

PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL
Special District Local
Laws Code
Chapter 9049
9/12/14

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21 CHAPTER 9049. HARRIS COUNTY WATER CONTROL AND IMPROVEMENT
22 DISTRICT-FONDREN ROAD
23 SUBCHAPTER A. GENERAL PROVISIONS

24 Revised Law

25 Sec. 9049.001. DEFINITIONS. In this chapter:
26 (1) "Board" means the district's board of directors.

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

2 (3) "District" means the Harris County Water Control
3 and Improvement District-Fondren Road. (Acts 58th Leg., R.S., Ch.
4 246, Sec. 1 (part); New.)

5 Source Law

6 Sec. 1. . . . [a . . . district] . . . to be
7 known as "Harris County Water Control and Improvement
8 District-Fondren Road," hereinafter called the
9 "District,"

10 Revisor's Note

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

15 Revised Law

16 Sec. 9049.002. NATURE OF DISTRICT. The district is a
17 conservation and reclamation district in Harris County created
18 under Section 59, Article XVI, Texas Constitution. (Acts 58th
19 Leg., R.S., Ch. 246, Sec. 1 (part).)

20 Source Law

21 Sec. 1. Under and pursuant to the provisions of
22 Article 16, Section 59, of the Constitution of Texas, a
23 conservation and reclamation district is hereby
24 created and established in Harris County, Texas, . . .
25 which shall be a governmental agency and a body politic
26 and corporate. . . .

27 Revisor's Note

28 (1) Section 1, Chapter 246, Acts of the 58th
29 Legislature, Regular Session, 1963, provides that the
30 district is "created and established" in Harris
31 County, Texas. The revised law omits "established"
32 because the meaning of that word is included in the
33 meaning of "created."

34 (2) Section 1, Chapter 246, Acts of the 58th
35 Legislature, Regular Session, 1963, refers to the
36 district as "a governmental agency and a body politic
37 and corporate." The revised law omits the quoted
38 language because it duplicates a portion of Section

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

4 Revised Law

5 Sec. 9049.003. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)
6 The district is created to serve a public use and benefit.

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

11 (c) The district is essential to accomplish the purposes of
12 Section 59, Article XVI, Texas Constitution. (Acts 58th Leg., R.S.,
13 Ch. 246, Secs. 1 (part), 3; Acts 60th Leg., R.S., Ch. 611, Sec. 5.)

14 Source Law

15 [Acts 58th Leg., R.S., Ch. 246]

16 Sec. 1. . . . The creation and establishment of
17 the District is hereby declared to be essential to the
18 accomplishment of the purposes of Article 16, Section
19 59, of the Constitution of Texas.

20 Sec. 3. It is expressly determined and found
21 that all of the land and other property included within
22 the area and boundaries of the District (Harris County
23 Water Control and Improvement District-Fondren Road)
24 will be benefited by the works and projects which are
25 to be accomplished by the District pursuant to the
26 powers conferred by the provisions of Article XVI,
27 Section 59, of the Constitution of Texas, and that said
28 District was and is created to serve a public use and
29 benefit.

30 [Acts 60th Leg., R.S., Ch. 611]

31 Sec. 5. It is determined and found that the land
32 added herein to the district, the original area of the
33 district, and all of the land and other property
34 included within the area and boundaries of the
35 district as herein enlarged will be benefited by the
36 works and projects which are to be accomplished by the
37 district pursuant to the powers conferred by the
38 provisions of Article 16, Section 59, of the
39 Constitution of Texas, and that said district was and
40 is created to serve a public use and benefit.

41 Revisor's Note

42 (1) Section 1, Chapter 246, Acts of the 58th
43 Legislature, Regular Session, 1963, states that the
44 "creation and establishment" of the district is
45 "hereby declared to be" essential to accomplish the

1 purposes of Section 59, Article XVI, Texas
2 Constitution. The revised law omits the quoted
3 language as executed.

