

PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL
Special District Local
Laws Code
Chapter 11006
9/18/14

1 CHAPTER 11006. SOUTH TEXAS WATER AUTHORITY

2 SUBCHAPTER A. GENERAL PROVISIONS

3 Sec. 11006.001. DEFINITIONS 3

4 Sec. 11006.002. NATURE OF AUTHORITY 3

5 Sec. 11006.003. FINDINGS OF BENEFIT AND PUBLIC PURPOSE 4

6 SUBCHAPTER B. AUTHORITY TERRITORY; ANNEXATION

7 Sec. 11006.051. AUTHORITY TERRITORY 5

8 Sec. 11006.052. ANNEXATION OF TERRITORY 7

9 SUBCHAPTER C. BOARD OF DIRECTORS

10 Sec. 11006.101. COMPOSITION OF BOARD; TERMS 12

11 Sec. 11006.102. QUALIFICATIONS FOR OFFICE 14

12 Sec. 11006.103. VACANCIES 15

13 Sec. 11006.104. REMOVAL FROM OFFICE 16

14 Sec. 11006.105. BOND 16

15 Sec. 11006.106. BOARD RESOLUTIONS; VOTING 17

16 Sec. 11006.107. OFFICERS AND ASSISTANTS 17

17 Sec. 11006.108. DUTIES OF OFFICERS AND ASSISTANTS 18

18 Sec. 11006.109. MEETINGS 19

19 Sec. 11006.110. PERSONAL LIABILITY OF DIRECTORS 19

20 SUBCHAPTER D. POWERS AND DUTIES

21 Sec. 11006.151. GENERAL POWERS 21

22 Sec. 11006.152. PERMITS 25

23 Sec. 11006.153. GENERAL POWER OF PUBLIC AGENCIES AND

24 POLITICAL SUBDIVISIONS TO CONTRACT

25 WITH AUTHORITY 26

26 Sec. 11006.154. CONTRACTS TO SUPPLY WATER 27

1	Sec. 11006.155.	SOURCES FOR WATER; ACQUISITION OF	
2		LAND; STORAGE CAPACITY	29
3	Sec. 11006.156.	CONSTRUCTION CONTRACTS	30
4	Sec. 11006.157.	CONVEYANCE OF LAND TO AUTHORITY	30
5	Sec. 11006.158.	SURPLUS PROPERTY	31
6	Sec. 11006.159.	EMINENT DOMAIN	32
7	Sec. 11006.160.	COST OF RELOCATING OR ALTERING	
8		PROPERTY; RIGHTS-OF-WAY AND	
9		EASEMENTS	33
10	Sec. 11006.161.	OTHER AUTHORITY POWERS	34
11		SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS	
12	Sec. 11006.201.	DEPOSITORY	36
13	Sec. 11006.202.	INVESTMENT OF AUTHORITY MONEY	37
14	Sec. 11006.203.	AUTHORITY ACCOUNTS	37
15	Sec. 11006.204.	AUTHORITY FACILITIES EXEMPT FROM	
16		TAXATION AND ASSESSMENT	39
17		SUBCHAPTER F. BONDS	
18	Sec. 11006.251.	AUTHORITY TO ISSUE BONDS	41
19	Sec. 11006.252.	FORM OF BONDS	42
20	Sec. 11006.253.	MATURITY	43
21	Sec. 11006.254.	ELECTION FOR BONDS PAYABLE FROM AD	
22		VALOREM TAXES	44
23	Sec. 11006.255.	BONDS SECURED BY REVENUE; ADDITIONAL	
24		BONDS	46
25	Sec. 11006.256.	BONDS PAYABLE FROM AD VALOREM TAXES	47
26	Sec. 11006.257.	ADDITIONAL SECURITY	48
27	Sec. 11006.258.	TRUST INDENTURE	48
28	Sec. 11006.259.	CHARGES FOR AUTHORITY SERVICES	49
29	Sec. 11006.260.	USE OF BOND PROCEEDS	50
30	Sec. 11006.261.	APPOINTMENT OF RECEIVER	51
31	Sec. 11006.262.	REFUNDING BONDS	52
32	Sec. 11006.263.	LIMITATION ON RIGHTS OF BONDHOLDERS	54
33	Sec. 11006.264.	BONDS EXEMPT FROM TAXATION	54

1 Sec. 11006.265. DETACHMENT OF AUTHORITY TERRITORY
2 AFTER ISSUANCE OF BONDS 55

3 CHAPTER 11006. SOUTH TEXAS WATER AUTHORITY
4 SUBCHAPTER A. GENERAL PROVISIONS

5 Revised Law

6 Sec. 11006.001. DEFINITIONS. In this chapter:

7 (1) "Authority" means the South Texas Water Authority.

8 (2) "Board" means the board of directors of the
9 authority.

10 (3) "Cities" means the cities of Agua Dulce, Bishop,
11 Driscoll, and Kingsville.

12 (4) "Director" means a member of the board. (Acts 66th
13 Leg., R.S., Ch. 436, Secs. 1 (part), 4(a) (part); New.)

14 Source Law

15 Sec. 1. . . . "South Texas Water Authority,"
16 referred to as the "authority,"

17 Sec. 4. (a) The authority shall be governed by
18 a board of directors, referred to as the "board,"
19

20 Revisor's Note

21 The definitions of "cities" and "director" are
22 added to the revised law for drafting convenience and
23 to eliminate frequent, unnecessary repetition of the
24 substance of the definitions.

25 Revised Law

26 Sec. 11006.002. NATURE OF AUTHORITY. The authority is a
27 conservation and reclamation district created under Section 59,
28 Article XVI, Texas Constitution. (Acts 66th Leg., R.S., Ch. 436,
29 Sec. 1 (part).)

30 Source Law

31 Sec. 1. By virtue of Article XVI, Section 59, of
32 the Texas Constitution, there is created a
33 conservation and reclamation district to be known as
34 "South Texas Water Authority," . . . which shall be a
35 governmental agency and a body politic and
36 corporate,

37 Revisor's Note

38 (1) Section 1, Chapter 436, Acts of the 66th

1 Legislature, Regular Session, 1979, refers to the
2 authority as "a governmental agency and a body politic
3 and corporate." The revised law omits the references
4 to "governmental agency" and "body politic and
5 corporate" because they duplicate a portion of Section
6 59(b), Article XVI, Texas Constitution, which provides
7 that a conservation and reclamation district is a
8 governmental agency and a body politic and corporate.

9 (2) Section 1, Chapter 436, Acts of the 66th
10 Legislature, Regular Session, 1979, refers to a
11 confirmation election. Because the confirmation
12 election has already been held, the revised law omits
13 the provision as executed. The omitted law reads:

14 Sec. 1. . . . subject to approval of
15 the creation at a confirmation election to
16 be called and held by the board of directors
17 at any time as provided for in Chapter 54,
18 Water Code, and notwithstanding the
19 limitations of Section 9b, Texas Election
20 Code (Article 2.01b, Vernon's Texas
21 Election Code) as to election dates.

22 Revised Law

23 Sec. 11006.003. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

24 (a) The authority is created to serve a public use and benefit.

25 (b) All land and other property in the authority will
26 benefit from the works and projects to be accomplished by the
27 authority under powers conferred by Section 59, Article XVI, Texas
28 Constitution.

29 (c) The accomplishment of the purposes stated in this
30 chapter will benefit the people of this state and improve their
31 properties and industries.

32 (d) The authority, in carrying out the purposes of this
33 chapter, will be performing an essential public function under the
34 constitution of this state. (Acts 66th Leg., R.S., Ch. 436, Secs.
35 3, 22 (part).)

36 Source Law

37 Sec. 3. It is determined and found that all of
38 the land and other property included within the area

1 and boundaries of the authority will be benefited by
2 the works and projects that are to be accomplished by
3 the authority pursuant to powers conferred by the
4 provisions of Article XVI, Section 59, of the Texas
5 Constitution, and that the authority is created to
6 serve a public use and benefit.

7 Sec. 22. The accomplishment of the purposes
8 stated in this Act is for the benefit of the people of
9 this state and for the improvement of their properties
10 and industries, and the authority, in carrying out the
11 purposes of this Act, will be performing an essential
12 public function under the constitution. . . .

13 SUBCHAPTER B. AUTHORITY TERRITORY; ANNEXATION

14 Revised Law

15 Sec. 11006.051. AUTHORITY TERRITORY. (a) The authority is
16 composed of the territory described by Section 2, Chapter 436, Acts
17 of the 66th Legislature, Regular Session, 1979, as that territory
18 may have been modified under:

19 (1) this subchapter or its predecessor statute,
20 Section 7, Chapter 436, Acts of the 66th Legislature, Regular
21 Session, 1979;

22 (2) Subchapter J, Chapter 49, Water Code; or

23 (3) other law.

24 (b) The boundaries of the authority form a closure. A
25 mistake does not affect:

26 (1) the authority's organization, existence, or
27 validity;

28 (2) the authority's right to issue any type of bond for
29 a purpose for which the authority is created or to pay the principal
30 of and interest on the bond;

31 (3) the authority's right to impose a tax; or

32 (4) the legality or operation of the authority, its
33 bonds, or its governing body. (Acts 66th Leg., R.S., Ch. 436, Sec.
34 2 (part).)

35 Source Law

36 Sec. 2. The authority's boundaries will
37 encompass . . . and these boundaries form a closure,
38 and no mistake shall affect the organization,
39 existence, and validity of the authority, or the right
40 to issue any type of bonds or refunding bonds, for the
41 purposes for which the authority is created, or to pay
42 principal of and interest on the bonds, or the right to
43 assess, levy, and collect taxes, or in any other manner

1 affect the legality or operation of the authority, its
2 bonds, or its governing body.

3 Revisor's Note

4 (1) The revision of the law governing the
5 authority does not revise the statutory language
6 describing the territory of the authority to avoid the
7 lengthy recitation of the description and because that
8 description may not be accurate on the effective date
9 of the revision or at the time of a later reading. For
10 the reader's convenience, the revised law includes
11 references to the statutory description of the
12 authority's territory and to the power to change the
13 authority's territory under this chapter and under
14 Subchapter J, Chapter 49, Water Code, applicable to
15 the authority under Sections 49.001 and 49.002 of that
16 chapter. The revised law also includes a reference to
17 the general power of the legislature to enact other
18 laws to change the authority's territory.

19 (2) Section 2, Chapter 436, Acts of the 66th
20 Legislature, Regular Session, 1979, provides that a
21 mistake in the description of the authority boundaries
22 does not affect the right of the authority to issue
23 "any type of bonds or refunding bonds." The revised
24 law omits the reference to "refunding bonds" because
25 refunding bonds are included in the meaning of "any
26 type of bonds."

27 (3) Section 2, Chapter 436, Acts of the 66th
28 Legislature, Regular Session, 1979, refers to the
29 authority's power to "assess, levy, and collect"
30 taxes. Throughout this chapter, the revised law
31 substitutes "impose" for "assess, levy, and collect"
32 because "impose" is the term generally used in Title 1,
33 Tax Code, and includes the assessment, levy, and
34 collection of a tax.

1 territory.

2 (e) Any interested person may appear at the hearing and
3 offer evidence for or against the annexation.

4 (f) The hearing may proceed in the order and under the rules
5 prescribed by the board and may be recessed from time to time.

6 (g) If, at the conclusion of the hearing, the board finds
7 that the property in the territory or municipality will benefit
8 from the present or contemplated improvements, works, or
9 facilities, the board shall adopt a resolution making a finding of
10 the benefit and calling an election in the territory or
11 municipality to be annexed.

12 (h) The resolution must state:

13 (1) the date of the election;

14 (2) each place where the election will be held; and

15 (3) the proposition to be voted on.

16 (i) At least 10 days before the date set for the election,
17 notice of the election must be given by publishing a substantial
18 copy of the resolution calling the election one time in a newspaper
19 of general circulation in the territory or municipality proposed to
20 be annexed.

21 (j) If a majority of the votes cast at the election are in
22 favor of annexation, the board by resolution shall annex the
23 territory or municipality to the authority.

24 (k) An annexation under this section is incontestable
25 except in the manner and within the time for contesting elections
26 under the Election Code.

27 (l) The board is not required to call an election if:

28 (1) a petition requesting annexation is signed by all
29 residents and landowners of the territory or municipality to be
30 annexed, the same as provided by law for conveyance of real
31 property; and

32 (2) the petition:

33 (A) states that the petitioners:

34 (i) approve their share of the outstanding

1 bonds or other obligations and the unissued bonds, if any, of the
2 authority; and

3 (ii) authorize the board to set rates
4 sufficient to pay their share of the debt and impose taxes
5 sufficient to pay those bonds, if authorized; and

6 (B) is filed in the office of the county clerk of
7 each county in which the authority is located. (Acts 66th Leg.,
8 R.S., Ch. 436, Secs. 7(a), (b), (c) (part), (d) (part), (e).)

9 Source Law

10 Sec. 7. (a) Territory may be annexed to the
11 authority as provided in this section.

12 (b) A petition praying for the annexation signed
13 by 50 or a majority, whichever number is smaller, of
14 the resident, qualified voters of the territory or of
15 any city or town sought to be annexed shall be filed
16 with the board. The petition shall describe the
17 territory to be annexed by metes and bounds, or
18 otherwise, unless the territory is the same as that
19 contained within the boundaries of the city or town, in
20 which event, it shall be sufficient to state that the
21 territory to be annexed is that which is contained
22 within the boundaries of the city or town.

