

PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL
Special District Local
Laws Code
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15 SUBCHAPTER A. GENERAL PROVISIONS
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17 Sec. 8415.001. DEFINITIONS. In this chapter:
18 (1) "Board" means the district's board of directors.
19 (2) "Director" means a member of the board.
20 (3) "District" means the West Cedar Creek Municipal
21 Utility District. (Acts 64th Leg., R.S., Ch. 742, Sec. 1 (part);
22 New.)
23 Source Law
24 Sec. 1. . . . [a . . . district] . . . to be
25 known as the West Cedar Creek Municipal Utility
26 District, hereinafter called the "district,"

1 Revisor's Note

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

6 Revised Law

7 Sec. 8415.002. NATURE OF DISTRICT. The district is a
8 conservation and reclamation district in Henderson County created
9 under Section 59, Article XVI, Texas Constitution. (Acts 64th
10 Leg., R.S., Ch. 742, Sec. 1 (part).)

11 Source Law

12 Sec. 1. Under and pursuant to the provisions of
13 Article XVI, Section 59, of the Texas Constitution and
14 . . . a conservation and reclamation district is
15 created and established in Henderson County, Texas,
16 . . . which shall be a governmental agency and a body
17 politic and corporate. . . .

18 Revisor's Note

19 (1) Section 1, Chapter 742, Acts of the 64th
20 Legislature, Regular Session, 1975, refers to an
21 election to approve the creation of the district.
22 Because the election has already been held, the
23 revised law omits the provision as executed. The
24 omitted law reads:

25 Sec. 1. . . . subject to approval at
26 an election under Section 4 of this Act,
27

28 (2) Section 1, Chapter 742, Acts of the 64th
29 Legislature, Regular Session, 1975, provides that the
30 district is "created and established." The revised
31 law omits "established" because the meaning of that
32 word is included in the meaning of "created."

33 (3) Section 1, Chapter 742, Acts of the 64th
34 Legislature, Regular Session, 1975, refers to the
35 district as "a governmental agency and a body politic
36 and corporate." The revised law omits the quoted
37 language because it duplicates a portion of Section

1 59(b), Article XVI, Texas Constitution, which provides
2 that a conservation and reclamation district is a
3 governmental agency and a body politic and corporate.

4 Revised Law

5 Sec. 8415.003. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)
6 The district is created to serve a public use and benefit.

7 (b) All land and other property included in the boundaries
8 of the district will benefit from the works and projects
9 accomplished by the district under the powers conferred by Section
10 59, Article XVI, Texas Constitution.

11 (c) The creation of the district is essential to accomplish
12 the purposes of Section 59, Article XVI, Texas Constitution. (Acts
13 64th Leg., R.S., Ch. 742, Secs. 1 (part), 5.)

14 Source Law

15 Sec. 1. . . . The creation and establishment of
16 the district is declared to be essential to the
17 accomplishment of the purposes of Article XVI, Section
18 59, of the Texas Constitution.

19 Sec. 5. It is determined and found that all of
20 the land and other property included within the area
21 and boundaries of the district will be benefited by the
22 works and projects which are to be accomplished by the
23 district pursuant to the powers conferred by the
24 provisions of Article XVI, Section 59, of the Texas
25 Constitution, and that said district is created to
26 serve a public use and benefit.

27 Revisor's Note

28 (1) Section 1, Chapter 742, Acts of the 64th
29 Legislature, Regular Session, 1975, states that the
30 "creation and establishment" of the district are
31 essential to accomplish the purposes of Section 59,
32 Article XVI, Texas Constitution. The revised law
33 omits "establishment" because its meaning is included
34 in the meaning of "creation."

35 (2) Section 5, Chapter 742, Acts of the 64th
36 Legislature, Regular Session, 1975, refers to land and
37 other property included within the "area and
38 boundaries of the district." The revised law omits the
39 reference to "area" because, in context, "area" is

1 included in the meaning of "boundaries."

2 Revised Law

3 Sec. 8415.004. DISTRICT TERRITORY. (a) The district is
4 composed of the territory described by Section 2, Chapter 742, Acts
5 of the 64th Legislature, Regular Session, 1975, as that territory
6 may have been modified under:

- 7 (1) Subchapter H, Chapter 54, Water Code;
8 (2) Subchapter J, Chapter 49, Water Code; or
9 (3) other law.