4 (2) Section 3, Chapter 246, Acts of the 58th
5 Legislature, Regular Session, 1963, and Section 5,
6 Chapter 611, Acts of the 60th Legislature, Regular
7 Session, 1967, refer to land and other property
8 included "within the area and boundaries" of the
9 district. The revised law omits the reference to
10 "area" because property included in the "area" of the
11 district is synonymous with property included in the
12 "boundaries" of the district.

13 Revised Law

14 Sec. 9049.004. DISTRICT TERRITORY. (a) The district is
15 composed of the territory described by Section 2, Chapter 246, Acts
16 of the 58th Legislature, Regular Session, 1963, as amended by
17 Sections 1 and 3, Chapter 611, Acts of the 60th Legislature, Regular
18 Session, 1967, as that territory may have been modified under:

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

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

- 25 (1) the district's organization, existence, or
26 validity;
27 (2) the district's right to issue bonds or to pay the
28 principal of and interest on the bonds;
29 (3) the district's right to impose a tax; or
30 (4) the legality or operation of the district or the
31 board. (Acts 58th Leg., R.S., Ch. 246, Sec. 4; Acts 60th Leg., R.S.,
32 Ch. 611, Secs. 2, 4; New.)

33 Source Law

34 [Acts 58th Leg., R.S., Ch. 246]

1 Subchapter J, Chapter 49, Water Code, applicable to
2 the district under Sections 49.001 and 49.002 of that
3 chapter. The revised law also includes a reference to
4 the general authority of the legislature to enact a law
5 to change the district's territory.

6 (2) Section 4, Chapter 246, Acts of the 58th
7 Legislature, Regular Session, 1963, and Sections 2 and
8 4, Chapter 611, Acts of the 60th Legislature, Regular
9 Session, 1967, provide that a mistake in the
10 description of the district's boundaries does not
11 affect the right of the district to issue "bonds or
12 refunding bonds." The revised law omits "refunding
13 bonds" because refunding bonds are included in the
14 meaning of "bonds."

15 (3) Section 4, Chapter 246, Acts of the 58th
16 Legislature, Regular Session, 1963, and Sections 2 and
17 4, Chapter 611, Acts of the 60th Legislature, Regular
18 Session, 1967, refer to the district's authority to
19 "assess, levy and collect" taxes. The revised law
20 substitutes "impose" for "assess, levy and collect"
21 because "impose" is the term generally used in Title 1,
22 Tax Code, and includes the assessment, levy, or
23 collection of a tax.

24 SUBCHAPTER B. BOARD OF DIRECTORS

25 Revised Law

26 Sec. 9049.051. BOARD OF DIRECTORS. (a) The board consists
27 of five elected directors.

28 (b) To be appointed as a director a person must reside in
29 this state, but such director is not required to reside in the
30 district. (Acts 58th Leg., R.S., Ch. 246, Sec. 7 (part).)

31 Source Law

32 Sec. 7. All powers of the District shall be
33 exercised by a board of five (5) directors. . . . No
34 person shall be appointed a director unless he resides
35 in the State of Texas, but such directors do not have
36 to reside within the boundaries of the District. . . .

1 Succeeding directors shall be elected or . . . as
2 provided for in this Act. . . .

3 Revisor's Note

4 (1) Section 7, Chapter 246, Acts of the 58th
5 Legislature, Regular Session, 1963, provides that
6 "[a]ll powers of the District shall be exercised by"
7 the board. The revised law omits the quoted language
8 because it duplicates in substance provisions of
9 Sections 49.051 and 49.057, Water Code. The revised
10 law omits law that is superseded by Chapter 49, Water
11 Code, or that duplicates law contained in that
12 chapter. Chapter 49, Water Code, applies to the
13 district under Sections 49.001 and 49.002 of that
14 chapter.

15 (2) Section 7, Chapter 246, Acts of the 58th
16 Legislature, Regular Session, 1963, refers to
17 "[s]ucceeding directors" to distinguish the
18 succeeding directors from the initial directors named
19 in that section. The revised law omits "succeeding"
20 because all provisions referring to initial directors
21 are omitted as executed and the distinction is no
22 longer required.

