

PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL
Special District Local
Laws Code
Chapter 9023
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14 CHAPTER 9023. DUVAL COUNTY CONSERVATION AND RECLAMATION DISTRICT

15 SUBCHAPTER A. GENERAL PROVISIONS

16 Revised Law

17 Sec. 9023.001. 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 Duval County Conservation and

21 Reclamation District. (Acts 51st Leg., R.S., Ch. 398, Sec. 1

22 (part); New.)

23 Source Law

24 Sec. 1. . . . [a . . . district] to be known as

25 the Duval County Conservation and Reclamation

26 District, hereinafter sometimes referred to as the

27 "District," and

28 Revisor's Note

29 The definitions of "board" and "director" are

30 added to the revised law for drafting convenience and

31 to eliminate frequent, unnecessary repetition of the

32 substance of the definitions.

33 Revised Law

34 Sec. 9023.002. NATURE OF DISTRICT. The district is:

- 35 (1) a conservation and reclamation district under

1 Section 59, Article XVI, Texas Constitution; and

2 (2) a municipal corporation. (Acts 51st Leg., R.S.,
3 Ch. 398, Secs. 1 (part), 13 (part).)

4 Source Law

5 Sec. 1. Under and pursuant to the provisions of
6 Article 16, Section 59, of the Constitution of Texas,
7 there is hereby created within the State of Texas, in
8 addition to the districts into which the state has
9 heretofore been divided, a conservation and
10 reclamation district

11 Sec. 13. [The Legislature] . . . declares the
12 District to be a governmental agency, a body politic
13 and corporate, and a municipal corporation.

14 Revisor's Note

15 (1) Section 1, Chapter 398, Acts of the 51st
16 Legislature, Regular Session, 1949, provides that the
17 district "is hereby created." The revised law omits
18 the quoted language as executed.

19 (2) Section 1, Chapter 398, Acts of the 51st
20 Legislature, Regular Session, 1949, states that the
21 district is created "within the State of Texas, in
22 addition to the districts into which the state has
23 heretofore been divided." The revised law omits the
24 quoted language because the absence of the language
25 does not imply that the legislature could create a
26 district outside its jurisdiction or that the district
27 is not in addition to any other districts.

28 (3) Section 13, Chapter 398, Acts of the 51st
29 Legislature, Regular Session, 1949, refers to the
30 district as a "governmental agency, a body politic and
31 corporate." The revised law omits the quoted language
32 because it duplicates a portion of Section 59(b),
33 Article XVI, Texas Constitution, which provides that a
34 conservation and reclamation district is a
35 governmental agency and a body politic and corporate.

36 Revised Law

37 Sec. 9023.003. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)

1 The district is created to serve a public use and benefit.

2 (b) All land included in the boundaries of the district will
3 benefit from that inclusion.

4 (c) The district is essential to accomplish the purposes of
5 Section 59, Article XVI, Texas Constitution. (Acts 51st Leg.,
6 R.S., Ch. 398, Secs. 4 (part), 13 (part).)

7 Source Law

8 Sec. 4. It is hereby found and determined that
9 all of the lands included within the boundaries of the
10 District will be benefited and that the District is
11 created to serve a public use and benefit. . . .

12 Sec. 13. The Legislature hereby exercises the
13 authority conferred upon it by Section 59, Article 16
14 of the Constitution, and declares that the District
15 created by this Act is essential to the accomplishment
16 of the purposes of said constitutional provision,
17 finds that all of the land included therein will be
18 benefited thereby, and

19 Revisor's Note

20 Section 13, Chapter 398, Acts of the 51st
21 Legislature, Regular Session, 1949, provides that the
22 legislature "hereby exercises the authority conferred
23 upon it by" Section 59, Article XVI, Texas
24 Constitution, and "declares that the District created
25 by this Act" is essential to accomplish the purposes of
26 that provision. The revised law omits the quoted
27 language as executed.

28 Revised Law

29 Sec. 9023.004. DISTRICT TERRITORY. The district is
30 composed of the territory described by Section 1, Chapter 398, Acts
31 of the 51st Legislature, Regular Session, 1949, as that territory
32 may have been modified under:

- 33 (1) Subchapter O, Chapter 51, Water Code;
- 34 (2) Subchapter J, Chapter 49, Water Code;
- 35 (3) Subchapter E or the relevant parts of its
36 predecessor statute, former Section 4A, Chapter 398, Acts of the
37 51st Legislature, Regular Session, 1949; or
- 38 (4) other law. (New.)

1 Revisor's Note

2 The revision of the law governing the district
3 does not revise the statutory language describing the
4 district's territory because the description may not
5 be accurate on the effective date of the revision or at
6 the time of a later reading. For the reader's
7 convenience, the revised law includes a reference to
8 the statutory description of the district's territory
9 and references to statutory authority to change the
10 district's territory under Subchapter O, Chapter 51,
11 Water Code, applicable to water control and
12 improvement districts, under Subchapter J, Chapter 49,
13 Water Code, applicable to the district under Sections
14 49.001 and 49.002 of that chapter, and under
15 Subchapter E of this chapter, which was derived in
16 relevant part from Section 4A of the district's
17 enabling legislation. The revised law also includes a
18 reference to the general authority of the legislature
19 to enact a law to change the district's territory.

20 SUBCHAPTER B. BOARD OF DIRECTORS

21 Revised Law

22 Sec. 9023.051. COMPOSITION OF BOARD. The board is composed
23 of four elected directors. (Acts 51st Leg., R.S., Ch. 398, Secs.
24 3(a) (part), (b) (part), (g).)

25 Source Law

26 Sec. 3. (a) The management and control of the
27 District is hereby vested in a board of directors
28
29 (b) . . . [the board . . . shall be] . . .
30 elected

31 (g) If San Diego and the area within its
32 extraterritorial jurisdiction disannex under Section
33 4A of this Act, the number of board places is reduced
34 to four.

35 Revisor's Note

36 (1) Section 3(a), Chapter 398, Acts of the 51st
37 Legislature, Regular Session, 1949, provides that the

1 "management and control of the District is hereby
2 vested" in the board. The revised law omits the quoted
3 language because it duplicates in substance parts of
4 Sections 49.051 and 49.057, Water Code. Throughout
5 this chapter, the revised law omits law that is
6 superseded by Chapter 49, Water Code, or that
7 duplicates law contained in that chapter. Chapter 49,
8 Water Code, applies to the district under Sections
9 49.001 and 49.002 of that chapter.

10 (2) Section 3(b), Chapter 398, Acts of the 51st
11 Legislature, Regular Session, 1949, provides that the
12 board shall be composed of seven members except as
13 otherwise provided by that chapter. Section 3(g) of
14 Chapter 398 provides that the number of places on the
15 board is reduced to four if the City of San Diego and
16 the municipality's extraterritorial jurisdiction are
17 disannexed from the district. The City of San Diego
18 and the municipality's extraterritorial jurisdiction
19 were disannexed from the district in 1998. To reflect
20 that disannexation, the revised law provides that the
21 board is composed of four directors. In addition, the
22 provision requiring the board to be composed of seven
23 members except as otherwise provided by Chapter 398 is
24 omitted as obsolete. The omitted law reads:

25 (b) Except as otherwise provided by
26 this Act, the board of directors shall be
27 composed of seven members

28 (3) Section 3(b), Chapter 398, Acts of the 51st
29 Legislature, Regular Session, 1949, provides that a
30 director shall "have the same qualifications as
31 directors of Water Control and Improvement Districts."
32 The revised law omits the quoted language because
33 general law governing the qualifications of directors
34 of water control and improvement districts, including
35 Section 51.072, Water Code, applies to the district's

1 directors on its own terms. The omitted law reads:

2 (b) . . . [the board of directors]
3 . . . who shall have the same
4 qualifications as directors of Water
5 Control and Improvement Districts. . . .

6 Revised Law

7 Sec. 9023.052. ELECTION OF DIRECTORS. (a) Directors are
8 elected to positions according to the place system as provided by
9 this section.

10 (b) Except as provided by Subsection (c):

11 (1) a director elected to place 1 or 2 must be a
12 resident of Benavides and be elected by the voters of the district
13 who reside in Benavides and its extraterritorial jurisdiction; and

14 (2) a director elected to place 3 or 4 must be a
15 resident of, and be elected by the voters of the district who reside
16 in, the part of Duval County that is not within:

17 (A) the corporate limits or extraterritorial
18 jurisdiction of San Diego or Benavides; or

19 (B) the Freer Water Control and Improvement
20 District.

