independent contractor, and the district is responsible for the acts or omissions of

the peace officer only to the extent provided by law for other independent contractors.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 18, eff. September 1, 2013.

Sec. 49.217. OPERATION OF CERTAIN MOTOR VEHICLES ON OR NEAR PUBLIC FACILITIES. (a) In this section, "motor vehicle" means a self-propelled device in, upon, or by which a person or property is or may be transported or drawn on a road or highway.

(b) Except as provided in Subsections (c) and (d), a person may not operate a motor vehicle on a levee, in a drainage ditch, or on land adjacent to a levee, canal, ditch, exposed conduit, pipeline, pumping plant, storm water facility, or other facility for the transmission, storage, treatment, or distribution of water, sewage, or storm water owned or controlled by a district.

(c) A district may authorize the use of motor vehicles on land that it owns or controls by posting signs on the property.

(d) This section does not prohibit a person from:

- (1) driving on a public road or highway; or
- (2) operating a motor vehicle used for repair or maintenance of public water, sewer, or storm water facilities.

(e) A person who operates a motor vehicle in violation of Subsection (b) commits an offense. An offense under this section is a Class C misdemeanor, except that if a person has been convicted of an offense under this section, a subsequent offense is a Class B misdemeanor.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.218. ACQUISITION OF PROPERTY. (a) A district or water supply corporation may acquire an interest in land, materials, waste grounds, easements, rights-of-way, equipment, contract or permit rights

or interests, including a certificate of convenience and necessity, contractual rights to use capacity in facilities and to acquire facilities and other property, real or personal, considered necessary for the purpose of accomplishing any one or more of the district's or water supply corporation's purposes provided in this code or in any other law. A district may utilize proceeds from the sale and issuance of its bonds, notes, or other obligations to acquire the items authorized by this section.

(b) A district or water supply corporation shall have the right to acquire property by gift, grant, or purchase, and the right to acquire property shall include property considered necessary for the construction, improvement, extension, enlargement, operation, or maintenance of the plants, works, improvements, facilities, equipment, or appliances of a district or a water supply corporation.

(c) A district or water supply corporation may acquire either the fee simple title to or an easement on all land, both public and private, either inside or outside its boundaries and may acquire the title to or an easement on property other than land held in fee.

(d) A district or water supply corporation may require, as a condition for service, that an applicant for service grant to the district or water supply corporation a permanent recorded easement that:

(1) is dedicated to the district or water supply corporation;  
and

(2) will provide a reasonable right of access and use to allow the district or water supply corporation to construct, install, maintain, replace, upgrade, inspect, or test any facility necessary to serve that applicant as well as the district's or water supply corporation's purposes in providing system-wide service.

(e) A district or water supply corporation may not, under Subsection (d), require an applicant to provide an easement for a service line for the sole benefit of another applicant.

(f) As a condition of service to a new subdivision, a district or water supply corporation may require a developer to provide permanent recorded easements to and throughout the subdivision sufficient to construct, install, maintain, replace, upgrade, inspect, or test any

facility necessary to serve the subdivision's anticipated service demands when the subdivision is fully occupied.

(g) A district or water supply corporation may also lease property from others for its use on such terms and conditions as the board of the district or the board of directors of the water supply corporation may determine to be advantageous.

(h) Property acquired under this section, or any other law allowing the acquisition of property by a district or water supply corporation, and owned by a district or water supply corporation is not subject to assessments, charges, fees, or dues imposed by a nonprofit corporation under Chapter 204, Property Code.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1070, Sec. 13, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 71, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1423, Sec. 13, eff. June 17, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 18.009, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 962 (H.B. 1644), Sec. 7, eff. June 18, 2005.

Sec. 49.219. ACQUISITION OF EXISTING FACILITIES. Any district may acquire by agreement all or any part of existing water, sanitary sewer, or drainage systems of any water supply corporation, including works, improvements, facilities, plants, equipment, appliances, contract rights, and other assets and rights that are completed, partially completed, or under construction, and in connection therewith a district may assume all or any part of the contracts, indebtedness, or obligations of the corporation related to said systems, including any contracts, indebtedness, or obligations related to or payable from the revenues of said systems, and may perform all or any part of the obligations of said corporation in the same manner and to the same extent that any other purchaser or assignee could be bound on any such contracts, indebtedness, or obligations. Before assuming any indebtedness or obligations of such corporation related to any such system, a district other than a special

water authority shall obtain the approval of the commission of such assumption.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.220. RIGHT TO USE EXISTING RIGHTS-OF-WAY. All districts or water supply corporations are given rights-of-way within, along, under, and across all public, state, county, city, town, or village roads, highways, and rights-of-way and other public rights-of-way without the requirement for surety bond or security; provided, however, that the entity having jurisdiction over such roads, highways, and rights-of-way may require indemnification. A district or water supply corporation shall not proceed with any action to change, alter, or damage a portion of the state highway system without having first obtained the written consent of the Texas Department of Transportation, and the placement of any facility of a district or water supply corporation within state highway right-of-way shall be subject to department regulation.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.221. RIGHT TO ENTER LAND. (a) The directors, engineers, attorneys, agents, operators, and employees of a district or water supply corporation may go on any land to inspect, make surveys, or perform tests to determine the condition, value, and usability of the property, with reference to the proposed location of works, improvements, plants, facilities, equipment, or appliances. The cost of restoration shall be borne by the district or the water supply corporation.

(b) District employees and agents are entitled to enter any public or private property within the boundaries of the district or adjacent to any reservoir or other property owned by the district at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit, or other order of the district. District employees or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety,

internal security, and fire protection and shall notify any occupant or management of their presence and shall exhibit proper credentials.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.222. EMINENT DOMAIN. (a) A district or water supply corporation may acquire by condemnation any land, easements, or other property inside or outside the district boundaries, or the boundaries of the certificated service area for a water supply corporation, necessary for water, sanitary sewer, storm drainage, or flood drainage or control purposes or for any other of its projects or purposes, and may elect to condemn either the fee simple title or a lesser property interest.

(b) The right of eminent domain shall be exercised in the manner provided in Chapter 21, Property Code, except that a district or a water supply corporation shall not be required to give bond for appeal or bond for costs in any condemnation suit or other suit to which it is a party and shall not be required to deposit more than the amount of any award in any suit.

(c) The power of eminent domain may not be used for the condemnation of land for the purpose of acquiring rights to underground water or of water or water rights.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.223. COSTS OF RELOCATION OF PROPERTY. (a) In the event that the district or the water supply corporation, in the exercise of the power of eminent domain or power of relocation or any other power, makes necessary the relocation, raising, lowering, rerouting, or change in grade of or alteration in construction of any road, bridge, highway, railroad, electric transmission line, telegraph, or telephone properties, facilities, or pipelines, all necessary relocations, raising, lowering, rerouting, or change in grade or alteration of construction shall be done at the sole expense of the district or the water supply corporation unless otherwise agreed to in writing. Such relocation shall be accomplished in a timely manner so that the project of the district or

the water supply corporation is not delayed.

(b) "Sole expense" means the actual cost of the relocation, raising, lowering, rerouting, or change in grade or alteration of construction and providing comparable replacement without enhancing the facilities after deducting from it the net salvage value derived from the old facility.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.224. POWER TO CONDEMN CEMETERIES. (a) The use of land for the construction of district dams and creation of lakes and reservoirs for the purpose of conservation and development of the natural resources of this state is hereby declared to be superior to all other uses, and for these purposes only a district has the power of eminent domain to acquire land, improvements, and other property owned and held for cemeteries or burial places necessary for the construction of a dam or that lies inside the area to be covered by the lake or reservoir or within 300 feet of the high water line of the lake or reservoir.

(b) Except as otherwise provided by this subchapter, the procedure in condemnation proceedings is governed by Chapter 21, Property Code.

(c) Notice shall be served on the title owner of the land on which the cemetery is situated as provided in Chapter 21, Property Code. General notice to persons having relatives interred in the cemetery shall be given by publication for two consecutive weeks in a newspaper circulated in the county in which the cemetery is situated.

(d) The measure of damages in these eminent domain proceedings shall be assessed as in other condemnation cases. An additional amount of damages shall be assessed to cover the cost of removing and reintering the bodies interred in the cemetery or burial place and the cost of removing and resetting the monuments or markers erected at the graves.

(e) The additional assessment shall be deposited in the registry of the county court and disbursed only for the purpose of removing and reintering the bodies in other cemeteries in Texas agreed on between the district and the relatives of the deceased persons.

(f) If in any case the district and the relatives of a deceased person cannot agree within 30 days on a cemetery for reinterment, or no relatives appear within that time, then the county judge shall designate the cemetery for reinterment.

(g) Instead of depositing the additional assessment in the registry of the court, the district may execute a bond sufficient to cover costs of removing and reintering the bodies. The bond shall be payable to and approved by the county judge and conditioned that the bodies will be removed and reinterred as provided by this section.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.225. LEASES. A district may lease any of its property, real or personal, to any person. The lease may contain the terms and provisions that the board determines to be advantageous to the district.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.226. SALE OR EXCHANGE OF REAL OR PERSONAL PROPERTY. (a) Any personal property valued at more than \$300 or any land or interest in land owned by the district which is found by the board to be surplus and is not needed by the district may be sold under order of the board either by public or private sale, or the land, interest in land, or personal property may be exchanged for other land, interest in land, or personal property needed by the district. Except as provided in Subsection (b), land, interest in land, or personal property must be exchanged for like fair market value, which value may be determined by the district. In connection with the sale of surplus land, the board, at its discretion, may impose restrictions on the development and use of the land.

(b) Any property dedicated to or acquired by the district without expending district funds may be abandoned or released to the original grantor, the grantor's heirs, assigns, executors, or successors upon terms and conditions deemed necessary or advantageous to the district and without receiving compensation for such abandonment or release. District property may also be abandoned, released, exchanged, or transferred to



another district, municipality, county, countywide agency, or authority upon terms and conditions deemed necessary or advantageous to the district. Narrow strips of property resulting from boundary or surveying conflicts or similar causes, or from insubstantial encroachments by abutting property owners, or property of larger configuration that has been subject to encroachments by abutting property owners for more than 25 years may be abandoned, released, exchanged, or transferred to such abutting owners upon terms and conditions deemed necessary or advantageous to the district. Chapter 272, Local Government Code, does not apply to this section.

(c) Before a public sale of real property, the district shall give notice of the intent to sell by publishing notice once a week for two consecutive weeks in one or more newspapers with general circulation in the district.

(d) If the district has outstanding bonds secured by a pledge of tax revenues, the proceeds of the sale of property originally acquired with bond proceeds shall be:

- (1) applied to retire outstanding bonds of the district; or
- (2) held and treated as surplus bond proceeds and spent only as provided by the rules of the commission relating to surplus bond proceeds.

(e) If the district does not have any outstanding bonds, the proceeds derived from the sale of real or personal property may be used for any lawful purpose.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1070, Sec. 14, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1423, Sec. 14, eff. June 17, 2001; Acts 2003, 78th Leg., ch. 248, Sec. 16, eff. June 18, 2003.

Sec. 49.2261. PURCHASE, SALE, OR OTHER EXCHANGE OF WATER OR WATER RIGHTS. Notwithstanding any other law, the district may:

- (1) purchase, acquire, sell, transfer, lease, or otherwise exchange water or water rights under an agreement between the district and a person or entity that contains terms that are considered

advantageous to the district; and

(2) employ agents, consultants, brokers, professionals, or other persons that the board determines are necessary or appropriate to conduct a transaction described by Subdivision (1).

Added by Acts 1997, 75th Leg., ch. 1070, Sec. 15, eff. Sept. 1, 1997.

Sec. 49.227. AUTHORITY TO ACT JOINTLY. A district or water supply corporation may act jointly with any other person or entity, private or public, whether within the State of Texas or the United States, in the performance of any of the powers and duties permitted by this code or any other laws.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.228. DAMAGE TO PROPERTY. A person who wilfully destroys, defaces, damages, or interferes with district or water supply corporation property is guilty of a Class B misdemeanor.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.229. GRANTS AND GIFTS. A district may accept grants, gratuities, advances, and loans in any form from any source approved by the board, including any governmental entity, any private or public corporation, and any other person and may make and enter into contracts, agreements, and covenants the board considers appropriate in connection with acceptance of grants, gratuities, advances, and loans.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.2291. DONATIONS FOR ECONOMIC DEVELOPMENT. (a) In this section, "economic development program" has the meaning assigned by Section [152.151](#).

(b) This section applies only to a district located in the unincorporated area of a county with a population of four million or more.

(c) A district may accept a donation in any form from any source approved by the board to provide funds to a nonprofit organization providing economic development programs that the board determines will preserve property values in the district.

(d) A contract with a nonprofit organization providing economic development programs described by Subsection (c) may include the specific uses of donations collected by the district on behalf of the nonprofit organization under this section.

(e) A contract entered into under Subsection (d) must require the nonprofit organization administering the program to:

(1) maintain accounting records and funds independent of all other funds unrelated to the program;

(2) make the records maintained under Subdivision (1) available for public inspection at reasonable times;

(3) have an annual independent audit made of the accounting records and funds;

(4) use the funds only for programs in a county described by Subsection (b); and

(5) reimburse the district for costs of collection incurred by the district, except to the extent that the district agrees to bear those costs.

(f) All records of the administrator of an economic development program, unless protected from disclosure under Chapter 552, Government Code, shall be public information, as defined by Section 552.002, Government Code.

(g) A district providing potable water or sewer service may, as part of its billing process, collect from customers voluntary donations on behalf of a nonprofit organization providing economic development programs described by Subsection (c). A district that collects voluntary donations under this subsection must give reasonable notice to customers that the donations are voluntary. If a donation is included in the total amount of a district's bill to a customer, the bill must identify the exact amount of the donation and include a telephone number the customer can call to have the donation deleted from the bill and any future bills issued to that customer. Water and sewer service may not be terminated

as a result of failing to pay a voluntary donation.

Added by Acts 2015, 84th Leg., R.S., Ch. 780 (H.B. 2528), Sec. 1, eff. June 17, 2015.

Sec. 49.230. AREA-WIDE WASTEWATER TREATMENT. 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 wastewater collection, treatment, and disposal systems to serve the wastewater disposal needs of the citizens of the state whenever economically feasible and competitive to do so, it being an objective of the policy to avoid the economic burden to the people and the impact on the quality of the water in the state that result from the construction and operation of numerous small wastewater collection, treatment, and disposal facilities to serve an area when an integrated area-wide wastewater collection, treatment, and disposal system for the area can be reasonably provided.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.231. STANDBY FEES. (a) In this section:

(1) "Standby fee" means a charge, other than a tax, imposed on undeveloped property for the availability of potable water, sanitary sewer, or drainage facilities and services.

(2) "Undeveloped property" means a tract, lot, or reserve in the district to which no potable water, sanitary sewer, or drainage connections have been made for which:

(A) water, sanitary sewer, or drainage facilities and services are available;

(B) water supply, wastewater treatment plant capacity, or drainage capacity sufficient to serve the property is available; or

(C) major water supply lines, wastewater collection lines, or drainage facilities with capacity sufficient to serve the property are available.

(b) A district that proposes to provide or actually provides retail potable water or sewer utility services, or drainage services as the

principal function of the district, may, with the approval of the commission, adopt and impose on the owners of undeveloped property in the district a standby fee in addition to taxes levied by the district. A district may not impose a standby fee for debt service purposes on undeveloped property unless the facilities and services available to the property have been financed by the district; however, a district may impose a standby fee for operating and maintaining facilities that it has not financed. The district may impose standby fees in different amounts to fairly reflect the level and type of services and facilities available to serve different property. The intent of the standby fee is to distribute a fair portion of the cost burden for operating and maintaining the facilities and for financing capital costs of the facilities to owners of property who have not constructed improvements but have potable water, sewer, or drainage capacity available. Any revenues collected from the standby fees shall be used to pay operation and maintenance expenses, to pay debt service on the bonds, or both.

(c) If a district described in Subsection (b) desires to adopt and impose a standby fee, the district shall submit to the commission an application for authority to adopt and impose the standby fee. The application must describe the tracts of undeveloped property in the district and state the amount of the proposed fee.

(d) The executive director shall examine an application submitted under Subsection (c) and shall investigate the financial condition of the district, including the district's assets, liabilities, sources of revenue, level of utility service rates, and level of debt service and maintenance tax rates. On the request of the executive director, the district shall submit any information the executive director considers relevant to the examination and investigation. The executive director shall prepare a written report on the application and the district's financial condition, retain a copy of the report, and send a copy of the report to the commission and the district.

