

PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL
Special District Local
Laws Code
Chapter 9028
9/24/14

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25 CHAPTER 9028. CHOCTAW WATERSHED WATER IMPROVEMENT DISTRICT

26 SUBCHAPTER A. GENERAL PROVISIONS

1 Revised Law

2 Sec. 9028.001. DEFINITIONS. In this chapter:

3 (1) "Board" means the district's board of directors.

4 (2) "Director" means a board member.

5 (3) "District" means the Choctaw Watershed Water
6 Improvement District. (Acts 56th Leg., R.S., Ch. 33, Sec. 1 (part);
7 New.)

8 Source Law

9 Sec. 1. . . . [a water control and improvement
10 district] to be known as "Choctaw Watershed Water
11 Improvement District," hereinafter at times called
12 "District."

13 Revisor's Note

14 The definitions of "board" and "director" are
15 added to the revised law for drafting convenience and
16 to eliminate frequent, unnecessary repetition of the
17 substance of the definitions.

18 Revised Law

19 Sec. 9028.002. NATURE OF DISTRICT. The district is a water
20 control and improvement district under Section 59, Article XVI,
21 Texas Constitution. (Acts 56th Leg., R.S., Ch. 33, Sec. 1 (part).)

22 Source Law

23 Sec. 1. Under and pursuant to the provisions of
24 Article XVI, Section 59, Constitution of Texas, there
25 is hereby created a water control and improvement
26 district

27 Revisor's Note

28 Section 1, Chapter 33, Acts of the 56th
29 Legislature, Regular Session, 1959, provides that the
30 district "is hereby created" under Section 59, Article
31 XVI, Texas Constitution. The revised law omits the
32 quoted language as executed.

33 Revised Law

34 Sec. 9028.003. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)
35 The district is created to serve a public use and benefit.

36 (b) All land and other property included in the boundaries
37 of the district will benefit from the district and the

1 improvements, works, and measures constructed and accomplished by
2 the district.

3 (c) The district is essential to accomplish the purposes of
4 Section 59, Article XVI, Texas Constitution. (Acts 56th Leg., R.S.,
5 Ch. 33, Secs. 6 (part), 7 (part).)

6 Source Law

7 Sec. 6. It is hereby found and determined that
8 all of the lands and other property included within the
9 boundaries of the District will be benefited by the
10 District and its improvements, works and measures to
11 be constructed and accomplished and that the District
12 is created to serve a public use and benefit. . . .

13 Sec. 7. The Legislature hereby exercises the
14 authority conferred upon it by Section 59, Article
15 XVI, Constitution of Texas, and declares that said
16 District is essential to the accomplishment of the
17 purposes of said Constitutional provision, and

18 Revisor's Note

19 (1) Section 7, Chapter 33, Acts of the 56th
20 Legislature, Regular Session, 1959, provides that the
21 legislature "hereby exercises the authority conferred
22 upon it by" Section 59, Article XVI, Texas
23 Constitution. The revised law omits the quoted
24 language as executed.

25 (2) Section 7, Chapter 33, Acts of the 56th
26 Legislature, Regular Session, 1959, provides that the
27 district is "a governmental agency, a body politic and
28 corporate." The revised law omits that provision
29 because it duplicates a portion of Section 59(b),
30 Article XVI, Texas Constitution, which provides that a
31 conservation and reclamation district is a
32 governmental agency and body politic and corporate.
33 The omitted law reads:

34 Sec. 7. [The Legislature] . . .
35 declares the District to be a governmental
36 agency, a body politic and corporate.

37 Revised Law

38 Sec. 9028.004. DISTRICT TERRITORY. The district is
39 composed of the territory described by Section 2, Chapter 33, Acts
40 of the 56th Legislature, Regular Session, 1959, as that territory

1 may have been modified under:

- 2 (1) Subchapter O, Chapter 51, Water Code;
- 3 (2) Subchapter J, Chapter 49, Water Code; or
- 4 (3) other law. (New.)