21 (c) If Benavides and the area within its extraterritorial
22 jurisdiction disannex under Subchapter E:

23 (1) a director who represents Benavides and the area
24 within its extraterritorial jurisdiction ceases to be a director on
25 the date disannexation takes effect;

26 (2) the remaining directors as soon as possible shall
27 order a special election to elect the appropriate number of
28 directors to fill the unexpired terms if the disannexation results
29 in vacancies on the board; and

30 (3) a director for each place on the board must be a
31 resident of the part of Duval County that is not within:

32 (A) the corporate limits or extraterritorial
33 jurisdiction of San Diego or Benavides; or

34 (B) the Freer Water Control and Improvement
35 District. (Acts 51st Leg., R.S., Ch. 398, Secs. 3(b) (part), (e),

1 (f).)

2 Source Law

3 (b) . . . [the board . . . shall be . . .
4 elected] to positions using the place system as
5 described in this section . . . A director elected to
6 place 4 or 5 must be a resident of Benavides and is
7 elected by the qualified voters of the District who are
8 residents of Benavides and its extraterritorial
9 jurisdiction. A director elected to place 6 or 7 must
10 be a resident of, and is elected by the qualified
11 voters of the District who are residents of, the part
12 of Duval County that is not within:

13 (1) the corporate limits or
14 extraterritorial jurisdiction of:

15 (A) San Diego; or

16 (B) Benavides; or

17 (2) the Freer Water Control and
18 Improvement District.

19 (e) If either San Diego or Benavides and the
20 area within its extraterritorial jurisdiction
21 disannex under Section 4A of this Act, a person on the
22 board who represents San Diego and the area within its
23 extraterritorial jurisdiction or Benavides and the
24 area within its extraterritorial jurisdiction ceases
25 to be a director on the date disannexation takes
26 effect. The remaining directors as soon as possible
27 shall call a special election to elect the appropriate
28 number of directors to fill the unexpired terms if the
29 disannexation results in vacancies on the board.

30 (f) If both San Diego and Benavides and the
31 areas within their extraterritorial jurisdictions
32 disannex under Section 4A of this Act, a director for
33 each place on the board must be a resident of the part
34 of Duval County that is not within:

35 (1) the corporate limits or
36 extraterritorial jurisdiction of:

37 (A) San Diego; or

38 (B) Benavides; or

39 (2) the Freer Water Control and
40 Improvement District.

41 Revisor's Note

42 (1) Section 3(b), Chapter 398, Acts of the 51st
43 Legislature, Regular Session, 1949, requires that a
44 director elected to place 1, 2, or 3 be a resident of
45 the City of San Diego and be elected by residents of
46 that municipality and its extraterritorial
47 jurisdiction. The revised law omits that provision as
48 obsolete because the City of San Diego and its
49 extraterritorial jurisdiction were disannexed from
50 the district in 1998. The revised law also
51 redesignates former places 4, 5, 6, and 7 as places 1,
52 2, 3, and 4 to reflect the designations used by the

1 district after the disannexation of the City of San
2 Diego and its extraterritorial jurisdiction. The
3 omitted law reads:

4 (b) . . . A director elected to place
5 1, 2, or 3 must be a resident of San Diego
6 and is elected by the qualified voters of
7 the District who are residents of San Diego
8 and its extraterritorial jurisdiction.
9 . . .

10 (2) Section 3(b), Chapter 398, Acts of the 51st
11 Legislature, Regular Session, 1949, refers to
12 "qualified" voters. Throughout this chapter, the
13 revised law omits "qualified" because Chapter 11,
14 Election Code, governs eligibility to vote in an
15 election in this state and allows only "qualified"
16 voters to vote in an election.

17 (3) Section 3(e), Chapter 398, Acts of the 51st
18 Legislature, Regular Session, 1949, refers to the duty
19 of the district's directors to "call" a special
20 election to elect directors to fill vacancies created
21 by the disannexation of district territory.
22 Throughout this chapter, the revised law substitutes
23 "order" for "call," "ordering" for "calling," and
24 "ordered" for "called" in the context of ordering an
25 election because "order" is the term used in Chapter 3,
26 Election Code.

27 (4) Section 3(e), Chapter 398, Acts of the 51st
28 Legislature, Regular Session, 1949, refers to changes
29 in the board of directors if the City of San Diego or
30 the City of Benavides and the area within the
31 applicable municipality's extraterritorial
32 jurisdiction are disannexed from the district, and
33 Section 3(f) refers to applicable residency
34 requirements for board members if both of those
35 municipalities and extraterritorial jurisdictions are
36 disannexed. The revised law omits as obsolete

1 references associated with the disannexation of the
2 City of San Diego and that municipality's
3 extraterritorial jurisdiction. See Revisor's Note (1)
4 to this section.

5 (5) Section 3(h), Chapter 398, Acts of the 51st
6 Legislature, Regular Session, 1949, provides for the
7 structure of the board if "Benavides and the area
8 within its extraterritorial jurisdiction" disannex
9 from the district. The portion of the provision
10 referencing directors who must be residents of the
11 City of San Diego or that municipality's
12 extraterritorial jurisdiction is omitted as obsolete.
13 See Revisor's Note (1) to this section. The remainder
14 of the provision is omitted as duplicative of Section
15 3(f) of Chapter 398, revised as Subsection (c)(3) of
16 this section. The omitted law reads:

17 (h) If Benavides and the area within
18 its extraterritorial jurisdiction disannex
19 under Section 4A of this Act:

20 (1) a director for place 4 must
21 be a resident of San Diego or its
22 extraterritorial jurisdiction if San Diego
23 and the area within its extraterritorial
24 jurisdiction have not previously
25 disannexed; and

26 (2) a director for place 5, or
27 for place 4 or place 5 if San Diego and the
28 area within its extraterritorial
29 jurisdiction have previously disannexed,
30 must be a resident of the part of Duval
31 County that is not within:

32 (A) the corporate limits
33 or extraterritorial jurisdiction of:

34 (i) San Diego; or

35 (ii) Benavides; or

36 (B) the Freer Water
37 Control and Improvement District.

38 Revisor's Note
39 (End of Subchapter)

40 (1) Section 3(a), Chapter 398, Acts of the 51st
41 Legislature, Regular Session, 1949, refers to the
42 powers and authority conferred and imposed on the
43 board under Chapter 25, Acts of the 39th Legislature,
44 Regular Session, 1925, as amended, as incorporated in

1 Chapter 3A, Title 128, Vernon's Texas Civil Statutes,
2 as amended. The relevant provisions of that chapter
3 were codified in 1971 as Chapter 51, Water Code.
4 Chapter 715, Acts of the 74th Legislature, Regular
5 Session, 1995, repealed many of the provisions of
6 Chapter 51 and enacted similar provisions in Chapter
7 49, Water Code. The revised law omits the reference to
8 the board's powers and authority because Chapters 49
9 and 51, Water Code, which both apply to the district on
10 their own terms, provide for the powers and authority
11 of the board. The revised law omits references to
12 "amendments thereto" with respect to Chapters 25 and
13 3A because under Section 311.027, Government Code
14 (Code Construction Act), a reference to a statute
15 applies to all reenactments, revisions, or amendments
16 of that statute unless expressly provided otherwise.
17 The omitted law reads:

18 (a) . . . [a board] . . . which shall
19 have all of the powers and authority
20 conferred and imposed upon boards of
21 directors of Water Control and Improvement
22 Districts organized under the provisions of
23 Chapter 25, Acts of the 39th Legislature
24 passed in 1925, and amendments thereto, as
25 incorporated in Title 128, Chapter 3A, of
26 Vernon's Civil Statutes of the State of
27 Texas and amendments thereto.