23 (c) If the board finds that the petition
24 complies with and is signed by the number of qualified
25 persons required by Subsection (b) of this section,
26 that the annexation would be to the best interest of
27 the territory, city, or town and the authority, and
28 that the authority will be able to supply water, or
29 have water supplied to the territory, city, or town, it
30 shall adopt a resolution stating the conditions, if
31 any, under which the territory, city, or town may be
32 annexed to the authority and shall fix a time and place
33 when and where a hearing will be held by the board on
34 the question of whether the territory, city, or town
35 sought to be annexed will be benefited by the
36 improvements, works, and facilities then owned or
37 operated or contemplated to be owned or operated by the
38 authority or by the other functions of the authority.
39 Notice of the adoption of the resolution, stating the
40 time and place of the hearing, shall be published one
41 time in a newspaper of general circulation in the
42 territory, city, or town sought to be annexed at least
43 10 days before the date of such hearing. The notice
44 shall describe the territory in the same manner in
45 which it is required or permitted by this Act to be
46 described in the petition. All persons interested may
47 appear at the hearing and offer evidence for or against
48 the proposed annexation. The hearing may proceed in
49 the order and under the rules as may be prescribed by
50 the board, and the hearing may be recessed from time to
51 time. If, at the conclusion of the hearing, the board
52 finds that the property in the territory, city, or town
53 will be benefited by the present or contemplated
54 improvements, works, or facilities, the authority's
55 board shall adopt a resolution making a finding of that
56 benefit and calling an election in the territory,
57 city, or town proposed to be annexed stating the date
58 of the election, the place or places of holding the

1 election, and the proposition to be voted on and
2

3 (d) Notice of the election shall be given by
4 publishing a substantial copy of the resolution
5 calling the election one time in a newspaper of general
6 circulation in the territory, city, or town sought to
7 be annexed to the authority at least 10 days before the
8 date set for the election. . . . If . . . a majority of
9 the votes cast are in favor of annexation, the board
10 shall, by resolution, annex the territory, city, or
11 town to the authority, and the annexation is
12 thereafter incontestable except in the manner and
13 within the time for contesting elections under the
14 Texas Election Code.

15 (e) An election need not be called by the board
16 if the petition praying for the annexation is signed by
17 all residents and all landowners of the territory,
18 city, or town to be annexed, the same as provided by
19 law for conveyance of real property. The petition must
20 state the petitioners approve their share of the
21 outstanding bonds or other obligations and the
22 unissued bonds, if any, of the authority and authorize
23 the board to set rates sufficient to pay their share of
24 the indebtedness and to levy taxes sufficient to pay
25 those bonds if authorized. The petition shall be filed
26 in the office of the county clerk of each county in
27 which the authority is located.

28 Revisor's Note

29 (1) Section 7(b), Chapter 436, Acts of the 66th
30 Legislature, Regular Session, 1979, refers to
31 "resident, qualified voters" of the territory or
32 municipality proposed to be annexed. The revised law
33 substitutes "registered voters" for the quoted
34 language because in the context of eligibility to sign
35 a petition, Section 277.0021, Election Code, provides
36 that "qualified voter" means a "registered voter."

37 (2) Sections 7(b), (c), (d), and (e), Chapter
38 436, Acts of the 66th Legislature, Regular Session,
39 1979, refer to a "city" or "town." Throughout this
40 chapter, the revised law substitutes "municipality"
41 for "city" or "town," unless a specific city is
42 intended, because the terms are synonymous and
43 "municipality" is the term used in the Local
44 Government Code.

45 (3) Section 7(c), Chapter 436, Acts of the 66th
46 Legislature, Regular Session, 1979, refers to a
47 finding by the board that the authority will be able to

1 "supply water, or have water supplied." The revised
2 law omits the reference to "have water supplied"
3 because it is included in the meaning of "supply
4 water."

5 (4) Section 7(c), Chapter 436, Acts of the 66th
6 Legislature, Regular Session, 1979, provides that the
7 board shall "fix a time and place" for a hearing on the
8 question of annexation. The revised law substitutes
9 "set" for "fix" because the terms are synonymous in
10 this context and "set" is more commonly used.

11 (5) Section 7(c), Chapter 436, Acts of the 66th
12 Legislature, Regular Session, 1979, requires notice by
13 publication to describe the territory to be annexed in
14 the same manner in which it is "required or permitted
15 by this Act" to be described in the petition. The
16 requirements for describing the territory in the
17 petition are revised in Subsection (b) of this
18 section. The revised law is drafted accordingly.

19 (6) Section 7(c), Chapter 436, Acts of the 66th
20 Legislature, Regular Session, 1979, requires the board
21 to adopt a resolution regarding the appointment of
22 judges and clerks for each voting place. The revised
23 law omits the provision as superseded by the 1985
24 enactment of the Election Code, applicable to the
25 authority under Section 1.002, Election Code. Chapter
26 32, Election Code, governs the selection of election
27 judges and clerks. The omitted law reads:

28 (c) . . . [the authority's board
29 shall adopt a resolution] . . . appointing
30 a presiding judge for each voting place who
31 shall appoint the necessary assistant
32 judges and clerks to assist in holding the
33 election.

34 (7) Section 7(d), Chapter 436, Acts of the 66th
35 Legislature, Regular Session, 1979, states who may
36 vote in an election. The revised law omits the

1 provisions because Chapter 11, Election Code, governs
2 eligibility to vote in an election in this state and
3 allows only "qualified voters" who are residents of
4 the territory covered by the election to vote in an
5 election. The omitted law reads:

6 (d) . . . Only resident, qualified
7 electors who reside in the territory, city,
8 or town sought to be annexed are qualified
9 to vote in the election. . . .

10 (8) Section 7(d), Chapter 436, Acts of the 66th
11 Legislature, Regular Session, 1979, states that the
12 board shall receive and canvass the election returns
13 and adopt an order declaring the results. The revised
14 law omits that provision as superseded by the 1985
15 enactment of the Election Code, applicable to the
16 authority under Section 1.002 of that code. Chapter
17 67, Election Code, provides for the canvass of
18 elections. The omitted law reads:

19 (d) . . . Returns of the result of
20 the election shall be made to the board.
21 The board shall canvass the returns of the
22 election and adopt an order declaring the
23 results of the election. [If] the order
24 shows that

25 SUBCHAPTER C. BOARD OF DIRECTORS

26 Revised Law

27 Sec. 11006.101. COMPOSITION OF BOARD; TERMS. (a) The
28 authority is governed by a board of nine directors. The directors
29 occupy numbered places on the board. The Commissioners Court of
30 Kleberg County shall appoint directors for Places 1, 3, 5, 7, and 9,
31 and the Commissioners Court of Nueces County shall appoint
32 directors for Places 2, 4, 6, and 8.

33 (b) Directors serve staggered two-year terms, with the
34 terms of the directors occupying Places 1, 2, 3, and 4 commencing at
35 12:01 a.m. on April 1 of each even-numbered year and the terms of
36 the directors occupying Places 5, 6, 7, 8, and 9 commencing at 12:01
37 a.m. on April 1 of each odd-numbered year.

38 (c) In March of each year, the appropriate commissioners

1 court shall appoint directors to the appropriate places on the
2 board. (Acts 66th Leg., R.S., Ch. 436, Sec. 4(a) (part).)

3 Source Law

4 Sec. 4. (a) The authority shall be governed by
5 a board . . . composed of nine directors, who shall
6 occupy places on the board to be designated as Places
7 1, 2, 3, 4, 5, 6, 7, 8, and 9, respectively. . . . the
8 Commissioners Court of Kleberg County shall appoint
9 directors for Places 1, 3, 5, 7, and 9, and the
10 Commissioners Court of Nueces County shall appoint
11 directors for Places 2, 4, 6, and 8. [The terms of
12 office for directors' Places 1, 2, 3, and 4 shall
13 expire April 1, 1980, and the terms of office for
14 directors' Places 5, 6, 7, 8, and 9 shall expire on
15 April 1, 1981.] In March of each year, the respective
16 Commissioners Court of Nueces and Kleberg Counties
17 shall appoint, as applicable, the directors to those
18 places on the board which are to be appointed by the
19 respective commissioners court. Each regular director
20 appointed to succeed an initial regular director shall
21 be appointed to hold office for a term of two years,
22 commencing at 12:01 a. m. on April 1 of the applicable
23 year,

24 Revisor's Note

25 (1) Section 4(a), Chapter 436, Acts of the 66th
26 Legislature, Regular Session, 1979, refers to the
27 composition of the initial board of directors. The
28 revised law omits that provision as executed. The
29 omitted law reads:

30 (a) . . . Immediately after this Act
31 takes effect, the five-member governing
32 body of Kleberg County Water Control and
33 Improvement District-Kingsville shall
34 become five of the directors of the
35 district's board, and hold directors' Places
36 1, 3, 5, 7, and 9, and the Commissioners
37 Court of Nueces County shall appoint
38 directors for directors' Places 2, 4, 6, and
39 8. Thereafter,

40 (2) Section 4(a), Chapter 436, Acts of the 66th
41 Legislature, Regular Session, 1979, refers to the
42 terms of office of the initial directors. The revised
43 law omits that provision as executed. The omitted law
44 reads:

45 (a) . . . The terms of office for
46 directors' Places 1, 2, 3, and 4 shall
47 expire April 1, 1980, and the terms of
48 office for directors' Places 5, 6, 7, 8, and
49 9 shall expire on April 1, 1981. . . .

50 (3) Section 4(a), Chapter 436, Acts of the 66th

1 Legislature, Regular Session, 1979, refers to a
2 regular director "appointed to succeed an initial
3 regular director." The revised law omits the quoted
4 language as executed.

5 Revised Law

6 Sec. 11006.102. QUALIFICATIONS FOR OFFICE. (a) To be
7 eligible to be appointed or to serve as a director, a person:

8 (1) must be a resident, qualified voter of:

9 (A) the authority; and

10 (B) the county from which the person is
11 appointed; and

12 (2) may not:

13 (A) hold another public office; or

14 (B) be an officer or employee of the authority.

15 (b) Of the directors appointed by the Commissioners Court of
16 Nueces County:

17 (1) one must be a resident of the municipality of Agua
18 Dulce;

19 (2) one must be a resident of the municipality of
20 Bishop;

21 (3) one must be a resident of the municipality of
22 Driscoll; and

23 (4) one must be appointed at large and may be a
24 resident of any of those municipalities.

25 (c) A director is eligible for reappointment. (Acts 66th
26 Leg., R.S., Ch. 436, Secs. 4(a) (part), (b).)

27 Source Law

28 (a) . . . Each director shall be eligible for
29 reappointment. . . .

30 (b) To be eligible to be appointed or serve as a
31 regular director, a person must be a resident,
32 qualified elector of this state, the authority, and
33 the county from which he or she is appointed and shall
34 not hold any other public office or be an officer or
35 employee of the authority, and for those directors
36 appointed by the Commissioners Court of Nueces County,
37 one of each of those directors shall be residents of
38 the cities of Agua Dulce, Bishop, and Driscoll, with
39 the fourth director appointed by the Commissioners
40 Court of Nueces County to be at-large, and may be a

1 resident of any of those cities.

2 Revisor's Note

3 (1) Section 4(b), Chapter 436, Acts of the 66th
4 Legislature, Regular Session, 1979, refers to an
5 "elector" of the authority. Throughout this chapter,
6 the revised law substitutes "voter" for "elector"
7 because the terms are synonymous and "voter" is the
8 term used in the Election Code.

9 (2) Section 4(b), Chapter 436, Acts of the 66th
10 Legislature, Regular Session, 1979, requires a
11 director to be a qualified elector (or "voter" under
12 the terminology of the Election Code (see Revisor's
13 Note (1) to this section)) of this state, the
14 authority, and the county from which the director is
15 appointed. The revised law omits the reference to this
16 state because a qualified voter of the authority is
17 necessarily a qualified voter of this state.

18 Revised Law

19 Sec. 11006.103. VACANCIES. Any vacancy occurring on the
20 board shall be filled for the unexpired term by appointment in the
21 manner in which the vacating director was appointed. (Acts 66th
22 Leg., R.S., Ch. 436, Sec. 4(a) (part).)

23 Source Law

24 (a) . . . Any vacancy occurring on the board
25 through death, resignation, or otherwise, shall be
26 filled by appointment in the manner in which the
27 vacating director was appointed and shall hold office
28 until the expiration of the term for which the vacating
29 director was appointed.

30 Revisor's Note

31 Section 4(a), Chapter 436, Acts of the 66th
32 Legislature, Regular Session, 1979, refers to a
33 vacancy occurring on the board "through death,
34 resignation, or otherwise." The revised law omits the
35 quoted language because it describes every manner in
36 which a vacancy may occur without limiting in any way
37 the duty to fill a vacancy.

1 Revised Law

2 Sec. 11006.104. REMOVAL FROM OFFICE. After reasonable
3 notice and a public hearing, the board may remove a director from
4 office for misfeasance, malfeasance, or wilful neglect of duty.
5 Reasonable notice and a public hearing are not required if the
6 notice and hearing are expressly waived in writing. (Acts 66th
7 Leg., R.S., Ch. 436, Sec. 4(c).)

8 Source Law

9 (c) Any director may be removed from office by
10 the board for misfeasance, malfeasance, or wilful
11 neglect of duty, but only after reasonable notice and
12 public hearing, unless the notice and public hearing
13 are expressly waived in writing.

14 Revised Law

15 Sec. 11006.105. BOND. Each director shall execute a good
16 and sufficient bond for \$5,000 that is:

- 17 (1) payable to the authority; and
18 (2) conditioned on the faithful performance of the
19 director's duties. (Acts 66th Leg., R.S., Ch. 436, Sec. 5(b)
20 (part).)

21 Source Law

22 (b) Each person appointed as a director under
23 this Act shall execute a good and sufficient bond for
24 \$5,000, payable to the authority, conditioned on the
25 faithful performance of his or her duties. . . .

26 Revisor's Note

27 Section 5(b), Chapter 436, Acts of the 66th
28 Legislature, Regular Session, 1979, requires the
29 authority to pay the cost of a director's bond. The
30 revised law omits the provision because it duplicates
31 in substance Section 49.055(c), Water Code.
32 Throughout this chapter, the revised law omits law
33 that is superseded by Chapter 49, Water Code, or that
34 duplicates law contained in that chapter. Chapter 49,
35 Water Code, applies to the authority under Sections
36 49.001 and 49.002 of that chapter. The omitted law
37 reads:

1 (b) . . . The cost of each director's
2 bond shall be paid by the authority.

3 Revised Law

4 Sec. 11006.106. BOARD RESOLUTIONS; VOTING. (a) The
5 authority shall act by resolutions adopted by the board.

6 (b) All directors are entitled to vote. (Acts 66th Leg.,
7 R.S., Ch. 436, Sec. 5(d) (part).)