(e) Notice of an application submitted under Subsection (c) shall be published by the district in a form provided by the commission. The district shall publish notice in a newspaper of general circulation in the county or counties in which the district is located once a week for

two consecutive weeks. The district shall also send notice of the application by certified mail, return receipt requested, to each owner of undeveloped property in the district. On the date the application is filed, the district's tax assessor and collector shall certify to the district the names of the persons owning undeveloped land in the district as reflected by the most recent certified tax roll of the district. Notice of the application must be sent by certified mail, return receipt requested, to each mortgagee of record that has submitted a written request to be informed of any application for standby fees. The written request for notice must include the name and address of the mortgagee, the name of the property owner in the district, and a brief property description. The commission may act on an application without conducting a hearing if a public hearing is not requested by the commission, the executive director, or an affected person in the manner prescribed by commission rule during the 30 days following publication of the notice or receipt of mail containing the notice under this subsection.

(f) The commission shall consider the application, the report of the executive director, and any other evidence allowed by commission rule. The commission may approve the application only if the commission finds that the fee is necessary to maintain the financial integrity and stability of the district and fairly allocates the costs of district facilities and services among property owners of the district.

(g) The commission shall issue an order approving or disapproving the application. The commission shall retain a copy of the order and send a copy of the order to the district.

(h) The commission may approve the adoption and imposition of the standby fee for a period of not more than three years. The imposition of a standby fee may be renewed for additional periods of not more than three years each in the same manner provided in this section for initial approval of the standby fee.

(i) If approved by the commission, the board by resolution or order may impose an annual standby fee on undeveloped land in the district.

(j) The board may:

(1) charge interest, at the rate of one percent a month, on a standby fee not paid in a timely manner in accordance with the resolution

or order imposing the standby fee;

(2) impose a penalty in connection with a standby fee that is not paid in a timely manner in accordance with the resolution or order imposing the standby fee; and

(3) refuse to provide potable water, sanitary sewer, or drainage service to the property for which the fee was assessed until all delinquent standby fees on the property, interest on those fees, and all penalties imposed in connection with the delinquent standby fees are fully paid.

(k) A standby fee imposed under this section is a personal obligation of the person owning the undeveloped property on January 1 of the year for which the fee is assessed. A person is not relieved of the obligation on transfer of title to the property. On January 1 of each year, a lien attaches to undeveloped property to secure payment of any standby fee, interest on the fee, and any penalty imposed under this section. The lien has the same priority as a lien for taxes of the district.

(l) If a standby fee imposed under this section is not paid in a timely manner, a district may file suit to foreclose the lien securing payment of the fee, interest on the fee, and any penalty imposed in connection with the fee or to enforce the personal obligation for the fee, interest on the fee, and any penalty imposed in connection with the fee. In addition to the fee, interest on the fee, and any penalty imposed, the district may recover reasonable costs, including attorney's fees, incurred by the district in enforcing the lien or obligation not to exceed 20 percent of the delinquent fee, interest on the fee, and any penalty. A suit authorized by this subsection must be filed not later than the fourth anniversary of the date the fee became due. A fee delinquent for more than four years, interest on the fee, and any penalty imposed are considered paid unless a suit is filed before the expiration of the four-year period.

(m) Chapter 395, Local Government Code, does not apply to a standby fee imposed under this section.

(n) For purposes of title insurance policies issued under the authority of Title 11, Insurance Code, standby fees are considered taxes.

(o) The amount of the penalty authorized by Subsection (j) is six percent of the amount of the standby fee for the first calendar month the standby fee is delinquent, plus an additional one percent of the amount of the fee for each of the subsequent four months, or portion of each of those months, the fee is unpaid, except that if the fee remains unpaid on the first day of the sixth month after the month in which the fee became due, the amount of the penalty is 12 percent of the amount of the standby fee.

(p) This subsection applies only to the board of a district that has entered into a contract with an attorney for the collection of unpaid standby fees. In addition to the penalty authorized by Subsection (j) and in accordance with the resolution or order imposing a standby fee, the board may provide that a standby fee that is not paid in a timely manner is subject to a penalty to defray costs of collection of the unpaid standby fee. The amount of the additional penalty under this subsection may not exceed 15 percent of the amount of the standby fee, interest on the fee, and any penalty imposed in connection with the fee. A penalty under this subsection is incurred on the date set by the board. The penalty may be imposed only if the district or the attorney with whom the district has contracted notifies the property owner of the penalty and the amount of the penalty at least 30 but not more than 60 days before the date the penalty is incurred. A district that imposes the additional penalty under this subsection may not collect both the additional penalty and the attorney's fees provided by Subsection (l).

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1070, Sec. 16, eff. Sept. 1, 1997;

Acts 1999, 76th Leg., ch. 1481, Sec. 35, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 11.164, eff. September 1, 2005.

Sec. 49.232. LABORATORY AND ENVIRONMENTAL SERVICES. A district may contract with any person, within or without the boundaries of the district, to provide or receive laboratory or environmental services



related to environmental, health, or drinking water testing.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1070, Sec. 17, eff. Sept. 1, 1997.

Sec. 49.233. ELECTRIC GENERATION, TRANSMISSION, AND DISTRIBUTION FOR CERTAIN DISTRICTS. (a) A district that owns or operates raw water pipelines that convey surface water, groundwater, or both surface water and groundwater, through more than 10 counties for municipal and industrial purposes may:

(1) develop, generate, transmit, or distribute water power and electric energy inside the district's boundaries for its own use;

(2) purchase electric energy from any available source for use at a facility the district owns, operates, and maintains inside the district's boundaries;

(3) enter into an agreement to acquire, install, construct, finance, operate, make an addition to, own, or operate an electric energy generating, transmission, or distribution facility jointly with another person; or

(4) sell or otherwise dispose of any of the district's interest in a jointly owned facility described by Subdivision (3).

(b) A district governed by this section:

(1) is subject to the transmission line certification provisions of Chapter 37, Utilities Code;

(2) may not generate electricity by means of hydroelectric generation.

Added by Acts 1999, 76th Leg., ch. 405, Sec. 58, eff. Jan. 1, 2002.

Sec. 49.234. PROHIBITION OF CERTAIN PRIVATE ON-SITE FACILITIES.

(a) A district or water supply corporation that operates a wastewater collection system to serve land within its boundaries by rule may prohibit the installation of private on-site wastewater holding or treatment facilities on land within the district that is not served by the district's or corporation's wastewater collection system. A district

or corporation that has not received funding under Subchapter K, Chapter 17, may not require a property owner who has installed an on-site wastewater holding or treatment facility before the adoption of the rule to connect to the district's or corporation's wastewater collection system.

(b) A district or water supply corporation that prohibits an installation described by Subsection (a) shall agree to pay the owner of a particular tract the costs of connecting the tract to the district's or corporation's wastewater collection system if the distance along a public right-of-way or utility easement from the nearest point of the district's or corporation's wastewater collection system to the boundary line of the tract requiring wastewater collection services is 300 feet or more, subject to commission rules regarding reimbursement of those costs.

Added by Acts 2001, 77th Leg., ch. 1423, Sec. 15, eff. June 17, 2001.  
Amended by Acts 2003, 78th Leg., ch. 248, Sec. 17, eff. June 18, 2003.

Sec. 49.235. DISTRICT ACT OR PROCEEDING PRESUMED VALID. (a) A governmental act or proceeding of a district is conclusively presumed, as of the date it occurred, valid and to have occurred in accordance with all applicable statutes and rules if:

(1) the third anniversary of the effective date of the act or proceeding has expired; and

(2) a lawsuit to annul or invalidate the act or proceeding has not been filed on or before that third anniversary.

(b) This section does not apply to:

(1) an act or proceeding that was void at the time it occurred;

(2) an act or proceeding that, under a statute of this state or the United States, was a misdemeanor or felony at the time the act or proceeding occurred;

(3) a rule that, at the time it was passed, was preempted by a statute of this state or the United States, including Section 1.06 or 109.57, Alcoholic Beverage Code; or

(4) a matter that on the effective date of this section:

(A) is involved in litigation if the litigation ultimately

results in the matter being held invalid by a final judgment of a court;  
or

(B) has been held invalid by a final judgment of a court.

Added by Acts 2001, 77th Leg., ch. 389, Sec. 2, eff. May 28, 2001.

Renumbered from Water Code Sec. 49.234 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(148), eff. Sept. 1, 2003.

The following section was amended by the 86th Legislature. Pending publication of the current statutes, see S.B. 2, 86th Legislature, Regular Session, for amendments affecting the following section.

Text of section as added by Acts 2003, 78th Leg., ch. 248, Sec. 18

Sec. 49.236. NOTICE OF TAX HEARING. (a) Before the board adopts an ad valorem tax rate for the district for debt service, operation and maintenance purposes, or contract purposes, the board shall give notice of each meeting of the board at which the adoption of a tax rate will be considered. The notice must:

(1) contain a statement in substantially the following form:

"NOTICE OF PUBLIC HEARING ON TAX RATE

"The (name of the district) will hold a public hearing on a proposed tax rate for the tax year (year of tax levy) on (date and time) at (meeting place). Your individual taxes may increase or decrease, depending on the change in the taxable value of your property in relation to the change in taxable value of all other property and the tax rate that is adopted."; and

(2) contain the following information:

(A) the district's total adopted tax rate for the preceding year and the proposed tax rate, expressed as an amount per \$100;

(B) the difference, expressed as an amount per \$100 and as a percent increase or decrease, as applicable, in the proposed tax rate compared to the adopted tax rate for the preceding year;

(C) the average appraised value of a residence homestead

in the district in the preceding year and in the current year; the district's total homestead exemption, other than an exemption available only to disabled persons or persons 65 years of age or older, applicable to that appraised value in each of those years; and the average taxable value of a residence homestead in the district in each of those years, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older;

(D) the amount of tax that would have been imposed by the district in the preceding year on a residence homestead appraised at the average appraised value of a residence homestead in that year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older;

(E) the amount of tax that would be imposed by the district in the current year on a residence homestead appraised at the average appraised value of a residence homestead in that year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older, if the proposed tax rate is adopted; and

(F) the difference between the amounts of tax calculated under Paragraphs (D) and (E), expressed in dollars and cents and described as the annual increase or decrease, as applicable, in the tax to be imposed by the district on the average residence homestead in the district in the current year if the proposed tax rate is adopted.

(b) Notice of the hearing shall be:

(1) published at least once in a newspaper having general circulation in the district at least seven days before the date of the hearing; or

(2) mailed to each owner of taxable property in the district, at the address for notice shown on the most recently certified tax roll of the district, at least 10 days before the date of the hearing.

Added by Acts 2003, 78th Leg., ch. 248, Sec. 18, eff. June 18, 2003.

The following section was amended by the 86th Legislature. Pending publication of the current statutes, see S.B. 2, 86th Legislature,

Regular Session, for amendments affecting the following section.

Text of section as added by Acts 2003, 78th Leg., ch. 335, Sec. 1

Sec. 49.236. NOTICE OF TAX HEARING. (a) Before the board adopts an ad valorem tax rate for the district for debt service, operation and maintenance purposes, or contract purposes, the board shall give notice of each meeting of the board at which the adoption of a tax rate will be considered. The notice must:

- (1) contain a statement in substantially the following form:

"NOTICE OF PUBLIC HEARING ON TAX RATE

"The (name of the district) will hold a public hearing on a proposed tax rate for the tax year (year of tax levy) on (date and time) at (meeting place). Your individual taxes may increase or decrease, depending on the change in the taxable value of your property in relation to the change in taxable value of all other property and the tax rate that is adopted.

"(Names of all board members and, if a vote was taken, an indication of how each voted on the proposed tax rate and an indication of any absences.)";

- (2) contain the following information:

- (A) the district's total adopted tax rate for the preceding year and the proposed tax rate, expressed as an amount per \$100;

- (B) the difference, expressed as an amount per \$100 and as a percent increase or decrease, as applicable, in the proposed tax rate compared to the adopted tax rate for the preceding year;

- (C) the average appraised value of a residence homestead in the district in the preceding year and in the current year; the district's total homestead exemption, other than an exemption available only to disabled persons or persons 65 years of age or older, applicable to that appraised value in each of those years; and the average taxable value of a residence homestead in the district in each of those years, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older;

(D) the amount of tax that would have been imposed by the district in the preceding year on a residence homestead appraised at the average appraised value of a residence homestead in that year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older;

(E) the amount of tax that would be imposed by the district in the current year on a residence homestead appraised at the average appraised value of a residence homestead in that year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older, if the proposed tax rate is adopted; and

(F) the difference between the amounts of tax calculated under Paragraphs (D) and (E), expressed in dollars and cents and described as the annual percentage increase or decrease, as applicable, in the tax to be imposed by the district on the average residence homestead in the district in the current year if the proposed tax rate is adopted; and

(3) contain a statement in substantially the following form:

"NOTICE OF TAXPAYERS' RIGHT TO ROLLBACK ELECTION

"If taxes on the average residence homestead increase by more than eight percent, the qualified voters of the district by petition may require that an election be held to determine whether to reduce the operation and maintenance tax rate to the rollback tax rate under Section [49.236\(d\)](#), Water Code."

(b) Notice of the hearing shall be:

(1) published at least once in a newspaper having general circulation in the district at least seven days before the date of the hearing; or

(2) mailed to each owner of taxable property in the district, at the address for notice shown on the most recently certified tax roll of the district, at least 10 days before the date of the hearing.

(c) The notice provided under this section may not be smaller than one-quarter page of a standard-size or tabloid-size newspaper of general circulation, and the headline on the notice must be in 18-point or larger type.

(d) If the governing body of a district adopts a combined debt service, operation and maintenance, and contract tax rate that would impose more than 1.08 times the amount of tax imposed by the district in the preceding year on a residence homestead appraised at the average appraised value of a residence homestead in the district in that year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older, the qualified voters of the district by petition may require that an election be held to determine whether or not to reduce the tax rate adopted for the current year to the rollback tax rate in accordance with the procedures provided by Sections 26.07(b)-(g) and 26.081, Tax Code. For purposes of Sections 26.07(b)-(g) and this subsection, the rollback tax rate is the current year's debt service and contract tax rates plus the operation and maintenance tax rate that would impose 1.08 times the amount of the operation and maintenance tax imposed by the district in the preceding year on a residence homestead appraised at the average appraised value of a residence homestead in the district in that year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older.

Added by Acts 2003, 78th Leg., ch. 335, Sec. 1, eff. Sept. 1, 2003.

The following section was amended by the 86th Legislature. Pending publication of the current statutes, see S.B. 2, 86th Legislature, Regular Session, for amendments affecting the following section.

Sec. 49.2361. ADDITIONAL NOTICE FOR CERTAIN TAX INCREASES. If a district proposes to adopt a combined tax rate that would authorize the qualified voters of the district by petition to require a rollback election to be held in the district, the notice required by Section 49.236 must include a description of the purpose of the proposed tax increase.

Added by Acts 2015, 84th Leg., R.S., Ch. 481 (S.B. 1760), Sec. 12, eff. January 1, 2016.

Sec. 49.237. DISTRICT CONSENT REQUIREMENT. (a) This section

applies only to a district that:

- (1) provides potable water or sewer service;
- (2) contracts for or employs peace officers;
- (3) maintains a fire department;
- (4) has within its boundaries:

(A) a private airport with a runway exceeding 5,900 feet in length; and

(B) a hotel; and

- (5) is located in two counties.

(b) The area within a district described by Subsection (a) may not be included without the consent of the district in the boundaries of a municipality that provides law enforcement or fire protection services.

Added by Acts 2005, 79th Leg., Ch. 1356 (S.B. 1498), Sec. 1, eff. June 18, 2005.

Sec. 49.238. IRRIGATION SYSTEMS. (a) A district may adopt and enforce rules that require an installer of an irrigation system:

(1) to hold a license issued under Section 1903.251, Occupations Code; and

(2) to obtain a permit before installing a system within the boundaries of the district.

(b) If a district adopts rules under Subsection (a), the rules shall include minimum standards and specifications for designing, installing, and operating irrigation systems in accordance with Section 1903.053, Occupations Code, and any rules adopted by the Texas Commission on Environmental Quality under that section.

(c) A district may employ or contract with a licensed plumbing inspector, a licensed irrigation inspector, the district's operator, or another governmental entity to enforce the rules.

(d) A district may charge an installer of an irrigation system a fee for obtaining or renewing a permit under Subsection (a)(2). The district shall set the fee in an amount sufficient to enable the district to recover the cost of administering this section.

(e) This section does not apply to:



- (1) an on-site sewage disposal system, as defined by Section 366.002, Health and Safety Code; or
- (2) an irrigation system:
  - (A) used on or by an agricultural operation as defined by Section 251.002, Agriculture Code; or
  - (B) connected to a groundwater well used by the property owner for domestic use.