5 Revisor's Note

6 The revision of the law governing the district
 7 does not revise the statutory language describing the
 8 territory of the district to avoid the lengthy
 9 recitation of the description and because that
 10 description may not be accurate on the effective date
 11 of the revision or at the time of a later reading. For
 12 the reader's convenience, the revised law includes a
 13 reference to the statutory description of the
 14 district's territory and references to statutory
 15 authority to change the district's territory under
 16 Subchapter O, Chapter 51, Water Code, applicable to
 17 water control and improvement districts, and under
 18 Subchapter J, Chapter 49, Water Code, applicable to
 19 the district under Sections 49.001 and 49.002 of that
 20 chapter. The revised law also includes a reference to
 21 the general authority of the legislature to enact a law
 22 to change the district's territory.

23 SUBCHAPTER B. BOARD OF DIRECTORS

24 Revised Law

25 Sec. 9028.051. COMPOSITION OF BOARD. The board is composed
 26 of five elected directors. (Acts 56th Leg., R.S., Ch. 33, Secs.
 27 5(a) (part), (c) (part).)

28 Source Law

29 Sec. 5. (a) The management and control of the
 30 District is hereby vested in a Board of five (5)
 31 Directors

32 (c) . . . elections for directors shall be held
 33

34 Revisor's Note

35 Section 5(a), Chapter 33, Acts of the 56th

1 Legislature, Regular Session, 1959, provides that the
2 "management and control of the District is hereby
3 vested" in the board. The revised law omits the quoted
4 language because it duplicates in substance Sections
5 49.051 and 49.057, Water Code. Throughout this
6 chapter, the revised law omits law that is superseded
7 by Chapter 49, Water Code, or that duplicates law
8 contained in that chapter. Chapter 49, Water Code,
9 applies to the district under Sections 49.001 and
10 49.002 of that chapter.

11 Revisor's Note
12 (End of Subchapter)

13 (1) Section 5(a), Chapter 33, Acts of the 56th
14 Legislature, Regular Session, 1959, refers to the
15 powers and authorities conferred and imposed on the
16 board under Chapter 25, Acts of the 39th Legislature,
17 Regular Session, 1925. The relevant provisions of
18 that chapter were codified in 1971 as Chapter 51, Water
19 Code. Chapter 715, Acts of the 74th Legislature,
20 Regular Session, 1995, repealed many of the provisions
21 of Chapter 51 and enacted similar provisions in
22 Chapter 49, Water Code. The revised law omits the
23 reference to the board's powers and authorities
24 because Chapters 49 and 51, Water Code, which both
25 apply to the district on their own terms, provide for
26 the powers and authorities of the board. The revised
27 law omits "amendments and additions thereto" because
28 under Section 311.027, Government Code (Code
29 Construction Act), a reference to a statute applies to
30 all reenactments, revisions, or amendments of that
31 statute unless expressly provided otherwise. The
32 omitted law reads:

33 Sec. 5. (a) . . . [a Board] . . .
34 which shall have all the powers and
35 authorities conferred and imposed upon
36 boards of directors of water control and

1 improvement districts organized under the
2 provisions of Chapter 25, Acts of the
3 Thirty-ninth Legislature of Texas, passed
4 in 1925, and amendments and additions
5 thereto. . . .

6 (2) Section 5(a), Chapter 33, Acts of the 56th
7 Legislature, Regular Session, 1959, provides that each
8 director shall serve until the director's successor is
9 elected or appointed and qualified. The revised law
10 omits that provision because Section 17, Article XVI,
11 Texas Constitution, requires an officer in this state
12 to continue to perform the officer's official duties
13 until a successor has qualified. The omitted law
14 reads:

15 Sec. 5. (a) . . . Each director
16 shall serve for his term of office as herein
17 provided, and thereafter until his
18 successor shall be elected or appointed and
19 qualified. . . .