8 Source Law

9 (d) . . . All regular directors shall have a
10 vote. The authority shall act and proceed by
11 resolutions adopted by the board, and

12 Revisor's Note

13 Section 5(d), Chapter 436, Acts of the 66th
14 Legislature, Regular Session, 1979, provides that a
15 majority of the directors appointed constitutes a
16 quorum and that a vote of a majority of the directors
17 is necessary to adopt a resolution. The revised law
18 omits those provisions because they duplicate in
19 substance Section 49.053, Water Code. The omitted law
20 reads:

21 (d) A majority of the directors
22 appointed shall constitute a quorum. . . .
23 the affirmative vote of at least a majority
24 of the directors shall be necessary to adopt
25 any resolution.

26 Revised Law

27 Sec. 11006.107. OFFICERS AND ASSISTANTS. (a) The board
28 shall elect a president, vice president, secretary, and treasurer
29 at the first meeting of the board in April of each year or at any
30 time necessary to fill a vacancy.

31 (b) The board shall elect the president and vice president
32 from among the directors.

33 (c) The president serves for a one-year term.

34 (d) The offices of secretary and treasurer:

35 (1) may be held by one person; and

36 (2) are not required to be held by a director.

37 (e) The board may appoint as assistant board secretary one
38 or more persons who are not directors. (Acts 66th Leg., R.S., Ch.

1 436, Secs. 5(c) (part), (e) (part).)

2 Source Law

3 (c) The board shall elect one of the directors
4 as president of the board, who shall serve for a term
5 of one year and The board shall elect another
6 of the directors as vice-president of the board,
7 The board shall elect a secretary of the board,
8 The board shall elect a treasurer of the board,
9 The offices of secretary and treasurer may be
10 held by one person, and the holder or holders of that
11 office or those offices need not be a director. The
12 board may appoint one or more persons who are not
13 directors to be an assistant secretary of the board,
14

15 (e) Thereafter, these officers of the
16 board shall be elected annually at the first meeting of
17 the board in April of each year, or at any time
18 necessary to fill a vacancy.

19 Revisor's Note

20 Section 5(e), Chapter 436, Acts of the 66th
21 Legislature, Regular Session, 1979, provides for the
22 initial election of board officers. The revised law
23 omits that provision as executed. The omitted law
24 reads:

25 (e) The president, vice-president,
26 secretary, and treasurer of the board shall
27 be elected initially at the first meeting of
28 the board after all directors shall have
29 been appointed, taken the oath required by
30 Article XVI, Section 1, of the Texas
31 Constitution, executed the bond, and
32 otherwise qualified for office. . . .

33 Revised Law

34 Sec. 11006.108. DUTIES OF OFFICERS AND ASSISTANTS. (a) The
35 board president shall preside at board meetings and perform other
36 duties prescribed by the board.

37 (b) The board vice president shall perform the duties of the
38 president when the president is not present or is otherwise
39 incapacitated.

40 (c) The board secretary is the official custodian of the
41 minutes, books, records, and seal of the board and shall perform
42 other duties and functions prescribed by the board. An assistant
43 board secretary may perform any duty or function of the board
44 secretary.

1 (d) The board treasurer shall perform duties and functions
2 prescribed by the board. (Acts 66th Leg., R.S., Ch. 436, Sec. 5(c)
3 (part).)

4 Source Law

5 (c) [The board shall elect one of the directors
6 as president of the board,] . . . who shall preside at
7 meetings of the board and perform other duties
8 prescribed by the board. [The board shall elect
9 another of the directors as vice-president of the
10 board,] who shall perform the duties of the president
11 when the president is not present or is otherwise
12 incapacitated. [The board shall elect a secretary of
13 the board,] who shall be the official custodian of the
14 minutes, books, records, and seal of the board and who
15 shall perform other duties and functions prescribed by
16 the board. [The board shall elect a treasurer of the
17 board,] who shall perform duties and functions
18 prescribed by the board. . . . [The board may appoint
19 . . . an assistant secretary of the board,] who may
20 perform any duty or function of the secretary of the
21 board.

22 Revised Law

23 Sec. 11006.109. MEETINGS. The board shall have regular
24 meetings at times specified by board resolution and shall have
25 special meetings when called by the board president or by any three
26 directors. (Acts 66th Leg., R.S., Ch. 436, Sec. 5(f).)

27 Source Law

28 (f) The board shall have regular meetings at
29 times specified by resolutions of the board and shall
30 have special meetings whenever called by the president
31 or whenever called by any three of the directors.

32 Revised Law

33 Sec. 11006.110. PERSONAL LIABILITY OF DIRECTORS. A
34 director is not personally liable for a bond issued or contract
35 executed by the authority. (Acts 66th Leg., R.S., Ch. 436, Sec.
36 5(g).)

37 Source Law

38 (g) No director shall be liable personally for
39 any bonds issued or contracts executed by the
40 authority.

41 Revisor's Note
42 (End of Subchapter)

43 (1) Section 4(a), Chapter 436, Acts of the 66th
44 Legislature, Regular Session, 1979, provides that a
45 director holds over in office until the director's

1 successor has been appointed and has qualified. The
2 revised law omits the provision because it duplicates
3 in substance Section 17, Article XVI, Texas
4 Constitution, which provides that an officer in this
5 state continues to perform the officer's official
6 duties until a successor has qualified. The omitted
7 law reads:

8 (a) . . . provided that a director
9 continue in office until his successor is
10 appointed and has qualified. . . .

11 (2) Section 4(d), Chapter 436, Acts of the 66th
12 Legislature, Regular Session, 1979, provides that a
13 county may withdraw from the authority before the
14 board adopts an order issuing bonds. The revised law
15 omits that provision as executed because the board has
16 already adopted an order issuing bonds. The omitted
17 law reads:

18 (d) Any county may withdraw from the
19 authority prior to the time the board adopts
20 an order issuing bonds by presenting the
21 board with an order adopted by the governing
22 body of the county requesting the
23 withdrawal of a portion of Kleberg or Nueces
24 County from the authority at which time the
25 directors representing that county shall no
26 longer be members of the board. The
27 surviving county which is still a member of
28 the authority shall fairly appoint the
29 directors to replace the directors who are
30 no longer members of the board as a result
31 of withdrawal from the authority.

32 (3) Section 5(a), Chapter 436, Acts of the 66th
33 Legislature, Regular Session, 1979, provides that a
34 director serves without compensation and is entitled
35 to reimbursement of expenses. The revised law omits
36 that provision because Section 49.060, Water Code,
37 supersedes that provision under the express language
38 of Section 49.060(e). The omitted law reads:

39 Sec. 5. (a) The directors are not
40 entitled to compensation for their
41 services, but they are entitled to
42 reimbursement for their actual expenses
43 incurred in performing their duties, to the
44 extent authorized and permitted by the

1 board.

2 SUBCHAPTER D. POWERS AND DUTIES

3 Revised Law

4 Sec. 11006.151. GENERAL POWERS. The authority may exercise
5 any power necessary or appropriate to achieve the purposes of this
6 chapter, including the power to:

7 (1) sue and be sued and plead and be impleaded in its
8 own name;

9 (2) adopt an official seal;

10 (3) adopt and enforce bylaws and rules for the conduct
11 of its affairs;

12 (4) acquire, hold, use, and dispose of its receipts
13 and money from any source;

14 (5) select a depository or depositories;

15 (6) acquire, own, rent, lease, accept, hold, or
16 dispose of property, or an interest in property, including a right
17 or easement, by purchase, exchange, gift, assignment,
18 condemnation, sale, lease, or otherwise, in performing authority
19 duties or exercising authority powers under this chapter;

20 (7) hold, manage, operate, or improve property;

21 (8) lease or rent any land, building, structure, or
22 facility from or to any person;

23 (9) sell, assign, lease, encumber, mortgage, or
24 otherwise dispose of property, or an interest in property, and
25 release or relinquish a right, title, claim, lien, interest,
26 easement, or demand, regardless of the manner in which acquired,
27 and conduct a transaction authorized by this subdivision by public
28 or private sale, with or without public bidding, notwithstanding
29 any other law;

30 (10) issue bonds, provide for and secure the payment
31 of the bonds, and provide for the rights of the holders of the bonds
32 in the manner and to the extent authorized by this chapter;

33 (11) request and accept any appropriation, grant,
34 allocation, subsidy, guaranty, aid, service, material, or gift from

1 any source, including the federal government, the state, a public
2 agency, or a political subdivision;

3 (12) operate and maintain an office;

4 (13) appoint and determine the duties, tenure,
5 qualifications, and compensation of officers, employees, agents,
6 professional advisors, and counselors, including financial
7 consultants, accountants, attorneys, architects, engineers,
8 appraisers, and financing experts considered necessary or
9 advisable by the board; and

10 (14) exercise any power granted by Chapter 383, Health
11 and Safety Code, or Chapter 30, Water Code. (Acts 66th Leg., R.S.,
12 Ch. 436, Secs. 6(a), (b), (c), (d), (e), (f), (g), (h), (i), (k).)

13 Source Law

14 Sec. 6. (a) The authority may exercise all
15 powers necessary or appropriate to carry out, achieve,
16 or effectuate the purposes of this Act, including
17 those powers provided in this section.

18 (b) The authority may sue and be sued and may
19 plead and be impleaded in its own name.

20 (c) The authority may adopt an official seal and
21 alter the seal when deemed advisable and may adopt and
22 enforce bylaws, rules, and regulations for the conduct
23 of its affairs that are not inconsistent with this Act.

24 (d) The authority may acquire, hold, use, and
25 dispose of its revenues, income, receipts, funds, and
26 money from every source and may select its depository
27 or depositories.

28 (e) The authority may acquire, own, rent, lease,
29 accept, hold, or dispose of any real, personal, or
30 mixed property or any interest in that property, in
31 performing its duties and exercising its powers under
32 this Act by purchase, exchange, gift, assignment,
33 condemnation, sale, lease, or otherwise, including
34 rights or easements, and may hold, manage, operate, or
35 improve real, personal, or mixed property.

36 (f) The authority may sell, assign, lease,
37 encumber, mortgage, or otherwise dispose of any real,
38 personal, or mixed property or any interest in that
39 property and may release or relinquish any right,
40 title, claim, lien, interest, easement, or demand
41 however acquired, and may do any of the foregoing by
42 public or private sale, with or without public
43 bidding, notwithstanding the provisions of any other
44 law, and may lease or rent any land, buildings,
45 structures, or facilities from or to any person, firm,
46 corporation, city, or other public agency or political
47 subdivision to effectuate the purposes of this Act.

48 (g) The authority may request and may accept any
49 appropriations, grants, allocations, subsidies,
50 guaranties, aid, contributions, services, labor,
51 materials, gifts, or donations from the federal
52 government, the state, any city, public agency,
53 political subdivision, or any other sources.

54 (h) The authority may operate and maintain an

1 office and may appoint and determine the duties,
2 tenure, qualifications, and compensation of officers,
3 employees, agents, professional advisors, and
4 counsellors, including financial consultants,
5 accountants, attorneys, architects, engineers,
6 appraisers, and financing experts deemed necessary or
7 advisable by the board.

8 (i) The authority may issue its bonds, provide
9 for and secure the payment of its bonds, and provide
10 for the rights of the holders of its bonds in the
11 manner and to the extent permitted by this Act.

12 (k) The authority may exercise those powers
13 granted by the Clean Air Financing Act (Article
14 4477-5a, Vernon's Texas Civil Statutes), and Chapter
15 30, Water Code.

16 Revisor's Note

17 (1) Section 6(a), Chapter 436, Acts of the 66th
18 Legislature, Regular Session, 1979, refers to the
19 authority's power to "carry out, achieve, or
20 effectuate" certain purposes. The revised law omits
21 "carry out" and "effectuate" because those terms are
22 included in the meaning of "achieve."

23 (2) Section 6(c), Chapter 436, Acts of the 66th
24 Legislature, Regular Session, 1979, authorizes the
25 authority to adopt an official seal and to "alter the
26 seal when deemed advisable." The revised law omits the
27 quoted language because the authority to adopt a seal
28 includes the authority to alter it.

29 (3) Section 6(c), Chapter 436, Acts of the 66th
30 Legislature, Regular Session, 1979, states that the
31 authority may adopt and enforce "bylaws, rules, and
32 regulations" for the conduct of its affairs "not
33 inconsistent with this Act." The revised law omits
34 "regulations" because Section 311.005(5), Government
35 Code (Code Construction Act), defines "rule" to
36 include "regulation." The revised law omits "not
37 inconsistent with this Act" as unnecessary because as
38 a general principle of law, the authority has the power
39 to take only those actions that are consistent with the
40 law revised in this chapter.

41 (4) Section 6(d), Chapter 436, Acts of the 66th

1 Legislature, Regular Session, 1979, refers to the
2 authority's power regarding its "revenues, income,
3 . . . funds, and money." The revised law omits
4 "revenues," "income," and "funds" because the meaning
5 of those terms is included in the meaning of "money."
6 Throughout this chapter, the revised law substitutes
7 "money" for "funds" (except where a specific type of
8 fund is indicated) because, in context, the meaning is
9 the same and "money" is the more commonly used term.

10 (5) Sections 6(e) and (f), Chapter 436, Acts of
11 the 66th Legislature, Regular Session, 1979, refer to
12 "real, personal, or mixed property." The revised law
13 omits the references to "real," "personal," and
14 "mixed" property because under Section 311.005(4),
15 Government Code (Code Construction Act), "property"
16 includes real and personal and, by extension, mixed
17 property.

18 (6) Section 6(f), Chapter 436, Acts of the 66th
19 Legislature, Regular Session, 1979, refers to any
20 "person, firm, corporation, city, or other public
21 agency or political subdivision." Throughout this
22 chapter, the revised law substitutes "person" for the
23 quoted language or similar language because Section
24 311.005(2), Government Code (Code Construction Act),
25 defines "person" to include any legal entity.