28 (2) Section 3(c), Chapter 398, Acts of the 51st
29 Legislature, Regular Session, 1949, provides that the
30 provisions of that act applicable to the board and its
31 members prevail over general law in case of a conflict
32 or other inconsistency. The revised law omits the
33 provision because, under general rules of statutory
34 construction, a statute automatically has the effect
35 of repealing prior conflicting enactments and is
36 ineffective to repeal subsequent legislation, and
37 because it duplicates in substance Section 311.026(b),
38 Government Code (Code Construction Act), which

1 provides that if there is a conflict between a general
2 provision of law and a special or local provision, the
3 special or local provision prevails unless the general
4 provision is the later enactment and the manifest
5 intent is that the general provision prevail. The
6 omitted law reads:

7 (c) In the event and to the extent
8 that any of the provisions of the General
9 Laws referred to in this Section are in
10 conflict with or inconsistent with any of
11 the provisions of this Act relating to the
12 powers, authority, and duties of the board
13 of directors and its members, the
14 provisions of this Act shall prevail.

15 (3) Section 3(d), Chapter 398, Acts of the 51st
16 Legislature, Regular Session, 1949, provides that
17 director elections shall be held "on the first Tuesday
18 in May" of each even-numbered year. The revised law
19 omits that provision because the district holds
20 director elections on a different date. See Chapter
21 1318, Acts of the 82nd Legislature, Regular Session,
22 2011, which amended Section 41.0052, Election Code, to
23 allow a political subdivision to change the date of its
24 general election for officers to another uniform date.
25 The omitted law reads:

26 (d) An election shall be held on the
27 first Tuesday in May of each even-numbered
28 year and

29 (4) Section 3(d), Chapter 398, Acts of the 51st
30 Legislature, Regular Session, 1949, states that a
31 director serves a four-year term. The revised law
32 omits the provision because it duplicates in substance
33 Section 49.103(a), Water Code. The omitted law reads:

34 (d) . . . the directors elected shall
35 each serve for a term of four years.

36 SUBCHAPTER C. POWERS AND DUTIES

37 Revised Law

38 Sec. 9023.101. WATER CONTROL AND IMPROVEMENT DISTRICT
39 POWERS. The district has the rights, powers, privileges, and

1 duties provided by general law applicable to a water control and
2 improvement district created under Section 59, Article XVI, Texas
3 Constitution, including Chapters 49 and 51, Water Code. (Acts 51st
4 Leg., R.S., Ch. 398, Sec. 2 (part); New.)

5 Source Law

6 Sec. 2. The District shall have and exercise,
7 and is hereby vested with all of the rights, powers,
8 privileges and duties conferred and imposed by the
9 General Laws of this State now in force or hereafter
10 enacted, applicable to water control and improvement
11 districts created under authority of Section 59,
12 Article 16 of the Constitution, but

13 Revisor's Note

14 (1) Section 2, Chapter 398, Acts of the 51st
15 Legislature, Regular Session, 1949, states that the
16 district "shall have and exercise, and is hereby
17 vested with" certain rights, powers, privileges, and
18 duties. The revised law substitutes "has" for the
19 quoted language because, in context, the terms are
20 synonymous and "has" is more commonly used.

21 (2) Section 2, Chapter 398, Acts of the 51st
22 Legislature, Regular Session, 1949, states that the
23 district has the rights, powers, privileges, and
24 duties "conferred and imposed" by general law. The
25 revised law substitutes "provided" for the quoted
26 language because regardless of whether a right, power,
27 privilege, or duty is "conferred" by general law or
28 "imposed" by general law, it is not necessary to
29 characterize in the revised law the nature of the
30 granting of that authority. In context, "provided" is
31 synonymous with "conferred and imposed" and "provided"
32 is more commonly used.

33 (3) Section 2, Chapter 398, Acts of the 51st
34 Legislature, Regular Session, 1949, refers to the
35 general laws of this state "now in force or hereafter
36 enacted." The revised law omits the quoted language as
37 unnecessary under accepted general principles of

1 statutory construction. The "[g]eneral [l]aws of this
2 [s]tate" means those laws "in force" at the time the
3 provision was adopted. It is unnecessary to state that
4 the district may be granted additional powers by later
5 enacted laws because those laws apply on their own
6 terms.

7 (4) Section 2, Chapter 398, Acts of the 51st
8 Legislature, Regular Session, 1949, refers to the
9 general laws "applicable to water control and
10 improvement districts." For the reader's convenience,
11 the revised law adds references to Chapter 49, Water
12 Code, applicable under Sections 49.001 and 49.002 of
13 that chapter to districts created under Section 59,
14 Article XVI, Texas Constitution, and Chapter 51, Water
15 Code, applicable to water control and improvement
16 districts.

17 (5) Section 2, Chapter 398, Acts of the 51st
18 Legislature, Regular Session, 1949, provides that the
19 act prevails over general law that applies to water
20 control and improvement districts and that is in
21 conflict or inconsistent with the act and that all
22 general laws applicable to water control and
23 improvement districts are incorporated by reference.
24 The revised law omits the portion of the provision
25 relating to the act prevailing over general law for the
26 reason stated in Revisor's Note (2) to the end of
27 Subchapter B. The revised law omits the portion of the
28 provision relating to incorporation of general laws
29 because the portion of Section 2, Chapter 398, revised
30 as this section already provides that those laws apply
31 to the district, and it is unnecessary to further
32 incorporate those laws in this chapter. The omitted
33 law reads:

34 Sec. 2. [The District shall have

1 . . . all of the rights, powers, privileges
2 and duties conferred and imposed by the
3 General Laws of this State . . . applicable
4 to water control and improvement districts
5 . . . but] to the extent that the provisions
6 of any such General Laws may be in conflict
7 or inconsistent with the provisions of this
8 Act, the provisions of this Act shall
9 prevail. All such General Laws are hereby
10 incorporated by reference with the same
11 effect as if incorporated in full in this
12 Act.

13 Revised Law

14 Sec. 9023.102. GENERAL CONTRACT POWERS. The board may
15 enter into a contract with any individual or any public or private
16 corporation, inside or outside the district, that the board
17 considers advisable and expedient to accomplish the district's
18 purposes. (Acts 51st Leg., R.S., Ch. 398, Sec. 11 (part).)

19 Source Law

20 Sec. 11. . . . the board of directors may
21 enter into a contract or contracts with any individual
22 or corporation, public or private, within the District
23 or outside the District, which the board of directors
24 may deem advisable and expedient in accomplishing the
25 purposes for which the District is created.

26 Revised Law

27 Sec. 9023.103. ACQUISITION OF PROPERTY. The district may
28 acquire property not already devoted to public use in the district
29 that the board considers necessary to accomplish the district's
30 objectives. (Acts 51st Leg., R.S., Ch. 398, Sec. 9 (part).)

31 Source Law

32 Sec. 9. The District shall have authority to
33 acquire property, real and personal, which is not
34 already devoted to a public use within the District
35 which within the discretion of the board of directors
36 is needed in accomplishing the objectives of the
37 District, and

38 Revisor's Note

39 (1) Section 9, Chapter 398, Acts of the 51st
40 Legislature, Regular Session, 1949, provides that the
41 district "shall have authority to" acquire property.
42 The revised law substitutes "may" for the quoted
43 language because that term is more concise and is the
44 substantive equivalent of the quoted language.

45 (2) Section 9, Chapter 398, Acts of the 51st

1 Legislature, Regular Session, 1949, refers to property
2 "real and personal." The revised law omits the quoted
3 language because under Section 311.005(4), Government
4 Code (Code Construction Act), "property" includes both
5 real and personal property.

6 (3) Section 9, Chapter 398, Acts of the 51st
7 Legislature, Regular Session, 1949, provides that, to
8 facilitate the acquisition of property, the district
9 has "all of the powers of eminent domain available to
10 water control and improvement districts under the
11 General Laws." The revised law omits the provision
12 because the general law described by the quoted
13 language, including Section 49.222, Water Code,
14 applies to the district on its own terms. The omitted
15 law reads:

16 Sec. 9. . . . to facilitate the
17 acquisition of property it shall have all of
18 the powers of eminent domain available to
19 water control and improvement districts
20 under the General Laws.
21 . . .

22 Revised Law

23 Sec. 9023.104. COST OF RELOCATING OR ALTERING PROPERTY. If
24 the district's exercise of the power of eminent domain, the power of
25 relocation, or any other power granted by this chapter, makes
26 necessary relocating, raising, rerouting, changing the grade of, or
27 altering the construction of a highway, railroad, electric
28 transmission line, pipeline, or telegraph or telephone property or
29 facility, the necessary action shall be accomplished at the sole
30 expense of the district. (Acts 51st Leg., R.S., Ch. 398, Sec. 9
31 (part).)