20 (3) Section 5, Chapter 33, Acts of the 56th
21 Legislature, Regular Session, 1959, provides for the
22 appointment and terms of the initial board of
23 directors of the district, the initial meeting and
24 organization of the board, and the election of
25 subsequent directors. The revised law omits as
26 executed those provisions pertaining to the
27 appointment and terms of initial directors and the
28 initial board meeting and organization. The
29 provisions of Section 5 that require the election of
30 subsequent directors to be held as provided by general
31 laws relating to water control and improvement
32 districts are omitted because those provisions
33 duplicate parts of Subchapter D, Chapter 49, Water
34 Code, and parts of Subchapter C, Chapter 51, Water
35 Code, which govern director elections. The omitted
36 law reads:

37 Sec. 5. (a) . . . The first Board of
38 Directors appointed herein shall meet and
39 organize as is provided by the General Laws
40 and shall within sixty (60) days after this

1 Act becomes effective file their official
2 bonds and shall subscribe to the
3 Constitutional oath of office.

4 (b) The following named persons be
5 and the same are hereby appointed directors
6 of said District and shall constitute the
7 Board of Directors of said District: Garnet
8 McGraw, Pat Tillman, Grady Lankford, Nelson
9 Rogers, Virgil Atnip, all residing and
10 owning property within said District. If
11 any of the aforementioned persons shall
12 die, become incapacitated or otherwise not
13 be qualified to assume his duties under this
14 Act, the remaining directors shall appoint
15 his successor.

16 (c) The above named directors shall
17 serve until the first Tuesday after the
18 first Monday in November, 1960, on which
19 date the first election of directors shall
20 be held in accordance with the provisions of
21 Section 37 of Chapter 25, Acts of the
22 Thirty-ninth Legislature, as amended by
23 Section 6 of Chapter 107, Acts of the First
24 Called Session of the Fortieth Legislature.
25 Thereafter, directors of the District shall
26 be chosen and [elections for directors
27 shall be held] in accordance with the
28 provisions of the General Laws relating to
29 water control and improvement districts.

30 SUBCHAPTER C. POWERS AND DUTIES

31 Revised Law

32 Sec. 9028.101. WATER CONTROL AND IMPROVEMENT DISTRICT
33 POWERS. The district has the rights, powers, privileges, and
34 duties provided by general law applicable to a water control and
35 improvement district created under Section 59, Article XVI, Texas
36 Constitution, including Chapters 49 and 51, Water Code. (Acts 56th
37 Leg., R.S., Ch. 33, Sec. 3 (part); New.)

38 Source Law

39 Sec. 3. The District shall have and exercise and
40 is hereby vested with all the rights, powers,
41 privileges and duties conferred and imposed by the
42 General Laws of this State now in force or hereafter
43 enacted applicable to water control and improvement
44 districts created under the authority of Section 59,
45 Article XVI, Constitution of Texas, but

46 Revisor's Note

47 (1) Section 3, Chapter 33, Acts of the 56th
48 Legislature, Regular Session, 1959, states that the
49 district "shall have and exercise and is hereby vested
50 with" certain rights, powers, privileges, and duties.
51 The revised law substitutes "has" for the quoted

1 language because, in context, the terms are synonymous
2 and "has" is more commonly used.

3 (2) Section 3, Chapter 33, Acts of the 56th
4 Legislature, Regular Session, 1959, states that the
5 district has the rights, powers, privileges, and
6 duties "conferred and imposed" by general law. The
7 revised law substitutes "provided" for the quoted
8 language because regardless of whether a right, power,
9 privilege, or duty is "conferred" by general law or
10 "imposed" by general law, it is not necessary to
11 characterize the nature of that grant in the revised
12 law. In context, "provided" is synonymous with
13 "conferred and imposed" and "provided" is more
14 commonly used.

15 (3) Section 3, Chapter 33, Acts of the 56th
16 Legislature, Regular Session, 1959, refers to the
17 general laws of this state "now in force or hereafter
18 enacted." The revised law omits the quoted language
19 because it duplicates accepted general principles of
20 statutory construction. The "[g]eneral [l]aws of this
21 [s]tate" means those laws "in force" at the time the
22 provision was adopted. It is unnecessary to state that
23 the district may be granted additional powers by later
24 enacted laws because those laws apply on their own
25 terms.

26 (4) Section 3, Chapter 33, Acts of the 56th
27 Legislature, Regular Session, 1959, refers to the
28 general laws "applicable to water control and
29 improvement districts." For the reader's convenience,
30 the revised law adds references to Chapter 49, Water
31 Code, generally applicable under Sections 49.001 and
32 49.002 of that chapter to districts created under
33 Section 59, Article XVI, Texas Constitution, and
34 Chapter 51, Water Code, specifically applicable to

1 water control and improvement districts.