26 (7) Section 6(g), Chapter 436, Acts of the 66th
27 Legislature, Regular Session, 1979, provides that the
28 authority may request and accept "appropriations,
29 grants, allocations, subsidies, guaranties, aid,
30 contributions, services, labor, materials, gifts, or
31 donations" from any source, including "any city . . .
32 [or] political subdivision." The revised law omits
33 "contributions," "labor," and "donations" because the
34 meaning of those terms is included in the meaning of

1 "aid," "services," or "gifts." The revised law also
2 omits the reference to "city" because "city" is
3 included in the meaning of "political subdivision."

4 (8) Section 6(j), Chapter 436, Acts of the 66th
5 Legislature, Regular Session, 1979, authorizes the
6 authority to fix and "revise from time to time" certain
7 fees for those who use authority facilities or
8 services and to charge and collect those fees. The
9 revised law omits the reference to fixing, charging,
10 and collecting fees because it duplicates, in
11 substance, Section 49.212, Water Code. The revised
12 law also omits the reference to revising the fees from
13 time to time because the power to set the fees includes
14 the power to revise them from time to time. The
15 omitted law reads:

16 (j) The authority may fix and revise
17 from time to time and charge and collect
18 rates, fees, and charges for its facilities
19 and services.

20 (9) Section 6(k), Chapter 436, Acts of the 66th
21 Legislature, Regular Session, 1979, provides that the
22 authority has the powers granted by the Clean Air
23 Financing Act (Article 4477-5a, Vernon's Texas Civil
24 Statutes). That statute was codified in 1989 as
25 Chapter 383, Health and Safety Code. The revised law
26 is drafted accordingly.

27 Revised Law

28 Sec. 11006.152. PERMITS. (a) The authority may obtain,
29 through appropriate proceedings, an appropriation permit or a
30 diversion permit from the Texas Commission on Environmental
31 Quality.

32 (b) The authority may acquire a water appropriation permit
33 from a permit owner by contract or otherwise. (Acts 66th Leg.,
34 R.S., Ch. 436, Sec. 8 (part).)

1 Revisor's Note

2 Section 9(b), Chapter 436, Acts of the 66th
3 Legislature, Regular Session, 1979, refers to certain
4 "terms and conditions." Throughout this chapter, the
5 revised law omits the reference to "conditions"
6 because "conditions" is included in the meaning of
7 "terms."

8 Revised Law

9 Sec. 11006.154. CONTRACTS TO SUPPLY WATER. (a) The
10 authority may contract with public agencies or political
11 subdivisions, including the cities, to supply water to them. The
12 authority may sell water inside or outside the boundaries of the
13 authority.

14 (b) Contracts under Subsection (a) may provide that the
15 contractual payments by the political subdivisions:

16 (1) will be payable from revenue or the imposition of
17 taxes or both; and

18 (2) will constitute the purchase of the authority's
19 system at the time all indebtedness incurred by the authority for
20 acquisition, construction, improvement, and extensions of the
21 system is paid in full.

22 (c) The authority may contract with a public agency or
23 political subdivision for the rental or leasing of or for the
24 operation of the water supply, water, and filtration or
25 purification facilities of the entity for the consideration agreed
26 to by the authority and the entity.

27 (d) A contract under Subsection (a) or (c) may:

28 (1) be on the terms and for the time agreed to by the
29 parties; and

30 (2) provide that it will continue in effect until
31 bonds specified in it and refunding bonds issued in lieu of the
32 bonds are paid.

33 (e) The authority may enter into contracts or agreements
34 with the Nueces River Authority and the City of Corpus Christi for

1 the purchase of water.

2 (f) The authority and the City of Corpus Christi may enter
3 into contracts or agreements for the sale of water and the operation
4 and maintenance of the authority's water lines if considered
5 advisable.

6 (g) Public agencies or political subdivisions of this
7 state, including the cities, may enter into contracts or agreements
8 with the authority for a water supply.

9 (h) Approval, notice, consent, or an election is not
10 required in connection with a contract or agreement described by
11 Subsection (e), (f), or (g). (Acts 66th Leg., R.S., Ch. 436, Secs.
12 9(a) (part), (b) (part), 19.)

13 Source Law

14 Sec. 9. (a) . . . The authority may sell water
15 within and without the boundaries of the authority and
16

17 (b) All public agencies and political
18 subdivisions of the State of Texas, including
19 specifically the city of Agua Dulce, the city of
20 Bishop, the city of Driscoll, and the city of
21 Kingsville are authorized to enter into contracts and
22 agreements with the authority for a water supply, or
23 In addition, the authority specifically may
24 enter into contracts and agreements with the Nueces
25 River Authority and the city of Corpus Christi for the
26 purchase of water, and the authority and city may enter
27 into agreements and contracts with the authority for
28 the sale of water and operation and maintenance of the
29 authority's water lines if deemed advisable. . . . No
30 approval, notice, or consent whatsoever, nor any
31 election, is required in connection with any of these
32 contracts, agreements, or

33 Sec. 19. The authority may enter into contracts
34 with any city, public agency, or political
35 subdivision, including specifically the city of Agua
36 Dulce, the city of Bishop, the city of Driscoll, and
37 the city of Kingsville, for supplying water to them.
38 These contracts may provide that the contractual
39 payments by the political subdivisions will be payable
40 from revenues or the levy of taxes or both and will
41 constitute the purchase of the authority's system at
42 the time all indebtedness incurred by the authority
43 for acquisition, construction, improvement, and
44 extensions of the system is paid in full. The
45 authority is also authorized to contract with any
46 city, public agency, or political subdivision for the
47 rental or leasing of or for the operation of the water
48 supply, water, and filtration or purification
49 facilities of the entity for consideration on which
50 the authority and the entity may agree. Any contract
51 may be on the terms and for the time to which the
52 parties may agree, and the contract may provide that it
53 shall continue in effect until bonds specified in the

1 contract and refunding bonds issued in lieu of those
2 bonds are paid.

3 Revisor's Note

4 Section 19, Chapter 436, Acts of the 66th
5 Legislature, Regular Session, 1979, states that the
6 authority may contract with any "city," public agency,
7 or political subdivision for certain authority
8 purposes. The revised law omits the reference to any
9 "city" because "city" is included in the meaning of
10 "political subdivision."

11 Revised Law

12 Sec. 11006.155. SOURCES FOR WATER; ACQUISITION OF LAND;
13 STORAGE CAPACITY. (a) The authority may acquire or construct,
14 inside or outside the authority, any work, well plant, transmission
15 line, or other facility necessary or useful to divert, impound,
16 drill for, store, treat, or transport water to the cities for
17 municipal, domestic, agricultural, industrial, or any other useful
18 purposes.

19 (b) The authority may develop or otherwise acquire
20 underground sources of water.

21 (c) The authority may acquire land, or an interest in land,
22 inside or outside the authority for any reservoir, work, well,
23 plant, transmission line, or other facility necessary or useful to
24 impound, store, treat, or transport water to the cities and others
25 for municipal, domestic, agricultural, industrial, mining, oil
26 flooding, or any other useful purposes.

27 (d) The authority may lease, purchase, or otherwise acquire
28 rights in and to storage and storage capacity in any reservoir
29 constructed or to be constructed by any person. (Acts 66th Leg.,
30 R.S., Ch. 436, Secs. 8 (part), 9(a) (part), 10 (part).)

31 Source Law

32 Sec. 8. . . . The authority may lease,
33 purchase, or otherwise acquire rights in and to
34 storage and storage capacity in any reservoir
35 constructed or to be constructed by any person, firm,
36 corporation, public agency, political subdivision,
37 the state, or the United States or any of its agencies.

38 Sec. 9. (a) . . . The authority may acquire or

1 construct within or without the boundaries of the
2 authority all works, well plants, transmission lines,
3 and other facilities necessary or useful for the
4 purpose of diverting, impounding, drilling, storing,
5 treating, and transporting water to the city of Agua
6 Dulce, the city of Bishop, the city of Driscoll, and
7 the city of Kingsville for municipal, domestic,
8 agricultural, industrial, or any other useful
9 purposes. The authority . . . may develop or
10 otherwise acquire underground sources of water.

11 Sec. 10. The authority may acquire land or any
12 interest in land within or without the boundaries of
13 the authority for all reservoirs, works, wells,
14 plants, transmission lines, and other facilities
15 necessary or useful for the purpose of impounding,
16 storing, treating, and transporting water to the city
17 of Agua Dulce, the city of Bishop, the city of
18 Driscoll, the city of Kingsville, and others for
19 municipal, domestic, agricultural, industrial,
20 mining, oil flooding, and all other useful purposes.
21 . . .

22 Revised Law

23 Sec. 11006.156. CONSTRUCTION CONTRACTS. (a) The authority
24 may award a construction contract that requires an expenditure of
25 more than \$5,000 only after publication of notice to bidders once
26 each week for two consecutive weeks in a newspaper of general
27 circulation in the authority.

28 (b) The notice is sufficient if it states:

- 29 (1) the time and place for opening the bids;
30 (2) the general nature of the work to be done or the
31 material, equipment, or supplies to be purchased; and
32 (3) where the terms of bidding and copies of the plans
33 and specifications may be obtained. (Acts 66th Leg., R.S., Ch. 436,
34 Sec. 12.)

35 Source Law

36 Sec. 12. Any construction contract requiring an
37 expenditure of more than \$5,000 shall be made after
38 publication of a notice to bidders once each week for
39 two consecutive weeks in a newspaper of general
40 circulation in the authority before awarding the
41 contract. The notice shall be sufficient if it states
42 the time and place when and where the bids will be
43 opened, the general nature of the work to be done, or
44 the material, equipment, or supplies to be purchased,
45 and states where the terms and conditions of bidding
46 and copies of the plans and specifications may be
47 obtained.

48 Revised Law

49 Sec. 11006.157. CONVEYANCE OF LAND TO AUTHORITY. A public

1 agency or political subdivision of this state, including the
2 cities, may lease, sell, or otherwise convey its land or an interest
3 in its land to the authority for the consideration that the parties
4 agree is adequate. Approval, notice, consent, or an election is not
5 required in connection with the conveyance. (Acts 66th Leg., R.S.,
6 Ch. 436, Sec. 9(b) (part).)

7 Source Law

8 (b) All public agencies and political
9 subdivisions of the State of Texas, including
10 specifically the city of Agua Dulce, the city of
11 Bishop, the city of Driscoll, and the city of
12 Kingsville Also, each entity, including
13 specifically the city of Agua Dulce, the city of
14 Bishop, the city of Driscoll, and the city of
15 Kingsville may lease, sell, or otherwise convey any of
16 its land or any interest in its land to the authority
17 for the consideration that the parties agree to be
18 adequate. No approval, notice, or consent whatsoever,
19 nor any election, is required in connection with any of
20 these . . . conveyances.

21 Revised Law

22 Sec. 11006.158. SURPLUS PROPERTY. Subject to the terms of a
23 resolution or deed of trust authorizing or securing bonds issued by
24 the authority, the authority may sell, lease, rent, trade, or
25 otherwise dispose of property that the board considers not needed
26 for an authority purpose. (Acts 66th Leg., R.S., Ch. 436, Sec. 10
27 (part).)

28 Source Law

29 Sec. 10. . . . Subject to the terms of any
30 resolution or deed of trust authorizing or securing
31 bonds issued by the authority, the authority may sell,
32 lease, rent, trade, or otherwise dispose of any real or
33 personal property deemed by the board not to be needed
34 for authority purposes.

35 Revisor's Note

36 Section 10, Chapter 436, Acts of the 66th
37 Legislature, Regular Session, 1979, refers to "real or
38 personal property." The revised law omits the
39 references to "real" and "personal" property for the
40 reason stated in Revisor's Note (5) to Section
41 11006.151.

1 Revised Law

2 Sec. 11006.159. EMINENT DOMAIN. (a) To carry out a power
3 conferred by this chapter, the authority may exercise the power of
4 eminent domain to acquire the fee simple title to land, or any other
5 interest in land, and other property and easements, inside or
6 outside the authority, including land or an interest in land needed
7 for a reservoir, dam, or flood easement above the probable
8 high-water line around a reservoir.

9 (b) The authority must exercise the power of eminent domain
10 in the manner provided by Chapter 21, Property Code.

11 (c) The authority is a municipal corporation for the
12 purposes of Chapter 21, Property Code.

13 (d) The board shall determine the amount and the type of
14 interest in land, other property, or easements to be acquired.

15 (Acts 66th Leg., R.S., Ch. 436, Sec. 11(a) (part).)

16 Source Law

17 Sec. 11. (a) For the purpose of carrying out
18 any power or authority conferred by this Act, the
19 authority is entitled to acquire the fee simple title
20 to land or any other interest in land and other
21 property and easements, including land or any interest
22 in land needed for reservoir, dam, and flood easements
23 above the probable high water line around any
24 reservoirs, within or without the boundaries of the
25 district, by condemnation in the manner provided by
26 Title 52, Revised Civil Statutes of Texas, 1925, as
27 amended, relating to eminent domain and Subchapter E,
28 Chapter 50, Water Code. This authority is declared to
29 be a municipal corporation within the meaning of Title
30 52. The amount of and character of interest in land,
31 other property, and easements acquired by condemnation
32 shall be determined by the board. . . .

33 Revisor's Note

34 (1) Section 11(a), Chapter 436, Acts of the 66th
35 Legislature, Regular Session, 1979, refers to any
36 "power or authority" of the authority. The revised law
37 omits "authority" in this context because "authority"
38 is included in the meaning of "power."

39 (2) Section 11(a), Chapter 436, Acts of the 66th
40 Legislature, Regular Session, 1979, provides that "the
41 authority is entitled to acquire [certain property] by

1 condemnation." The revised law substitutes for the
2 quoted language "the authority may exercise the power
3 of eminent domain" because the phrases have the same
4 meaning and the latter phrase is consistent with
5 modern usage in laws relating to eminent domain.