32 Source Law

33 Sec. 9. . . .
34 In the event that the District, in the exercise of
35 the power of eminent domain or power of relocation, or
36 any other power granted hereunder, makes necessary the
37 relocation, raising, rerouting or changing the grade
38 of, or altering the construction of any highway,
39 railroad, electric transmission line, telephone or
40 telegraph properties and facilities, or pipeline, all

1 such necessary relocation, raising, rerouting,
2 changing of grade or alteration of construction shall
3 be accomplished at the sole expense of the District.

4 Revised Law

5 Sec. 9023.105. WATER PERMIT ACQUIRED FROM MUNICIPALITY. A
6 water permit acquired by the district from a municipality in the
7 district must be acquired subject to a provision that, in case of a
8 shortage of water supply, the municipality has a right to receive
9 water from the district that is superior to the right of anyone else
10 to use water. (Acts 51st Leg., R.S., Ch. 398, Sec. 12 (part).)

11 Source Law

12 Sec. 12. . . . Provided, however, that any
13 permit acquired from a city within the District shall
14 be acquired subject to a provision that, in case of a
15 shortage of water supply, such city shall have a right
16 to receive water from the District, which shall be
17 superior to the right of any one else to use water.

18 Revisor's Note

19 Section 12, Chapter 398, Acts of the 51st
20 Legislature, Regular Session, 1949, authorizes the
21 district to acquire water rights from municipalities
22 and districts under certain terms and subject to
23 approval by the former State Board of Water Engineers.
24 The revised law omits the provision because it is
25 superseded by Section 49.2261, Water Code. Section
26 49.2261 provides in relevant part that a district may
27 acquire water rights under terms considered
28 advantageous to the district. The omitted law reads:

29 Sec. 12. The District shall have the
30 power to acquire water rights theretofore
31 granted by the State of Texas to cities or
32 districts situated wholly or partly within
33 the District or outside of the District
34 under terms to be negotiated between the
35 District and any such city, subject to
36 approval by the State Board of Water
37 Engineers of the terms of such
38 acquisition. . . .

39 Revisor's Note
40 (End of Subchapter)

41 Section 11, Chapter 398, Acts of the 51st
42 Legislature, Regular Session, 1949, provides that the
43 district has the authority to operate and maintain its

1 "includes" and "including" are terms of enlargement
2 and not of limitation and do not create a presumption
3 that components not expressed are excluded.

4 Revised Law

5 Sec. 9023.152. CERTAIN BOND COVENANTS AUTHORIZED. A
6 resolution authorizing the issuance of district bonds may contain
7 any covenant the board considers necessary to ensure:

8 (1) the creation and maintenance of proper reserves;
9 and

10 (2) the payment of the principal of and interest on the
11 bonds. (Acts 51st Leg., R.S., Ch. 398, Sec. 5 (part).)

12 Source Law

13 Sec. 5. . . .

14 The resolution or resolutions authorizing the
15 issuance of the bonds may contain such covenants which
16 in the discretion of the board of directors are
17 necessary to assure the creation and maintenance of
18 proper reserves and the payment of the principal of and
19 interest on the bonds. . . .

20 Revised Law

21 Sec. 9023.153. MATURITY. District bonds, including
22 refunding bonds, must mature not later than 40 years after the date
23 of their issuance. (Acts 51st Leg., R.S., Ch. 398, Sec. 5 (part).)

24 Source Law

25 Sec. 5. . . . Such bonds may be issued to mature
26 serially or otherwise as may be determined by the board
27 of directors, the maximum maturity date not to exceed
28 forty (40) years, and . . . [The bonds of the
29 District may be refunded] . . . provided the maximum
30 maturity of the refunding bonds shall not exceed forty
31 (40) years.

32 . . .

33 Revisor's Note

34 Section 5, Chapter 398, Acts of the 51st
35 Legislature, Regular Session, 1949, provides that
36 district bonds may be issued to mature "serially or
37 otherwise as may be determined by the board of
38 directors." The revised law omits the quoted language
39 because it is superseded by Section 1201.021,
40 Government Code (enacted as Section 3, Bond Procedures

1 Act of 1981 (Article 717k-6, Vernon's Texas Civil
2 Statutes)), which provides that the governing body of
3 an issuer may determine the time of payment of public
4 securities it issues, and by Section 1201.022,
5 Government Code (enacted as Section 5(a), Bond
6 Procedures Act of 1981 (Article 717k-6, Vernon's Texas
7 Civil Statutes)), which provides that a public
8 security may be issued with specified characteristics,
9 on specified terms, or in a specified manner. Sections
10 1201.021 and 1201.022, Government Code, apply to
11 district bonds under Sections 1201.002 and 1201.003,
12 Government Code.

13 Revised Law

14 Sec. 9023.154. USE OF BOND PROCEEDS. The district may
15 appropriate and pay from the proceeds of the sale of bonds the
16 interest to accrue on the bonds for a period not to exceed three
17 years from their date. (Acts 51st Leg., R.S., Ch. 398, Sec. 5
18 (part).)

19 Source Law

20 Sec. 5. . . . Interest to accrue on the bonds
21 for a period not to exceed three (3) years from their
22 date may be appropriated and paid from the proceeds
23 from the sale of the bonds.
24 . . .

25 Revised Law

26 Sec. 9023.155. BONDS SECURED BY REVENUE; ADDITIONAL BONDS.
27 (a) In this section, "net revenues" means all income or increment
28 from the ownership and operation of improvements and facilities
29 operated by the district, minus the amount reasonably required to
30 provide for the administration, efficient operation, and adequate
31 maintenance of the improvements and facilities. The term does not
32 include money derived from taxation.
33 (b) District bonds may be secured by:
34 (1) a pledge of the district's net revenues; or
35 (2) a pledge of the district's net revenues and the
36 imposition of a continuing ad valorem tax described by Section

1 9023.156.

2 (c) The district may issue bonds secured as provided by
3 Subsection (b)(1) without submitting the question of the issuance
4 to an election.

5 (d) The district may not issue bonds secured as provided by
6 Subsection (b)(2) unless the bonds are authorized by a majority of
7 the votes cast in an election in the district.

8 (e) Within the board's discretion, the bonds may also be
9 secured by a lien on the physical properties of the district.

10 (f) The district may execute contracts, evidences of
11 pledge, deeds of trust, trust indentures, and other instruments
12 that fix a lien on net revenues and the physical properties of the
13 district that the board, in its discretion, determines are
14 necessary or convenient to evidence and secure the obligation of
15 the district to pay the principal of and interest on the bonds.

16 (g) The resolution authorizing the issuance of bonds
17 secured by a pledge of net revenues may:

18 (1) contain the conditions under which additional
19 bonds secured by a pledge of net revenues may be subsequently
20 issued;

21 (2) prescribe the conditions under which the district
22 has the right to release the lien on net revenues and on the
23 district's physical properties, if encumbered, by depositing at the
24 bank or place of payment money sufficient to pay:

25 (A) the principal of and interest on the bonds to
26 the date on which the bonds may become optional and any premium
27 payment stipulated in the resolution; or

28 (B) the principal of and interest on the bonds to
29 maturity if an option of prior payment is not reserved; or

30 (3) prescribe the conditions under which the
31 continuing ad valorem tax described by Section 9023.156, if any, to
32 be collected in any year during which any of the bonds are
33 outstanding may be reduced or omitted when net revenues are
34 sufficient to provide the money necessary for principal, interest,

1 and reserve requirements prescribed by this subchapter.

2 (h) Additional bonds described by Subsection (g)(1) must be
3 secured by a lien and pledge of net revenues that is inferior to the
4 lien and pledge securing the bonds originally issued unless the
5 additional bonds are issued in full compliance with the
6 restrictions applicable to additional bonds on a parity with the
7 bonds originally issued. (Acts 51st Leg., R.S., Ch. 398, Secs. 7,
8 8.)