23 Revised Law

24 Sec. 9049.052. APPOINTMENT OF SECRETARY AND TREASURER. The
25 board shall appoint a secretary and a treasurer, who are not
26 required to be directors. The board may combine the offices of
27 secretary and treasurer. (Acts 58th Leg., R.S., Ch. 246, Sec. 7
28 (part).)

29 Source Law

30 Sec. 7. . . . The board shall also appoint a
31 secretary and a treasurer who may or may not be members
32 of the board, and it may combine those offices. . . .

33 Revised Law

34 Sec. 9049.053. DIRECTOR'S AND TREASURER'S BONDS. (a) Each
35 director shall give bond in the amount of \$5,000 conditioned on the
36 faithful performance of the director's duties.

1 (b) The treasurer shall give bond in the amount required by
2 the board. The treasurer's bond shall be conditioned on the
3 treasurer's faithful accounting for all money that comes into the
4 treasurer's custody as treasurer of the district. (Acts 58th Leg.,
5 R.S., Ch. 246, Sec. 7 (part).)

6 Source Law

7 Sec. 7. . . . Such directors . . . each shall
8 give bond in the amount of Five Thousand Dollars
9 (\$5,000) for the faithful performance of his duties,
10 The treasurer shall give bond in such amount as
11 may be required by the board of directors. The
12 condition of such bond shall be that he will faithfully
13 account for all money which shall come into his custody
14 as treasurer of the District. . . .

15 Revisor's Note

16 (1) Section 7, Chapter 246, Acts of the 58th
17 Legislature, Regular Session, 1963, provides that a
18 director shall subscribe to the oath of office. The
19 revised law omits that provision because Section 1,
20 Article XVI, Texas Constitution, requires all officers
21 in this state to take the oath (or affirmation) before
22 assuming office. The omitted law reads:

23 Sec. 7. . . . [Such directors] shall
24 subscribe to the oath of office, and

25 (2) Section 7, Chapter 246, Acts of the 58th
26 Legislature, Regular Session, 1963, requires the
27 district to pay the cost of a director's bond. The
28 revised law omits that provision because it duplicates
29 in substance Section 49.055(c), Water Code. The
30 omitted law reads:

31 Sec. 7. . . . [Such directors shall
32 . . . give bond] . . . the cost of which
33 shall be paid by the District. . . .

34 Revised Law

35 Sec. 9049.054. VOTE BY BOARD PRESIDENT. The board
36 president has the same right to vote as any other director. (Acts
37 58th Leg., R.S., Ch. 246, Sec. 7 (part).)

38 Source Law

39 Sec. 7. . . . The president . . . shall have the

1 same right to vote as any other director. . . .

2 Revised Law

3 Sec. 9049.055. ABSENCE OR INACTION OF BOARD PRESIDENT.

4 When the board president is absent or fails or declines to act, the
5 board vice president shall perform all duties and exercise all
6 power this chapter gives the president. (Acts 58th Leg., R.S., Ch.
7 246, Sec. 7 (part).)

8 Source Law

9 Sec. 7. . . . The vice-president shall perform
10 all duties and exercise all power conferred by this Act
11 upon the president when the president is absent or
12 fails or declines to act. . . .

13 Revisor's Note
14 (End of Subchapter)

15 (1) Section 7, Chapter 246, Acts of the 58th
16 Legislature, Regular Session, 1963, provides that each
17 director shall serve until the director's successor is
18 elected or appointed and qualified. The revised law
19 omits that provision because Section 17, Article XVI,
20 Texas Constitution, requires an officer to continue to
21 perform the officer's duties until a successor has
22 qualified. The omitted law reads:

23 Sec. 7. . . . Each director shall
24 serve for his term of office as herein
25 provided, and thereafter until his
26 successor shall be elected or appointed and
27 qualified. . . .