6 (3) Section 11(a), Chapter 436, Acts of the 66th
7 Legislature, Regular Session, 1979, refers to "Title
8 52, Revised Civil Statutes of Texas, 1925, as
9 amended," and to "Subchapter E, Chapter 50, Water
10 Code." In 1983, the Title 52 statutes were codified as
11 Chapter 21, Property Code. Subchapter E, Chapter 50,
12 Water Code, was repealed in 1995 and replaced by
13 Section 49.224, Water Code, which applies to the
14 authority on its own terms. The revised law is drafted
15 accordingly. The revised law omits the reference to
16 "as amended" because under Section 311.027, Government
17 Code (Code Construction Act), a reference to a statute
18 applies to all reenactments, revisions, or amendments
19 of that statute unless expressly provided otherwise.

20 Revised Law

21 Sec. 11006.160. COST OF RELOCATING OR ALTERING PROPERTY;
22 RIGHTS-OF-WAY AND EASEMENTS. (a) If the authority's exercise of
23 its eminent domain, police, or other power requires relocating,
24 raising, lowering, rerouting, or changing the grade of or altering
25 the construction of any railroad, electric transmission,
26 telegraph, or telephone line, conduit, pole, property, or facility
27 or pipeline, the action shall be accomplished at the sole expense of
28 the authority. The term "sole expense" means the actual cost of the
29 raising, lowering, rerouting, or change in grade or alteration of
30 construction to provide a comparable replacement without enhancing
31 the facility, after deducting from the cost the net salvage value
32 derived from the old facility.

33 (b) The authority has all necessary or useful rights-of-way
34 and easements along, over, under, and across all public, state,

1 municipal, and county roads, highways, and places for any of its
2 purposes. The authority shall restore a used facility to its
3 previous condition as nearly as possible at the sole expense of the
4 authority. (Acts 66th Leg., R.S., Ch. 436, Secs. 11(b), (c).)

5 Source Law

6 (b) The authority is granted all necessary or
7 useful rights-of-way and easements along, over, under,
8 and across all public, state, city, and county roads,
9 highways, and places for any of its purposes, but the
10 authority shall restore any of those facilities used
11 to their previous condition as nearly as possible at
12 the sole expense of the authority.

13 (c) In the event the authority, in the exercise
14 of its power of eminent domain or police power, or any
15 other power requires the relocation, raising,
16 lowering, rerouting, or change in grade or alteration
17 in the construction of any railroad, electric
18 transmission, telegraph, or telephone lines,
19 conduits, poles, properties, or facilities or
20 pipelines, the relocation, raising, lowering,
21 rerouting, or changes in grade or alteration of
22 construction shall be accomplished at the sole expense
23 of the authority. The term "sole expense" shall mean
24 the actual cost of the raising, lowering, rerouting,
25 or change in grade or alteration of construction in
26 providing comparable replacement without enhancement
27 of the facilities, after deducting therefrom the net
28 salvage value derived from the old facility.

29 Revised Law

30 Sec. 11006.161. OTHER AUTHORITY POWERS. The authority has
31 the same power as is conferred by general law on municipal utility
32 districts and on water control and improvement districts with
33 reference to entering land, making surveys, and attending to other
34 business of the authority. (Acts 66th Leg., R.S., Ch. 436, Sec.
35 11(a) (part).)

36 Source Law

37 (a) . . . The authority shall have the same
38 power that is conferred by general law on municipal
39 utility districts and on water control and improvement
40 districts with reference to entering land, making
41 surveys, and attending to other business of the
42 authority.

43 Revisor's Note
44 (End of Subchapter)

45 (1) Section 9(a), Chapter 436, Acts of the 66th
46 Legislature, Regular Session, 1979, provides in part
47 that the authority may contract with any person for the
48 purchase or sale of water and for any other authority

1 purpose. The revised law omits that provision because
2 it duplicates in substance Section 49.213(b), Water
3 Code, which authorizes the authority to enter into a
4 contract with any person for any authority purpose,
5 and part of Section 49.213(c), Water Code, which
6 authorizes the authority to enter into a contract for
7 the purchase or sale of water. The authority may
8 enforce a contract or agreement under Section 49.066,
9 Water Code, which states that "[a] district may sue and
10 be sued in the courts of this state." The omitted law
11 reads:

12 Sec. 9. (a) The authority may enter
13 into and enforce contracts and agreements
14 for the purchase or sale of water and for
15 any other purpose relating to its powers,
16 with any person, firm, corporation, public
17 agency, political subdivision, the state,
18 or the United States or any of its
19 agencies. . . .

20 (2) Section 9(c), Chapter 436, Acts of the 66th
21 Legislature, Regular Session, 1979, provides that the
22 rights, powers, privileges, authority, and functions
23 granted to the authority are subject to supervision by
24 the state through the Texas Department of Water
25 Resources, subject to "the provisions of this Act and
26 Section 12.081 and Chapter 50, Water Code." The
27 revised law omits the provision as unnecessary.
28 Chapter 795, Acts of the 69th Legislature, Regular
29 Session, 1985, transferred the relevant authority
30 exercised by the Texas Department of Water Resources
31 to the Texas Water Commission. As explained by the
32 revisor's note to Section 11006.152, the Texas
33 Commission on Environmental Quality is the successor
34 agency to the former Texas Water Commission, and
35 therefore the provision duplicates, in substance, part
36 of Section 12.081, Water Code, which applies to the
37 authority by its own terms. The reference to Chapter

1 50, Water Code, is omitted because most of Chapter 50
2 was repealed by Chapter 715, Acts of the 74th
3 Legislature, Regular Session, 1995, and supervision of
4 the authority under that chapter is provided only
5 under Section 50.107, which, to the extent it may have
6 effect, applies by its own terms. The omitted law
7 reads:

8 (c) The rights, powers, privileges,
9 authority, and functions granted to the
10 authority in this Act shall be subject to
11 the continuing right of supervision of the
12 state, to be exercised by the Texas
13 Department of Water Resources, subject to
14 the provisions of this Act and Section
15 12.081 and Chapter 50, Water Code.

16 SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS

17 Revised Law

18 Sec. 11006.201. DEPOSITORY. (a) The board shall designate
19 one or more banks inside or outside the authority to serve as the
20 depository for the authority's money.

21 (b) Authority money shall be deposited in the depository
22 designated by the board, except that:

23 (1) bond proceeds and money pledged to pay bonds, to
24 the extent provided in a resolution or trust indenture authorizing
25 or securing authority bonds, may be deposited with another bank or
26 trustee named in the bond resolution or trust indenture; and

27 (2) money shall be remitted to each paying agent for
28 the payment of principal of and interest on the bonds.

29 (c) To the extent that money in a depository bank or a
30 trustee bank is not insured by the Federal Deposit Insurance
31 Corporation, the money must be secured in the manner provided by law
32 for the security of municipal money. (Acts 66th Leg., R.S., Ch.
33 436, Sec. 20 (part).)

34 Source Law

35 Sec. 20. The board shall designate one or more
36 banks within or without the authority to serve as
37 depository for the funds of the authority. All funds
38 of the authority shall be deposited in the depository
39 bank or banks, except that bond proceeds and funds
40 pledged to pay bonds may, to the extent provided in any

1 resolution or trust indenture authorizing or securing
2 bonds of the authority, be deposited with any other
3 bank or trustee named in the bond resolution or trust
4 indenture, and except that funds shall be remitted to
5 each paying agent for the payment of principal of and
6 interest on the bonds. To the extent that funds in the
7 depository banks and the trustee bank are not insured
8 by the Federal Deposit Insurance Corporation, they
9 shall be secured in the manner provided by law for the
10 security of city funds. . . .

11 Revised Law

12 Sec. 11006.202. INVESTMENT OF AUTHORITY MONEY. The board
13 may invest authority money in obligations and make time deposits of
14 authority money in the manner determined by the board or in the
15 manner permitted or required in a resolution or trust indenture
16 authorizing or securing authority bonds. (Acts 66th Leg., R.S.,
17 Ch. 436, Sec. 20 (part).)

18 Source Law

19 Sec. 20. . . . The board may invest authority
20 funds in obligations and make time deposits of
21 authority funds, in such manner as is determined by the
22 board, or in the manner permitted or required in any
23 resolution or trust indenture authorizing or securing
24 bonds of the authority.

25 Revised Law

26 Sec. 11006.203. AUTHORITY ACCOUNTS. The authority shall
27 maintain a complete system of the authority's accounts. (Acts 66th
28 Leg., R.S., Ch. 436, Sec. 25 (part).)

29 Source Law

30 Sec. 25. The authority shall maintain a
31 complete system of accounts and

32 Revisor's Note

33 (1) Section 25, Chapter 436, Acts of the 66th
34 Legislature, Regular Session, 1979, refers to various
35 audit procedures, including where a copy of the audit
36 report is required to be kept. As detailed in the
37 revisor's notes that follow, procedures that are
38 superseded by Subchapter G, Chapter 49, Water Code,
39 have been omitted as superseded by Section 49.191(b),
40 Water Code, and the specific provisions in Subchapter
41 G that conflict with Chapter 436, Acts of the 66th
42 Legislature, Regular Session, 1979. Section 49.191(b)

1 states that Subchapter G "shall take precedence over
2 all prior statutory enactments." Subchapter G,
3 Chapter 49, Water Code, was enacted in 1995 by Section
4 2, Chapter 715, Acts of the 74th Legislature, Regular
5 Session.

6 (2) Section 25, Chapter 436, Acts of the 66th
7 Legislature, Regular Session, 1979, requires the
8 authority to have the authority's accounts audited at
9 least once annually by an independent certified public
10 accountant. The revised law omits that provision as
11 superseded by Sections 49.191(a), (b), and (c), Water
12 Code (enacted by Section 2, Chapter 715, Acts of the
13 74th Legislature, Regular Session, 1995). The omitted
14 law reads:

15 Sec. 25. . . . shall have those
16 accounts audited at least once annually by
17 an independent certified public
18 accountant. . . .

19 (3) Section 25, Chapter 436, Acts of the 66th
20 Legislature, Regular Session, 1979, provides that the
21 audit required under that section may be the same as
22 required under Subchapter K, Chapter 50, Water Code.
23 The revised law omits the reference to Subchapter K,
24 Chapter 50, because Chapter 715, Acts of the 74th
25 Legislature, Regular Session, 1995, repealed that
26 subchapter and enacted similar provisions in
27 Subchapter G, Chapter 49, Water Code. The revised law
28 does not substitute a reference to Subchapter G,
29 Chapter 49, for the reference to Subchapter K, Chapter
30 50, because Subchapter G, Chapter 49, applies to the
31 authority under Sections 49.001 and 49.002 of that
32 chapter. Furthermore, to the extent the provision
33 implies that the authority may conduct an audit in some
34 manner other than that required by Subchapter G,
35 Chapter 49, Water Code, the provision is superseded by

1 Section 49.191(b), Water Code (enacted by Section 2,
2 Chapter 715, Acts of the 74th Legislature, Regular
3 Session, 1995). The omitted law reads:

4 Sec. 25. . . . The audit required
5 under this section may be the same as
6 required under Subchapter K, Chapter 50,
7 Water Code. . . .

8 (4) Section 25, Chapter 436, Acts of the 66th
9 Legislature, Regular Session, 1979, requires that a
10 copy of the audit report be kept with the books and
11 financial records of the authority and be available
12 during reasonable hours for public inspection. The
13 revised law omits those provisions as superseded by
14 Sections 49.191(b), 49.194(c), and 49.196(b), Water
15 Code (enacted by Section 2, Chapter 715, Acts of the
16 74th Legislature, Regular Session, 1995). The omitted
17 law reads:

18 Sec. 25. . . . A copy of the audit
19 report shall be kept with the books and
20 financial records of the authority and
21 shall be available during reasonable hours
22 for public inspection.

23 Revised Law

24 Sec. 11006.204. AUTHORITY FACILITIES EXEMPT FROM TAXATION
25 AND ASSESSMENT. The authority is not required to pay a tax or
26 assessment on its facilities or any part of its facilities. (Acts
27 66th Leg., R.S., Ch. 436, Sec. 22 (part).)

28 Source Law

29 Sec. 22. . . . The authority shall not be
30 required to pay any tax or assessment on its facilities
31 or any part of its facilities, and

32 Revisor's Note
33 (End of Subchapter)

34 Section 24, Chapter 436, Acts of the 66th
35 Legislature, Regular Session, 1979, establishes
36 certain procedures relating to the imposition of ad
37 valorem taxes. The revised law omits those provisions
38 as superseded by Title 1, Tax Code, which was intended
39 as a comprehensive, substantive codification of all ad

1 valorem tax law and its administration. Title 1, Tax
2 Code, was enacted by Chapter 841, Acts of the 66th
3 Legislature, Regular Session, 1979. Section 6(b) of
4 that act repealed all "general, local, and special
5 laws" that conflicted with that act.

6 Chapters 436 and 841 were enacted in the same
7 legislative session and are irreconcilable. Under
8 Section 311.025, Government Code (Code Construction
9 Act), if statutes enacted at the same or different
10 sessions of the legislature are irreconcilable, the
11 statute latest in date of enactment prevails. The date
12 of enactment is the date on which the last legislative
13 vote is taken on the bill enacting the statute. The
14 last legislative vote on Chapter 436 was taken on May
15 24, 1979. The last legislative vote on Chapter 841 was
16 taken on May 26, 1979. Accordingly, the revised law
17 omits the provisions of Section 24, Chapter 436,
18 relating to the imposition of ad valorem taxes as
19 superseded by Title 1, Tax Code, as enacted by Chapter
20 841. The omitted law reads:

21 Sec. 24. (a) The tax rolls of
22 Kleberg County and Nueces County, Texas are
23 adopted and shall constitute the tax rolls
24 of the authority until assessment and tax
25 rolls are made by the authority.

26 (b) [If the authority issues and
27 delivers bonds that are payable wholly or
28 partially from ad valorem taxes, the board
29 annually shall have the taxable property in
30 the authority rendered and assessed for ad
31 valorem taxation, and] the value of this
32 taxable property equalized, and . . . in
33 accordance with any of the methods set forth
34 in this section. Any method adopted shall
35 remain in effect until changed by the board.

36 (c) The laws of this state applicable
37 to general law cities and towns may be
38 adopted and shall be used to the extent
39 pertinent and practicable.