9 Source Law

10 Sec. 7. The bonds may be secured by the pledge
11 of the net revenues of the District as hereinafter in
12 this Section defined without the necessity of
13 submitting the question of the issuance of such bonds
14 to an election, or both by the pledge of net revenues
15 and by the levying of the continuing tax as prescribed
16 in Section 6 hereof, but if secured in the latter
17 manner, the question of the issuance of such bonds must
18 first be submitted to a vote of the qualified voters of
19 such District who own taxable property in the District
20 and who have duly rendered same for taxation, and
21 adopted by not less than a majority of such qualified
22 voters voting at such election. Within the discretion
23 of the board of directors the bonds may be secured also
24 by a lien upon the physical properties of the District.
25 The expression "net revenues" as used herein shall be
26 understood to exclude any money derived from taxation,
27 but to include all income or increment which may grow
28 out of the ownership and operation of the improvements
29 or facilities operated by the District, less such part
30 of the District's revenue income as reasonably may be
31 required to provide for the administration, efficient
32 operation and adequate maintenance of the District's
33 improvements and facilities. The resolution or
34 resolutions pledging the net revenues may prescribe
35 the conditions under which the tax, if any, to be
36 collected in any year during which any of the bonds are
37 outstanding may be reduced or omitted when the net
38 revenues are sufficient to provide the money necessary
39 for principal, interest, and reserve requirements as
40 prescribed herein. The District is authorized to
41 execute such contracts, evidences of pledge, deeds of
42 trust, trust indentures, or other instruments fixing a
43 lien upon such net income and the physical properties
44 of the District which within the discretion of the
45 board of directors of the District are necessary or
46 convenient to evidence and secure the obligation of
47 the District to pay the principal of and interest on
48 such bonds.

49 Sec. 8. The resolution or resolutions
50 authorizing the issuance of bonds either wholly or
51 partially secured by a pledge of the net revenues of
52 the District may contain the conditions under which
53 additional bonds may be issued subsequently, to be
54 secured by a pledge of the net revenues of the
55 District, and unless such subsequent bonds are issued
56 in full compliance with the restrictions applicable to
57 additional bonds on a parity with the bonds originally
58 issued such additional bonds shall be secured by a lien

1 and pledge of said net revenues inferior to the lien
2 and pledge securing the bonds originally issued. Such
3 resolution or resolutions may prescribe the conditions
4 under which the District may have the right to release
5 the lien on the net revenues (and on its physical
6 properties if encumbered) by depositing at the bank or
7 place of payment, money sufficient to pay the
8 principal and interest to the date on which the bonds
9 may become optional plus any premium payment
10 stipulated in the resolution or resolutions, or
11 sufficient to pay the principal of and interest on the
12 bonds to maturity if an option of prior payment is not
13 reserved.

14 Revisor's Note

15 (1) Section 7, Chapter 398, Acts of the 51st
16 Legislature, Regular Session, 1949, refers to the
17 authority of the district to secure bonds by both the
18 pledge of the district's net revenues and "by the
19 levying" of a continuing tax. The revised law
20 substitutes "imposition" for "levying" because
21 "imposition" is the term generally used in Title 1, Tax
22 Code, and includes the levy of a tax.

23 (2) Section 7, Chapter 398, Acts of the 51st
24 Legislature, Regular Session, 1949, provides that the
25 voters of the district "who own taxable property in the
26 District and who have duly rendered same for taxation"
27 may vote in the bond authorization election. The
28 revised law omits the quoted language because in Hill
29 v. Stone, 421 U.S. 289 (1975), the United States
30 Supreme Court determined that property ownership as a
31 qualification for voting is an unconstitutional denial
32 of equal protection.

33 Revised Law

34 Sec. 9023.156. BONDS SECURED BY AD VALOREM TAXES. (a) This
35 section does not apply to district bonds secured only by a pledge of
36 net revenues as defined by Section 9023.155(a).

37 (b) If bonds have been voted, the board shall impose a
38 continuing ad valorem tax on all property in the district
39 sufficient:

40 (1) to pay the principal of and interest on the bonds

1 as the principal and interest respectively mature;

2 (2) to create and maintain any reserve required by the
3 resolution or resolutions authorizing the issuance of the bonds;

4 (3) to pay the expense of assessing and collecting the
5 tax; and

6 (4) for anticipated delinquencies in the tax payments.

7 (c) The board annually shall determine and set or cause to
8 be determined and set the rate of the ad valorem tax to be imposed
9 under this section. (Acts 51st Leg., R.S., Ch. 398, Sec. 6.)

10 Source Law

11 Sec. 6. Whenever bonds shall have been voted
12 within the District in accordance with the provisions
13 of law the board of directors shall levy a continuing
14 tax upon all property within the District sufficient
15 in amount to pay the interest on such bonds and the
16 principal thereof as such interest and principal
17 respectively mature and to create and maintain such
18 reserve as may be required in the resolution or
19 resolutions authorizing the issuance of such bonds,
20 and the board of directors of the District shall
21 annually determine and fix, or cause to be determined
22 and fixed, the rate of tax to be assessed and collected
23 for such year upon all property within said District in
24 an amount sufficient for such requirements of
25 principal and interest and to create and maintain such
26 reserve, including an amount sufficient to pay the
27 expense of assessing and collecting such tax, and for
28 anticipated delinquencies in tax payment. This
29 Section 6 shall not be applicable to bonds secured only
30 by a pledge of net revenues.

31 Revisor's Note

32 (1) Section 6, Chapter 398, Acts of the 51st
33 Legislature, Regular Session, 1949, refers to bonds
34 that have been voted "in accordance with the
35 provisions of law." The revised law omits the quoted
36 language because an election to authorize the issuance
37 of district bonds must be conducted in accordance with
38 law.

39 (2) Section 6, Chapter 398, Acts of the 51st
40 Legislature, Regular Session, 1949, refers to the
41 board's duty to "levy" a tax and to determine and fix
42 the rate of the tax to be "assessed and collected." The
43 revised law substitutes "impose" for "levy" and

1 "imposed" for "assessed and collected" because
2 "impose" is the term generally used in Title 1, Tax
3 Code, and includes the assessment, levying, and
4 collection of a tax.

5 (3) Section 6, Chapter 398, Acts of the 51st
6 Legislature, Regular Session, 1949, requires the board
7 to levy a continuing tax to pay the principal of and
8 interest on bonds. The revised law specifies that the
9 tax is an "ad valorem" tax because it is clear from the
10 source law that the tax is a property tax. Section
11 1(b), Article VIII, Texas Constitution, requires all
12 property that is taxed to be taxed in proportion to its
13 value, and accordingly "ad valorem" tax is the term
14 most commonly used in Texas law to refer to a tax on
15 property.

16 Revised Law

17 Sec. 9023.157. REFUNDING BONDS. (a) The district may issue
18 refunding bonds without an election.

19 (b) District bonds may be refunded by:

20 (1) the issuance and delivery to holders of refunding
21 bonds in lieu of the outstanding bonds; or

22 (2) the sale of refunding bonds and the use of the
23 proceeds for retiring the outstanding bonds. (Acts 51st Leg.,
24 R.S., Ch. 398, Sec. 5 (part).)

25 Source Law

26 Sec. 5. . . .
27 The bonds of the District may be refunded,
28 without the necessity of an election, either by the
29 issuance and delivery to holders of refunding bonds in
30 lieu of the outstanding bonds, or through the sale of
31 refunding bonds, and the use of the proceeds for
32 retiring the outstanding bonds,

33 Revisor's Note
34 (End of Subchapter)

35 (1) Section 5, Chapter 398, Acts of the 51st
36 Legislature, Regular Session, 1949, provides that
37 district bonds "may be sold at a price and under terms

1 determined by the board of directors to be the most
2 advantageous reasonably obtainable." The revised law
3 omits the quoted language because it is superseded by
4 general law. Section 1201.022, Government Code, as
5 amended in 2001, provides that an issuer may sell
6 public securities "under the terms determined by the
7 governing body of the issuer to be in the issuer's best
8 interests." Section 1201.022, Government Code,
9 applies to district bonds by application of Sections
10 1201.002 and 1201.003, Government Code. The omitted
11 law reads:

12 Sec. 5. . . . [Such bonds] . . . may
13 be sold at a price and under terms
14 determined by the board of directors to be
15 the most advantageous reasonably
16 obtainable,