2 (5) Section 3, Chapter 33, Acts of the 56th
3 Legislature, Regular Session, 1959, provides that the
4 act prevails over general law that applies to water
5 control and improvement districts and that is in
6 conflict or inconsistent with the act and that all
7 general laws applicable to water control and
8 improvement districts are incorporated by reference.
9 The revised law omits the portion of the provision
10 relating to the act prevailing over general law
11 because it duplicates Section 311.026(b), Government
12 Code (Code Construction Act). The revised law omits
13 the portion of the provision relating to incorporation
14 of general laws because Section 3 of Chapter 33
15 (revised as this section) already provides that those
16 laws apply to the district, and it is unnecessary to
17 repeat that authority. The omitted law reads:

18 Sec. 3. [The District shall have and
19 exercise and is hereby vested with all the
20 rights, powers, privileges and duties
21 conferred and imposed by the General Laws of
22 this State now in force or hereafter enacted
23 applicable to water control and improvement
24 districts created under the authority of
25 Section 59, Article XVI, Constitution of
26 Texas, but] to the extent that the
27 provisions of any such General Laws may be
28 in conflict or inconsistent with the
29 provisions of this Act, the provisions of
30 this Act shall prevail. Any such General
31 Laws are hereby incorporated by reference
32 with the same effect as if incorporated in
33 this Act.

34 Revised Law

35 Sec. 9028.102. COST OF RELOCATING OR ALTERING PROPERTY. If
36 the district's exercise of the power of eminent domain, the power of
37 relocation, or any other power granted by this chapter makes
38 necessary relocating, raising, rerouting, changing the grade of, or
39 altering the construction of a highway, railroad, electric
40 transmission line, pipeline, or telephone or telegraph property or
41 facility, the necessary action shall be accomplished at the sole

1 expense of the district. (Acts 56th Leg., R.S., Ch. 33, Sec. 8
2 (part).)

3 Source Law

4 Sec. 8. . . . In the event that the District,
5 in the exercise of the power of eminent domain or power
6 of relocation, or any other power granted hereunder,
7 makes necessary the relocation, raising, re-routing or
8 changing the grade of, or altering the construction of
9 any highway, railroad, electric transmission line,
10 telephone or telegraph properties and facilities, or
11 pipeline, all such necessary relocation, raising,
12 re-routing, changing of grade or alteration of
13 construction shall be accomplished at the sole expense
14 of the District.

15 Revised Law

16 Sec. 9028.103. WATERSHED PROTECTION AND FLOOD PREVENTION
17 ACT. Subject to Section 9028.154, the district has the power
18 necessary to fully qualify for and gain the full benefits of the
19 Watershed Protection and Flood Prevention Act (16 U.S.C. Section
20 1001 et seq.), including:

21 (1) all powers necessary to carry out the projects,
22 works, and improvements contemplated by the Watershed Protection
23 and Flood Prevention Act;

24 (2) the power to secure a loan or loans from the proper
25 agencies of the federal government for the purpose of defraying the
26 costs and expenses of the district in connection with carrying out
27 its projects, works, and improvements under the Watershed
28 Protection and Flood Prevention Act; and

29 (3) if necessary, the power to issue bonds as
30 collateral for a loan described by Subdivision (2). (Acts 56th
31 Leg., R.S., Ch. 33, Sec. 4 (part); New.)

32 Source Law

33 Sec. 4. . . . [Public Law 566, Eighty-third
34 Congress, Chapter 656, 2nd Session, H.R. 6788, as
35 amended by Public Law 1018, Eighty-fourth Congress,
36 Chapter 1027, 2nd Session, H.R. 8750] It is the
37 intention of the Legislature to create the District
38 with all the powers and authority necessary to fully
39 qualify and gain the full benefits of said public laws,
40 including, but not limited to, all powers and
41 authority necessary or requisite to carry out the
42 projects and works and improvements contemplated by
43 said public laws and the power and authority to secure
44 a loan or loans from the proper agencies or departments
45 of the Federal Government, and if necessary to issue

1 bonds of the District as collateral or security
2 therefor, for the purpose of defraying the costs and
3 expenses of the District in connection with the
4 carrying out of its projects and works and
5 improvements. . . .