Added by Acts 2007, 80th Leg., R.S., Ch. 874 (H.B. 1656), Sec. 2, eff. June 15, 2007.

#### SUBCHAPTER I. CONSTRUCTION, EQUIPMENT, MATERIALS, AND MACHINERY CONTRACTS

Sec. 49.271. CONTRACTS FOR CONSTRUCTION WORK. (a) Any contract made by the board for construction work shall conform to the provisions of this chapter.

(b) The contract shall contain, incorporate by reference, or have attached to it the specifications, plans, and details for work included in the contract. All work shall be done in accordance with these plans and specifications and any authorized change orders under the supervision of the board or its designee.

(c) The district may adopt minimum criteria for the qualifications of bidders on its construction contracts and for sureties issuing payment and performance bonds. For construction contracts over \$50,000, the district shall require a person who bids to submit a certified or cashier's check on a responsible bank in the state equal to at least two percent of the total amount of the bid, or a bid bond of at least two percent of the total amount of the bid issued by a surety legally authorized to do business in this state, as a good faith deposit to ensure execution of the contract. Notwithstanding any criteria adopted under this subsection, for a contract for more than \$250,000, the district must accept a bid bond in the amount required by the district as a bid deposit if the bid bond meets the other requirements of this subsection. If the successful bidder fails or refuses to enter into a proper contract with the district, or fails or refuses to furnish the payment and performance bonds required by law, the bidder forfeits the

deposit. The payment, performance, and bid bonding requirements of this subsection do not apply to a contract for the purchase of equipment, materials, or machinery not otherwise incorporated into a construction project.

(d) The district may also require attendance by a principal of each prospective bidder at mandatory pre-bid conferences and may make any reasonable additional requirements regarding the taking of bids the district may deem appropriate in order to obtain competitive bids from responsible contractors and to minimize contract disputes.

(e) A district contract for construction work may include economic incentives for early completion of the work or economic disincentives for late completion of the work.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 2001, 77th Leg., ch. 1423, Sec. 16, eff. June 17, 2001;

Acts 2003, 78th Leg., ch. 248, Sec. 19, eff. June 18, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 33 (S.B. 657), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 452 (H.B. 576), Sec. 1, eff. June 16, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 24.006, eff. September 1, 2009.

Sec. 49.272. REPORTS FURNISHED TO PROSPECTIVE BIDDERS. The board shall furnish to any person who desires to bid on construction work, and who makes a request in writing, a copy of the engineer's report or plans and specifications showing the details of the work to be done. The board may charge for each copy of the engineer's report or plans and specifications an amount sufficient to cover the cost of making the copy.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.273. CONTRACT AWARD. (a) The board shall contract for construction and repair and renovation of district facilities and for the

purchase of equipment, materials, machinery, and all things that constitute or will constitute the plant, works, facilities, or improvements of the district in accordance with this section. The bidding documents, plans, specifications, and other data needed to bid on the project must be available at the time of the first advertisement and the advertisement shall state the location at which these documents may be reviewed.

(b) A contract may cover all the work to be provided for the district or the various elements of the work may be segregated for the purpose of receiving bids and awarding contracts. A contract may provide that the work will be completed in stages over a period of years.

(c) A contract may provide for the payment of a total sum that is the completed cost of the work or may be based on bids to cover cost of units of the various elements entering into the work as estimated and approximately specified by the district's engineers, or a contract may be let and awarded in any other form or composite of forms and to any responsible person or persons that, in the board's judgment, will be most advantageous to the district and result in the best and most economical completion of the district's proposed plants, improvements, facilities, works, equipment, and appliances.

(d) For contracts over \$75,000, the board shall advertise the letting of the contract, including the general conditions, time, and place of opening of sealed bids. The notice must be published in one or more newspapers circulated in each county in which the district is located. If there are more than four counties in the district, notice may be published in any newspaper with general circulation in the district. The notice must be published once a week for two consecutive weeks before the date that the bids are opened, and the first publication must be not later than the 14th day before the date of the opening of the sealed bids.

(e) For contracts over \$25,000 but not more than \$75,000, the board shall solicit written competitive bids on uniform written specifications from at least three bidders.

(f) For contracts of not more than \$25,000, the board is not required to advertise or seek competitive bids.

(g) The board may not subdivide work to avoid the advertising requirements specified in this section.

(h) The board may not accept bids that include substituted items unless the substituted items were included in the original bid proposal and all bidders had the opportunity to bid on the substituted items or unless notice is given to all bidders at a mandatory pre-bid conference.

(i) If changes in plans, specifications, or scope of work are necessary or beneficial to the district, as determined by the board, after the performance of the contract is begun, or if it is necessary or beneficial to the district, as determined by the board, to decrease or increase the quantity of the work to be performed or of the materials, equipment, or supplies to be furnished, the board may approve change orders making the changes. The board may grant authority to an official or employee responsible for purchasing or for administering a contract to approve a change order that involves an increase or decrease of \$50,000 or less. The aggregate of the change orders that increase the original contract price by more than 25 percent may be issued only as a result of unanticipated conditions encountered during construction, repair, or renovation or changes in regulatory criteria or to facilitate project coordination with other political entities. A change order is not subject to the requirements of Subsection (d) or (e).

(j) The board is not required to advertise or seek competitive bids for the repair of district facilities if the scope or extent of the repair work cannot be readily ascertained or if the nature of the repair work does not readily lend itself to competitive bidding.

(k) The board may use the reverse auction procedure, as defined by Section [2155.062\(d\)](#), Government Code, for purchasing.

(l) The board is not required to advertise or seek competitive bids for security or surveillance systems or components of or additions to district facilities relating to security or surveillance, including systems used for the prevention of terrorist or criminal acts and incidents or acts of war, if the board finds that doing so would compromise the safety and security of district facilities or residents.

(m) In accordance with this section, the board of a district created by special law may elect to contract for the construction and

repair and renovation of district facilities and for the purchase of equipment, materials, machinery, and all things that constitute or will constitute the plant, works, facilities, or improvements of the district, notwithstanding a conflicting provision in the district's special law. For such a district, an election under this subsection must be by resolution of the board and applies only to a contract entered into on or after the effective date of the resolution.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1070, Sec. 19, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 436, Sec. 9, eff. May 28, 2001; Acts 2001, 77th Leg., ch. 1423, Sec. 17, eff. June 17, 2001; Acts 2003, 78th Leg., ch. 248, Sec. 20, eff. June 18, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 33 (S.B. 657), Sec. 2, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 479 (H.B. 679), Sec. 6, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 19, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 694 (H.B. 2704), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1127 (H.B. 1050), Sec. 8, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 965 (S.B. 2014), Sec. 2, eff. September 1, 2017.

Sec. 49.2731. PROCEDURES FOR ELECTRONIC BIDS. (a) A district may receive bids under Section 49.273 through electronic transmission if the board of the district adopts rules to ensure the identification, security, and confidentiality of electronic bids and to ensure that the electronic bids remain effectively unopened until the proper time.

(b) Notwithstanding any other provision of this chapter, an electronic bid or proposal is required to be sealed. A provision of this chapter that applies to a sealed bid applies to a bid received through

electronic transmission in accordance with the rules adopted under Subsection (a).

Added by Acts 2013, 83rd Leg., R.S., Ch. 694 (H.B. 2704), Sec. 2, eff. June 14, 2013.

Sec. 49.274. EMERGENCY APPROVAL OF DISTRICT PROJECTS. If a district experiences an emergency condition that may create a serious health hazard or unreasonable economic loss to the district that requires immediate corrective action, the district may negotiate limited duration contracts to make the necessary repairs. The district shall submit to the executive director details describing the specific serious health hazard or unreasonable economic loss as soon as practicable following the issuance of the contracts. Whenever possible, the district should obtain prior approval of the executive director before authorizing the contract, but failure to obtain prior approval shall not void the contract. This section does not apply to special water authorities.

added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.275. CONTRACTOR'S BOND. Any person, firm, partnership, or corporation to whom a contract is let must give good and sufficient performance and payment bonds in accordance with Chapter 2253, Government Code, and any minimum criteria for sureties issuing such bonds adopted by a district in accordance with Section 49.271.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.276. PAYMENT FOR CONSTRUCTION WORK. (a) The district shall pay the contract price of construction contracts only as provided in this section.

(b) The district will make progress payments under construction contracts monthly as the work proceeds, or at more frequent intervals as determined by the board or its designee, on estimates approved by the board or its designee.

(c) If requested by the district or district engineer, the

contractor shall furnish a breakdown of the total contract price showing the amount included for each principal category of the work, in such detail as requested, to provide a basis for determining progress payments. In the preparation of estimates, the district engineer may authorize material delivered on the site and preparatory work done to be considered if the consideration is specifically authorized by the contract and if the contractor furnishes satisfactory evidence that he has acquired title to the material and that it will be utilized on the work covered by the contract.

(d) In making progress payments, 10 percent of the estimated amount shall be retained until final completion and acceptance of the contract work. However, if the board at any time after 50 percent of the work has been completed finds that satisfactory progress is being made, it may authorize any of the remaining progress payments to be made in full. Also, if the work is substantially complete, the board, if it finds the amount retained to be in excess of the amount adequate for the protection of the district, at its discretion may release to the contractor all or a portion of the excess amount. The district is not obligated to pay interest on amounts retained except as provided herein. The district shall not be obligated to pay any interest on the 10 percent retainage held on the first 50 percent of work completed. If the district holds any retainage on the remaining 50 percent of the work completed, the district shall pay interest on such retainage from the date the retainage is withheld to the date of payment to the contractor. The interest rate to be paid on such retainage shall be the rate of interest paid by the district's depository bank on interest bearing accounts of similar amounts during the period of time interest accrues as provided herein.

(e) On completion and acceptance of each separate project, public work, or other division of the contract, on which the price is stated separately in the contract, payment may be made without retention of a percentage.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.277. INSPECTION OF AND REPORTS ON CONSTRUCTION WORK. (a)

The board shall have control of construction work being done for the district under contract to determine whether or not the contract is being fulfilled and shall have the construction work inspected by the district engineer or other designated person.

(b) During the progress of the construction work, the district engineer or other designated person shall submit to the board detailed written reports showing whether or not the contractor is complying with the contract, and when the work is completed the district engineer shall submit to the board a final detailed report including as-built plans of the facilities showing whether or not the contractor has fully complied with the contract.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.278. NONAPPLICABILITY.

(a) This subchapter does not apply to:

- (1) equipment, materials, or machinery purchased by the district at an auction that is open to the public;
- (2) contracts for personal or professional services or for a utility service operator;
- (3) contracts made by a district engaged in the distribution and sale of electric energy to the public;
- (4) contracts for services or property for which there is only one source or for which it is otherwise impracticable to obtain competition;
- (5) high technology procurements;
- (6) contracts for the purchase of electricity for use by the district; or
- (7) contracts for services related to compliance with a state or federal construction storm water requirement, including acquisition of permits, construction, repair, and removal of temporary erosion control devices, cleaning of silt and debris from streets and storm sewers, monitoring of construction sites, and preparation and filing of all required reports.

(b) Sections [252.021](#)(a) and [252.042](#), Local Government Code, apply



to high technology procurements.

Added by Acts 1997, 75th Leg., ch. 1070, Sec. 20, eff. Sept. 1, 1997.  
Amended by Acts 2001, 77th Leg., ch. 1423, Sec. 18, eff. June 17, 2001;  
Acts 2003, 78th Leg. ch. 248, Sec. 21, eff. June 18, 2003; Acts 2003,  
78th Leg., ch. 1129, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 22.004, eff.  
September 1, 2005.

Sec. 49.279. PREVAILING WAGE RATES. In addition to the alternative procedures provided by Section 2258.022, Government Code:

(1) a district located wholly or partially within one or more municipalities or within the extraterritorial jurisdiction of one or more municipalities may determine its prevailing wage rate for public works by adopting the prevailing wage rate of:

(A) one of the municipalities; or

(B) the county in which the district is located or, if the county in which the district is located has not adopted a wage rate, the prevailing wage rate of a county adjacent to the county in which the district is located; and

(2) a district not located wholly or partially within the extraterritorial jurisdiction of a municipality may determine the district's prevailing wage rate by adopting the prevailing wage rate of the county in which the district is located or, if the county in which the district is located has not adopted a wage rate, the wage rate of a county adjacent to the county in which the district is located.

Added by Acts 2001, 77th Leg., ch. 1423, Sec. 19, eff. June 17, 2001.

#### SUBCHAPTER J. ANNEXATION OR EXCLUSION OF LAND

Sec. 49.301. ADDING LAND BY PETITION OF LANDOWNER. (a) In addition to any other provision provided by law, the owner or owners of land whether or not contiguous to the district or otherwise may file with the board a petition requesting that there be included in the district

the land described in the petition by metes and bounds or by lot and block number if there is a recorded plat of the area to be included in the district. The petition may request the district to condition the annexation on certain conditions, including the voter authorization of bonds to serve the area to be annexed.

(b) If the district has bonds, notes, or other obligations outstanding or bonds payable in whole or in part from taxes that have been voted but are unissued, the board shall require the petitioner or petitioners to assume their share of the outstanding bonds, notes, or other obligations and the voted but unissued tax bonds of the district and authorize the board to levy a tax on their property in each year while any of the bonds, notes, or other obligations payable in whole or in part from taxation are outstanding to pay their share of the indebtedness.

(c) The petition of the landowner to add land to the district shall be signed and executed in the manner provided by law for the conveyance of real estate.

(d) The board shall hear and consider the petition and may add to the district the land described in the petition if it is feasible, practicable, and to the advantage of the district and if the district's system and other improvements of the district are sufficient or will be sufficient to supply the added land without injuring land already in the district.

(e) If the district has bonds payable in whole or in part from taxation that are voted but unissued at the time of an annexation and the petitioners assume the bonds and authorize the district to levy a tax on their property to pay the bonds, then the board may issue the voted but unissued bonds even though the boundaries of the district have been altered since the authorization of the bonds.

(f) Granted petitions shall be filed for record and shall be recorded in the office of the county clerk of the county or counties in which the added land is located.

(g) An order issued by the board under this section is not required to include all of the land described in the petition if the board determines that a change in the description is necessary or desirable.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.  
Amended by Acts 1997, 75th Leg., ch. 1070, Sec. 21, eff. Sept. 1, 1997.

Sec. 49.302. ADDING LAND BY PETITION OF LESS THAN ALL THE LANDOWNERS. (a) In addition to the method of adding land to a district described in Section 49.301, defined areas of land, whether or not they are contiguous to the district, may be annexed to the district in the manner set forth in this section.

(b) A petition requesting the annexation of a defined area signed by a majority in value of the owners of land in the defined area, as shown by the tax rolls of the central appraisal district of the county or counties in which such area is located, shall describe the land by metes and bounds or by lot and block number if there is a recorded plat of the area and shall be filed with the secretary of the board.

(c) It shall be the duty of the board to pass an order fixing a time and place at which the petition for annexation shall be heard that shall not be less than 30 days from the day of the order calling the hearing.

(d) The secretary of the board shall issue a notice setting forth the time and place of the hearing and describing the area proposed to be annexed. Notice of the hearing shall be given by posting copies of the notice in three public places in the district and in one public place in the area proposed to be annexed for at least 14 days before the day of the hearing and by publishing a copy of the notice in a newspaper of general circulation in the county or counties in which the area proposed to be annexed is located one time at least 14 days before the day of the hearing.

(e) If upon the hearing of the petition it is found by the board that the proposed annexation of the area to the district is feasible, practicable, and to the advantage of the district and if the district's system and other improvements of the district are sufficient or will be sufficient to supply the added land without injuring land already in the district, then the board, by order entered in its minutes, may receive the proposed area as an addition to and to become a part of the district. The order adding the proposed territory to the district need not include

all of the land described in the petition if at the hearing a modification or change is found necessary or desirable by the board.

(f) A copy of the order annexing land to the district, attested by the secretary of the board, shall be filed and recorded in the deed records of the county or counties in which the district is located if the land is finally annexed to the district.

(g) After the order is recorded the area shall be a component part of the district.

(h) The annexed area shall bear its pro rata share of all bonds, notes, or other obligations or taxes that may be owed, contracted, or authorized by the district to which it has been added.

(i) Before the added area shall be subject to all or any part of the bonds, notes, obligations, or taxes created before the annexation of the area to the district, the board shall order an election to be held in the district, as enlarged by reason of the annexation of the area, on the question of the assumption of the bonds, notes, obligations, and taxes by the annexed area.

(j) At the same election, the board may also submit a proposition on the question of whether the annexed area should assume its part of the bonds of the district payable in whole or in part from taxes that have been voted previously but not yet issued or sold and the levy of an ad valorem tax on all taxable property within the area annexed along with a tax on the rest of the district for the payment of the bonds.