17 (2) Section 5, Chapter 398, Acts of the 51st
18 Legislature, Regular Session, 1949, provides that the
19 interest cost of district bonds may not exceed six
20 percent per year. Section 5 also provides that the
21 average annual interest rate of district refunding
22 bonds, calculated to maturity, shall not be greater
23 than the average interest rate of the bonds refunded,
24 calculated to maturity. The revised law omits those
25 provisions as superseded by other law. Chapter 3, Acts
26 of the 61st Legislature, Regular Session, 1969
27 (Article 717k-2, Vernon's Texas Civil Statutes), now
28 Chapter 1204, Government Code, established a maximum
29 interest rate for public securities. Section 1204.006,
30 Government Code, permits a public agency to issue
31 public securities at any net effective interest rate
32 of 15 percent or less. Section 1204.006, Government
33 Code, applies to district bonds, including refunding
34 bonds, under Sections 1204.001 and 1204.002,
35 Government Code. The omitted law reads:

36 Sec. 5. . . . [Such bonds . . . may

1 be sold] . . . provided that the interest
2 cost to the District, calculated by use of
3 standard bond interest tables currently in
4 use by insurance companies and investment
5 houses does not exceed six per cent (6%) per
6 annum. . . . [The bonds of the District may
7 be refunded] . . . provided that the
8 average annual interest rate of the
9 refunding bonds, calculated to maturity,
10 shall not be greater than the average
11 interest rate of the bonds refunded,
12 calculated to maturity, and

13 (3) Section 5, Chapter 398, Acts of the 51st
14 Legislature, Regular Session, 1949, prohibits the
15 district from issuing bonds before the bonds and the
16 record supporting the bonds are approved by the
17 attorney general. The revised law omits that
18 provision because it duplicates in substance part of
19 Section 1202.003, Government Code. Section 1202.003,
20 Government Code, applies to district bonds under
21 Sections 1202.001 and 1202.003(c), Government Code.
22 The omitted law reads:

23 Sec. 5. . . .
24 No bonds shall be issued by the
25 District until the record supporting such
26 bonds and the bonds shall first have been
27 approved by the Attorney General. . . .

28 (4) Section 5, Chapter 398, Acts of the 51st
29 Legislature, Regular Session, 1949, provides that
30 after approval the bonds shall be registered with the
31 comptroller. The revised law omits that provision
32 because it duplicates in substance Section 1202.005,
33 Government Code. Section 1202.005, Government Code,
34 applies to district bonds under Sections 1202.001 and
35 1202.003(c), Government Code. The omitted law reads:

36 Sec. 5. . . . Bonds thus approved
37 shall be registered in the office of the
38 Comptroller of Public Accounts. . . .

39 (5) Section 5, Chapter 398, Acts of the 51st
40 Legislature, Regular Session, 1949, provides that
41 after approval and sale district bonds are negotiable
42 instruments and incontestable. The revised law omits
43 the reference to the bonds being negotiable

1 instruments because Section 1201.041, Government
2 Code, applicable to district bonds under Sections
3 1201.002 and 1201.003, Government Code, provides that
4 a public security is a negotiable instrument. The
5 revised law omits the reference to the bonds being
6 incontestable because it duplicates in substance
7 Section 1202.006, Government Code. Section 1202.006,
8 Government Code, applies to district bonds under
9 Sections 1202.001 and 1202.003(c), Government Code.
10 The omitted law reads:

11 Sec. 5. . . . Bonds thus approved by
12 the Attorney General, after sale by the
13 District, shall be fully negotiable
14 instruments and shall be incontestable.
15 . . .

16 (6) Section 5, Chapter 398, Acts of the 51st
17 Legislature, Regular Session, 1949, provides that
18 general law provisions "pertaining to the issuance of
19 bonds by Water Control and Improvement Districts"
20 apply to the issuance of district bonds if not
21 inconsistent with the provisions of Chapter 398. The
22 revised law omits the portion of the provision
23 relating to the applicability of those general law
24 provisions to the issuance of district bonds because
25 Section 2 of Chapter 398 (revised as Section 9023.101)
26 provides that the general law applicable to water
27 control and improvement districts applies to the
28 district. The revised law omits the portion of the
29 provision relating to the applicability of general law
30 provisions that are not "inconsistent" with Chapter
31 398 for the reasons stated in Revisor's Note (2) to the
32 end of Subchapter B. The omitted law reads:

33 Sec. 5. . . . Provisions of the law
34 pertaining to the issuance of bonds by Water
35 Control and Improvement Districts when not
36 inconsistent with the provisions of this
37 Act shall be applicable.

38 (7) Section 10, Chapter 398, Acts of the 51st

1 Legislature, Regular Session, 1949, lists the entities
2 for which district bonds are legal investments and
3 provides that district bonds may secure deposits of
4 public funds of the state or political subdivisions.
5 The revised law omits the provision relating to the
6 eligibility of district bonds to be considered as
7 investments for various entities because it duplicates
8 Section 49.186(a), Water Code. The revised law omits
9 the provision relating to deposits of state funds as
10 impliedly repealed by Section 404.0221, Government
11 Code (enacted in 1995), which lists eligible
12 collateral for deposits of state funds by the
13 comptroller. As to deposits of other funds, the
14 provision is impliedly repealed by Chapter 2257,
15 Government Code (enacted as Chapter 627, Acts of the
16 71st Legislature, Regular Session, 1989), which
17 governs eligible collateral for deposits of funds of
18 other public agencies, including political
19 subdivisions, and permits those deposits to be secured
20 by obligations issued by conservation and reclamation
21 districts. The omitted law reads:

22 Sec. 10. The bonds of the District
23 shall be and are hereby declared to be legal
24 and authorized investments for banks,
25 savings banks, trust companies, building
26 and loan associations, savings and loan
27 associations, insurance companies,
28 fiduciaries, trustees, guardians, and for
29 the sinking funds of cities, towns,
30 villages, counties, school districts, or
31 other political corporations, or
32 subdivisions of the State of Texas. Such
33 bonds shall be eligible to secure the
34 deposit of any and all public funds of the
35 State of Texas, and any and all public funds
36 of cities, towns, villages, counties,
37 school districts, or other political
38 corporations or subdivisions of the State
39 of Texas; and such bonds shall be lawful and
40 sufficient security for said deposits to
41 the extent of their value, when accompanied
42 by all unmatured coupons appurtenant
43 thereto.

44 SUBCHAPTER E. DISANNEXATION OF MUNICIPAL TERRITORY

1 Revised Law

2 Sec. 9023.201. DEFINITION. In this subchapter, "municipal
3 territory" means the territory located in the corporate boundaries
4 and the extraterritorial jurisdiction of a municipality located in
5 the district. (Acts 51st Leg., R.S., Ch. 398, Secs. 4A(a) (part),
6 (b) (part).)

7 Source Law

8 Sec. 4A. (a) A municipality within the District
9 and the area within the extraterritorial jurisdiction
10 of that municipality

11 (b) . . . within the corporate limits . . . of
12 the municipality

13 Revisor's Note

14 The definition of "municipal territory" is added
15 to the revised law for drafting convenience and to
16 eliminate frequent, unnecessary repetition of the
17 substance of the definition.

18 Revised Law

19 Sec. 9023.202. DISANNEXATION OF MUNICIPAL TERRITORY.
20 Municipal territory may be disannexed from the district under this
21 subchapter on petition for an election on disannexation and a vote
22 in favor of the disannexation by the majority of voters voting at an
23 election ordered for that purpose. (Acts 51st Leg., R.S., Ch. 398,
24 Sec. 4A(a) (part).)

25 Source Law

26 (a) [A municipality within the District and the
27 area within the extraterritorial jurisdiction of that
28 municipality] may be disannexed from the District on
29 petition for an election on disannexation and a
30 majority vote in favor of disannexation at the
31 election called for that purpose. . . .

32 Revised Law

33 Sec. 9023.203. PETITION. (a) A petition for an election to
34 disannex municipal territory under this subchapter must:

35 (1) be signed by at least the lesser of 250 registered
36 voters of the district who are residents of the municipal territory
37 or a number of registered voters equal to five percent of the total
38 votes cast in the municipal territory in the most recent district

1 election;

2 (2) state that the purpose of the petition is to order
3 an election to determine whether the municipal territory should be
4 disannexed; and

5 (3) include each petitioner's:

6 (A) signature;

7 (B) printed name;

8 (C) address;

9 (D) voting precinct;

10 (E) voter certificate number; and

11 (F) date of signing.

12 (b) The petition must be filed with the district manager.

13 (c) Not later than the 30th day after the date the petition
14 is filed, the district manager shall:

15 (1) verify the validity of the petition; and

16 (2) determine whether the petition contains the number
17 of signatures required to order an election. (Acts 51st Leg., R.S.,
18 Ch. 398, Secs. 4A(a) (part), (b) (part).)