10 (b) The boundaries and field notes of the district form a
11 closure. A mistake in the field notes or in copying the field notes
12 in the legislative process does not affect:

- 13 (1) the district's organization, existence, or
14 validity;
15 (2) the district's right to issue any type of bond for
16 a purpose for which the district is created or to pay the principal
17 of and interest on the bond;
18 (3) the district's right to impose a tax; or
19 (4) the legality or operation of the district or its
20 governing body. (Acts 64th Leg., R.S., Ch. 742, Sec. 3; New.)

21 Source Law

22 Sec. 3. It is determined and found that the
23 boundaries and field notes of the district form a
24 closure. If any mistake is made in copying the field
25 notes in the legislative process or otherwise a
26 mistake is made in the field notes, it shall in no way
27 affect the organization, existence, and validity of
28 the district, or the right of the district to issue any
29 type of bonds or refunding bonds for the purposes for
30 which the district is created or to pay the principal
31 of and interest on the bonds, or the right to assess,
32 levy, and collect taxes, or in any other manner affect
33 the legality or operation of the district or its
34 governing body.

35 Revisor's Note

36 (1) The revision of the law governing the
37 district does not revise the statutory language
38 describing the territory of the district to avoid the
39 lengthy recitation of the description and because that
40 description may not be accurate on the effective date

1 of the revision or at the time of a later reading. For
2 the reader's convenience, the revised law includes
3 references to the statutory description of the
4 district's territory and to the authority to change the
5 district's territory under Subchapter H, Chapter 54,
6 Water Code, applicable to municipal utility districts,
7 and under Subchapter J, Chapter 49, Water Code,
8 applicable to the district under Sections 49.001 and
9 49.002 of that chapter. The revised law also includes
10 a reference to the general authority of the
11 legislature to enact a law to change the district's
12 territory.

13 (2) Section 3, Chapter 742, Acts of the 64th
14 Legislature, Regular Session, 1975, provides that a
15 mistake in the description of the district boundaries
16 does not affect the right of the district to issue "any
17 type of bonds or refunding bonds." The revised law
18 omits the reference to "refunding bonds" because
19 refunding bonds are included in the meaning of "any
20 type of bonds."

21 (3) Section 3, Chapter 742, Acts of the 64th
22 Legislature, Regular Session, 1975, refers to the
23 district's authority to "assess, levy, and collect"
24 taxes. The revised law substitutes "impose" for
25 "assess, levy, and collect" because "impose" is the
26 term generally used in Title 1, Tax Code, and includes
27 the assessment, levy, and collection of a tax.

28 Revisor's Note
29 (End of Subchapter)

30 Section 4, Chapter 742, Acts of the 64th
31 Legislature, Regular Session, 1975, provides
32 procedures for holding an election on the creation of
33 the district. Because the election has been held, the
34 revised law omits the provision as executed. The

1 omitted law reads:

2 Sec. 4. Before the West Cedar Creek
3 Municipal Utility District is created and
4 may operate under the provisions of this
5 Act, an election must be held within the
6 boundaries of the proposed district and the
7 qualified electors within the proposed
8 district by a majority vote of those voting
9 in the election must approve the creation of
10 the district. Within 30 days after the
11 effective date of this Act, the
12 Commissioners Court of Henderson County
13 shall call an election to approve the
14 creation of the district and the procedures
15 for the election shall be the same as
16 provided in Sections 55.030-55.036, Water
17 Code. Ballots for the election shall be
18 printed to provide for voting for or against
19 the proposition: "The creation of the West
20 Cedar Creek Municipal Utility District." If
21 a majority of the persons voting at the
22 election vote in favor of creating the
23 district, the district is created and
24 approved, but if a majority of the persons
25 voting at the election vote against the
26 creation of the district, no district shall
27 be created.

28 SUBCHAPTER B. BOARD OF DIRECTORS

29 Revised Law

30 Sec. 8415.051. COMPOSITION OF BOARD; TERMS. (a) The board
31 is composed of seven elected directors.

32 (b) Directors serve staggered terms. (Acts 64th Leg., R.S.,
33 Ch. 742, Sec. 8(b) (part).)

34 Source Law

35 (b) . . . The term of office of the first four
36 directors named shall end on the second Saturday in
37 January, 1977, and the term of office of the last three
38 directors named shall be until the second Saturday in
39 January, 1976; thereafter, successors in office shall
40 be elected

41 Revisor's Note

42 (1) Sections 8(a) and (b), Chapter 742, Acts of
43 the 64th Legislature, Regular Session, 1975, refer to
44 the initial board of directors and that board's vacancy
45 procedures. The revised law omits the language as
46 executed. The omitted law reads:

47 Sec. 8. (a) Immediately after
48 approval of the district at an election
49 under Section 4 of this Act, the following
50 named persons shall be the directors of the
51 district and shall constitute the board of

1 directors of the district: Bob Fincher,
2 Bill Forester, John McKee, J. N. Loden, Joe
3 Cox, Dillard Smith, and Clifton Smith, Jr.