(k) If the election results favorably, the district shall be authorized to issue its voted but unissued tax bonds even though the boundaries of the district have been changed since the original election approving the bonds.

(l) At the election called for the purpose of determining whether the annexed area shall assume the bonds, notes, or other obligations or taxes of the district, the board in a separate proposition may also submit the question of whether the board should be authorized to issue bonds payable in whole or in part from taxes to provide service to the area annexed.

(m) In the event that the district has bonds, notes, or obligations or taxes that may be owed, contracted, or authorized at the time an area

is annexed or if the district has voted but unissued bonds payable in whole or in part from taxes at the time of an annexation, the board may provide in its order annexing an area to the district that the annexation will not be complete or final unless the indebtedness, tax or bond, note, or other obligation assumption election results favorably to the assumption of the district's outstanding bonds, notes, or other obligations and voted but unissued bonds.

(n) If the board elects to submit the question of whether the board should be authorized to issue bonds to provide service to the area annexed, the board may also provide in its order annexing an area to the district that the annexation will not be complete unless the election results favorably to the issuance of bonds to serve the annexed area.

(o) Whenever an election is ordered to be held in the district for the purpose of the assumption of bonds, notes, or other obligations or taxes or the assumption of voted but unissued bonds by reason of the annexation of any area, then the election shall be held and notice given as provided for bond elections held by the district.

(p) The district has the same right and duty to furnish service to the annexed land that it previously had to furnish service to other land in the district, and the board shall endeavor to serve all land in the district without discrimination.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1070, Sec. 22, eff. Sept. 1, 1997;  
Acts 2001, 77th Leg., ch. 1423, Sec. 20, eff. June 17, 2001.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 761 (S.B. 1987), Sec. 4, eff. June 12, 2017.

Acts 2017, 85th Leg., R.S., Ch. 965 (S.B. 2014), Sec. 3, eff. September 1, 2017.

Sec. 49.303. EXCLUDING LAND OR OTHER PROPERTY FROM DISTRICT. (a) A district may exclude land or other property from the district under this subchapter if the district has no outstanding bonds payable in whole or in part from taxes.

(b) If a district has no outstanding bonds payable in whole or in part from taxes, the board may, on its own motion, call a hearing on the question of the exclusion of land or other property from the district under the provisions of this subchapter, if the exclusions are practicable, just, or desirable.

(c) If a district has no outstanding bonds payable in whole or in part from taxes, the board may hold a hearing on the exclusion of land or other property from the district if a landowner or property owner submits a signed petition to the secretary of the board evidencing the consent of the owners of a majority of the acreage proposed to be excluded and a majority of the taxable property in the district, as reflected by the most recent certified tax roll of the district.

(d) A district that has previously held an election at which approval was given for the issuance of bonds payable in whole or in part from taxes may not rely on that election for the issuance of the bonds if after the bond election, but before the bonds are issued, land or other property is excluded from the district as provided by this subchapter. The board must call and hold another bond election and receive voter approval before issuing those bonds.

(e) A district may not exclude land or other property from the district under this section if the district has issued bonds payable in whole or in part from taxes and those bonds are outstanding.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 2003, 78th Leg., ch. 248, Sec. 22, eff. June 18, 2003.

Sec. 49.304. HEARING TO ANNOUNCE PROPOSED EXCLUSIONS AND TO RECEIVE PETITIONS. (a) If the board determines that an exclusion hearing should be held as provided by Section 49.303, the board shall give notice of the time and place of a hearing to announce its own conclusions relating to land or other property to be excluded and to receive petitions for exclusion of land or other property.

(b) The board shall publish notice of the hearing once a week for two consecutive weeks in one or more newspapers with general circulation in the district. The first publication shall appear at least 14 days

before the day of the hearing.

(c) The notice shall advise all interested property owners of their right to present petitions for exclusions of land or other property and to offer evidence in support of the petitions and their right to contest any proposed exclusion based on either a petition or the board's own conclusions and to offer evidence in support of the contest.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 2001, 77th Leg., ch. 1423, Sec. 21, eff. June 17, 2001;  
Acts 2003, 78th Leg., ch. 248, Sec. 23, eff. June 18, 2003.

Sec. 49.305. PETITION. (a) A petition for exclusion of land must accurately describe by metes and bounds or lot and block number the land to be excluded. A petition for exclusion of other property must describe the property to be excluded.

(b) A petition for exclusion shall be filed with the district at least seven days before the hearing and shall state clearly the particular grounds on which the exclusion is sought. Only the stated grounds shall be considered.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.306. GROUNDS FOR EXCLUSION. Exclusions from the district may be made on the grounds that:

(1) to retain certain land or other property within the district's taxing power would be arbitrary and unnecessary to conserve the public welfare, would impair or destroy the value of the property desired to be excluded, and would constitute the arbitrary imposition of a confiscatory burden;

(2) to retain any given land or other property in the district and to extend to it, either presently or in the future, the benefits, service, or protection of the district's facilities would create an undue and uneconomical burden on the remainder of the district; or

(3) the land desired to be excluded cannot be bettered as to conditions of living and health, provided with water or sewer service,

protected from flood, drained, freed from interruption of traffic caused by excess of water on the roads, highways, or other means of transportation serving the land, or otherwise benefited by the district's proposed improvements.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.307. HEARING AND ORDER EXCLUDING LAND. (a) The board may adjourn the hearing from one day to another and until all persons desiring to be heard are heard. The board immediately shall specifically describe all property it proposes to exclude on its own motion and shall hear first any protests and evidence against exclusions proposed on the board's own motion.

(b) After considering all engineering data and other evidence presented to it, the board shall determine whether the facts disclose the affirmative of the propositions stated in Subdivision (1) or (2) or, if appropriate, in Subdivision (3) of Section 49.306. If the affirmative exists, the board shall enter an order excluding all land or other property falling within the conditions defined by the respective subdivisions and shall redefine in the order the boundaries of the district to embrace all land not excluded. A copy of the order excluding land and redefining the boundaries of the district shall be filed in the deed records of the county or counties in which the district is situated.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.3075. EXCLUSION FOR FAILURE TO PROVIDE SUFFICIENT SERVICES; NO OUTSTANDING BONDS. (a) The board shall call a hearing on the exclusion of land from a district on a written petition filed with the secretary of the board by a landowner whose land has been included in and taxable by the district for more than 20 years if any bonds issued by the district payable in whole or in part from taxes of the district are no longer outstanding and the petition:

(1) includes a signed petition evidencing the consent of the owners of a majority of the acreage proposed to be excluded, as reflected



by the most recent certified tax roll of the district;

(2) includes a claim that the district has not met the landowner's proposals and requests for facilities and services sufficient to service the land at full development; and

(3) describes the property to be excluded.

(b) The board shall hold the hearing at the earliest practicable time after receipt of the petition.

(c) Unless the district presents evidence at the hearing that conclusively demonstrates that the requirements and grounds for exclusion described by Subsection (a) have not been met, the board shall enter an order excluding the land from the district and shall redefine in the order the boundaries of the district to embrace all land not excluded.

(d) A copy of an order excluding land and redefining the boundaries of the district shall be filed in the deed records of each county in which the district is located.

(e) This section does not apply to irrigation districts governed by Chapter 58.

Added by Acts 2003, 78th Leg., ch. 853, Sec. 1, eff. June 20, 2003.

Sec. 49.3076. EXCLUSION FOR FAILURE TO PROVIDE SUFFICIENT SERVICES; BONDS OUTSTANDING.

(a) The board of a district that has a total area of more than 10,000 acres shall call a hearing on the exclusion of land from the district on or before the 60th day after receiving a written petition filed with the secretary of the board by one or more owners of land more than half the acreage of which has been for more than 20 years included in and taxable by the district if any bonds issued by the district payable in whole or in part from taxes of the district are outstanding and the petition:

(1) is signed by the owners of a majority of the acreage proposed to be excluded, as reflected by the most recent certified tax roll of the district;

(2) includes a claim that the district does not provide the land with retail utility services;

(3) describes the property to be excluded; and

(4) provides facts necessary for the board to make the findings required by Subsection (b).

(a-1) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1392, Sec. 5, eff. September 1, 2013.

(b) The board of a district shall exclude land under this section if:

(1) the district does not provide retail utility service to the land described by the petition;

(2) the district has imposed a tax on more than half the acreage of the land for at least 20 years; and

(3) all taxes the district has levied and assessed against the land and all fees and assessments the district has imposed against the land or the owner that are due and payable on or before the date of the petition are fully paid.

(c) Subject to Subsection (c-1), unless the district presents evidence at the hearing that conclusively demonstrates that the requirements and grounds for exclusion described by Subsection (a) have not been met, the board shall enter an order excluding the land from the district and shall redefine in the order the boundaries of the district to embrace all land not excluded.

(c-1) If on or before the date of the exclusion hearing required by Subsection (a) the district and the owner or owners enter into an agreement for utility service to the land proposed to be excluded, the district is not required to enter an order excluding the land from the district. An owner of all or part of the land is not required to enter into a utility agreement that as of the date of the petition:

(1) is not comparable economically or in the level of service provided to the land to the owner's current source of utility service, as may be determined by the owner; or

(2) does not include all utility services required to serve the land.

(d) A copy of an order excluding land and redefining the boundaries of the district shall be filed in the deed records of each county in which the district is located and with the commission.

(e) The exclusion of land under this section does not impair the rights of holders of any outstanding bonds, warrants, or other certificates of indebtedness of the district.

(f) After any land is excluded under this section, the district may issue any unissued additional debt approved by the voters of the district before exclusion of the land under this section without holding a new election. Additional debt issued after land is excluded from the district may not be payable from taxes levied against and does not create a lien against the taxable value of the excluded land.

(g) This section does not apply to irrigation districts governed by Chapter 58.

(g-1) This section does not apply to a district:

(1) whose primary activity is the wholesale supply of raw water and that has fewer than 500 retail customers; or

(2) whose jurisdiction covers four counties and that was created under Section 59, Article XVI, Texas Constitution.

(h) For purposes of this section and Section 49.3077, "land" includes any improvements to the land, and when used in the context of property taxes, "land" has the meaning assigned to "real property" by Section 1.04, Tax Code.

Added by Acts 2003, 78th Leg., ch. 853, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1041 (H.B. 1207), Sec. 1, eff. June 18, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 1392 (H.B. 1324), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1392 (H.B. 1324), Sec. 5, eff. September 1, 2013.

Sec. 49.3077. TAX LIABILITY OF EXCLUDED LAND; BONDS OUTSTANDING.

(a) In this section:

(1) "Adjusted gross value" means the gross assessed value of property, as of January 1, including land, improvements, and personal property, as determined by the appraisal district for the tax year in

which the determination is made, reduced by any state-mandated exemptions but not reduced for any exemptions from taxation that are within the discretion of the governing body of the district.

(2) "Carry costs" means interest calculated at an annual rate equal to the weighted average interest rate of the district debt that accrues on the excluded land's share of the district debt, with reductions for prior payments, from the later of the exclusion date or the last interest payment date for district debt for which district taxes have been levied and collected to the earlier of:

(A) the date of the final interest payment on district debt before the next delinquency for the district's tax collection; or

(B) the earliest dates on which an aggregate amount of district obligations equal to the district debt may be paid at maturity or redeemed at the option of the district, provided the amount is paid in advance of any future district tax levy, using the redemption dates available for the district's outstanding obligations as of the exclusion date.

(3) "District debt" means the principal outstanding from time to time of the tax-supported debt of the district outstanding on the exclusion date, including debt used to refund district debt outstanding on the exclusion date.

(4) "Excluded land" means land that is excluded from a district under Section [49.3076](#).

(5) "Excluded land payment" means, with respect to excluded land, the sum of the excluded land's share of district debt plus the carry costs, less any taxes collected by the district under Subsection (b).

(6) "Excluded land's share of district debt" means the portion of the district debt that is calculated by multiplying the district debt by a fraction the numerator of which is the adjusted gross value of the excluded land on the exclusion date and the denominator of which is the adjusted gross value of all property in the district on the exclusion date.

(7) "Exclusion date" means the date that the owner files the petition requesting that the excluded land be excluded from the district

with the district secretary.

(8) "Termination date" means the earlier of:

(A) the date on which the amount of taxes collected from the excluded land equals the excluded land payment; or

(B) the date on which the excluded land payment is made in full.

(b) Excluded land that has been pledged as security for any outstanding debt of the district remains pledged for the excluded land's share of district debt until the excluded land payment is paid. A district is entitled to continue to levy and collect debt service taxes on the excluded land until the termination date at the same rate those taxes are levied on the land remaining in the district. From the exclusion date to the termination date, the excluded land remains in the district for the limited purpose of assessment and collection of such taxes. After the termination date, the excluded land is excluded from the district for all purposes, and the district may not levy any further tax on the excluded land.

(c) The district shall apply the taxes collected on the excluded land only to payment of the excluded land payment, which shall be reduced by the amount of taxes collected.

(d) A person is entitled to pay to the district the excluded land payment, in whole or in part, at any time on or after the exclusion date by delivering payment to the district tax assessor-collector. If partial payment is made, the payment is credited first against all carry costs due and owing, and any remainder is credited against the excluded land's share of district debt. After a partial payment, carry costs must be calculated and assessed and collected only on the remaining excluded land's share of district debt.

Added by Acts 2003, 78th Leg., ch. 853, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1392 (H.B. [1324](#)), Sec. 2, eff. September 1, 2013.

Sec. 49.3078. PETITION FOR EXCLUSION: ADDITIONAL DUTIES. A

landowner who signs a petition for the exclusion of land that is filed with a district under Section 49.3076 must submit a copy of the petition to the commission. On receipt of a copy of a petition, the executive director shall review the most recent financial information for the applicable district, including current debt requirements, debt service cash flow, and proposed debt obligations, to confirm that an exclusion of land conducted in accordance with Sections 49.3076 and 49.3077 does not adversely affect the interests of district bondholders. The executive director shall notify the landowner and the district when the review is complete.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1392 (H.B. 1324), Sec. 3, eff. September 1, 2013.

Sec. 49.308. SUIT TO REVIEW EXCLUSION. (a) Any person owning an interest in land affected by the order may file a petition within 20 days after the effective date of the order to review, set aside, modify, or suspend the order.

(b) The venue in any action shall be in any district court that has jurisdiction in the county in which the district is located. If the district includes land in more than one county, the venue shall be in the district court having jurisdiction in the county in which the major portion of the acreage of the land sought to be excluded from the district is located.

(c) A person may appeal from the judgment or order of a district court in a suit brought under the provisions of this section to the court of civil appeals and supreme court as in other civil cases in which the district court has original jurisdiction. The appeal is subject to the statutes and rules of practice and procedure in civil cases.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.309. EXCLUSION OF NONIRRIGATED PROPERTY. For the purposes of this section and Sections 49.310 through 49.314, the following definitions shall apply:

(1) (A) "Nonirrigated property" means land that:

(i) is not irrigable;

(ii) the owners of a majority of the acreage of which no longer intend to irrigate; or

(iii) has been subdivided into:

(aa) town lots, or town lots and blocks, or small parcels of the same general nature as town lots; or

(bb) town blocks and lots designed, intended, or suitable for residential, commercial, or other nonagricultural purposes, as distinguished from farm acreage whether subdivided into a subdivision or not; and

(cc) including streets, alleys, parkways, parks, and railroad property and rights-of-way located in the subdivided land.

(B) The property described in Paragraph (A) shall be considered nonirrigated property regardless of whether the land is within or near a municipality and regardless of whether a plat or map of the subdivision has been duly filed for record and recorded in the office of the county clerk of the county in which the land or any part of the land is situated.

(C) The term does not include land that within the year preceding the date of the hearing under Section 49.310 was used for farming or agricultural purposes.

(2) "District" means a water control and improvement, water improvement, or irrigation district the principal purpose of which is furnishing water for the irrigation of agricultural lands or that is principally engaged in furnishing water for the irrigation of agricultural lands.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.310. AUTHORITY TO EXCLUDE LAND. (a) A petition for exclusion may be filed by the owner or owners, or their authorized agent, of a majority in acreage of nonirrigated property included within the boundaries of a district.

(b) Upon receipt of a petition for exclusion, or upon its own

motion, a district shall issue an order excluding the property if, after notice and hearing, the board finds that:

- (1) the described property is nonirrigated property;
- (2) the applicable requirements of Section 49.311 have been satisfied;
- (3) the owner or owners do not object to the exclusion of their nonirrigated property; and
- (4) it is in the best interest of the district and of the described property to exclude that property from the district.