40 (d) The laws of this state applicable
41 to levy, assessment, and collection of
42 county taxes may be adopted and shall be
43 used to the extent pertinent and
44 practicable, provided the board shall have
45 the authority to act as its own board of
46 equalization, or to appoint three resident,
47 qualified voters of the authority who own

1 taxable property in the authority to act as
2 the board of equalization of the authority,
3 and in either case, the board of
4 equalization shall qualify and perform the
5 duties prescribed by law for county
6 commissioners courts acting as boards of
7 equalization.

8 (e) The board may have the taxable
9 property in the authority assessed, its
10 values equalized, and/or its taxes
11 collected, in whole or in part, by the tax
12 assessors, boards of equalization, and/or
13 tax collectors, respectively, of any
14 county, city, taxing district, or other
15 governmental subdivision in which all or
16 any part of the authority is located. The
17 property may be assessed and the values of
18 the property equalized on the same basis or
19 a different basis than that used by the
20 governmental subdivision. The property
21 shall be assessed, the values of the
22 property equalized, and the taxes
23 collected, in the manner and for the
24 compensation agreed on between the
25 appropriate parties, and the functions thus
26 assumed by the officials of any
27 governmental subdivision shall be
28 additional duties pertaining to their
29 offices, respectively. The ad valorem tax
30 laws applicable to each of those
31 governmental subdivisions shall apply to
32 their officials in carrying out these
33 functions for the authority.

34 (f) It is specifically provided,
35 however, that under any method used, all
36 taxable property within the authority shall
37 be assessed on the same basis and the values
38 of the property shall be equalized by only
39 one board of equalization, in an equal and
40 uniform manner, as required by the
41 constitution. If the board desires that
42 taxable property shall be assessed and
43 taxes collected by the tax assessors and
44 collectors of more than one governmental
45 subdivision, the board shall either act as
46 its own board of equalization, or appoint
47 three resident, qualified electors of the
48 authority who own taxable property in the
49 authority to act as the board of
50 equalization, and in either case, the board
51 of equalization shall qualify and perform
52 the duties prescribed by law for county
53 commissioners courts acting as boards of
54 equalization.

55 (g) Any other method or procedure
56 authorized or permitted by any other
57 statute of this state may be adopted, in
58 whole or in part, to the extent pertinent
59 and practicable.

60 SUBCHAPTER F. BONDS

61 Revised Law

62 Sec. 11006.251. AUTHORITY TO ISSUE BONDS. (a) The
63 authority may issue bonds payable from and secured by revenue or ad

1 valorem taxes, or both revenue and ad valorem taxes, of the
2 authority to carry out any power conferred by this chapter. The
3 bonds must be authorized by a board resolution.

4 (b) The bonds must be issued in the manner and under the
5 terms of the resolution authorizing the issuance of the bonds.
6 (Acts 66th Leg., R.S., Ch. 436, Secs. 13(a), (b) (part), (d)
7 (part).)

8 Source Law

9 Sec. 13. (a) For the purpose of carrying out
10 any power or authority conferred by this Act, the
11 authority may issue its negotiable bonds to be payable
12 from and secured by revenues or ad valorem taxes, or
13 both, of the authority in the manner and under the
14 terms and conditions provided in the resolution
15 authorizing the issuance of the bonds.

16 (b) The bonds shall be authorized by resolution
17 of the board and

18 (d) The authority also may issue bonds payable
19 from ad valorem taxes . . . to issue bonds secured by
20 and payable from both taxes and revenues of the
21 district

22 Revisor's Note

23 Section 13(a), Chapter 436, Acts of the 66th
24 Legislature, Regular Session, 1979, authorizes the
25 authority to issue "negotiable" bonds. The revised
26 law omits "negotiable" because Section 1201.041,
27 Government Code, provides that a public security is a
28 negotiable instrument. Section 1201.041 applies to
29 authority bonds by application of Sections 1201.002
30 and 1201.003, Government Code.

31 Revised Law

32 Sec. 11006.252. FORM OF BONDS. Authority bonds must be:

- 33 (1) issued in the authority's name;
34 (2) signed by the president or vice president; and
35 (3) attested by the secretary. (Acts 66th Leg., R.S.,
36 Ch. 436, Sec. 13(b) (part).)

37 Source Law

38 (b) The bonds . . . shall be issued in the name
39 of the authority, signed by the president or
40 vice-president and attested by the secretary and
41

1 Revisor's Note

2 Section 13(b), Chapter 436, Acts of the 66th
3 Legislature, Regular Session, 1979, provides that
4 authority bonds must bear the seal of the authority and
5 authorizes facsimile "printed or lithographed"
6 signatures and seals. The revised law omits those
7 provisions as unnecessary. The requirement that the
8 bonds bear the seal of the authority was impliedly
9 repealed by Section 3, Bond Procedures Act of 1981
10 (Article 717k-6, Vernon's Texas Civil Statutes)
11 (revised in relevant part in 1999 as Section
12 1201.026(a), Government Code), which provides that
13 bonds may be signed with or without a seal. The
14 authorization for the use of printed or lithographed
15 signatures duplicates in substance Section
16 1201.026(a), Government Code, which also provides that
17 bonds and interest coupons may be executed with manual
18 or facsimile signatures. Section 1201.026 applies to
19 authority bonds under Sections 1201.002 and 1201.003,
20 Government Code. The omitted law reads:

21 (b) [The bonds] . . . shall bear the
22 seal of the authority. It is provided,
23 however, that the signatures of the
24 president, vice-president, or the secretary
25 or of both may be printed or lithographed on
26 the bonds if authorized by the board, and
27 that the seal of the authority may be
28 impressed on the bonds or may be printed or
29 lithographed on the bonds. . . .

30 Revised Law

31 Sec. 11006.253. MATURITY. Authority bonds must mature not
32 later than 50 years after the date of their issuance. (Acts 66th
33 Leg., R.S., Ch. 436, Sec. 13(b) (part).)

34 Source Law

35 (b) . . . The bonds shall mature serially or
36 otherwise in not to exceed 50 years from their date and
37

38 Revisor's Note

39 Section 13(b), Chapter 436, Acts of the 66th

1 Legislature, Regular Session, 1979, provides that
2 authority bonds shall mature "serially or otherwise."
3 The revised law omits the quoted language because it is
4 superseded by Section 1201.021, Government Code
5 (enacted as Section 3, Bond Procedures Act of 1981
6 (Article 717k-6, Vernon's Texas Civil Statutes)),
7 which provides that the governing body of an issuer may
8 determine the time of payment of public securities it
9 issues, and by Section 1201.022, Government Code
10 (enacted as Section 5(a), Bond Procedures Act of 1981
11 (Article 717k-6, Vernon's Texas Civil Statutes)),
12 which provides that a public security may be issued
13 with specified characteristics, on specified terms, or
14 in a specified manner. Sections 1201.021 and 1201.022
15 apply to authority bonds under Sections 1201.002 and
16 1201.003, Government Code.

17 Revised Law

18 Sec. 11006.254. ELECTION FOR BONDS PAYABLE FROM AD VALOREM
19 TAXES. (a) Bonds, other than refunding bonds, payable wholly or
20 partly from ad valorem taxes may not be issued unless authorized by
21 a majority of the authority voters voting at an election held for
22 that purpose.

23 (b) The board may call an election under this section
24 without a petition. The resolution calling the election must
25 specify:

26 (1) the time and place at which the election will be
27 held;

28 (2) the purpose for which the bonds will be issued;

29 (3) the amount of the bonds;

30 (4) the form of the ballot; and

31 (5) other matters the board considers necessary or
32 advisable.

33 (c) Notice of the election must be given by publishing a
34 substantial copy of the resolution calling the election in a

1 newspaper of general circulation in the authority. The notice must
2 be published once each week for two consecutive weeks. The first
3 publication must be not later than the 14th day before the date of
4 the election.

5 (d) The authority may issue bonds not payable wholly or
6 partly from ad valorem taxes without an election. (Acts 66th Leg.,
7 R.S., Ch. 436, Secs. 16 (part), 17(a) (part), (b).)

8 Source Law

9 Sec. 16. . . . Bonds payable from revenues of
10 the authority may be issued without an election

11 Sec. 17. (a) No bonds payable wholly or
12 partially from ad valorem taxes, except refunding
13 bonds, may be issued unless authorized at an election
14 at which only the qualified voters who reside in the
15 authority are allowed to vote and unless a majority of
16 the votes cast favor the issuance of the bonds. . . .
17 Bonds not payable wholly or partially from ad valorem
18 taxes may be issued without an election.

19 (b) The election may be called by the board
20 without a petition. The resolution calling the
21 election shall specify the time and place or places for
22 holding the election, the purpose for which the bonds
23 are to be issued, the amount of the bonds, the form of
24 the ballot, and other matters deemed necessary or
25 advisable by the board. Notice of the election shall
26 be given by publishing a substantial copy of the
27 resolution calling the election in a newspaper having
28 general circulation in the authority once each week
29 for two consecutive weeks, with the first publication
30 to be at least 14 days before the election.

31 Revisor's Note

32 (1) Section 17(a), Chapter 436, Acts of the 66th
33 Legislature, Regular Session, 1979, refers to
34 "qualified voters who reside in the authority." The
35 revised law substitutes "authority voters" for the
36 quoted language for the reason stated in Revisor's Note
37 (7) to Section 11006.052.

38 (2) Section 17(c), Chapter 436, Acts of the 66th
39 Legislature, Regular Session, 1979, provides that the
40 board shall receive and canvass election returns. The
41 revised law omits that provision for the reason stated
42 in Revisor's Note (8) to Section 11006.052. The
43 omitted law reads:

44 (c) The returns of the election shall
45 be made to and canvassed by the board.

1 (3) Section 17(d), Chapter 436, Acts of the 66th
2 Legislature, Regular Session, 1979, provides that the
3 Election Code and general laws relating to elections
4 apply to an election under that section except as
5 otherwise provided by that act. The revised law omits
6 the reference to the Election Code because Section
7 1.002, Election Code, provides that the Election Code
8 applies to all elections held in this state. An
9 exception to the application of the Election Code
10 would apply by its own terms. The revised law omits
11 the reference to general laws relating to elections
12 because any other general law applicable to authority
13 elections would apply by its own terms. The omitted
14 law reads:

15 (d) The Texas Election Code and
16 general laws relating to elections shall be
17 applicable to elections held under this
18 section, except as otherwise provided in
19 this Act.

20 Revised Law

21 Sec. 11006.255. BONDS SECURED BY REVENUE; ADDITIONAL BONDS.

22 (a) Authority bonds issued may be secured by a pledge of all or part
23 of the authority's revenue or by all or part of the revenue of one or
24 more contracts made or other revenue or income specified by board
25 resolution or a trust indenture securing the bonds. The pledge may
26 reserve the right, under conditions specified by the pledge, to
27 issue additional bonds that will be on a parity with or subordinate
28 to the bonds then being issued.

29 (b) The authority may issue bonds secured by both taxes and
30 revenue of the authority described by Subsection (a). (Acts 66th
31 Leg., R.S., Ch. 436, Secs. 13(c), (d) (part).)

32 Source Law

33 (c) The bonds may be secured by a pledge of all
34 or any part of the revenues of the authority or by all
35 or any part of the revenues of any one or more
36 contracts made or other revenues or income specified
37 by resolution of the board or in any trust indenture
38 securing the bonds. The pledge may reserve the right,
39 under conditions specified in the pledge, to issue

1 additional bonds that will be on a parity with or
2 subordinate to the bonds then being issued.

3 (d) The authority also may . . . issue bonds
4 secured by [and payable from] both taxes and revenues
5 of the district described in Subsection (c) of this
6 section. . . .

7 Revised Law

8 Sec. 11006.256. BONDS PAYABLE FROM AD VALOREM TAXES. (a)

9 If bonds are issued payable wholly or partly from ad valorem taxes,
10 the board shall annually impose a tax on the taxable property in the
11 authority in an amount sufficient to pay the principal of and
12 interest on the bonds when due but not to exceed 20 cents on the \$100
13 valuation of taxable property in the authority.

14 (b) The board may adopt the rate of a tax imposed under
15 Subsection (a) for any year after giving consideration to the money
16 received from the pledged revenue that may be available for payment
17 of principal and interest, to the extent and in the manner permitted
18 by the resolution authorizing the issuance of the bonds. (Acts 66th
19 Leg., R.S., Ch. 436, Secs. 13(d) (part), 24(b) (part).)

20 Source Law

21 [Sec. 13]

22 (d) [The authority also may issue bonds payable
23 from ad valorem taxes] to be levied on all taxable
24 property in the authority or If bonds are
25 issued that are payable wholly or partially from ad
26 valorem taxes, the board shall levy a tax sufficient to
27 pay the principal of and the interest on the bonds when
28 due, but the rate of the tax for any year may be fixed
29 after giving consideration to the money received from
30 the pledged revenues that may be available for payment
31 of principal and interest, to the extent and in the
32 manner permitted by the resolution authorizing the
33 issuance of the bonds, however, the tax shall not
34 exceed 20 cents on the \$100 valuation of taxable
35 property in the authority.

36 [Sec. 24]

37 (b) If the authority issues and delivers bonds
38 that are payable wholly or partially from ad valorem
39 taxes, the board annually shall have the taxable
40 property in the authority rendered and assessed for ad
41 valorem taxation, and . . . the ad valorem taxes in the
42 district collected

43 Revisor's Note

44 Section 13(d), Chapter 436, Acts of the 66th
45 Legislature, Regular Session, 1979, provides that the
46 rate of the ad valorem tax for any year may "be fixed"
47 by the board. The revised law substitutes "adopt" for

1 "be fixed" to conform to the terminology used in
2 Section 26.05, Tax Code.

3 Revised Law

4 Sec. 11006.257. ADDITIONAL SECURITY. (a) Authority bonds,
5 including refunding bonds, that are not payable wholly from ad
6 valorem taxes may be additionally secured, at the discretion of the
7 board, by a deed of trust or mortgage lien on physical property of
8 the authority and all franchises, easements, water rights and
9 appropriation permits, leases, and contracts and all rights
10 appurtenant to the property, vesting in the trustee power to:

- 11 (1) sell the property for the payment of the debt;
12 (2) operate the property; and
13 (3) take other action to further secure the bonds.