4 (b) . . . Should any of the above
5 named directors fail to qualify for any
6 reason, the remaining named directors shall
7 appoint someone to fill such vacancy or
8 vacancies;

9 (2) Section 8(b), Chapter 742, Acts of the 64th
10 Legislature, Regular Session, 1975, refers to
11 "successors in office" to distinguish the succeeding
12 directors from the initial directors named in Section
13 8(a). The revised law substitutes "seven" for
14 "successors" to conform to the number of directors
15 listed in Section 8(a) (establishing the initial
16 board).

17 (3) Section 8(b), Chapter 742, Acts of the 64th
18 Legislature, Regular Session, 1975, prescribes the
19 procedure for staggering the terms of the directors
20 first elected under that act. The revised law revises
21 the establishment of staggered terms but omits the
22 provision relating to the date the initial terms
23 expire as executed.

24 (4) Section 8(b), Chapter 742, Acts of the 64th
25 Legislature, Regular Session, 1975, requires each
26 director to take the constitutional oath of office.
27 The revised law omits that provision because Section
28 1, Article XVI, Texas Constitution, requires an
29 officer of this state to take the constitutional oath
30 (or affirmation) before assuming office. The omitted
31 law reads:

32 (b) Such persons shall qualify to
33 serve as directors by execution of the
34 constitutional oath of office. . . .

35 (5) Section 8(b), Chapter 742, Acts of the 64th
36 Legislature, Regular Session, 1975, provides that
37 directors serve a term of two years. The revised law
38 omits that provision because it was superseded by
39 Section 49.103(a), Water Code, enacted in 1995, which

1 stipulates four-year terms and applies to the district
2 under Sections 49.103(e), 49.001(a), and 49.002, Water
3 Code. The omitted law reads:

4 (b) . . . [successors in office shall
5 be elected] for a term of two years.

6 Revised Law

7 Sec. 8415.052. BOARD VACANCY. (a) Except as provided by
8 Subsection (b), a vacancy in the office of director shall be filled
9 in the manner provided by Section 49.105, Water Code.

10 (b) The Texas Commission on Environmental Quality shall
11 appoint directors to fill all of the vacancies on the board whenever
12 the number of qualified directors is fewer than four. (Acts 64th
13 Leg., R.S., Ch. 742, Sec. 8(b) (part); New.)

14 Source Law

15 (b) . . . [Should any of the above named
16 directors fail to qualify for any reason, the
17 remaining named directors shall appoint someone to
18 fill such vacancy or vacancies;] provided, however,
19 that if at any time the number of qualified directors
20 shall be less than four because of the failure or
21 refusal of one or more directors to qualify or serve or
22 because of his or their death or incapacitation, or for
23 any other reason, the Texas Water Rights Commission
24 shall appoint the necessary number of directors to
25 fill all vacancies on the board. . . .

26 Revisor's Note

27 (1) Section 8(b), Chapter 742, Acts of the 64th
28 Legislature, Regular Session, 1975, governs the manner
29 in which multiple board vacancies are filled. Section
30 49.105, Water Code, governs the manner of filling a
31 vacancy in the office of director of certain
32 districts, including a municipal utility district.
33 Chapter 49, Water Code, applies to the district under
34 Sections 49.001 and 49.002 of that chapter. For that
35 reason and for the convenience of the reader, the
36 revised law adds a reference to Section 49.105.

37 (2) Section 8(b), Chapter 742, Acts of the 64th
38 Legislature, Regular Session, 1975, refers to a
39 vacancy in the office of director "because of the

1 failure or refusal of one or more directors to qualify
2 or serve or because of his or their death or
3 incapacitation, or for any other reason." The revised
4 law omits the quoted language because it merely
5 describes every manner in which a board vacancy may
6 occur without limiting in any way the duty to fill the
7 vacancy.