(c) The district shall follow the notice and hearing provisions and other procedural requirements for excluding territory applicable to that district as set out in Sections 49.303 through 49.307.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.311. CONSENT FROM HOLDERS OF INDEBTEDNESS. If the district has outstanding bonded indebtedness, or indebtedness under a loan from a governmental agency, a written consent from an authorized representative of the holder or holders of the indebtedness consenting to the exclusion shall be obtained and filed with the district before the hearing.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.312. RESULTS OF EXCLUSION. (a) Except as provided by Section 49.3077, on issuance of an order excluding property, that property is no longer a part of the district and is not entitled to water service from the district.

(b) Any taxes, assessments, or other charges owed to the district at the time of exclusion remain the obligation of the owner of the excluded property and continue to be secured by statutory liens on the property, if any.

(c) Except as provided by Section 49.3077, once land is excluded, the landowner has no further liability to the district for future taxes, assessments, or other charges of the district.

(d) A copy of the order excluding the property from the district



certified and acknowledged by the secretary of the board shall be recorded by the district in the real property records of the county in which the excluded property is located as evidence of the exclusion.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1392 (H.B. 1324), Sec. 4, eff. September 1, 2013.

Sec. 49.313. DISTRICT FACILITIES ON EXCLUDED PROPERTY. If any canals, ditches, pipelines, pumps, or other facilities of the district are located on lands excluded by the resolution of the board, the exclusion does not affect or interfere with any rights that the district has to maintain and continue operation of the facilities as located for the purpose of servicing lands remaining in the district.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.314. WATER ALLOCATIONS. (a) After the district adopts an order excluding nonirrigated property, a city or other water supply corporation that serves the excluded land with a potable water supply may petition the district to apply to the commission to convert the proportionate irrigation water allocation of the land excluded as nonirrigated property, as determined by the district, from irrigation use to municipal use allocation.

(b) The district shall make such application to the commission within 30 days of the filing of a petition by the city or water supply corporation that serves the land with a potable water supply, provided the city or other water supply corporation pays the district the amount the district estimates will be its reasonable expenses and attorney's fees incurred in the commission conversion proceedings and enters into an agreement with the district setting forth the basis on which the water allocation shall be delivered, or made available, to the city or water supply corporation covering such terms as the entities may agree to, and in the event the parties cannot agree, such dispute shall not be subject

to the jurisdiction of the commission, or its successors, under this code but subject to resolution through alternative dispute resolution. In such commission proceeding, the city or water supply corporation shall provide evidence to the commission of the current or projected need within a five year period for the municipal-use water allocation after such conversion as a condition of such conversion of use of the district's water rights from irrigation use to municipal use.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.315. ADDING AND EXCLUDING LAND BEFORE CONFIRMATION. (a) A district may add or exclude land in accordance with this subchapter:

- (1) after a district is created by order of the commission or another governmental entity or by special Act of the legislature; and
- (2) before a confirmation election is held as required by Section 49.102.

(b) If land is added or excluded as provided by this section, the election to confirm the district required by Section 49.102 shall be to confirm the district as modified.

Added by Acts 2001, 77th Leg., ch. 1423, Sec. 22, eff. June 17, 2001.

#### SUBCHAPTER J-1. EXCLUSION OF URBAN PROPERTY FROM CERTAIN WATER DISTRICTS

Sec. 49.3181. DEFINITIONS. As used in this subchapter:

(1) "District" means any district or authority created under Sections 52(b)(1) and (2), Article III, or Section 59, Article XVI, Texas Constitution, the principal purpose of which is, or that is principally engaged in, supplying water for the irrigation of agricultural lands.

(2) "Urban property" means land that:

(A) has been subdivided into town lots, town lots and blocks, or small parcels of the same general nature as town lots or town lots and blocks and is designed, intended, or suitable for residential or other nonagricultural purposes, as distinguished from farm acreage, and includes streets, alleys, parkways, parks, and railroad property and rights-of-way within that subdivided land; and

(B) is in a subdivision:

- (i) that is within the corporate limits or extraterritorial jurisdiction of a municipality that has subdivision approval jurisdiction under Chapter 212, Local Government Code; and
- (ii) for which a plat or map has been filed and recorded in the office of the county clerk of the county in which the subdivision or any part of the subdivision is located.

Added by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 19.005(a), eff. September 1, 2015.

Sec. 49.3182. CONDITIONS FOR EXCLUSION OF URBAN PROPERTY. Urban property that is located in a district may be excluded from the district as provided by this subchapter only after the following have been paid to the district:

- (1) all taxes, assessments, and other charges of the district accrued on the property to be excluded, together with all interest and penalties accrued on those taxes, assessments, and charges;
- (2) the proportionate part of the outstanding bonded indebtedness or indebtedness in connection with a loan from an agency of the United States for which the property proposed to be excluded is liable, as determined under this subchapter; and
- (3) agreement on a reasonable determined amount to be paid by the municipality or other supplier of potable water to compensate the district for loss of revenue occasioned by the exclusion.

Added by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 19.005(a), eff. September 1, 2015.

Sec. 49.3183. APPLICATION FOR EXCLUSION. (a) The owner or owners of urban property in a district and subject to taxation by the district, and on which all amounts due the district under Section 49.3182(1) have been paid, may file a written and sworn application with the district to exclude that property from the district.

(b) The application must:

- (1) include a sworn acknowledgment by the owner or owners of the property;
  - (2) describe the property to be excluded by identifying the lot or block number of the subdivision and the name or designation of the subdivision as shown on the recorded plat of the subdivision, or by some other method of identification; and
  - (3) state that the property is used or intended to be used for the purposes for which it was subdivided and is not used or intended to be used, wholly or partly, for agricultural purposes.
- (c) A copy of the recorded map or plat of the subdivision must accompany the application and must clearly delineate the part of the subdivision, if less than the whole, to be excluded from the district.
- (d) The applicant must also provide the district with evidence satisfactory to, or required by, the board of the applicant's:
- (1) ownership of the property proposed to be excluded; and
  - (2) right to have the property excluded from the district.

Added by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. [1296](#)), Sec. 19.005(a), eff. September 1, 2015.

Sec. 49.3184. CONSIDERATION OF APPLICATION. (a) As soon as practicable after an application is filed, the board shall consider the application and inquire into all the facts relating to the application that the board considers necessary for determining whether a public hearing on the application should be held.

(b) After consideration and investigation, the board shall adopt an order approving further consideration of the application if the board finds that:

- (1) all amounts due the district under Section [49.3182](#)(1) up to the date of the filing of the application have been paid;
- (2) the property described in the application:
  - (A) is owned by the applicant;
  - (B) is urban property and is not used or intended to be used for agricultural purposes; and
  - (C) will require a source of treated potable water from

the municipality in which the subdivision is located; and

(3) the exclusion of the property will not cut off the district or its facilities from ready and convenient access to other land remaining in the district for irrigation or other district purposes.

(c) If the board is unable to make any one of the findings under Subsection (b), it shall adopt a resolution rejecting the application.

(d) A resolution of the board rejecting an application is final and not subject to review by any other body, tribunal, or authority.

Added by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 19.005(a), eff. September 1, 2015.

Sec. 49.3185. DETERMINATION OF PROPORTIONATE AMOUNT OF INDEBTEDNESS. (a) If the board approves further consideration of an application, the board shall determine the proportionate amount of the bonded or contractual indebtedness for which the property to be excluded is liable as provided by this section.

(b) If the district has outstanding bonded indebtedness, the board shall obtain from the chief appraiser a certified copy of the appraised value of all the property to be excluded for the five years preceding the year in which the application is filed, as shown by the tax rolls of the district, and the appraised value of all taxable property in the district according to the most recent tax rolls of the district. The part of the district's total outstanding bonded indebtedness to be paid by the applicant as a condition precedent to the exclusion of the property is that proportion of the indebtedness, including unpaid interest computed to the date of the order, that the appraised value of the property to be excluded bears to the appraised value of all taxable property in the district according to the most recent tax rolls.

(c) If the district has contractual or other indebtedness being repaid on the benefit tax basis, the board shall obtain from the appropriate records the manner in which the tax is assessed, and from those records the district shall calculate the part of the total outstanding indebtedness of the district remaining to be paid that is attributable to the property to be excluded.

(d) The order of the board approving further consideration of the application must also state the amounts required to be paid under Section 49.3182 as a condition of the exclusion of the property.

Added by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 19.005(a), eff. September 1, 2015.

Sec. 49.3186. DEADLINE FOR PAYMENT OF AMOUNTS DUE. The order of the board approving further consideration of the application has no force or effect and no further proceeding may be held on the application unless the applicant deposits with the district the amounts due under Section 49.3182 not later than:

(1) the 20th day after the date on which the order was adopted; or

(2) the expiration of a period not to exceed 30 days after the date on which the order was adopted as ordered by the board.

Added by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 19.005(a), eff. September 1, 2015.

Sec. 49.3187. NOTICE AND HEARING. (a) If the deposit is made within the time provided by Section 49.3186, the board shall order a public hearing to be held on the application at the regular office of the district not less than 15 or more than 30 days after the date of the hearing order.

(b) The board shall have notice of the hearing posted in a conspicuous place in the office of the district and at the courthouse of the county in which the property proposed to be excluded is situated.

Added by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 19.005(a), eff. September 1, 2015.

Sec. 49.3188. RESOLUTION EXCLUDING URBAN PROPERTY OR REJECTING APPLICATION; EFFECTS OF EXCLUSION. (a) If, as a result of a hearing ordered under Section 49.3187, the board finds that the owners of a majority in acreage of the urban property do not desire irrigation of

that property or that the urban property is not used or intended to be used for agricultural purposes, the board shall adopt a resolution setting forth those findings and excluding the urban property or the part of the urban property as to which the findings are made.

(b) If any canals, ditches, pipelines, pumps, or other facilities of the district are located on land excluded under the resolution, the exclusion does not affect or interfere with any district rights to maintain and continue operation of the facilities as located to service land remaining in the district.

(c) A copy of the resolution excluding urban property from the district certified to and acknowledged by the secretary of the board must be recorded by the district in the deed records of the county in which the excluded property is located as evidence of the exclusion.

(d) On the passage of the resolution:

(1) the property excluded does not constitute a part of the district; and

(2) the owner of the excluded property:

(A) has no further liability to the district or for any bonded or other indebtedness of the district; and

(B) is not subject to further taxation by the district.

(e) If the board determines from the hearing that for any reason the application should not be granted, the board shall adopt a resolution rejecting the application, and the deposit made by the applicant is subject to withdrawal by the applicant or on the board's order.

Added by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. [1296](#)), Sec. 19.005(a), eff. September 1, 2015.

Sec. 49.3189. CONVERSION OF WATER RIGHTS. After a district excludes land from the district's territory under this subchapter, the municipality or other municipal supplier that proposes to serve the land with a potable water supply may petition the district to convert the proportionate water rights previously allocated for the land from irrigation use rights to municipal use rights for the use and benefit of the municipality or other municipal supplier. The district shall compute

the proportionate water rights available and shall initiate administrative proceedings to convert the irrigation use rights to municipal use rights. Before the district is obligated to initiate the administrative proceedings, the municipality or other municipal supplier must deposit with the district the amount that the district estimates the district will incur as reasonable expenses and attorney's fees in those proceedings. On approval of the conversion by the commission, the district shall deliver the water to the municipality or other municipal supplier in the manner those entities may agree to under this code.

Added by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 19.005(a), eff. September 1, 2015.

#### SUBCHAPTER K. DISSOLUTION

Sec. 49.321. DISSOLUTION AUTHORITY. After notice and hearing, the commission may dissolve any district that is inactive for a period of five consecutive years and has no outstanding bonded indebtedness.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.322. NOTICE OF HEARING. (a) The commission shall give notice of the dissolution hearing that briefly describes the reasons for the proceeding.

(b) The notice shall be published once each week for two consecutive weeks before the day of hearing in a newspaper having general circulation in the county or counties in which the district is located. The first publication shall be 30 days before the day of the hearing.

(c) The commission shall give notice of the hearing by first class mail addressed to the directors of the district according to the last record on file with the executive director.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.323. INVESTIGATION. The executive director shall investigate the facts and circumstances of the district to be dissolved



and the result of the investigation shall be included in a written report.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.324. ORDER OF DISSOLUTION. The commission may enter an order dissolving the district at the conclusion of the hearing if it finds that the district has performed none of the functions for which it was created for a period of five consecutive years before the day of the proceeding and that the district has no outstanding bonded indebtedness.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.325. CERTIFIED COPY OF ORDER. The commission shall file a certified copy of the order of dissolution of the district in the deed records of the county or counties in which the district is located. If the particular district was created by a special Act of the legislature, the commission shall file a certified copy of the order of dissolution with the secretary of state.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.326. APPEALS. (a) Appeals from a commission order dissolving a district shall be filed and heard in the district court of any of the counties in which the land is located.

(b) The trial on appeal shall be de novo and the substantial evidence rule shall not apply.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.327. ASSETS ESCHEAT TO STATE. Upon the dissolution of a district by the commission, all assets of the district shall escheat to the State of Texas. The assets shall be administered by the comptroller and shall be disposed of in the manner provided by Chapter 74, Property Code.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.  
Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 20.11, eff. Sept. 1, 1997.

#### SUBCHAPTER L. FIRE DEPARTMENTS

The following section was amended by the 86th Legislature. Pending publication of the current statutes, see H.B. 2590, 86th Legislature, Regular Session, for amendments affecting the following section.

Sec. 49.351. FIRE DEPARTMENTS. (a) A district providing potable water or sewer service to household users may, separately or jointly with another district, municipality, or other political subdivision, establish, operate, and maintain, finance with ad valorem taxes, mandatory fees, or voluntary contributions, and issue bonds for a fire department to perform all fire-fighting services within the district as provided in this subchapter and may provide for the construction and purchase of necessary buildings, facilities, land, and equipment and the provision of an adequate water supply.

(b) After complying with the requirements of this section, the district or districts shall provide an adequate system and water supply for fire-fighting purposes, may purchase necessary land, may construct and purchase necessary buildings, facilities, and equipment, and may employ or contract with a fire department to employ all necessary personnel including supervisory personnel to operate the fire department.

(c) For financing a plan approved in accordance with this section, bonds and ad valorem taxes must be authorized and may be issued or imposed as provided by law for the authorization and issuance of other bonds and the authorization and imposition of other ad valorem taxes of the district.

(d) Two or more districts may contract to operate a joint fire department for their districts and shall include in the contract a system for joint administration and operation of the fire department, the extent of services to be provided, a method for funding the department from funds of each district, and any other terms and conditions the parties consider necessary.

(e) A district may contract with any other person to perform fire-fighting services within the district.

(f) Before a district imposes an ad valorem tax or issues bonds payable wholly or partly from ad valorem taxes to finance the establishment of a fire department, contracts to operate a joint fire department, or contracts with another person to perform fire-fighting services within the district, the district must comply with Subsections (g), (h), and (i).

(g) A district or districts proposing to act jointly shall develop a detailed plan for the establishment, operation, and maintenance of the proposed department, including a detailed presentation of all financial requirements. If a district is entering into a contract under Subsection (e), the district shall develop a plan that describes the contract and includes a presentation of the financial requirements under the contract. A plan required by this subsection may be included in a plan or report otherwise required by this title for the creation of a district or may be submitted to the commission for approval at any time after the creation of the district.

(h) If a plan was not approved by the commission at the time of the district's creation, after adoption of the plan and any contract by the board, the plan and financial presentation, together with any contract and a written report in a form prescribed by the executive director describing existing fire departments and fire-fighting services available within 25 miles of the boundaries of the district, shall be submitted to the executive director for consideration by the commission under rules adopted by the commission. Before the commission approves the application, it must find that it is economically feasible for the district to implement the plan and meet the provisions of any contract and shall take into consideration in giving its approval the general financial condition of the district and the economic feasibility of the district carrying out the plan or meeting the obligations of the contract. A plan approved by the commission as part of the creation of a district does not require further commission approval unless the district materially alters the plan.

(i) After approval of a plan by the commission, the district shall

hold an election to approve the plan, approve bonds payable wholly or partly from ad valorem taxes, and impose ad valorem taxes for financing the plan. The election may be held in conjunction with an election required by Section 49.102.

(j) The operation of a fire department or provision of fire-fighting services is an essential public necessity, and a district may discontinue any and all services, including water and sewer service, to any person who fails to timely pay fire department service fees or any other assessment adopted by the district to support the fire department or the provision of fire-fighting services.

(k) In this section, "fire-fighting services" means all of the customary and usual services of a fire department, including fire suppression, fire prevention, training, safety education, maintenance, communications, medical emergency services, photography, and administration.