28 (2) Section 7, Chapter 246, Acts of the 58th
29 Legislature, Regular Session, 1963, provides that a
30 majority of directors constitutes a quorum. The
31 revised law omits that provision because it duplicates
32 Section 49.053, Water Code. The omitted law reads:

33 Sec. 7. . . . A majority shall
34 constitute a quorum. . . .

35 (3) Section 7, Chapter 246, Acts of the 58th
36 Legislature, Regular Session, 1963, names the initial
37 board members, provides for filling a vacancy on that
38 board, and provides for their terms of office. Because
39 the initial board members' terms have expired, the

1 revised law omits the language as executed. The
2 omitted law reads:

3 Sec. 7. . . . Immediately after this
4 Act becomes effective, the following named
5 persons shall be the directors of said
6 District and shall constitute the board of
7 directors of said District:

8 William H. Shoemaker
9 Marvin E. Leggett
10 George O. Castleberry
11 W. Thomas Willey
12 J. Brown Cutbirth, Jr.

13 all residing within the State of Texas. If
14 any of the aforementioned persons shall
15 die, become incapacitated or otherwise not
16 be qualified to assume their duties under
17 this Act, the remaining directors shall
18 appoint his successor. . . . The first two
19 (2) named directors aforementioned shall
20 serve until the second Tuesday in January,
21 1964, or as herein provided, and the
22 following three (3) named directors shall
23 serve until the second Tuesday in January,
24 1965, or as herein provided. . . .

25 (4) Section 7, Chapter 246, Acts of the 58th
26 Legislature, Regular Session, 1963, describes the
27 procedure for filling a board vacancy. The revised law
28 omits that provision because it duplicates in
29 substance Section 49.105, Water Code, which
30 establishes procedures for filling a board vacancy.
31 The revised law also omits "appointed" from the
32 provision on electing or appointing succeeding
33 directors under Section 7 because the term can refer
34 only to an appointment to fill a vacancy, which
35 duplicates Section 49.105(a), Water Code. The omitted
36 law reads:

37 Sec. 7. . . . [Succeeding directors
38 shall be elected or] appointed [as provided
39 for in this Act.] . . . Any vacancy
40 occurring in the board of directors shall be
41 filled for the unexpired term by a majority
42 of the remaining directors. . . .

43 (5) Section 7, Chapter 246, Acts of the 58th
44 Legislature, Regular Session, 1963, provides that
45 director elections shall be held "on the second
46 Tuesday in January" of each year. The revised law
47 omits that provision as superseded by Section

1 49.103(b), Water Code, enacted in 1995. That section
2 requires board elections to be held on the uniform
3 election date provided by Section 41.001, Election
4 Code, in May of each even-numbered year. The omitted
5 law reads:

6 Sec. 7. . . . An election for the
7 election of directors shall be held on the
8 second Tuesday in January of each year
9 beginning in 1964, and as herein provided.
10 Two (2) directors shall be elected in each
11 even-numbered year and three (3) in each
12 odd-numbered year. . . .

13 (6) Section 7, Chapter 246, Acts of the 58th
14 Legislature, Regular Session, 1963, provides that the
15 board of directors shall order yearly director
16 elections. The revised law omits the reference to
17 yearly elections as superseded by Section 49.103(b),
18 Water Code, for the reason stated in Revisor's Note
19 (5). The revised law omits the requirement that the
20 board order the elections because it duplicates in
21 substance Section 3.004, Election Code, which provides
22 that the governing body of a political subdivision
23 that has elective offices shall order the general
24 election for those officers. The omitted law reads:

25 Sec. 7. . . . The yearly elections
26 shall be ordered by the board of
27 directors. . . .

28 (7) Section 7, Chapter 246, Acts of the 58th
29 Legislature, Regular Session, 1963, requires the board
30 to elect officers and assigns certain powers and
31 duties to the board's president. The revised law omits
32 those provisions because they duplicate in substance
33 Sections 49.054(a) and (c), Water Code. The omitted
34 law reads:

35 Sec. 7. . . . The board of directors
36 shall elect from its number a president and
37 a vice-president of the District, and such
38 other officers as in the judgment of the
39 board are necessary. [The president] shall
40 be the chief executive officer of the
41 District and the presiding officer of the

1 board, and

2 (8) Section 7, Chapter 246, Acts of the 58th
3 Legislature, Regular Session, 1963, requires the board
4 to adopt a seal for the district. The revised law
5 omits that provision because it duplicates Section
6 49.061, Water Code. The omitted law reads:

7 Sec. 7. . . . The board shall adopt a
8 seal for the District.

9 SUBCHAPTER C. POWERS AND DUTIES

10 Revised Law

11 Sec. 9049.101. WATER CONTROL AND IMPROVEMENT DISTRICT
12 POWERS. The district has the rights, powers, privileges, and
13 duties provided by general law applicable to a water control and
14 improvement district created under Section 59, Article XVI, Texas
15 Constitution, including Chapters 49 and 51, Water Code. (Acts 58th
16 Leg., R.S., Ch. 246, Sec. 5 (part); New.)

17 Source Law

18 Sec. 5. The District shall have and exercise,
19 and is hereby vested with, all of the rights, powers,
20 privileges, authority and duties conferred and imposed
21 by the General Laws of this state now in force or
22 hereafter enacted, applicable to water control and
23 improvement districts created under authority of
24 Section 59, Article XVI, of the Constitution, but
25

26 Revisor's Note

27 (1) Section 5, Chapter 246, Acts of the 58th
28 Legislature, Regular Session, 1963, states that the
29 district "shall have and exercise, and is hereby
30 vested with," certain rights, powers, privileges,
31 authority, and duties. The revised law substitutes
32 "has" for the quoted language because, in context, the
33 terms are synonymous and "has" is more commonly used.

34 (2) Section 5, Chapter 246, Acts of the 58th
35 Legislature, Regular Session, 1963, refers to "rights,
36 powers, privileges, [and] authority" of the district.
37 The revised law omits "authority" as included in the
38 meaning of "powers."

1 (3) Section 5, Chapter 246, Acts of the 58th
2 Legislature, Regular Session, 1963, refers to the
3 general laws of this state "now in force or hereafter
4 enacted." The revised law omits the quoted language as
5 unnecessary under accepted general principles of
6 statutory construction. The "General Laws of this
7 state" means those laws "in force" at the time the
8 provision was adopted. It is unnecessary to state that
9 the district may be granted additional powers by later
10 enacted laws because those laws apply on their own
11 terms.

12 (4) Section 5, Chapter 246, Acts of the 58th
13 Legislature, Regular Session, 1963, refers to the
14 general laws "applicable to water control and
15 improvement districts." For the reader's convenience,
16 the revised law adds references to Chapter 51, Water
17 Code, specifically applicable to water control and
18 improvement districts, and to Chapter 49, Water Code,
19 generally applicable under Sections 49.001 and 49.002
20 of that chapter to many types of districts created
21 under Section 59, Article XVI, Texas Constitution,
22 including water control and improvement districts.

23 (5) Section 5, Chapter 246, Acts of the 58th
24 Legislature, Regular Session, 1963, provides that the
25 act prevails over general law that applies to water
26 control and improvement districts and that is in
27 conflict or inconsistent with the act, and that all
28 general laws applicable to water control and
29 improvement districts are adopted and incorporated by
30 reference. The revised law omits the portion of the
31 provision relating to the act prevailing over general
32 law because it duplicates in substance Section
33 311.026(b), Government Code (Code Construction Act).
34 The revised law omits the portion of the provision

1 relating to adoption and incorporation of general laws
2 because Section 5 of Chapter 246 (revised as this
3 section) already provides that those laws apply to the
4 district, and it is unnecessary to repeat that
5 authority. The omitted law reads:

6 Sec. 5. [The District shall have and
7 exercise, and is hereby vested with, all of
8 the rights, powers, privileges, authority
9 and duties conferred and imposed by the
10 General Laws of this state now in force or
11 hereafter enacted, applicable to water
12 control and improvement districts created
13 under authority of Section 59, Article XVI,
14 of the Constitution, but] to the extent that
15 the provisions of any such General Laws may
16 be in conflict or inconsistent with the
17 provisions of this Act, the provisions of
18 this Act shall prevail. All such General
19 Laws are hereby adopted and incorporated by
20 reference with the same effect as if
21 incorporated in full in this Act. . . .