19 Source Law

20 (a) . . . A petition for an election to
21 disannex must be signed by at least 250 qualified
22 voters of the District who are residents of the
23 municipality or its extraterritorial jurisdiction or a
24 number of qualified voters equal to five percent of the
25 total vote cast in the municipality and its
26 extraterritorial jurisdiction in the most recent
27 District election, whichever number is less. The
28 petition must state that its purpose is to call an
29 election to determine whether the affected
30 municipality and its extraterritorial jurisdiction
31 should be disannexed from the District. The petition
32 must include each petitioner's signature, printed
33 name, address, voting precinct, and voter certificate
34 number and the date on which the petitioner signed.

35 (b) A petition must be filed with the District
36 manager. Not later than the 30th day after the date on
37 which the petition is filed, the District manager
38 shall verify the validity of the petition and
39 determine whether the number of signatures required
40 for the calling of an election have been
41 included. . . .

42 Revisor's Note

43 Section 4A(a), Chapter 398, Acts of the 51st
44 Legislature, Regular Session, 1949, refers to a

1 petition signed by "qualified voters." The revised
2 law substitutes "registered voters" for "qualified
3 voters" because, in the context of eligibility to sign
4 a petition, Section 277.0021, Election Code, provides
5 that "qualified voter" means "registered voter."

6 Revised Law

7 Sec. 9023.204. ELECTION ORDER. (a) The board shall order
8 an election for the purpose of disannexation of municipal territory
9 under this subchapter if the district manager certifies the number
10 of signatures required for ordering the election.

11 (b) The board shall order the election not later than the
12 90th day after the date the district manager certifies the
13 sufficiency of the petition. (Acts 51st Leg., R.S., Ch. 398, Sec.
14 4A(b) (part).)

15 Source Law

16 (b) . . . If the District manager certifies the
17 number of signatures required for the calling of an
18 election, the board of directors of the District shall
19 call an election for the purpose of disannexation not
20 later than the 90th day after the date on which the
21 manager certifies the sufficiency of the
22 petition. . . .

23 Revised Law

24 Sec. 9023.205. BALLOT. The ballot for an election under
25 this subchapter must permit voting for one of the following three
26 propositions:

27 (1) "The City of (name of municipality) and the area
28 within the city's extraterritorial jurisdiction shall not be
29 disannexed from the Duval County Conservation and Reclamation
30 District";

31 (2) "The City of (name of municipality) and the area
32 within the city's extraterritorial jurisdiction shall be
33 disannexed from the Duval County Conservation and Reclamation
34 District, and on disannexation the city council of (name of
35 municipality) shall establish or acquire systems to provide the
36 water and sewer services formerly provided by the Duval County
37 Conservation and Reclamation District in the disannexed area"; or

1 disannexation from the district. As between the two propositions,
2 the proposition that receives the greater number of votes prevails.

3 (d) If disannexation fails, an election under this
4 subchapter to disannex the same municipal territory may not be held
5 for one year. (Acts 51st Leg., R.S., Ch. 398, Secs. 4A(b) (part),
6 (d).)

7 Source Law

8 (b) . . . Only qualified voters who reside
9 within the corporate limits or extraterritorial
10 jurisdiction of the municipality to be disannexed may
11 vote in the disannexation election.

12 (d) If a majority of the total votes in the
13 election is in favor of proposition (1), the
14 municipality and the area within its extraterritorial
15 jurisdiction are not disannexed. If the total vote in
16 favor of propositions (2) and (3) is a majority of the
17 votes cast in the election, the majority of the vote in
18 the election is for disannexation. As between
19 propositions (2) and (3), the proposition that
20 receives the larger number of votes prevails. If
21 disannexation fails, an election under this section to
22 disannex the same municipality and the area within its
23 extraterritorial jurisdiction may not be held for one
24 year.

25 Revised Law

26 Sec. 9023.207. BOARD VOTE. (a) The directors shall vote to
27 disannex municipal territory if the majority of the votes cast in an
28 election under this subchapter is for disannexation.

29 (b) The directors shall vote to disannex the municipal
30 territory at the same board meeting at which the directors canvass
31 the election results. (Acts 51st Leg., R.S., Ch. 398, Sec. 4A(e)
32 (part).)

33 Source Law

34 (e) If a majority of the votes in the election is
35 for disannexation, the directors of the District shall
36 vote to disannex at the same board meeting at which the
37 directors canvass the election results. . . .

38 Revised Law

39 Sec. 9023.208. APPOINTMENT OF MASTER. Not later than the
40 30th day after the election results are canvassed and the board
41 votes to disannex municipal territory under Section 9023.207, the
42 executive director of the Texas Commission on Environmental Quality
43 shall appoint an independent master to oversee the distribution of

1 assets consistent with disannexation. (Acts 51st Leg., R.S., Ch.
2 398, Sec. 4A(e) (part).)

3 Source Law

4 (e) . . . Not later than the 30th day after the
5 canvass of the election results and the District's
6 disannexation vote, the executive director of the
7 Texas Natural Resource Conservation Commission shall
8 appoint an independent master to oversee the
9 distribution of assets consistent with
10 disannexation. . . .

11 Revisor's Note

12 (1) Section 4A(e), Chapter 398, Acts of the 51st
13 Legislature, Regular Session, 1949, refers to the
14 "District's" disannexation vote. The revised law
15 substitutes "board" for "District" to more accurately
16 reference the entity that votes to disannex municipal
17 territory under the revised law.

18 (2) Section 4A(e), Chapter 398, Acts of the 51st
19 Legislature, Regular Session, 1949, refers to the
20 "Texas Natural Resource Conservation Commission." The
21 revised law substitutes "Texas Commission on
22 Environmental Quality" for "Texas Natural Resource
23 Conservation Commission" to reflect a change in the
24 agency's name. The name of the Texas Natural Resource
25 Conservation Commission was changed to the Texas
26 Commission on Environmental Quality by Section 18.01,
27 Chapter 965, Acts of the 77th Legislature, Regular
28 Session, 2001. The revised law is drafted
29 accordingly.

30 Revised Law

31 Sec. 9023.209. DISTRIBUTION OF PROPERTY, RECEIVABLES, AND
32 OTHER ASSETS. (a) All infrastructure and real property, including
33 water and sewer lines, storage tanks, treatment plants, towers,
34 buildings, land, and other facilities located within municipal
35 territory disannexed under this subchapter that are related to the
36 provision of water and sewer services by the district in the
37 disannexed territory, shall revert to the disannexed municipality.

1 (b) All receivables from connections in municipal territory
2 disannexed under this subchapter transfer to the disannexed
3 municipality.

4 (c) Other assets, including vehicles, computers, office
5 furniture and equipment, and cash, shall be divided between the
6 district and the disannexed municipality by the master in
7 proportion to the population of the district or the disannexed
8 municipal territory. (Acts 51st Leg., R.S., Ch. 398, Sec. 4A(e)
9 (part).)

10 Source Law

11 (e) . . . All infrastructure and real property,
12 including water and sewer lines, storage tanks,
13 treatment plants, towers, buildings, land, and other
14 facilities within the corporate limits or
15 extraterritorial jurisdiction of the disannexed
16 municipality that are related to the provision of
17 water and sewer services by the District within the
18 disannexed municipality or its extraterritorial
19 jurisdiction, shall revert to the disannexed
20 municipality. All receivables from connections within
21 the corporate limits or extraterritorial jurisdiction
22 of the disannexed municipality transfer to the
23 municipality. Other assets, including vehicles,
24 computers, office furniture and equipment, and cash,
25 shall be divided between the District and the
26 municipality by the master in proportion to the number
27 of residents, according to the most recent decennial
28 federal census, living within the boundaries of the
29 District or within the boundaries of the municipality
30 and its extraterritorial jurisdiction.

31 Revisor's Note

32 Section 4A(e), Chapter 398, Acts of the 51st
33 Legislature, Regular Session, 1949, refers to the
34 "number of residents" of specified areas "according to
35 the most recent decennial federal census." The
36 revised law substitutes "population" for "number of
37 residents" because the "number of residents" in that
38 context is the same as the "population." The revised
39 law also omits the reference to the federal census
40 because Section 311.005(3), Government Code (Code
41 Construction Act), defines "population" to mean the
42 population shown by the most recent federal decennial
43 census.