(l) A district providing potable water or sewer service to household users may, as part of its billing process, collect from its customers a voluntary contribution on behalf of organizations providing fire-fighting services to the district. A district that chooses to collect a voluntary contribution under this subsection must give reasonable notice to its customers that the contribution is voluntary. Water and sewer service may not be terminated as a result of failure to pay the voluntary contribution.

(m) If a customer makes a partial payment of a district bill for water or sewer service and includes with the payment a voluntary contribution for fire-fighting services under Subsection (l), the district shall apply the voluntary contribution first to the bill for water or sewer service, including any interest or penalties imposed. The district shall use any amount remaining for fire-fighting services.

(n) Notwithstanding any other provision of this section, a district may not charge a fee to a recreational vehicle park, as defined by Section 13.087, on the basis of connections the park provides for the park's transient customers. A fee charged to a recreational vehicle park must be based on the park's nonsubmetered master meter connection.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1070, Sec. 23, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1423, Sec. 23, eff. June 17, 2001; Acts 2003, 78th Leg., ch. 248, Sec. 24, eff. June 18, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 20, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 991 (H.B. 2152), Sec. 2, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(62), eff. September 1, 2015.

Sec. 49.352. MUNICIPAL SYSTEM IN UNSERVED AREA. (a) This section applies only to a home-rule municipality that:

(1) is located in a county with a population of more than 1.75 million that is adjacent to a county with a population of more than 1 million; and

(2) has within its boundaries a part of a district.

(b) If a district does not establish a fire department under this subchapter, a municipality that contains a part of the district inside its boundaries may by ordinance or resolution provide that a water system be constructed or extended into the area that is in both the municipality and the district for the delivery of potable water for fire flow that is sufficient to support the placement of fire hydrants and the connection of the water system to fire suppression equipment.

(c) For purposes of this section, a municipality may obtain single certification in the manner provided by Section 13.255, except that the municipality may file an application with the Public Utility Commission of Texas to grant single certification immediately after the municipality provides notice of intent to provide service as required by Section 13.255(b).

Added by Acts 1997, 75th Leg., ch. 1010, Sec. 6.33, eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 170 (H.B. 1600), Sec. 2.86, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 171 (S.B. 567), Sec. 86, eff. September 1, 2013.

Sec. 49.353. MUNICIPAL CONTRACT FOR FIRE-FIGHTING SERVICES IN CERTAIN COUNTIES. (a) In this section, "fire-fighting services" has the meaning assigned by Section 49.351.

(b) This section applies only to a district:

(1) located wholly or partly in a county with a population of more than 3.3 million; and

(2) in whose territory an emergency services district that provides fire-fighting services to all or part of the district is wholly or partly located.

(c) Notwithstanding Section 43.0751(f)(2)(B)(iii), Local Government Code, as part of a strategic partnership agreement entered into on or before December 31, 2006, under Section 43.0751, Local Government Code, a district may contract with a municipality whose fire department, on the date the agreement is entered into, has an Insurance Services Office (ISO) Class 1 Public Protection Classification Rating or comparable rating recognized by the state fire marshal for the provision of fire-fighting services to all or part of the district's territory, without the authorization of the emergency services district that provides fire-fighting services to the district immediately before the date on which the agreement takes effect.

(d) If a district enters into a strategic partnership agreement with a municipality that includes the provision of fire-fighting services under this section, the territory of the district annexed by the municipality for limited purposes and to be served by the municipality under the agreement shall be disannexed from the emergency services district in the manner provided by Section 775.022, Health and Safety Code, for territory that is annexed by a municipality for full purposes.

(e) This section does not apply to a strategic partnership agreement that is:

(1) entered into after December 31, 2006; or

(2) amended after December 31, 2006, to include the provision of fire-fighting services.

Added by Acts 2009, 81st Leg., R.S., Ch. 671 (H.B. 2348), Sec. 1, eff. June 19, 2009.

#### SUBCHAPTER M. NOTICES, REPORTS, AND BANKRUPTCY

Sec. 49.451. POSTING SIGNS IN THE DISTRICT. (a) A district subject to the notice requirements of Section 49.452 shall, within 30 days after the effective date of this section or the creation of the district, post signs indicating the existence of the district at two principal entrances to the district.

(b) The size and exact location of the information contained on the signs shall be determined by the executive director.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.452. NOTICE TO PURCHASERS. (a) (1) Any person who proposes to sell or convey real property located in a district created under this title or by a special Act of the legislature that is providing or proposing to provide, as the district's principal function, water, sanitary sewer, drainage, and flood control or protection facilities or services, or any of these facilities or services that have been financed or are proposed to be financed with bonds of the district payable in whole or part from taxes of the district, or by imposition of a standby fee, if any, to household or commercial users, other than agricultural, irrigation, or industrial users, and which district includes less than all the territory in at least one county and which, if located within the corporate area of a city, includes less than 75 percent of the incorporated area of the city or which is located outside the corporate area of a city in whole or in substantial part, must first give to the purchaser the written notice provided in this section.

(2) The provisions of this section shall not be applicable to:

(A) transfers of title under any type of lien foreclosure;

(B) transfers of title by deed in cancellation of indebtedness secured by a lien upon the property conveyed;

(C) transfers of title by reason of a will or probate

proceedings; or

(D) transfers of title to a governmental entity.

(b) The prescribed notice for districts located in whole or in part in the extraterritorial jurisdiction of one or more home-rule municipalities and not located within the corporate boundaries of a municipality shall be executed by the seller and shall read as follows:

"The real property, described below, that you are about to purchase is located in the \_\_\_\_\_ District. The district has taxing authority separate from any other taxing authority and may, subject to voter approval, issue an unlimited amount of bonds and levy an unlimited rate of tax in payment of such bonds. As of this date, the rate of taxes levied by the district on real property located in the district is \$\_\_\_\_\_ on each \$100 of assessed valuation. If the district has not yet levied taxes, the most recent projected rate of tax, as of this date, is \$\_\_\_\_\_ on each \$100 of assessed valuation. The total amount of bonds, excluding refunding bonds and any bonds or any portion of bonds issued that are payable solely from revenues received or expected to be received under a contract with a governmental entity, approved by the voters and which have been or may, at this date, be issued is \$\_\_\_\_\_, and the aggregate initial principal amounts of all bonds issued for one or more of the specified facilities of the district and payable in whole or in part from property taxes is \$\_\_\_\_\_.

"The district has the authority to adopt and impose a standby fee on property in the district that has water, sanitary sewer, or drainage facilities and services available but not connected and which does not have a house, building, or other improvement located thereon and does not substantially utilize the utility capacity available to the property. The district may exercise the authority without holding an election on the matter. As of this date, the most recent amount of the standby fee is \$\_\_\_\_\_. An unpaid standby fee is a personal obligation of the person that owned the property at the time of imposition and is secured by a lien on the property. Any person may request a certificate from the district stating the amount, if any, of unpaid standby fees on a tract of property in the district.

"The district is located in whole or in part in the extraterritorial



jurisdiction of the City of \_\_\_\_\_. By law, a district located in the extraterritorial jurisdiction of a municipality may be annexed without the consent of the district or the voters of the district. When a district is annexed, the district is dissolved.

"The purpose of this district is to provide water, sewer, drainage, or flood control facilities and services within the district through the issuance of bonds payable in whole or in part from property taxes. The cost of these utility facilities is not included in the purchase price of your property, and these utility facilities are owned or to be owned by the district. The legal description of the property you are acquiring is as follows:

\_\_\_\_\_

\_\_\_\_\_  
 (Date)

\_\_\_\_\_  
 Signature of Seller

PURCHASER IS ADVISED THAT THE INFORMATION SHOWN ON THIS FORM IS SUBJECT TO CHANGE BY THE DISTRICT AT ANY TIME. THE DISTRICT ROUTINELY ESTABLISHES TAX RATES DURING THE MONTHS OF SEPTEMBER THROUGH DECEMBER OF EACH YEAR, EFFECTIVE FOR THE YEAR IN WHICH THE TAX RATES ARE APPROVED BY THE DISTRICT. PURCHASER IS ADVISED TO CONTACT THE DISTRICT TO DETERMINE THE STATUS OF ANY CURRENT OR PROPOSED CHANGES TO THE INFORMATION SHOWN ON THIS FORM.

"The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or prior to execution of a binding contract for the purchase of the real property described in such notice or at closing of purchase of the real property.

\_\_\_\_\_

\_\_\_\_\_  
 (Date)

\_\_\_\_\_  
 Signature of Purchaser

"(Note: Correct district name, tax rate, bond amounts, and legal description are to be placed in the appropriate space.) Except for notices included as an addendum or paragraph of a purchase contract, the

notice shall be executed by the seller and purchaser, as indicated. If the district does not propose to provide one or more of the specified facilities and services, the appropriate purpose may be eliminated. If the district has not yet levied taxes, a statement of the district's most recent projected rate of tax is to be placed in the appropriate space. If the district does not have approval from the commission to adopt and impose a standby fee, the second paragraph of the notice may be deleted. For the purposes of the notice form required to be given to the prospective purchaser prior to execution of a binding contract of sale and purchase, a seller and any agent, representative, or person acting on the seller's behalf may modify the notice by substitution of the words 'January 1, \_\_\_' for the words 'this date' and place the correct calendar year in the appropriate space."

(c) The prescribed notice for districts located in whole or in part within the corporate boundaries of a municipality shall be executed by the seller and shall read as follows:

"The real property, described below, that you are about to purchase is located in the \_\_\_\_\_ District. The district has taxing authority separate from any other taxing authority and may, subject to voter approval, issue an unlimited amount of bonds and levy an unlimited rate of tax in payment of such bonds. As of this date, the rate of taxes levied by the district on real property located in the district is \$\_\_\_\_\_ on each \$100 of assessed valuation. If the district has not yet levied taxes, the most recent projected rate of tax, as of this date, is \$\_\_\_\_\_ on each \$100 of assessed valuation. The total amount of bonds, excluding refunding bonds and any bonds or any portion of bonds issued that are payable solely from revenues received or expected to be received under a contract with a governmental entity, approved by the voters and which have been or may, at this date, be issued is \$\_\_\_\_\_, and the aggregate initial principal amounts of all bonds issued for one or more of the specified facilities of the district and payable in whole or in part from property taxes is \$\_\_\_\_\_.

"The district has the authority to adopt and impose a standby fee on property in the district that has water, sanitary sewer, or drainage facilities and services available but not connected and which does not

have a house, building, or other improvement located thereon and does not substantially utilize the utility capacity available to the property. The district may exercise the authority without holding an election on the matter. As of this date, the most recent amount of the standby fee is \$ \_\_\_\_\_. An unpaid standby fee is a personal obligation of the person that owned the property at the time of imposition and is secured by a lien on the property. Any person may request a certificate from the district stating the amount, if any, of unpaid standby fees on a tract of property in the district.

"The district is located in whole or in part within the corporate boundaries of the City of \_\_\_\_\_. The taxpayers of the district are subject to the taxes imposed by the municipality and by the district until the district is dissolved. By law, a district located within the corporate boundaries of a municipality may be dissolved by municipal ordinance without the consent of the district or the voters of the district.

"The purpose of this district is to provide water, sewer, drainage, or flood control facilities and services within the district through the issuance of bonds payable in whole or in part from property taxes. The cost of these utility facilities is not included in the purchase price of your property, and these utility facilities are owned or to be owned by the district. The legal description of the property you are acquiring is as follows:

\_\_\_\_\_  
\_\_\_\_\_

(Date)

\_\_\_\_\_  
Signature of Seller

PURCHASER IS ADVISED THAT THE INFORMATION SHOWN ON THIS FORM IS SUBJECT TO CHANGE BY THE DISTRICT AT ANY TIME. THE DISTRICT ROUTINELY ESTABLISHES TAX RATES DURING THE MONTHS OF SEPTEMBER THROUGH DECEMBER OF EACH YEAR, EFFECTIVE FOR THE YEAR IN WHICH THE TAX RATES ARE APPROVED BY THE DISTRICT. PURCHASER IS ADVISED TO CONTACT THE DISTRICT TO DETERMINE THE STATUS OF ANY CURRENT OR PROPOSED CHANGES TO THE INFORMATION SHOWN ON THIS FORM.

"The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or prior to execution of a binding contract for the purchase of the real property described in such notice or at closing of purchase of the real property.

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(Date)

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Signature of Purchaser

"(Note: Correct district name, tax rate, bond amounts, and legal description are to be placed in the appropriate space.) Except for notices included as an addendum or paragraph of a purchase contract, the notice shall be executed by the seller and purchaser, as indicated. If the district does not propose to provide one or more of the specified facilities and services, the appropriate purpose may be eliminated. If the district has not yet levied taxes, a statement of the district's most recent projected rate of tax is to be placed in the appropriate space. If the district does not have approval from the commission to adopt and impose a standby fee, the second paragraph of the notice may be deleted. For the purposes of the notice form required to be given to the prospective purchaser prior to execution of a binding contract of sale and purchase, a seller and any agent, representative, or person acting on the seller's behalf may modify the notice by substitution of the words 'January 1, \_\_\_\_\_' for the words 'this date' and place the correct calendar year in the appropriate space."

(d) The prescribed notice for districts that are not located in whole or in part within the corporate boundaries of a municipality or the extraterritorial jurisdiction of one or more home-rule municipalities shall be executed by the seller and shall read as follows:

"The real property, described below, that you are about to purchase is located in the \_\_\_\_\_ District. The district has taxing authority separate from any other taxing authority and may, subject to voter approval, issue an unlimited amount of bonds and levy an unlimited rate of tax in payment of such bonds. As of this date, the rate of taxes levied by the district on real property located in the district is

\$\_\_\_\_\_ on each \$100 of assessed valuation. If the district has not yet levied taxes, the most recent projected rate of tax, as of this date, is \$\_\_\_\_\_ on each \$100 of assessed valuation. The total amount of bonds, excluding refunding bonds and any bonds or any portion of bonds issued that are payable solely from revenues received or expected to be received under a contract with a governmental entity, approved by the voters and which have been or may, at this date, be issued is \$\_\_\_\_\_, and the aggregate initial principal amounts of all bonds issued for one or more of the specified facilities of the district and payable in whole or in part from property taxes is \$\_\_\_\_\_.

"The district has the authority to adopt and impose a standby fee on property in the district that has water, sanitary sewer, or drainage facilities and services available but not connected and which does not have a house, building, or other improvement located thereon and does not substantially utilize the utility capacity available to the property. The district may exercise the authority without holding an election on the matter. As of this date, the most recent amount of the standby fee is \$\_\_\_\_\_. An unpaid standby fee is a personal obligation of the person that owned the property at the time of imposition and is secured by a lien on the property. Any person may request a certificate from the district stating the amount, if any, of unpaid standby fees on a tract of property in the district.

"The purpose of this district is to provide water, sewer, drainage, or flood control facilities and services within the district through the issuance of bonds payable in whole or in part from property taxes. The cost of these utility facilities is not included in the purchase price of your property, and these utility facilities are owned or to be owned by the district. The legal description of the property you are acquiring is as follows:

\_\_\_\_\_  
 \_\_\_\_\_

(Date)

\_\_\_\_\_  
 Signature of Seller

PURCHASER IS ADVISED THAT THE INFORMATION SHOWN ON THIS FORM IS

SUBJECT TO CHANGE BY THE DISTRICT AT ANY TIME. THE DISTRICT ROUTINELY ESTABLISHES TAX RATES DURING THE MONTHS OF SEPTEMBER THROUGH DECEMBER OF EACH YEAR, EFFECTIVE FOR THE YEAR IN WHICH THE TAX RATES ARE APPROVED BY THE DISTRICT. PURCHASER IS ADVISED TO CONTACT THE DISTRICT TO DETERMINE THE STATUS OF ANY CURRENT OR PROPOSED CHANGES TO THE INFORMATION SHOWN ON THIS FORM.

"The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or prior to execution of a binding contract for the purchase of the real property described in such notice or at closing of purchase of the real property.

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(Date)

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Signature of Purchaser

"(Note: Correct district name, tax rate, bond amounts, and legal description are to be placed in the appropriate space.) Except for notices included as an addendum or paragraph of a purchase contract, the notice shall be executed by the seller and purchaser, as indicated. If the district does not propose to provide one or more of the specified facilities and services, the appropriate purpose may be eliminated. If the district has not yet levied taxes, a statement of the district's most recent projected rate of tax is to be placed in the appropriate space. If the district does not have approval from the commission to adopt and impose a standby fee, the second paragraph of the notice may be deleted. For the purposes of the notice form required to be given to the prospective purchaser prior to execution of a binding contract of sale and purchase, a seller and any agent, representative, or person acting on the seller's behalf may modify the notice by substitution of the words 'January 1, \_\_\_\_\_' for the words 'this date' and place the correct calendar year in the appropriate space."