6 Revisor's Note

7 (1) For the reader's convenience, the revised
8 law includes a cross-reference to Section 9028.154 of
9 this chapter, which requires voter approval of loans
10 from the federal government to the district.

11 (2) Section 4, Chapter 33, Acts of the 56th
12 Legislature, Regular Session, 1959, authorizes the
13 district to cooperate with federal entities to receive
14 benefits under Public Law 566, Eighty-third Congress,
15 Chapter 656, 2nd Session, H.R. 6788, as amended, now
16 codified as the Watershed Protection and Flood
17 Prevention Act (16 U.S.C. Section 1001 et seq.). The
18 revised law omits the provision because, to the extent
19 it authorizes the district to receive various benefits
20 under the Watershed Protection and Flood Prevention
21 Act, it duplicates in substance a later part of Section
22 4, revised as Section 9028.103 of this chapter, which
23 provides that the district has "all the powers and
24 authority necessary to fully qualify and gain the full
25 benefits" of that act, and to the extent it authorizes
26 the district to cooperate with federal entities to
27 receive those benefits, it duplicates in substance
28 Section 49.227, Water Code, which provides the
29 district with the power to act jointly with the federal
30 government in the performance of any of the powers
31 permitted by law. The omitted law reads:

32 Sec. 4. In addition to the powers
33 contained in said General Laws, the
34 District shall have and possess all powers
35 necessary or requisite to cooperate fully
36 with the Federal Government, its agencies,
37 departments and representatives thereof in
38 taking advantage of, and in securing and
39 getting assistance, aid, benefits, grants,
40 loans, credit and money as provided in
41 Public Law 566, Eighty-third Congress,

1 Chapter 656, 2nd Session, H.R. 6788, as
2 amended by Public Law 1018, Eighty-fourth
3 Congress, Chapter 1027, 2nd Session, H.R.
4 8750, and as same may be hereafter amended.
5 . . .

6 (3) Section 4, Chapter 33, Acts of the 56th
7 Legislature, Regular Session, 1959, provides that
8 "[i]t is the intention of the Legislature to create"
9 the district with certain powers. The revised law
10 omits the quoted language as unnecessary because it is
11 implied that a statute expresses the intent of the
12 legislature and also because the creation of the
13 district has already been accomplished. See also the
14 revisor's note to Section 9028.002.

15 (4) Section 4, Chapter 33, Acts of the 56th
16 Legislature, Regular Session, 1959, provides that the
17 district has the "powers and authority" to qualify for
18 certain benefits and take certain actions, including
19 the "power and authority" to secure a loan from the
20 federal government. The revised law omits "authority"
21 because, in this context, "authority" is included in
22 the meaning of "powers" or "power."

23 (5) Section 4, Chapter 33, Acts of the 56th
24 Legislature, Regular Session, 1959, refers to "said
25 public laws," meaning Public Law 566, Eighty-third
26 Congress, Chapter 656, 2nd Session, H.R. 6788, as
27 amended by Public Law 1018, Eighty-fourth Congress,
28 Chapter 1027, 2nd Session, H.R. 8750. As stated in
29 Revisor's Note (2), the public law is now codified as
30 the Watershed Protection and Flood Prevention Act (16
31 U.S.C. Section 1001 et seq.). The revised law is
32 drafted accordingly.

33 (6) Section 4, Chapter 33, Acts of the 56th
34 Legislature, Regular Session, 1959, refers to powers
35 and authority "including, but not limited to" certain
36 powers and authority. The revised law omits "but not

1 limited to" because Section 311.005(13), Government
2 Code (Code Construction Act), provides that "includes"
3 and "including" are terms of enlargement and not of
4 limitation and do not create a presumption that
5 components not expressed are excluded.

6 (7) Section 4, Chapter 33, Acts of the 56th
7 Legislature, Regular Session, 1959, provides that the
8 district has powers that are "necessary or requisite"
9 to take certain actions. The revised law omits
10 "requisite" because, in this context, "requisite" is
11 included in the meaning of "necessary."

12 (8) Section 4, Chapter 33, Acts of the 56th
13 Legislature, Regular Session, 1959, refers to
14 "agencies or departments" of the federal government.
15 The revised law omits "departments" because in context
16 the meaning of that term is included in the meaning of
17 "agencies."