14 (b) A purchaser under a sale under the deed of trust lien, if
15 one is given:

- 16 (1) is the absolute owner of property, facilities, and
17 rights purchased; and
18 (2) is entitled to maintain and operate the property,
19 facilities, and rights. (Acts 66th Leg., R.S., Ch. 436, Sec. 15
20 (part).)

21 Source Law

22 Sec. 15. Any bonds, including refunding bonds,
23 authorized by this Act, that are not payable wholly
24 from ad valorem taxes, The bonds, within the
25 discretion of the board, may be additionally secured
26 by a deed of trust or mortgage lien on physical
27 properties of the authority and all franchises,
28 easements, water rights and appropriation permits,
29 leases, and contracts and all rights appurtenant to
30 those properties, vesting in the trustee power to sell
31 the properties for the payment of indebtedness, power
32 to operate the properties, and all other powers and
33 authority for the further security of the bonds. . . .
34 Any purchaser under a sale under the deed of trust
35 lien, where one is given, shall be the absolute owner
36 of properties, facilities, and rights purchased and is
37 entitled to maintain and operate the properties,
38 facilities, and rights.

39 Revised Law

40 Sec. 11006.258. TRUST INDENTURE. (a) Authority bonds,
41 including refunding bonds, that are not payable wholly from ad
42 valorem taxes may be additionally secured by a trust indenture. The

1 trustee may be a bank with trust powers located inside or outside
2 this state.

3 (b) A trust indenture, regardless of the existence of a deed
4 of trust or mortgage lien on property, may:

5 (1) provide for the security of the bonds and the
6 preservation of the trust estate as prescribed by the board;

7 (2) provide for amendment or modification of the trust
8 indenture;

9 (3) provide for the issuance of bonds to replace lost
10 or mutilated bonds;

11 (4) condition the right to spend authority money or
12 sell authority property on the approval of a licensed engineer
13 selected as provided by the trust indenture; and

14 (5) provide for the investment of authority money.

15 (Acts 66th Leg., R.S., Ch. 436, Sec. 15 (part).)

16 Source Law

17 Sec. 15. Any bonds, including refunding bonds,
18 authorized by this Act, that are not payable wholly
19 from ad valorem taxes, may be additionally secured by a
20 trust indenture under which the trustee may be a bank
21 having trust powers situated either within or outside
22 of this state. . . . The trust indenture, regardless
23 of the existence of the deed of trust or mortgage lien
24 on the properties, may contain any provisions
25 prescribed by the board for the security of the bonds
26 and the preservation of the trust estate and may
27 provide for amendment or modification thereof and the
28 issuance of bonds to replace lost or mutilated bonds
29 and may condition the right to expend authority money
30 or sell authority property on approval of a registered
31 professional engineer selected as provided in the
32 trust indenture and may make provision for the
33 investment of funds of the authority. . . .

34 Revisor's Note

35 Section 15, Chapter 436, Acts of the 66th
36 Legislature, Regular Session, 1979, refers to a
37 "registered professional engineer." The revised law
38 substitutes "licensed engineer" for the quoted
39 language because under Chapter 1001, Occupations Code,
40 engineers are licensed, not registered.

41 Revised Law

42 Sec. 11006.259. CHARGES FOR AUTHORITY SERVICES. (a) If

1 authority bonds payable wholly from revenue are issued, the board
2 shall set and from time to time revise the rates of compensation for
3 water sold and services provided by the authority. The rates must
4 be sufficient to:

5 (1) pay the expenses of operating and maintaining
6 authority facilities;

7 (2) pay the principal of and interest on the bonds when
8 due; and

9 (3) maintain the reserve fund and other funds as
10 provided in the resolution authorizing the bonds.

11 (b) If bonds payable partly from revenue are issued, the
12 board shall set and from time to time revise the rate of
13 compensation for water sold and any other services provided by the
14 authority. The rate must be sufficient to ensure compliance with
15 the resolution authorizing the bonds or the trust indenture
16 securing the bonds. (Acts 66th Leg., R.S., Ch. 436, Sec. 13(e).)

17 Source Law

18 (e) If bonds payable wholly from revenues are
19 issued, the board shall fix, and from time to time
20 revise, the rates of compensation for water sold and
21 services rendered by the authority that will be
22 sufficient to pay the expenses of operating and
23 maintaining the facilities of the district and to pay
24 the principal of and interest on the bonds, when due,
25 and to maintain the reserve and other funds as provided
26 in the resolution authorizing the bonds. If bonds
27 payable partially from revenues are issued, the board
28 shall fix, and from time to time revise, the rate of
29 compensation for water sold, and any other services
30 rendered by the authority that will be sufficient to
31 assure compliance with the resolution authorizing the
32 bonds or the trust indenture securing the bonds.

33 Revisor's Note

34 Section 13(e), Chapter 436, Acts of the 66th
35 Legislature, Regular Session, 1979, provides that the
36 board shall "fix" the rates the authority charges for
37 water sold and services provided by the authority. The
38 revised law substitutes "set" for "fix" for the reason
39 stated in Revisor's Note (4) to Section 11006.052.

40 Revised Law

41 Sec. 11006.260. USE OF BOND PROCEEDS. (a) The authority

1 may set aside an amount of proceeds of the sale of authority bonds
2 for:

3 (1) the payment of interest expected to accrue during
4 construction not to exceed three years;

5 (2) a reserve interest and sinking fund; and

6 (3) other funds as may be provided in the resolution
7 authorizing the bonds or in the trust indenture.

8 (b) The authority may use proceeds from the sale of bonds to
9 pay any expense necessarily incurred in accomplishing the purpose
10 of the authority, including:

11 (1) any expense of issuing and selling the bonds; and

12 (2) the amount needed to operate the authority during
13 construction of the improvements. (Acts 66th Leg., R.S., Ch. 436,
14 Sec. 13(f).)

15 Source Law

16 (f) From the proceeds of the sale of the bonds,
17 the authority may set aside an amount for the payment
18 of interest expected to accrue during construction not
19 to exceed three years, a reserve interest and sinking
20 fund, and other funds as may be provided in the
21 resolution authorizing the bonds or in the trust
22 indenture. Proceeds from the sale of bonds may also be
23 used for the payment of all expenses necessarily
24 incurred in accomplishing the purpose for which this
25 district is created, including expenses of issuing and
26 selling the bonds and the amount needed to operate the
27 authority during construction of the improvements.

28 Revised Law

29 Sec. 11006.261. APPOINTMENT OF RECEIVER. (a) On default or
30 threatened default in the payment of the principal of or interest on
31 authority bonds that are payable wholly or partly from revenue, a
32 court may, on petition of the holders of outstanding bonds, appoint
33 a receiver for the authority.

34 (b) The receiver may collect and receive all authority
35 income, employ and discharge authority agents and employees, take
36 charge of money on hand, and manage the proprietary affairs of the
37 authority without consent or hindrance by the board.

38 (c) The receiver may be authorized to sell or contract for
39 the sale of water or to renew contracts with the approval of the

1 court that appointed the receiver.

2 (d) The court may vest the receiver with any other power or
3 duty the court finds necessary to protect the bondholders. (Acts
4 66th Leg., R.S., Ch. 436, Sec. 13(g) (part).)

5 Source Law

6 (g) In the event of a default or a threatened
7 default in the payment of principal of or interest on
8 bonds payable wholly or partially from revenues, any
9 court of competent jurisdiction may, upon petition of
10 the holders of outstanding bonds, appoint a receiver
11 with authority to collect and receive all income of the
12 authority, employ and discharge agents and employees
13 of the authority, take charge of funds on hand, and
14 manage the proprietary affairs of the authority
15 without consent or hindrance by the board. The
16 receiver may also be authorized to sell or make
17 contracts for the sale of water or renew contracts with
18 the approval of the court appointing him. The court
19 may vest the receiver with other powers and duties the
20 court finds necessary for the protection of the
21 holders of the bonds. . . .

22 Revisor's Note

23 Section 13(g), Chapter 436, Acts of the 66th
24 Legislature, Regular Session, 1979, refers to a court
25 "of competent jurisdiction." The revised law omits
26 the quoted language because the general laws of civil
27 jurisdiction determine which courts have "competent
28 jurisdiction" over a matter. For an example, see
29 Section 24.003, Government Code, for the jurisdiction
30 of certain district courts to appoint receivers.

31 Revised Law

32 Sec. 11006.262. REFUNDING BONDS. (a) The authority may
33 issue refunding bonds to refund outstanding authority bonds and
34 interest on those bonds.

35 (b) Refunding bonds may:

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

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

39 (3) be secured by a pledge of other or additional
40 revenue or mortgage liens.

41 (c) The provisions of this subchapter regarding the

1 issuance of other bonds, their security, and the remedies of the
2 holders apply to refunding bonds.

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

5 (e) Instead of issuing bonds to be registered on the
6 surrender and cancellation of the bonds to be refunded, the
7 authority, in the resolution authorizing the issuance of the
8 refunding bonds, may provide for the sale of the refunding bonds and
9 the deposit of the proceeds in a bank at which the bonds to be
10 refunded are payable. In that case, the refunding bonds may be
11 issued in an amount sufficient to pay the principal of and interest
12 and any required redemption premium on the bonds to be refunded to
13 any redemption date or to their maturity date, and the comptroller
14 shall register the refunding bonds without the surrender and
15 cancellation of the bonds to be refunded.

16 (f) An election is not required to authorize the issuance of
17 refunding bonds.

18 (g) The authority may also issue refunding bonds under any
19 other applicable law. (Acts 66th Leg., R.S., Ch. 436, Sec. 14.)

20 Source Law

21 Sec. 14. The authority may issue refunding
22 bonds for the purpose of refunding any outstanding
23 bonds authorized by this Act and interest on those
24 bonds. The refunding bonds may be issued to refund
25 more than one series of outstanding bonds and combine
26 the pledges for the outstanding bonds for the security
27 of the refunding bonds and may be secured by other or
28 additional revenues and mortgage liens. The
29 provisions of this Act with reference to the issuance
30 by the authority of other bonds, their security, and
31 their approval by the attorney general and the
32 remedies of the holders are applicable to refunding
33 bonds. Refunding bonds shall be registered by the
34 comptroller on surrender and cancellation of the bonds
35 to be refunded, but in lieu thereof, the resolution
36 authorizing their issuance may provide that they shall
37 be sold and the proceeds deposited in the bank where
38 the original bonds are payable, in which case the
39 refunding bonds may be issued in an amount sufficient
40 to pay all principal coming due, all interest
41 accruing, and any required redemption premium, on the
42 bonds being refunded to or through any date upon which
43 they are subject to redemption prior to maturity, or
44 through, or at their maturity date or dates,
45 respectively, and the comptroller shall register the
46 refunding bonds without concurrent surrender and
47 cancellation of the original bonds. The refunding

1 bonds may be issued without having been authorized at
2 an election. Refunding bonds also may be issued by the
3 authority pursuant to any other applicable law.

4 Revisor's Note

5 Section 14, Chapter 436, Acts of the 66th
6 Legislature, Regular Session, 1979, refers to the
7 "approval by the attorney general" of refunding bonds.
8 The revised law omits the quoted language because it is
9 superseded by Section 1202.003, Government Code,
10 enacted in 1987 as Section 3.002(a), Chapter 53, Acts
11 of the 70th Legislature, 2nd Called Session (Article
12 717k-8, Vernon's Texas Civil Statutes). That section
13 applies to authority bonds by application of Section
14 1202.001, Government Code.

15 Revised Law

16 Sec. 11006.263. LIMITATION ON RIGHTS OF BONDHOLDERS. The
17 resolution authorizing the bonds or the trust indenture securing
18 the bonds may limit or qualify the rights of the holders of less
19 than all of the outstanding bonds payable from the same source to
20 institute or prosecute litigation affecting the authority's
21 property or income. (Acts 66th Leg., R.S., Ch. 436, Sec. 13(g)
22 (part).)

23 Source Law

24 (g) . . . The resolution authorizing the
25 issuance of the bonds or the trust indenture securing
26 them may limit or qualify the rights of the holders of
27 less than all of the outstanding bonds payable from the
28 same source to institute or prosecute litigation
29 affecting the authority's property or income.

30 Revised Law

31 Sec. 11006.264. BONDS EXEMPT FROM TAXATION. An authority
32 bond, the transfer of the bond, and the income from the bond,
33 including profits made on the sale of the bond, are exempt from
34 taxation in this state. (Acts 66th Leg., R.S., Ch. 436, Sec. 22
35 (part).)

36 Source Law

37 Sec. 22. . . . the bonds issued and their
38 transfer and the income from the bonds, including the
39 profits made on their sale, shall at all times be free

1 from taxation within this state.

2 Revised Law

3 Sec. 11006.265. DETACHMENT OF AUTHORITY TERRITORY AFTER
4 ISSUANCE OF BONDS. Territory may not be detached from the authority
5 after the issuance of bonds payable from revenue or taxes, or both
6 revenue and taxes. (Acts 66th Leg., R.S., Ch. 436, Secs. 16 (part),
7 17(a) (part).)

8 Source Law

9 Sec. 16. No territory shall be detached from the
10 authority after the issuance of bonds that are payable
11 from revenues or taxes. . . .

12 Sec. 17. (a) . . . No territory shall be
13 detached from the authority after the issuance of
14 bonds that are payable from revenues or taxes or both.
15 . . .