(e) If the law relating to annexation or district dissolution is amended and causes inaccuracies in the content of the notices prescribed by this section, the district shall revise the content of the notices to accurately reflect current law.

(f) The notice required by this section shall be given to the prospective purchaser prior to execution of a binding contract of sale and purchase either separately or as an addendum or paragraph of a purchase contract. In the event a contract of purchase and sale is entered into without the seller providing the notice required by this subsection, the purchaser shall be entitled to terminate the contract. If, however, the seller furnishes the required notice at or prior to closing the purchase and sale contract and the purchaser elects to close even though such notice was not timely furnished prior to execution of the contract, it shall be conclusively presumed that the purchaser has waived all rights to terminate the contract and recover damages or other remedies or rights under the provisions of this section. Notwithstanding any provision of this subchapter to the contrary, all sellers, title companies, real estate brokers, and examining attorneys, and any agent, representative, or person acting on their behalf, shall not be liable for damages under the provisions of either Subsection (o) or (p) or liable for any other damages to any person for:

(1) failing to provide the notice required by this section to a purchaser prior to execution of a binding contract of a purchase and sale or at or prior to the closing of the purchase and sale contract when the district has not filed the information form and map or plat as required under Section [49.455](#); or

(2) unintentionally providing a notice prescribed by this section that is not the correct notice under the circumstances prior to execution of a binding contract of purchase and sale or at or prior to the closing of the purchase and sale contract.

(g) The purchaser shall sign the notice or purchase contract including such notice to evidence the receipt of notice.

(h) At the closing of purchase and sale, a separate copy of such notice with current information shall be executed by the seller and purchaser, acknowledged, and thereafter recorded in the deed records of the county in which the property is located. For the purposes of this section, all sellers, title companies, real estate brokers, and examining attorneys, and any agent, representative, or person acting on their behalf, shall be entitled to rely on the accuracy of the information form

and map or plat as last filed by each district under Section 49.455 or the information contained in or shown on the notice form issued by the district under Section 49.453 in completing the notice form to be executed by the seller and purchaser at the closing of purchase and sale. Any information taken from the information form or map or plat as last filed by each district and the information contained in or shown on the notice form issued by the district under Section 49.453 shall be, for purposes of this section, conclusively presumed as a matter of law to be correct. All subsequent sellers, purchasers, title insurance companies, real estate brokers, examining attorneys, and lienholders shall be entitled to rely upon the information form and map or plat filed by the district or the notice form issued by the district under Section 49.453.

(i) For the purposes of this section, an executory contract of purchase and sale having a performance period of more than six months shall be considered a sale under Subsection (a).

(j) For the purposes of the notice form to be given to the prospective purchaser prior to execution of a binding contract of sale and purchase, a seller and any agent, representative, or person acting in the seller's behalf may modify the notice by substitution of the words "January 1, \_\_\_" for the words "this date" and place the correct calendar year in the appropriate space. All sellers, and all persons completing the prescribed notice in the sellers' behalf, shall be entitled to rely on the information contained in or shown on the information form and map or plat filed of record by the district under Section 49.455 in completing the prescribed form to be given to the prospective purchaser prior to execution of a binding contract of sale and purchase. Except as otherwise provided in Subsection (h), any information taken from the information form or map or plat filed of record by the district in effect as of January 1 of each year shall be, for purposes of the notice to be given to the prospective purchaser prior to execution of a binding contract of sale and purchase, conclusively presumed as a matter of law to be correct for the period January 1 through December 31 of such calendar year. A seller and any persons completing the prescribed notice in the seller's behalf may provide more recent information, if available, than the information contained in or shown on the information form and



map or plat filed of record by the district under Section 49.455 in effect as of January 1 of each year in completing the prescribed form to be given to the purchaser prior to execution of a binding contract of sale and purchase. Nothing contained in the preceding sentence shall be construed to create an affirmative duty on the part of a seller or any persons completing the prescribed notice in the seller's behalf to provide more recent information than the information taken from the information form and map or plat filed of record by the district as of January 1 of each year in completing the prescribed notice to be given to the purchaser prior to execution of a binding contract of sale and purchase. All subsequent sellers, purchasers, title insurance companies, real estate brokers, examining attorneys, and lienholders shall be entitled to rely upon the information form and map or plat filed by the district.

(k) If such notice is given at closing as provided in Subsection (h), a purchaser, or the purchaser's heirs, successors, or assigns, shall not be entitled to maintain any action for damages or maintain any action against a seller, title insurance company, real estate brokers, or lienholder, or any agent, representative, or person acting in their behalf, by reason of use by the seller of the information filed for record by the district or reliance by the seller on the filed plat and filed legal description of the district in determining whether the property to be sold and purchased is within the district. No action may be maintained against any title company for failure to disclose the inclusion of the described real property within a district when the district has not filed for record the information form, map, or plat with the clerk of the county or counties in which the district is located.

(l) Any purchaser who purchases any real property in a district and who thereafter sells or conveys the same shall on closing of such subsequent sale be conclusively considered as having waived any prior right to damages under this section.

(m) It is the express intent of this section that all sellers, title insurance companies, examining attorneys, vendors of property and tax information, real estate brokers, and lienholders, and any agent, representative, or person acting on their behalf, shall be entitled to

rely on the accuracy of the information form and map or plat as last filed by each district or the information contained in or shown on the notice form issued by the district under Section 49.453, or for the purposes of the notice to be given the purchaser prior to execution of a binding contract of sale and purchase the information contained in or shown on the information form and map or plat filed of record by the district in effect as of January 1 of each year for the period January 1 through December 31 of such calendar year.

(n) Except as otherwise provided in Subsection (f), if any sale or conveyance of real property within a district is not made in compliance with the provisions of this section, the purchaser may institute a suit for damages under the provisions of either Subsection (o) or (p).

(o) A purchaser of real property covered by the provisions of this section, if the sale or conveyance of the property is not made in compliance with this section, may institute a suit for damages in the amount of all costs relative to the purchase of the property plus interest and reasonable attorney's fees. The suit for damages may be instituted jointly or severally against the person, firm, corporation, partnership, organization, business trust, estate, trust, association, or other legal entity that sold or conveyed the property to the purchaser. Following the recovery of damages under this subsection, the amount of the damages shall first be paid to satisfy all unpaid obligations on each outstanding lien or liens on the property and the remainder of the damage amount shall be paid to the purchaser. On payment of all damages respectively to the lienholders and purchaser, the purchaser shall reconvey the property to the seller.

(p) A purchaser of real property covered by the provisions of this section, if the sale or conveyance of the property is not made in compliance with this section, may institute a suit for damages in an amount not to exceed \$5,000, plus reasonable attorney's fees.

(q) A purchaser is not entitled to recover damages under both Subsections (o) and (p), and entry of a final decision awarding damages to the purchaser under either Subsection (o) or (p) shall preclude the purchaser from recovering damages under the other subsection. Notwithstanding any part or provision of the general or special laws or

the common law of the state to the contrary, the relief provided under Subsections (o) and (p) shall be the exclusive remedies for a purchaser aggrieved by the seller's failure to comply with the provisions of this section. Any action for damages shall not, however, apply to, affect, alter, or impair the validity of any existing vendor's lien, mechanic's lien, or deed of trust lien on the property.

(r) A suit for damages under the provisions of this section must be brought within 90 days after the purchaser receives the first district tax notice or within four years after the property is sold or conveyed to the purchaser, whichever time occurs first, or the purchaser loses the right to seek damages under this section.

(s) Notwithstanding any provisions of this subchapter to the contrary, a purchaser may not recover damages of any kind under this section if that person:

(1) purchases an equity in real property and in conjunction with the purchase assumes any liens, whether purchase money or otherwise; and

(2) does not require proof of title by abstract, title policy, or any other proof of title.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 1999, 76th Leg., ch. 715, Sec. 1, eff. Sept. 1, 1999.

Sec. 49.453. NOTICE FORM FROM DISTRICT. (a) A district covered by Section 49.452 shall also maintain in the district office the particular form of Notice to Purchasers required by Section 49.452 to be furnished by a seller to a purchaser of real property in that district and shall, upon written request of any person, issue the notice form completed by a district with all information required to be furnished by the district. A notice form issued by a district under the provisions of this section shall include a written statement that the notice form is being issued by the district, the date of its issuance, and the district's telephone number. A district shall not be required to orally provide the information.

(b) A district may charge a reasonable fee as determined by the

district not to exceed \$10 for the issuance of a notice form pursuant to Subsection (a). The notice form shall be delivered by regular mail or made available at the district's office. If a district is requested to deliver the notice form to a person by an alternative method, the district may impose a charge not to exceed the actual cost of such delivery.

(c) A district may delegate the responsibility for issuance of the particular form of Notice to Purchasers to an employee or agent of the district. A district shall file with the commission the name, address, and telephone number of the employee or agent of the district responsible for issuance of the notice forms and shall notify the commission in writing within seven days after there is a change to the information required to be filed with the commission under the provisions of this subsection.

(d) Any notice issued by the district shall contain the information effective as of the date of its issuance.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.454. NOTICE OF UNPAID STANDBY FEES. (a) A district covered by Section 49.452 shall, on the written request of any person, issue a certificate stating the amount of any unpaid standby fees, including interest on the fees, that have been assessed against a tract of property in the district. The district may charge a fee not to exceed \$10 for each certificate. A certificate issued through fraud or collusion is void.

(b) If the district issues a certificate containing an erroneous statement under Subsection (a) and the owner of the property transfers the property to a good faith purchaser for value, the lien on the property provided by Section 49.231(k) is extinguished to the extent of the error.

(c) This section does not affect the liability for any unpaid standby fees of the former owner of the undeveloped property under Section 49.231(k).

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Sec. 49.455. FILING INFORMATION. (a) The board covered by the provisions of Section 49.452 shall file with the county clerk in each of the counties in which all or part of the district is located a duly affirmed and acknowledged information form that includes the information required in Subsection (b), and a complete and accurate map or plat showing the boundaries of the district.

(b) The information form filed by a district under this section shall include:

- (1) the name of the district;
- (2) the complete and accurate legal description of the boundaries of the district;
- (3) the most recent rate of district taxes on property located in the district;
- (4) the total amount of bonds that have been approved by the voters and which may be issued by the district (excluding refunding bonds and any bonds or portion of bonds payable solely from revenues received or expected to be received pursuant to a contract with a governmental entity);
- (5) the aggregate initial principal amount of all bonds of the district payable in whole or part from taxes (excluding refunding bonds and any bonds or portion of bonds payable solely from revenues received or expected to be received pursuant to a contract with a governmental entity) that have been previously issued;
- (6) whether a standby fee is imposed by the district and, if so, the amount of the standby fee;
- (7) the date on which the election to confirm the creation of the district was held if such was required;
- (8) a statement of the functions performed or to be performed by the district; and
- (9) the particular form of Notice to Purchasers required by Section 49.452 to be furnished by a seller to a purchaser of real property in that district completed by the district with all information required to be furnished by the district.

If a district has not yet levied taxes, a statement to such effect

together with the district's most recent projected rate of debt service tax shall be substituted for Subdivisions (3) and (4).

(c) The information form and map or plat required by this section shall be signed by a majority of the members of the board and by each such officer affirmed and acknowledged before it is filed with the county clerk, and each amendment made to an information form or map shall also be signed by the members of the board and by each such officer affirmed and acknowledged before it is filed with the county clerk.

(d) The information form required by this section shall be filed with the county clerk within 48 hours after the district is officially created. For purposes of this section, the words "officially created" mean the date and hour in which the results of the election to confirm the creation of the district are declared.

(e) Within seven days after there is a change in any of the information contained in the district information form, map, or plat, the district shall file an amendment to the information form, map, or plat setting forth the changes made.

(f) Any person who affirms the corrections and accuracy of and acknowledges an information form, map, or plat, or any amendment to an information form, map, or plat that includes information that is inaccurate or incorrect shall be guilty of a misdemeanor and shall be fined not less than \$100 nor more than \$1,000 for each violation.

(g) If a district fails to file the information required by this section in the time required, the executive director may request the state attorney general or the district or county attorney of the county in which the district is located to seek a writ of mandamus to force the board to prepare and file the necessary information.

(h) Any member of a governing board who wilfully fails or refuses to join in filing an information form, map, or plat or an amendment to an information form, map, or plat under this section shall be guilty of a misdemeanor and shall be fined not less than \$100 nor more than \$1,000 for each violation. A member of a governing board is presumed to have wilfully failed or refused to join in the filing of an information form, map, or plat or an amendment to an information form, map, or plat if that member was present at the meeting at which the information included in

the information form, map, or plat or amendment to the information form, map, or plat was adopted.

(i) If a district covered by this section is dissolved, annexed to another local government, or consolidated with another district, the members of the board shall file a statement of this fact together with the effective date of the dissolution, annexation, or consolidation with the information form. After a district is dissolved and the statement is filed under this subsection, a person who sells or conveys property within the dissolved district is no longer required to give notice under Section 49.452.

(j) A copy of all information forms, maps, or plats and amendments to these filed under this section shall also be filed with the executive director.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1070, Sec. 24, eff. Sept. 1, 1997;  
Acts 2003, 78th Leg., ch. 248, Sec. 25, eff. June 18, 2003.

Sec. 49.456. BANKRUPTCY OF DISTRICTS; AUTHORITY OF COMMISSION.

(a) Notwithstanding Section 140.001, Local Government Code, or any other law of this state, a district created under Sections 52(b)(1) and (2), Article III, or Section 59, Article XVI, Texas Constitution, that is subject to the continuing supervision of the commission may not proceed under Chapter 9 of the Federal Bankruptcy Code (11 U.S.C. Sections 901-946) or any other law enacted by the Congress of the United States under federal bankruptcy authority until the commission authorizes the district to proceed under those laws by written order.

(b) A district requesting the commission's authorization to proceed under Chapter 9 of the Federal Bankruptcy Code (11 U.S.C. Sections 901-946) or any other federal bankruptcy law shall file an application with the commission requesting authorization.

(c) The commission shall investigate the financial condition of a district submitting an application under Subsection (b), including its assets, liabilities, and sources of revenues and may require a district to submit any information that the commission considers material to a

determination of whether authorization to proceed in bankruptcy should be granted.

(d) The commission may not authorize a district to proceed in bankruptcy unless the commission determines that the district cannot, through the full exercise of its rights and powers under the laws of this state, reasonably expect to meet its debts and other obligations as they mature.

(e) The commission shall adopt and assess reasonable and necessary fees adequate to recover the costs of the commission in administering this section.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

#### SUBCHAPTER N. RECREATIONAL FACILITIES

Sec. 49.461. POLICY AND PURPOSE. (a) The legislature finds that:

(1) the provision of parks and recreational facilities is necessary and desirable for the health and well-being of the people of this state; and

(2) it is the policy of the state and the purpose of this subchapter to encourage persons in districts to provide parks and recreational facilities for their use and benefit.

(b) Repealed by Acts 2003, 78th Leg., ch. 343, Sec. 8.

Added by Acts 2001, 77th Leg., ch. 1423, Sec. 24, eff. June 17, 2001.

Amended by Acts 2003, 78th Leg., ch. 343, Sec. 3, 8, eff. Sept. 13, 2003.

Sec. 49.462. DEFINITIONS. In this subchapter:

(1) "Recreational facilities" means parks, landscaping, parkways, greenbelts, sidewalks, trails, public right-of-way beautification projects, and recreational equipment and facilities. The term includes associated street and security lighting. The term does not include a minor improvement or beautification project to land acquired or to be acquired as part of a district's water, sewer, or drainage facilities.

(2) "Develop and maintain" means to acquire, own, develop,



construct, improve, manage, maintain, and operate.

Added by Acts 2001, 77th Leg., ch. 1423, Sec. 24, eff. June 17, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 21, eff. September 1, 2013.

Sec. 49.463. AUTHORIZATION OF RECREATIONAL FACILITIES. In addition to the other purposes for which a district is created, a district is created for the purpose of financing, developing, and maintaining recreational facilities for the people in the district. A district may accomplish this purpose as provided in this subchapter.

Added by Acts 2001, 77th Leg., ch. 1423, Sec. 24, eff. June 17, 2001.

Amended by Acts 2003, 78th Leg., ch. 343, Sec. 4, eff. Sept. 13, 2003.

Sec. 49.464. ACQUISITION OF AND PAYMENT FOR RECREATIONAL FACILITIES. (a) Except as provided by Section 49.4645, a district may not issue bonds supported by ad valorem taxes to pay for the development and maintenance of recreational facilities.