18 (9) Section 4, Chapter 33, Acts of the 56th
19 Legislature, Regular Session, 1959, authorizes the
20 district to issue bonds "as collateral or security."
21 The revised law omits "security" because the meaning
22 of that term is included in the meaning of
23 "collateral."

24 (10) Section 4, Chapter 33, Acts of the 56th
25 Legislature, Regular Session, 1959, provides that
26 certain federal laws that are applicable to the
27 district are enacted into that act by reference and
28 made applicable to the district. The revised law omits
29 that provision because a law that applies to the
30 district applies on its own terms and does not need to
31 be enacted by reference or made applicable to the
32 district under any additional law. The omitted law
33 reads:

34 Sec. 4. . . . [Public Law 566,

1 Eighty-third Congress, Chapter 656, 2nd
2 Session, H.R. 6788, as amended by Public Law
3 1018, Eighty-fourth Congress, Chapter 1027,
4 2nd Session, H.R. 8750, and as same may be
5 hereafter amended.] . . . The provisions
6 of said public laws that are applicable to
7 the District are hereby enacted into this
8 Act by reference and are made applicable to
9 the District.

10 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

11 Revised Law

12 Sec. 9028.151. TAX METHOD. (a) The district shall use the
13 ad valorem plan of taxation.

14 (b) The board is not required to hold a hearing on the
15 adoption of a plan of taxation. (Acts 56th Leg., R.S., Ch. 33, Sec.
16 6 (part).)

17 Source Law

18 Sec. 6. . . . It shall not be necessary for the
19 Board of Directors to hold a hearing on the adoption of
20 a plan of taxation and the ad valorem plan of taxation
21 shall be used by the District. . . .

22 Revised Law

23 Sec. 9028.152. LIMITATION ON TAX RATE. The district may not
24 impose taxes under this subchapter at a rate that exceeds five cents
25 per \$100 valuation. (Acts 56th Leg., R.S., Ch. 33, Sec. 6 (part).)

26 Source Law

27 Sec. 6. . . . [ad valorem plan of taxation shall
28 be used by the District.] Provided, however, that
29 taxes imposed by the District shall never exceed five
30 cents (5¢) per One Hundred Dollar (\$100)
31 valuation. . . .

32 Revisor's Note

33 Section 6, Chapter 33, Acts of the 56th
34 Legislature, Regular Session, 1959, requires the use
35 of county tax rolls to value property in the district
36 for tax purposes. The revised law omits the provision
37 because it duplicates Section 18(b), Article VIII,
38 Texas Constitution, and Section 6.01, Tax Code.
39 Section 18(b) requires the legislature by general law
40 to provide for a single appraisal in each county of all
41 property subject to ad valorem taxation by the county
42 and all other taxing units located in the county.

1 district. The revised law omits the reference to
2 "qualified voters who reside in the District" as
3 unnecessary in this context because Chapter 11,
4 Election Code, governs eligibility to vote in an
5 election in this state and allows only qualified
6 voters who are residents of the territory covered by
7 the election to vote in an election. The revised law
8 also omits the reference to voting by persons who own
9 taxable property and render that property for taxation
10 because in Hill v. Stone, 421 U.S. 289 (1975), the
11 United States Supreme Court determined that property
12 ownership as a qualification for voting is an
13 unconstitutional denial of equal protection.

14 Revised Law

15 Sec. 9028.155. APPROVAL OF AND FUNDING FOR CERTAIN PLANS
16 FOR WORKS AND IMPROVEMENTS. (a) In this section, "commission"
17 means the Texas Commission on Environmental Quality.

18 (b) This section applies only to plans contemplated by the
19 district for works and improvements, or amendments to the plans,
20 that are prepared by the Natural Resources Conservation Service of
21 the United States Department of Agriculture and approved by the
22 district's board.

23 (c) An engineer's report covering the plans and
24 improvements to be constructed, and the maps, plats, profiles, and
25 data fully showing and explaining the plans and improvements, are
26 not required to be filed in the district office before an election
27 is held to authorize the issuance of bonds for the works and
28 improvements. The plans and specifications, engineering reports,
29 profiles, maps, and other data, and subsequent amendments to those
30 items, are not required to be approved by the commission before the
31 bonds are issued.