22 Revised Law

23 Sec. 9049.102. LIMIT ON EMINENT DOMAIN POWER. The district
24 may exercise the power of eminent domain only in Harris County.
25 (Acts 58th Leg., R.S., Ch. 246, Sec. 9 (part).)

26 Source Law

27 Sec. 9. The power of eminent domain of the
28 District shall be limited to Harris County,
29 Texas. . . .

30 Revised Law

31 Sec. 9049.103. COST OF RELOCATING OR ALTERING PROPERTY. If
32 the district's exercise of the power of eminent domain, the power of
33 relocation, or any other power granted by this chapter makes
34 necessary relocating, raising, rerouting, changing the grade of, or
35 altering the construction of a highway, railroad, electric
36 transmission line, telephone or telegraph property or facility, or
37 pipeline, the necessary action shall be accomplished at the sole
38 expense of the district. (Acts 58th Leg., R.S., Ch. 246, Sec. 9
39 (part).)

40 Source Law

41 Sec. 9. . . . In the event that the District, in
42 the exercise of the power of eminent domain or power of
43 relocation, or any other power granted hereunder,
44 makes necessary the relocation, raising, rerouting or

1 changing the grade of, or altering the construction of
2 any highway, railroad, electric transmission line,
3 telephone or telegraph properties and facilities, or
4 pipeline, all such necessary relocation, raising,
5 rerouting, changing of grade or alteration of
6 construction shall be accomplished at the sole expense
7 of the District.

8 Revisor's Note
9 (End of Subchapter)

10 Section 7, Chapter 246, Acts of the 58th
11 Legislature, Regular Session, 1963, requires the board
12 to employ certain employees. The revised law omits
13 that provision because it duplicates in substance part
14 of Section 49.057, Water Code. The omitted law reads:

15 Sec. 7. . . . The board shall appoint
16 all necessary engineers, attorneys and
17 other employees. . . .

18 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

19 Revised Law

20 Sec. 9049.151. TAX METHOD. (a) The district shall use the
21 ad valorem plan of taxation.

22 (b) The board is not required to hold a hearing on the
23 adoption of a plan of taxation. (Acts 58th Leg., R.S., Ch. 246,
24 Sec. 5 (part).)

25 Source Law

26 Sec. 5. . . . It shall not be necessary for the
27 board of directors to hold a hearing on the adoption of
28 a plan of taxation, but the ad valorem plan of taxation
29 shall be used by the District.

30 Revisor's Note
31 (End of Chapter)

32 (1) Section 6, Chapter 246, Acts of the 58th
33 Legislature, Regular Session, 1963, provides that the
34 board of directors is not required to call a
35 confirmation election or hold a hearing on the
36 exclusion of land. The revised law omits the provision
37 as executed. The provision is a transition provision
38 addressing the applicability of provisions of the
39 general laws in effect at the time of the district's
40 creation that governed the creation of water control
41 and improvement districts. A district created under

1 the general laws in effect at that time would have been
2 required at the time of its creation to hold both a
3 confirmation election and a hearing on the exclusion
4 of land from the district. The omitted provision
5 negates those general law requirements as inapplicable
6 to this legislatively created district. The power or
7 duty to hold a hearing to exclude land subsequent to
8 the creation of the district is governed by Subchapter
9 J, Chapter 49, Water Code, which applies to the
10 district under Sections 49.001 and 49.002 of that
11 code, and Subchapter O, Chapter 51, Water Code, which
12 applies to the district under Section 9049.101 of this
13 chapter. The omitted law reads:

14 Sec. 6. It shall not be necessary for
15 the board of directors to call a
16 confirmation election or to hold a hearing
17 on the exclusion of lands from the District.