(b) Except as provided by Subsection (a), a district may acquire recreational facilities and obtain funds to develop and maintain them in the same manner as authorized elsewhere in this code for the acquisition, development, and maintenance of other district facilities. A district may charge fees directly to the users of recreational facilities and to water and wastewater customers of the district to pay for all or part of the cost of their development and maintenance. To enforce payment of an unpaid fee charged under this subsection, the district may:

- (1) seek legal restitution of the unpaid fee; and
- (2) refuse use of a recreational facility to the person who owes the unpaid fee.

(c) The district may not refuse use of facilities or services other than recreational facilities to enforce an unpaid fee.

(d) A district may issue bonds payable solely from revenues by resolution or order of the board without an election.

Added by Acts 2001, 77th Leg., ch. 1423, Sec. 24, eff. June 17, 2001.  
Amended by Acts 2003, 78th Leg., ch. 343, Sec. 5, eff. Sept. 13, 2003.

Sec. 49.4641. RECREATIONAL FACILITIES ON SITES ACQUIRED FOR WATER, SEWER, OR DRAINAGE FACILITIES. (a) A district may develop and maintain recreational facilities on a site acquired for the purpose of developing water, sewer, or drainage facilities.

(b) A district is not required to prorate the costs of a site described by Subsection (a) between the primary water, sewer, or drainage purpose and any secondary recreational facilities purpose if a licensed professional engineer certifies that the site is reasonably sized for the intended water, sewer, or drainage purpose.

(c) The engineer may consider the following factors in determining the reasonableness of the size of a water, sewer, or drainage site:

- (1) the rules, regulations, and design guidelines or criteria of a municipality, county, or other entity exercising jurisdiction;
- (2) sound engineering principles;
- (3) the impact on adjoining property;
- (4) the availability of sites that meet the requirements for the proposed use;
- (5) requirements for sanitary control;
- (6) the need for a buffer zone to mitigate noise or for aesthetic purposes;
- (7) benefits to storm water quality; and
- (8) anticipated expansions of facilities resulting from:
  - (A) future growth and demand for district facilities; or
  - (B) changes in regulatory requirements.

Added by Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 22, eff. September 1, 2013.

Sec. 49.4645. DISTRICT IN CERTAIN COUNTIES: BONDS FOR RECREATIONAL FACILITIES. (a) A district all or part of which is located in Bastrop County, Bexar County, Waller County, Travis County, Williamson County, Harris County, Galveston County, Brazoria County, Montgomery County, or

Fort Bend County may issue bonds supported by ad valorem taxes to pay for the development and maintenance of recreational facilities only if the bonds are authorized by a majority vote of the voters of the district voting in an election held for that purpose. The outstanding principal amount of bonds, notes, and other obligations issued to finance parks and recreational facilities supported by ad valorem taxes may not exceed an amount equal to one percent of the value of the taxable property in the district or, if supported by contract taxes under Section 49.108, may not exceed an amount equal to one percent of the value of the taxable property in the districts making payments under the contract as shown by the tax rolls of the central appraisal district at the time of the issuance of the bonds, notes, and other obligations or an amount greater than the estimated cost provided in the park plan under Subsection (b), whichever is smaller. To establish the value of the taxable property in a district under this section, the district may use an estimate of the value provided by the central appraisal district. The district may not issue bonds supported by ad valorem taxes to pay for the development and maintenance of:

- (1) indoor or outdoor swimming pools; or
- (2) golf courses.

(b) On or before the 10th day before the first day for early voting by personal appearance at an election held to authorize the issuance of bonds for the development and maintenance of recreational facilities, the board shall file in the district office for review by the public a park plan covering the land, improvements, facilities, and equipment to be purchased or constructed and their estimated cost, together with maps, plats, drawings, and data fully showing and explaining the park plan. The park plan is not part of the proposition to be voted on, does not create a contract with the voters, and may be amended at any time after the election held to authorize the issuance of bonds for the development and maintenance of recreational facilities provided under the plan. The estimated cost stated in the amended park plan may not exceed the amount of bonds authorized at that election.

(c) Notice of a bond election for the development and maintenance of recreational facilities must contain the proposition to be voted on,

which must include the estimate of the probable cost of design, construction, purchase, acquisition, and maintenance of improvements and additions and incidental expenses connected with the improvements and the issuance of bonds.

(d) A bond election for the development and maintenance of recreational facilities may be held on the same day as another district election. The board may call a bond election by a separate election order or as part of another election order. The board may submit multiple purposes in a single proposition at an election.

(e) The board may call a bond election for the development and maintenance of recreational facilities as a result of an agreement to annex additional territory into the district.

(f) This section does not apply to a district all or part of which:

- (1) is located in Montgomery County; and
- (2) includes land within a planned community of at least 15,000 acres of land, of which a majority of the developed acreage is subject to restrictive covenants containing ad valorem assessments.

Added by Acts 2003, 78th Leg., ch. 343, Sec. 6, eff. Sept. 13, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 291 (H.B. 1127), Sec. 1, eff. June 15, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 23, eff. September 1, 2013.

Sec. 49.465. STANDARDS. The board by rule shall establish standards for recreational facilities to be developed and maintained by a district and for the allocation of a district's funds for developing and maintaining recreational facilities in relation to a district's financial requirements for other purposes. To prevent duplication of recreational facilities provided by other governmental entities, rules adopted by the board under this section must require a district, before developing recreational facilities, to make findings that the size and location of the facilities have been established in consideration of municipal or county recreational facilities, whether existing or proposed, that serve

or will serve the area in which the district is located.

Added by Acts 2001, 77th Leg., ch. 1423, Sec. 24, eff. June 17, 2001.

Sec. 49.466. COMMISSION RULES. (a) The commission shall adopt rules regarding the provision and financing of recreational facilities funded through the issuance of bonds that are supported by ad valorem taxes.

(b) The commission rules shall:

(1) emphasize the primary goal of financing water, sewer, and drainage facilities to serve the district;

(2) emphasize and encourage the secondary goal of financing recreational facilities; and

(3) encourage the conveyance of land to be used for recreational facilities.

Added by Acts 2003, 78th Leg., ch. 343, Sec. 7, eff. Sept. 13, 2003.

#### SUBCHAPTER O. EFFECT OF SUBDIVISION OF NONAGRICULTURAL LAND ON WATER RIGHTS

Sec. 49.501. DEFINITION. In this subchapter, "municipal water supplier" means a municipality, a water supply corporation, or a special utility district converted from a water supply corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 1430 (S.B. 3), Sec. 2.24, eff. September 1, 2007.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 880 (H.B. 752), Sec. 1, eff. June 14, 2013.

Sec. 49.502. APPLICABILITY. This subchapter applies only to a district, other than a drainage district, located wholly or partly in a county:

(1) that borders the Gulf of Mexico and the United Mexican States; or

(2) that is adjacent to a county described by Subdivision (1).

Added by Acts 2007, 80th Leg., R.S., Ch. 1430 (S.B. 3), Sec. 2.24, eff. September 1, 2007.

Sec. 49.503. PETITION BY MUNICIPAL WATER SUPPLIER TO CONVERT WATER USE AFTER SUBDIVISION. (a) This section applies only to land:

(1) that is:

(A) subdivided into town lots or blocks or small parcels of the same general nature as town lots or blocks;

(B) designed, intended, or suitable for residential or other nonagricultural purposes, including streets, alleys, parkways, parks, detention or retention ponds, and railroad property and rights-of-way; or

(C) in a subdivision created to meet the requirements of a governmental entity authorized to require a recorded plat of subdivided lands;

(2) that is in a subdivision for which a plat or map has been filed and recorded in the office of the county clerk of each county in which the subdivision is wholly or partly located; and

(3) that is or was assessed as flat rate irrigable property in the municipal water supplier's certificated service area or its corporate area.

(b) A municipal water supplier that serves land described by Subsection (a) may petition the district in accordance with this section to convert the proportionate irrigation water right to the Rio Grande from irrigation use to municipal use with municipal priority of allocation under commission rules, for the use and benefit of the municipal water supplier.

(c) The municipal water supplier must file the petition with the district not later than January 1 after the expiration of two years after the date the plat or map was recorded under Subsection (a). The district shall consider the petition not later than January 31 of the year following the year in which the petition was filed.

(d) The petition must identify by subdivision name or other

sufficient description the land that the municipal water supplier supplies or has the right to supply potable water.

(e) This section applies only to one subdivision of the land recorded under Subsection (a). This section does not apply to any further subdivision of the same property.

Added by Acts 2007, 80th Leg., R.S., Ch. 1430 (S.B. 3), Sec. 2.24, eff. September 1, 2007.

Sec. 49.504. EFFECT OF MUNICIPAL WATER SUPPLIER'S FAILURE TO FILE A PETITION. (a) If a municipal water supplier does not file a petition under Section 49.503, the district may retain the water rights for use by the district or may declare the water as excess and contract for the sale or use of the water as determined by the district.

(b) Before a district may contract for the sale or use of water for more than one year with a purchaser located outside of a county described by Section 49.502, the district must, for 90 days:

(1) make the water available under the same terms to all municipal water suppliers located in those counties; and

(2) advertise the offer to sell or contract for the use of the water by posting notice on:

(A) any website of the Rio Grande Watermaster's Office;

(B) any website of the Rio Grande Regional Water Authority; and

(C) the official posting place for the district's board meetings at the district's office.

(c) If, after the 90th day after the last date on which the district posted notice, a municipal water supplier in a county described by Section 49.502 has not contracted with the district for the sale or use of the water, the district may contract with any other person for the sale or use of the water under the terms of the offer advertised under Subsection (b).

Added by Acts 2007, 80th Leg., R.S., Ch. 1430 (S.B. 3), Sec. 2.24, eff. September 1, 2007.

Sec. 49.505. CALCULATION OF PROPORTIONATE WATER RIGHTS. A district that receives a petition under Section 49.503 shall compute the proportionate amount of water rights to the Rio Grande. The proportionate amount of water rights is equal to the amount of irrigable acres of land in the subdivision multiplied by the lesser of:

(1) 1.25 acre-feet per irrigable acre; or

(2) the sum of all irrigation water rights owned by the district on September 1, 2007, as if the water rights had been converted to municipal use under applicable commission rules, divided by the total amount of irrigable acres of land in the district on September 1, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 1430 (S.B. 3), Sec. 2.24, eff. September 1, 2007.

Sec. 49.506. PROVISION OR CONVERSION OF PROPORTIONATE WATER RIGHTS BY DISTRICT. (a) Not later than the second anniversary of the date the municipal water supplier files a petition under Section 49.503:

(1) a district shall provide the municipal water supplier with the proportionate water rights described by Section 49.505 from the district's existing water rights; or

(2) a district shall, if the district does not have sufficient existing water rights:

(A) apply for appropriate amendments to the district's water rights under commission rules to convert the proportionate water rights from irrigation use to municipal use with municipal priority of allocation; and

(B) provide to the municipal water supplier the converted rights described by Section 49.505.

(b) The district may continue to use the irrigation use water for district purposes until:

(1) the commission approves the amendment to the district's water rights; or

(2) the water is otherwise provided to the municipal water supplier.

(c) A district that applies for appropriate amendments under



Subsection (a) (2) shall provide the municipal water supplier with an estimate of the district's reasonable costs for the administrative proceedings. The district is not required to begin the proceedings until the municipal water supplier deposits the amount of the estimate with the district. The municipal water supplier shall pay the district any reasonable costs that exceed the estimate. The district shall refund the balance of the deposit if the actual cost is less than the estimate.

Added by Acts 2007, 80th Leg., R.S., Ch. 1430 (S.B. 3), Sec. 2.24, eff. September 1, 2007.

Sec. 49.507. CONTRACT TO PURCHASE PROPORTIONATE WATER RIGHTS; WATER RIGHTS SALE CONTRACT. (a) A municipal water supplier may contract to purchase the proportionate water rights described by Section 49.505.

(b) The purchase price may not exceed 68 percent of the current market value, as determined under Section 49.509, for the year that the municipal water supplier petitions the district.

(c) The contract must be in writing in a document entitled "Water Rights Sales Contract."

(d) The contract must include the purchase price for the water rights or, if the consideration for the sale is not monetary, the terms of the sale.

(e) The municipal water supplier shall file the contract with the Rio Grande watermaster not later than the 10th day after the date the contract is executed.

(f) The municipal water supplier shall pay the purchase price when the proportionate amount of water rights is made available to the municipal water supplier.

Added by Acts 2007, 80th Leg., R.S., Ch. 1430 (S.B. 3), Sec. 2.24, eff. September 1, 2007.

Sec. 49.508. CONTRACT TO USE PROPORTIONATE WATER RIGHTS; WATER SUPPLY CONTRACT. (a) A municipal water supplier may contract to use water associated with the proportionate water rights described by Section

**49.505.**

(b) The contract must be for at least 40 years.

(c) The price for the contractual right to use the municipal use water is based on an amount for one acre-foot of municipal use water with a municipal use priority of allocation and may not exceed the sum of:

(1) an amount equal to the district's annual flat rate charge per assessed acre; and

(2) the equivalent of the charge for four irrigations per flat rate acre of irrigable property in the district.

(d) The parties to the contract shall agree on the terms of payment of the contract price.

(e) The board periodically shall determine the flat rate charge and irrigation per acre charge described by Subsection (c).

(f) The contract must be in writing in a document entitled "Water Supply Contract." The contract may contain any terms to which the parties agree.

(g) The municipal water supplier shall file the contract with the Rio Grande watermaster not later than the 10th day after the date the contract is executed.

Added by Acts 2007, 80th Leg., R.S., Ch. 1430 (S.B. 3), Sec. 2.24, eff. September 1, 2007.

Sec. 49.509. DUTY OF RIO GRANDE REGIONAL WATER AUTHORITY TO CALCULATE CURRENT MARKET VALUE. (a) Subject to Subsection (d), the Rio Grande Regional Water Authority annually at its January meeting shall calculate the current market value by using the average price per acre-foot of municipal use water after conversion from irrigation use water to municipal use water with a municipal priority of allocation under commission rules of the last three purchases involving:

(1) a municipal water supplier;

(2) a party other than a municipal water supplier; and

(3) at least 100 acre-feet of municipal use water, with municipal priority of allocation.

(b) The Rio Grande Regional Water Authority shall use information

from the water rights sales contracts reported to the Rio Grande Watermaster's Office to calculate the current market value.

(c) The Rio Grande Regional Water Authority shall make the calculation:

- (1) without charging any of the parties involved; and
- (2) using 100 percent of the value of monetary exchanges, not in-kind exchanges.

(d) For purposes of this subsection, "outer boundaries of a district" means a district's boundaries without considering any exclusion of land from inside the district. The Rio Grande Regional Water Authority shall exclude from the calculation of current market value under Subsection (a) any sale between a municipal water supplier and a district if any territory inside the outer boundaries of the district is:

- (1) subject to the municipal water supplier's certificate of convenience and necessity; or
- (2) in the corporate limits of the municipality served by the municipal water supplier, if the municipal water supplier does not hold a certificate of convenience and necessity.

Added by Acts 2007, 80th Leg., R.S., Ch. 1430 (S.B. 3), Sec. 2.24, eff. September 1, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 438 (H.B. 2208), Sec. 1, eff. September 1, 2009.

Sec. 49.510. ACCOUNTING FOR SALE OF WATER RIGHTS. A district shall maintain an accounting of money received from the sale of water rights under this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 1430 (S.B. 3), Sec. 2.24, eff. September 1, 2007.

Sec. 49.511. CAPITAL IMPROVEMENTS. A district shall designate at least 75 percent of the proceeds from the sale of water rights for capital improvements in the district.

Added by Acts 2007, 80th Leg., R.S., Ch. 1430 (S.B. 3), Sec. 2.24, eff. September 1, 2007.

Sec. 49.512. MAP OF SERVICE AREA. (a) In this section, "outer boundaries of a district" means district boundaries without considering any exclusion of land from inside the district.

(b) Each municipal water supplier that has a certificate of convenience and necessity service area in the outer boundaries of a district shall file a map of the service area with the district.

(c) The municipal water supplier shall update the map and forward the map to the district when changes are made.

(d) A district periodically shall provide to a municipal water supplier that serves territory in the district a copy of the district's map showing the outer boundaries of the district.

(e) A district may request from a municipal water supplier a map of the municipal water supplier's service area, and a municipal water supplier may request from the district a map of the district's outer boundaries. On request, the district and a municipal water supplier shall provide the map free of charge to each other at least one time each year. If the district or municipal water supplier receives more than one request a year for a map, the district or municipal water supplier may charge a reasonable fee for the map.

Added by Acts 2007, 80th Leg., R.S., Ch. 1430 (S.B. 3), Sec. 2.24, eff. September 1, 2007.