32 (d) Before the district may spend any money for the
33 construction of any works and improvements, the commission must
34 approve the portion of the works and improvements to be

1 constructed. The commission's advance approval for the entire
2 project contemplated by the district is not required. The
3 commission may approve on a separate or individual basis the
4 portion of the entire project or works and improvements:

- 5 (1) to be constructed at a particular time; and
- 6 (2) on which plans and specifications of the Natural
7 Resources Conservation Service have been prepared and submitted by
8 the board to the commission. (Acts 56th Leg., R.S., Ch. 33, Sec.
9 10; New.)

10 Source Law

11 Sec. 10. If the plans for works and improvements
12 or amendments thereto contemplated by the District are
13 prepared by the Soil Conservation Service, United
14 States Department of Agriculture, and approved by the
15 District's directors it shall not be necessary for an
16 engineer's report covering the plans and improvements
17 to be constructed, together with the maps, plats,
18 profiles and data fully showing and explaining same to
19 be filed in the office of the District before an
20 election is held to authorize the issuance of bonds in
21 connection with such works and improvements. It shall
22 not be necessary for such plans and specifications,
23 engineering reports, profiles, maps and other data, or
24 subsequent amendments thereto to be approved by the
25 State Board of Water Engineers prior to the issuance of
26 such bonds; provided, however, that before the
27 expenditure of any funds for the construction of any
28 works and improvements, the approval of the State
29 Board of Water Engineers shall be secured for that
30 portion of the works and improvements to be
31 constructed. It shall not be necessary for advance
32 approval to be given for the entire project
33 contemplated by the District, but approval may be
34 secured or given on a separate or individual basis for
35 that portion of the entire project or works and
36 improvements to be constructed at any particular time
37 and on which plans and specifications of the Soil
38 Conservation Service, United States Department of
39 Agriculture, have been prepared and submitted by the
40 Directors to the State Board of Water Engineers.

41 Revisor's Note

42 (1) The definition of "commission" is added to
43 the revised law for drafting convenience and to
44 eliminate unnecessary repetition of the substance of
45 the definition.

46 (2) Section 10, Chapter 33, Acts of the 56th
47 Legislature, Regular Session, 1959, refers to the
48 "Soil Conservation Service, United States Department

1 of Agriculture." The Natural Resources Conservation
2 Service of the United States Department of Agriculture
3 has succeeded to the relevant functions of the Soil
4 Conservation Service, and the revised law is drafted
5 accordingly.

6 (3) Section 10, Chapter 33, Acts of the 56th
7 Legislature, Regular Session, 1959, refers to the
8 State Board of Water Engineers. The Texas Commission
9 on Environmental Quality has succeeded to the relevant
10 functions of the board of water engineers, and the
11 revised law is drafted accordingly.

12 (4) Section 10, Chapter 33, Acts of the 56th
13 Legislature, Regular Session, 1959, refers to the
14 district's "funds." The revised law substitutes
15 "money" for "funds" because, in the context of the
16 district's funds, the meaning is the same and "money"
17 is the more commonly used term.

18 SUBCHAPTER E. BONDS

19 Revised Law

20 Sec. 9028.201. AUTHORITY TO ISSUE BONDS. Subject to
21 Section 9028.202, the district may issue bonds, in the manner
22 provided by general law for water control and improvement
23 districts, to:

24 (1) provide dams, structures, projects, and works of
25 improvement for flood prevention, the conservation and development
26 of water, and for other necessary plants, facilities, and equipment
27 in connection therewith and for the improvement, repair, and
28 operation of same;

29 (2) carry out any other power provided by this chapter
30 or by Chapter 49 or 51, Water Code; and

31 (3) pay all costs, charges, and expenses of the
32 district. (Acts 56th Leg., R.S., Ch. 33, Sec. 8 (part); New.)

33 Source Law

34 Sec. 8. For the purpose of providing dams,

1 structures, projects and works of improvement for
2 flood prevention, the conservation and development of
3 water, and for other necessary plants, facilities and
4 equipment in connection therewith and for the
5 improvement, repair and operation of same and for
6 carrying out any other powers or authority conferred
7 by this Act or by Chapter 25 of the General Laws of the
8 Thirty-ninth Legislature, Regular Session, and the
9 several amendments thereof, and for the purpose of
10 paying all costs, charges, and expenses of the
11 District, the District is empowered to issue
12 negotiable bonds in the manner provided by General Law
13 for water control and improvement districts. . . .