16 Revisor's Note
17 (End of Subchapter)

18 (1) Section 13(b), Chapter 436, Acts of the 66th
19 Legislature, Regular Session, 1979, provides that
20 authority bonds may be sold "at a public or private
21 sale." The revised law omits the quoted language
22 because it duplicates Section 1201.022(a)(3)(A),
23 Government Code. Section 1201.022, Government Code,
24 applies to authority bonds by application of Sections
25 1201.002 and 1201.003, Government Code. The omitted
26 law reads:

27 (b) . . . [The bonds] . . . may be
28 sold at a public or private sale,

29 (2) Section 13(b), Chapter 436, Acts of the 66th
30 Legislature, Regular Session, 1979, provides that
31 authority bonds may be sold "at a price and under the
32 terms determined by the board to be the most
33 advantageous reasonably obtainable." The revised law
34 omits the quoted language because it is superseded by
35 general law. Section 1201.022, Government Code, as
36 amended in 2001, provides that an issuer may sell
37 public securities "under the terms determined by the
38 governing body of the issuer to be in the issuer's best

1 interests." Section 1201.022, Government Code,
2 applies to authority bonds by application of Sections
3 1201.002 and 1201.003, Government Code. The omitted
4 law reads:

5 (b) . . . [The bonds] . . . [may be
6 sold] . . . at a price and under the terms
7 determined by the board to be the most
8 advantageous reasonably obtainable,
9

10 (3) Section 13(b), Chapter 436, Acts of the 66th
11 Legislature, Regular Session, 1979, provides that
12 authority bonds may bear interest at a rate not to
13 exceed 10 percent. The revised law omits that
14 provision because it is superseded by other law.
15 Section 13(b) was enacted in 1979 and was impliedly
16 amended by the subsequent amendment of Chapter 3, Acts
17 of the 61st Legislature, Regular Session, 1969
18 (Article 717k-2, Vernon's Texas Civil Statutes). The
19 maximum interest rate noted in Chapter 3 was revised in
20 1999 as Section 1204.006, Government Code. Section
21 1204.006 permits a public agency to issue public
22 securities at any net effective interest rate of 15
23 percent or less. Section 1204.006, Government Code,
24 applies to authority bonds by application of Sections
25 1204.001 and 1204.002, Government Code. The omitted
26 law reads:

27 (b) . . . [The bonds] . . . [may be
28 sold] . . . provided that the interest cost
29 to the authority including the discount, if
30 any, does not exceed 10 percent per annum.
31

32 (4) Section 13(b), Chapter 436, Acts of the 66th
33 Legislature, Regular Session, 1979, provides that
34 authority bonds may be redeemed before maturity at the
35 time and price specified in the bonds. The revised law
36 omits that provision because it duplicates Sections
37 1201.021 and 1201.022, Government Code, which provide
38 that a public security may be redeemed before maturity

1 and be payable in specified amounts and at specified
2 times. Those sections apply to authority bonds by the
3 application of Sections 1201.002 and 1201.003,
4 Government Code. The omitted law reads:

5 (b) . . . Within the discretion of
6 the board, the bonds may be made callable
7 prior to maturity at times and prices
8 prescribed in the bonds and

9 (5) Section 13(b), Chapter 436, Acts of the 66th
10 Legislature, Regular Session, 1979, provides that
11 authority bonds may be made registrable as to
12 principal or as to principal and interest. The revised
13 law omits that provision because it duplicates in
14 substance Section 1201.024(a)(3), Government Code.
15 That section applies to authority bonds by the
16 application of Sections 1201.002 and 1201.003,
17 Government Code. The omitted law reads:

18 (b) . . . [The bonds] . . . may be
19 made registrable as to principal or as to
20 both principal and interest.

21 (6) Sections 16 and 17(e), Chapter 436, Acts of
22 the 66th Legislature, Regular Session, 1979, require
23 the authority to secure approval from the Texas Water
24 Commission (now the Texas Commission on Environmental
25 Quality, as explained by the revisor's note to Section
26 11006.152) before issuing bonds for improvements as
27 provided by Section 51.421, Water Code. The revised
28 law omits those provisions because Chapter 715, Acts
29 of the 74th Legislature, Regular Session, 1995,
30 repealed Section 51.421, Water Code, and enacted
31 Section 49.181, Water Code, to govern the authority of
32 the commission over the issuance of authority bonds. A
33 reference to Section 49.181, Water Code, is
34 unnecessary because that section applies to the
35 authority under Sections 49.001 and 49.002, Water
36 Code, without an express reference to that section in

1 this chapter. The omitted law reads:

2 Sec. 16. . . . provided that before
3 the authority may issue any bonds for
4 improvements, it shall secure prior
5 approval from the Texas Water Commission as
6 provided by Section 51.421, Water Code.

7 [Sec. 17]

8 (e) Before the authority may issue
9 any bonds for improvements, it shall secure
10 prior approval from the Texas Water
11 Commission as provided by Section 51.421,
12 Water Code.

13 (7) Section 18, Chapter 436, Acts of the 66th
14 Legislature, Regular Session, 1979, requires the
15 authority to deliver its bonds to the attorney general
16 for examination and approval. The revised law omits
17 that provision because it duplicates in substance
18 Section 1202.003, Government Code. Section 1202.003,
19 Government Code, applies to authority bonds by
20 application of Section 1202.001, Government Code. The
21 omitted law reads:

22 Sec. 18. After any bonds, including
23 refunding bonds, are authorized by the
24 authority, the bonds and the proceedings
25 relating to their issuance shall be
26 submitted to the attorney general for his
27 examination as to their validity. . . . If
28 he finds that the bonds have been authorized
29 and . . . in accordance with the
30 constitution and laws of this state, he
31 shall approve the bonds and

32 (8) Section 18, Chapter 436, Acts of the 66th
33 Legislature, Regular Session, 1979, provides that,
34 after approval, the bonds shall be registered with the
35 comptroller. The revised law omits that provision as
36 superseded by Section 3.002(c), Chapter 53, Acts of
37 the 70th Legislature, 2nd Called Session, 1987, now
38 revised as Section 1202.005, Government Code. Section
39 1202.005, Government Code, applies to authority bonds
40 by application of Section 1202.001, Government Code.
41 The omitted law reads:

42 Sec. 18. . . . [he shall approve the
43 bonds] . . . the bonds then shall be
44 registered by the comptroller of public
45 accounts. . . .

1 (9) Section 18, Chapter 436, Acts of the 66th
2 Legislature, Regular Session, 1979, provides that
3 after approval and registration, authority bonds shall
4 be incontestable and binding obligations. The revised
5 law omits that provision as impliedly repealed by
6 Section 3.002(d), Chapter 53, Acts of the 70th
7 Legislature, 2nd Called Session, 1987, now revised as
8 Section 1202.006, Government Code. Section 1202.006,
9 Government Code, provides that after approval and
10 registration, bonds are incontestable for any reason.
11 Section 1202.006 applies to authority bonds by
12 application of Section 1202.001, Government Code. The
13 omitted law reads:

14 Sec. 18. . . . Thereafter, the bonds
15 and . . . are valid and binding obligations
16 in accordance with their terms for all
17 purposes and are incontestable in any court
18 or other forum for any reason.

19 (10) Section 18, Chapter 436, Acts of the 66th
20 Legislature, Regular Session, 1979, details various
21 procedures regarding approval of bond contracts and
22 proceedings by the attorney general. The revised law
23 omits the portion of Section 18 regarding the validity
24 and incontestability of a contract the revenue or
25 proceeds of which are pledged to the payment of a bond
26 as impliedly repealed by Section 3.002(d), Chapter 53,
27 Acts of the 70th Legislature, 2nd Called Session,
28 1987, now revised as Section 1202.006, Government
29 Code. Section 1202.006, Government Code, provides
30 that after approval and registration of the bond, the
31 bond and contract are incontestable for any reason.
32 Section 1202.006 applies to authority bonds by
33 application of Section 1202.001, Government Code. The
34 omitted law reads:

35 Sec. 18. . . . If the bonds recite
36 that they are secured by a pledge of the
37 revenues or proceeds of a contract

1 previously made between the authority and
2 any city or other public agency or political
3 subdivision or other entity, the contract
4 also shall be submitted to the attorney
5 general. [If he finds that] . . . the
6 contracts have been made [in accordance
7 with the constitution and laws of this
8 state, he shall approve] . . . the
9 contracts, and . . . [Thereafter . . .]
10 the contracts, if any, [are valid and
11 binding obligations in accordance with
12 their terms for all purposes and are
13 incontestable in any court or other forum
14 for any reason.]

15 (11) Section 21, Chapter 436, Acts of the 66th
16 Legislature, Regular Session, 1979, lists the entities
17 for which authority bonds are legal investments and
18 provides that authority bonds may secure deposits of
19 public funds of the state or political subdivisions.
20 The revised law omits the provision relating to the
21 eligibility of authority bonds to be considered as
22 investments for various entities because it duplicates
23 in substance Section 49.186(a), Water Code. While
24 Section 21 lists "guardians" and Section 49.186(a),
25 Water Code, does not, the latter statute includes
26 "fiduciaries," and a guardian is a fiduciary. The
27 revised law omits the provision relating to deposits
28 of state funds as impliedly repealed by Section
29 404.0221, Government Code (enacted in 1995), which
30 lists eligible collateral for deposits of state funds
31 by the comptroller, and by Chapter 240, Acts of the
32 69th Legislature, Regular Session, 1985, the relevant
33 part of which is now revised as Section 404.031,
34 Government Code, which provides for the valuation of
35 that collateral. As to deposits of other funds, the
36 provision is impliedly repealed by Chapter 627, Acts
37 of the 71st Legislature, Regular Session, 1989, now
38 revised as Chapter 2257, Government Code, which
39 governs eligible collateral for deposits of funds of
40 other public agencies, including political
41 subdivisions, and permits those deposits to be secured

1 by obligations issued by conservation and reclamation
2 districts. The omitted law reads:

3 Sec. 21. All bonds of the authority
4 are legal and authorized investments for
5 the banks, savings banks, trust companies,
6 building and loan associations, insurance
7 companies, fiduciaries, trustees,
8 guardians, and for the sinking funds of
9 cities, towns, villages, counties, school
10 districts, or other political corporations
11 or subdivisions of the State of Texas. The
12 bonds shall be eligible to secure the
13 deposit of any and all public funds of this
14 state and any and all public funds of
15 cities, towns, villages, counties, school
16 districts, or other political corporations
17 or subdivisions of this state, and the bonds
18 shall be lawful and sufficient security for
19 those deposits to the extent of their value,
20 when accompanied by all unmatured coupons
21 appurtenant thereto.

22 Revisor's Note
23 (End of Chapter)

24 (1) Section 23, Chapter 436, Acts of the 66th
25 Legislature, Regular Session, 1979, provides in part
26 that the act is sufficient authority for the issuance
27 of bonds, the execution of contracts and conveyances,
28 and the performance of other authorized acts by the
29 authority, the cities, and all other public agencies
30 and political subdivisions, without reference to any
31 other law or any restrictions or limitations contained
32 in another law, except as specifically provided by the
33 act, and that in case of certain conflicts between the
34 act and any other law, the act prevails.

35 The revised law omits the statement that the act
36 is sufficient authority for the performance of acts
37 authorized by the act because it is unnecessary. The
38 operative provisions of the act are fully effective on
39 their own terms.

40 The revised law omits the statement that other
41 laws or restrictions or limitations contained in those
42 laws do not apply and that in case of certain conflicts
43 between the act and other law the act prevails because

1 it is both unnecessary and potentially misleading. An
2 accepted general principle of statutory construction
3 requires a statute to be given cumulative effect with
4 other statutes unless it provides otherwise or unless
5 the statutes are in conflict. To the extent the
6 statement means the act prevails over other law in
7 existence at the time the act became effective and with
8 which the act conflicts, it merely restates general
9 rules of statutory construction. To the extent the
10 statement means the act prevails over future
11 enactments of the legislature that may conflict with
12 it, it is misleading. It is a fundamental principle of
13 statutory construction that one session of the
14 legislature may not bind a future session of the
15 legislature. In addition, Section 311.026, Government
16 Code (Code Construction Act), governs the
17 interpretation of the revised law in instances of
18 apparent conflict with other laws.

19 Finally, codification of the statement is
20 potentially misleading because the revised law not
21 only omits provisions of the act that are impliedly
22 repealed by other law, it also omits provisions that
23 are duplicative of other law. Codification of the
24 statement might create an impression that the
25 provisions of other law that duplicate the omitted
26 provisions do not apply.

27 Section 23 also provides that the authority, the
28 cities, and all other public agencies and political
29 subdivisions may use the provisions of the act to carry
30 out any power granted by the act. The revised law
31 omits that provision as unnecessary. The operative
32 provisions of the act are fully effective on their own
33 terms. The omitted law reads:

34 Sec. 23. This Act is wholly

1 sufficient authority within itself for the
2 issuance of the bonds, the execution of
3 contracts and conveyances, and the
4 performance of the other acts and
5 procedures authorized in this Act by the
6 authority, the city of Agua Dulce, the city
7 of Bishop, the city of Driscoll, and the
8 city of Kingsville and all other public
9 agencies and political subdivisions,
10 without reference to any other law or any
11 restrictions or limitations contained in
12 any other law, except as in this Act
13 specifically provided, and when any bonds
14 are being issued or other action taken under
15 this Act, then to the extent of any conflict
16 or inconsistency between any provision of
17 this Act and any provision of any other law,
18 the provisions of this Act shall prevail and
19 control; provided however, that the
20 authority, the city of Agua Dulce, the city
21 of Bishop, the city of Driscoll, and the
22 city of Kingsville, and all other public
23 agencies and political subdivisions, are
24 entitled to use the provisions of this Act
25 to the extent convenient or necessary to
26 carry out any power or authority, express or
27 implied, granted by this Act.

28 (2) Section 26, Chapter 436, Acts of the 66th
29 Legislature, Regular Session, 1979, provides that
30 proof of publication of the constitutionally required
31 notice has been made. The revised law omits that
32 provision as executed. The omitted law reads:

33 Sec. 26. Proof of publication of the
34 constitutional notice required in the
35 enactment hereof under the provisions of
36 Article XVI, Section 59(d), of the Texas
37 Constitution, has been made in the manner
38 provided therein and a copy of said notice
39 and the bill as originally introduced have
40 been delivered to the governor of the State
41 of Texas and to the commissioners court of
42 the county in which said authority is
43 located and to the governing body of each
44 incorporated city or town in whose
45 jurisdiction said authority or any part
46 thereof, is or will be located as required
47 in such constitutional provision, and such
48 notice and delivery are hereby found and
49 declared to be proper and sufficient to
50 satisfy such requirements.