1 Revised Law

2 Sec. 9023.210. PROVISION OF SERVICES OUTSIDE DISANNEXED
3 MUNICIPAL TERRITORY. (a) This section applies only to a municipal
4 water or sewer system established or acquired as a result of voter
5 approval of the proposition stated in Section 9023.205(2).

6 (b) A municipal water or sewer system may serve an area
7 immediately outside the extraterritorial jurisdiction of the
8 disannexed municipality if the residents of the area agree to be
9 served by the system. (Acts 51st Leg., R.S., Ch. 398, Sec. 4B(a).)

10 Source Law

11 Sec. 4B. (a) If a municipality and the area
12 within its extraterritorial jurisdiction disannex as
13 provided by Section 4A of this Act and the city council
14 of the disannexed municipality is required, as a
15 result of the approval of proposition (2) at the
16 disannexation election, to establish or acquire
17 systems to provide the water and sewer services
18 formerly provided by the District in the disannexed
19 area, a municipal water or sewer system established or
20 acquired by the city council of the disannexed
21 municipality may serve an area immediately outside the
22 extraterritorial jurisdiction of the disannexed
23 municipality if the residents of the area agree to be
24 served by that system.

25 Revisor's Note
26 (End of Subchapter)

27 Section 4B(b), Chapter 398, Acts of the 51st
28 Legislature, Regular Session, 1949, provides that the
29 Glossbrenner Substance Abuse Facility is disannexed
30 from the district and may be served by a municipal
31 water or sewer system if the City of San Diego and the
32 municipality's extraterritorial jurisdiction are
33 disannexed from the district as provided by Section
34 4A, Chapter 398, Acts of the 51st Legislature, Regular
35 Session, 1949, and if a municipal water or sewer system
36 is established or acquired as described by Section
37 4B(a) of that chapter. Following the disannexation of
38 the City of San Diego and the municipality's
39 extraterritorial jurisdiction in 1998, the
40 Glossbrenner Substance Abuse Facility was disannexed
41 from the district. Because the Glossbrenner Substance

1 Abuse Facility was disannexed from the district, the
2 revised law omits as executed the provision relating
3 to the disannexation of the facility. The omitted law
4 reads:

5 (b) If the City of San Diego and the
6 area within its extraterritorial
7 jurisdiction disannex as provided by
8 Section 4A of this Act and a municipal water
9 or sewer system is established or acquired
10 as described by Subsection (a) of this
11 section, the Glossbrenner Substance Abuse
12 Facility is disannexed from the District
13 effective on the date on which that system
14 is established or acquired, and that system
15 may serve that facility.

16 Revisor's Note
17 (End of Chapter)

18 (1) Section 4, Chapter 398, Acts of the 51st
19 Legislature, Regular Session, 1949, provides that it
20 is unnecessary to hold a confirmation election but
21 requires a hearing to be held to determine whether land
22 should be excluded from the district. The revised law
23 omits the provision as executed. The provision is a
24 transition provision addressing the applicability of
25 provisions of the general laws in effect at the time of
26 the district's creation that governed the creation of
27 water control and improvement districts. A district
28 created under the general laws in effect at that time
29 would have been required at the time of its creation to
30 hold both a confirmation election and a hearing on the
31 exclusion of land from the district. The omitted law
32 reads:

33 Sec. 4. . . . No election shall be
34 necessary for the purpose of confirming its
35 organization; provided, however, hearing
36 shall be held in the manner provided by law
37 to determine whether any land should be
38 excluded from the District.

39 (2) Section 14, Chapter 398, Acts of the 51st
40 Legislature, Regular Session, 1949, authorizes the
41 Commissioners Court of Duval County to provide funds
42 for the organization and preliminary expenses of the

1 district and provides for the repayment of the
2 contribution from the proceeds of the sale of the first
3 bonds issued by the district. The revised law omits
4 the provision as executed. The omitted law reads:

5 Sec. 14. The Commissioners Court of
6 Duval County is hereby authorized and
7 empowered to contribute out of any
8 available county funds to the organization
9 and preliminary expenses of the District,
10 provided, however, that such contribution
11 shall be repaid to the County out of the
12 proceeds derived from the sale of the first
13 bonds issued and sold by the District.

14 (3) Section 15, Chapter 398, Acts of the 51st
15 Legislature, Regular Session, 1949, and Section 5,
16 Chapter 452, Acts of the 58th Legislature, Regular
17 Session, 1963, provide that those acts are severable.
18 The revised law omits those provisions because the
19 same result is produced by the application of Section
20 311.032(c), Government Code (Code Construction Act),
21 which provides that a provision of a statute is
22 severable from each other provision of the statute
23 that can be given effect. The omitted law reads:

24 [Acts 51st Leg., R.S., Ch. 398]

25 Sec. 15. If any provision of this Act
26 or the application thereof to any person or
27 circumstance shall be held to be invalid,
28 the remainder of the Act and the application
29 of such provision to other persons or
30 circumstances shall not be affected
31 thereby.

32 [Acts 58th Leg., R.S., Ch. 452]

33 Sec. 5. If any provision of this Act
34 or the application thereof to any person or
35 circumstance shall be held to be invalid,
36 the remainder of the Act and the application
37 of such provision to other persons or
38 circumstances shall not be affected
39 thereby.

40 (4) Section 4, Chapter 908, Acts of the 75th
41 Legislature, Regular Session, 1997, provides for the
42 necessary transition of the board following changes
43 made to the board by that act. The revised law omits
44 that provision as executed. The omitted law reads:

45 Sec. 4. (a) This Act takes effect

1 September 1, 1997.

2 (b) Directors serving on August 31,
3 1997, serve until their successors are
4 elected and have qualified under this
5 section. The additional positions on the
6 district board created by Section 3,
7 Chapter 398, Acts of the 51st Legislature,
8 Regular Session, 1949 (Article 8280-138,
9 Vernon's Texas Civil Statutes), as amended
10 by this Act, shall be filled at the election
11 to be held in May 1998, and until that time
12 the District is governed by a board of four
13 directors.

14 (c) The two directors elected at the
15 May 1994 election and the two directors
16 elected at the May 1995 election serve until
17 the May 1998 election as provided by Section
18 50(b), Chapter 715, Acts of the 74th
19 Legislature, Regular Session, 1995.

20 (d) Except as provided by Subsection
21 (f) of this section, seven directors shall
22 be elected at the May 1998 election. Those
23 directors shall draw lots to determine
24 which three directors serve two-year terms
25 and which four directors serve four-year
26 terms. Successor directors serve four-year
27 terms.

28 (e) If, before the May 1998 election,
29 the City of Benavides has disannexed as
30 provided by Section 4A, Chapter 398, Acts of
31 the 51st Legislature, Regular Session, 1949
32 (Article 8280-138, Vernon's Texas Civil
33 Statutes), as added by this Act, and the
34 City of San Diego has not disannexed, four
35 directors elected at that election must be
36 residents of San Diego or its
37 extraterritorial jurisdiction, and three
38 directors elected must be residents of that
39 part of Duval County that is not within the
40 corporate limits or extraterritorial
41 jurisdiction of San Diego or Benavides or
42 within the Freer Water Control and
43 Improvement District.

44 (f) If, before the May 1998 election,
45 the City of San Diego has disannexed as
46 provided by Section 4A, Chapter 398, Acts of
47 the 51st Legislature, Regular Session, 1949
48 (Article 8280-138, Vernon's Texas Civil
49 Statutes), as added by this Act, four
50 directors shall be elected at that
51 election. If the City of Benavides has not
52 disannexed before that election, two
53 directors elected at that election must be
54 residents of Benavides or its
55 extraterritorial jurisdiction, and two
56 directors elected must be residents of that
57 part of Duval County that is not within the
58 corporate limits or extraterritorial
59 jurisdiction of San Diego or Benavides or
60 within the Freer Water Control and
61 Improvement District. If the City of
62 Benavides has disannexed before that
63 election, all four directors elected must
64 be residents of that part of Duval County
65 that is not within the corporate limits or
66 extraterritorial jurisdiction of San Diego
67 or Benavides or within the Freer Water
68 Control and Improvement District. Those

1 directors shall draw lots to determine
2 which two directors serve two-year terms
3 and which two directors serve four-year
4 terms. Successor directors serve four-year
5 terms.