14 Revisor's Note

15 (1) For the reader's convenience, the revised
16 law includes a cross-reference to Section 9028.202 of
17 this chapter, which requires voter approval for bond
18 issuance.

19 (2) Section 8, Chapter 33, Acts of the 56th
20 Legislature, Regular Session, 1959, refers to the
21 district's "powers or authority." The revised law
22 omits the reference to "authority" for the reason
23 stated in Revisor's Note (4) to Section 9028.103.

24 (3) Section 8, Chapter 33, Acts of the 56th
25 Legislature, Regular Session, 1959, authorizes the
26 district to issue bonds to carry out functions
27 provided by "Chapter 25 of the General Laws of the
28 Thirty-ninth Legislature, Regular Session, and the
29 several amendments thereof." Chapter 25 was
30 incorporated in Chapter 3A, Title 128, Revised
31 Statutes. That chapter was codified in 1971 as Chapter
32 51, Water Code. Chapter 715, Acts of the 74th
33 Legislature, Regular Session, 1995, repealed many of
34 the provisions of Chapter 51 and enacted similar
35 provisions in Chapter 49, Water Code. To reflect those
36 changes, the revised law substitutes a reference to
37 "Chapter 49 or 51, Water Code," for the reference to
38 Chapter 25. The revised law omits the reference to "the
39 several amendments thereof" for the reason stated in
40 Revisor's Note (1) at the end of Subchapter B.

1 Legislature, Regular Session, 1959, provides that
2 after voter authorization, approval by the attorney
3 general, and registration by the comptroller, district
4 bonds are incontestable. The revised law omits that
5 provision because to the extent it requires voter
6 authorization, it duplicates an earlier part of
7 Section 9, revised as this section, which already
8 requires voter authorization to issue bonds, and to
9 the extent it requires attorney general approval and
10 registration by the comptroller, it duplicates in
11 substance Section 1202.006, Government Code, which
12 provides that after approval and registration, bonds
13 are incontestable for any reason. Section 1202.006
14 applies to district bonds under Sections 1202.001 and
15 1202.003(c), Government Code. The omitted law reads:

16 Sec. 9. . . . When a majority of the
17 votes cast favor the proposition and upon
18 approval of the bonds by the Attorney
19 General and registration by the Comptroller
20 they shall be incontestable.

21 Revisor's Note
22 (End of Chapter)

23 (1) Section 6, Chapter 33, Acts of the 56th
24 Legislature, Regular Session, 1959, provides that it
25 is unnecessary to hold a confirmation election but
26 requires a hearing to be held to determine whether land
27 should be excluded from the district. The revised law
28 omits the provision as executed. The provision is a
29 transition provision addressing the applicability of
30 provisions of the general laws in effect at the time of
31 the district's creation that governed the creation of
32 water control and improvement districts. A district
33 created under the general laws in effect at that time
34 would have been required at the time of its creation to
35 hold both a confirmation election and a hearing on the
36 exclusion of land from the district. The omitted law

1 reads:

2 Sec. 6. . . . No election shall be
3 necessary for the purpose of confirming its
4 organization. Provided, however, that a
5 hearing shall be held to determine whether
6 any lands included within the boundaries of
7 said District shall be excluded. . . .

8 (2) Section 11, Chapter 33, Acts of the 56th
9 Legislature, Regular Session, 1959, provides that the
10 act is severable. The revised law omits that provision
11 because the same result is produced by application of
12 Section 311.032, Government Code (Code Construction
13 Act), which provides that a provision of a statute is
14 severable from each other provision of the statute
15 that can be given effect. The omitted law reads:

16 Sec. 11. If any word, phrase, clause,
17 sentence, paragraph, or provision of this
18 Act is held to be invalid or
19 unconstitutional by a court of competent
20 jurisdiction in this State, it is the
21 intention of the Legislature that the
22 remaining provisions thereof shall be
23 effective, and that such remaining portions
24 shall remain in full force and effect.