8 (3) Section 8(b), Chapter 742, Acts of the 64th
9 Legislature, Regular Session, 1975, refers to the
10 "Texas Water Rights Commission." The revised law
11 substitutes "Texas Commission on Environmental
12 Quality" for "Texas Water Rights Commission" to
13 reflect a change in the agency's name. In 1977,
14 Section 9, Chapter 870, Acts of the 65th Legislature,
15 Regular Session, abolished the Texas Water Rights
16 Commission and created the Texas Water Commission.
17 The name of the Texas Water Commission was changed to
18 the Texas Natural Resource Conservation Commission by
19 Section 1.085, Chapter 3, Acts of the 72nd
20 Legislature, 1st Called Session, 1991. The name of the
21 Texas Natural Resource Conservation Commission was
22 changed to the Texas Commission on Environmental
23 Quality by Section 18.01, Chapter 965, Acts of the 77th
24 Legislature, Regular Session, 2001. The revised law
25 is drafted accordingly.

26 SUBCHAPTER C. POWERS AND DUTIES

27 Revised Law

28 Sec. 8415.101. MUNICIPAL UTILITY DISTRICT POWERS. The
29 district has the rights, powers, privileges, and functions
30 conferred and imposed by general law applicable to a municipal
31 utility district created under Section 59, Article XVI, Texas
32 Constitution, including Chapters 49 and 54, Water Code. (Acts 64th
33 Leg., R.S., Ch. 742, Sec. 6 (part).)

1 district certain powers, "including without
2 limitation those conferred by Chapter 54, Water Code."
3 The revised law omits "without limitation" because
4 Section 311.005(13), Government Code (Code
5 Construction Act), provides that "includes" and
6 "including" are terms of enlargement and not of
7 limitation and do not create a presumption that
8 components not expressed are excluded.

9 (5) Section 6, Chapter 742, Acts of the 64th
10 Legislature, Regular Session, 1975, refers to Chapter
11 54, Water Code. For the reader's convenience, the
12 revised law adds a reference to Chapter 49, Water Code,
13 because Chapter 715, Acts of the 74th Legislature,
14 Regular Session, 1995, repealed many provisions of
15 Chapter 54 and enacted similar provisions in Chapter
16 49, Water Code, which applies to the district under
17 Sections 49.001 and 49.002 of that chapter.

18 (6) Section 6, Chapter 742, Acts of the 64th
19 Legislature, Regular Session, 1975, provides that the
20 act prevails over general law in case of a conflict or
21 other inconsistency and that all general laws
22 applicable to municipal utility districts not in
23 conflict or inconsistent with the provisions of the
24 act are adopted and incorporated by reference. The
25 revised law omits the portion of the provision
26 relating to the act prevailing over general law
27 because it duplicates in substance Section 311.026(b),
28 Government Code (Code Construction Act). The revised
29 law omits the portion of the provision relating to
30 adoption and incorporation of general laws because the
31 portion of Section 6, Chapter 742, revised as this
32 section, already provides that those laws apply to the
33 district, and it is unnecessary to further adopt and
34 incorporate those laws in this chapter. The omitted

1 law reads:

2 Sec. 6. . . . if any provision of
3 such general law shall be in conflict or
4 inconsistent with the provisions of this
5 Act, the provisions of this Act shall
6 prevail. All such general laws not in
7 conflict or inconsistent with the
8 provisions of this Act are hereby adopted
9 and incorporated by reference with the same
10 effect as if copied in full in this Act.

11 Revised Law

12 Sec. 8415.102. WATER AND SEWER SYSTEMS. The district may
13 acquire, and may improve or extend, any existing water or sewer
14 system that serves all or part of the district territory or may
15 construct a water or sewer system to serve the inhabitants of the
16 county in which the district is situated. (Acts 64th Leg., R.S., Ch.
17 742, Sec. 7(a).)

18 Source Law

19 Sec. 7. (a) The district shall have and is
20 given the specific power to acquire any existing water
21 and sewer system, either or both, which serves all or
22 part of the territory situated within its boundaries,
23 and the district may improve and extend such systems,
24 or the district may construct a water and sewer system,
25 either or both, to serve the inhabitants of the county
26 in which the area of the district is situated.

27 Revisor's Note

28 Section 7(a), Chapter 742, Acts of the 64th
29 Legislature, Regular Session, 1975, provides that the
30 district "shall have and is given the specific power"
31 to acquire a water or sewer system. The revised law
32 substitutes "may" for the quoted language because the
33 phrases have the same meaning, and "may" is consistent
34 with modern usage. See, for example, Section
35 311.016(1), Government Code (Code Construction Act),
36 which construes "may."

37 Revised Law

38 Sec. 8415.103. TAXES. The district may not impose a tax
39 unless the tax has been approved by the voters at an election called
40 for that purpose. (Acts 64th Leg., R.S., Ch. 742, Sec. 7(b).)