18 (2) Section 10, Chapter 611, Acts of the 60th
19 Legislature, Regular Session, 1967, recites
20 legislative findings that the procedural requirements
21 for the creation of the district under Section 59(d),
22 Article XVI, Texas Constitution, including proper
23 legal notice and the filing of recommendations, have
24 been accomplished. The revised law omits that
25 provision as executed. The omitted law reads:

26 Sec. 10. It is determined and found
27 that a proper and legal notice of the
28 intention to introduce this Act, setting
29 forth the general substance of this Act, has
30 been published at least 30 days and not more
31 than 90 days prior to the introduction of
32 this Act in the Legislature of Texas, in a
33 newspaper having general circulation in the
34 county or counties in which this district or
35 any part thereof is located; that a copy of
36 such notice and a copy of this Act have been
37 delivered to the Governor of Texas who has
38 submitted such notice and Act to the Texas
39 Water Rights Commission, and said Texas
40 Water Rights Commission has filed its
41 recommendation as to such Act with the
42 Governor, Lieutenant Governor and Speaker
43 of the House of Representatives of Texas
44 within 30 days from the date such notice and
45 Act were received by the Texas Water Rights

1 Commission; and that all the requirements
2 and provisions of Article 16, Section
3 59(d), of the Constitution of the State of
4 Texas, have been fulfilled and accomplished
5 as therein provided.

6 (3) Section 10, Chapter 246, Acts of the 58th
7 Legislature, Regular Session, 1963, and Section 12,
8 Chapter 611, Acts of the 60th Legislature, Regular
9 Session, 1967, provide that the acts are severable.
10 The revised law omits those provisions because the
11 same result is produced by application of Section
12 311.032, Government Code (Code Construction Act),
13 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 [Acts 58th Leg., R.S., Ch. 246]

17 Sec. 10. If any word, phrase, clause,
18 paragraph, sentence, part, portion, or
19 provision of this Act or the application
20 thereof to any person or circumstance shall
21 be held to be invalid or unconstitutional,
22 the remainder of the Act shall nevertheless
23 be valid, and the Legislature hereby
24 declares that the Act would have been
25 enacted without such invalid or
26 unconstitutional word, phrase, clause,
27 paragraph, sentence, part, portion, or
28 provision.

29 [Acts 60th Leg., R.S., Ch. 611]

30 Sec. 12. If any word, phrase, clause,
31 paragraph, sentence, part, portion or
32 provision of this Act or the application
33 thereof to any person or circumstance shall
34 be held to be invalid or unconstitutional,
35 the remainder of this Act shall
36 nevertheless be valid, and the Legislature
37 hereby declares that this Act would have
38 been enacted without such invalid or
39 unconstitutional word, phrase, clause,
40 paragraph, sentence, part, portion or
41 provision.

42 (4) Sections 6 and 7, Chapter 611, Acts of the
43 60th Legislature, Regular Session, 1967, ratify,
44 confirm, approve, and validate the establishment of
45 the district and any proceedings or actions of the
46 district or its governing body, and Section 9 of that
47 chapter provides that the act does not validate a
48 proceeding, election, or hearing that is the subject

1 of a suit or pending litigation and that is ultimately
2 determined to be invalid. The provisions are omitted
3 from the revised law because they served their purpose
4 on the day they took effect and are executed law.
5 Section 311.031(a)(2), Government Code (Code
6 Construction Act), provides that the repeal of a
7 statute does not affect any validation previously made
8 under the statute. The omitted law reads:

9 Sec. 6. All proceedings and actions
10 had and taken in the creation of the
11 district and in the appointment or election
12 of directors, all proceedings and actions
13 had and taken by the board of directors of
14 the district, all notices for all elections
15 and hearings, and any and all proceedings or
16 actions relating to any of the foregoing are
17 hereby in all things and all respects
18 ratified, confirmed, approved, and
19 validated, notwithstanding that any of the
20 aforementioned proceedings and actions may
21 not in all respects have been had in
22 accordance with law or statutory
23 provisions.

24 Sec. 7. The organization of said
25 district and all proceedings, elections and
26 hearings relating thereto and the
27 boundaries of said district, and all
28 purposes for which said district was
29 created, are hereby in all things and all
30 respects ratified, confirmed, approved, and
31 validated.

32 Sec. 9. This Act shall not be
33 construed as validating any proceeding,
34 election or hearing, the validity of which
35 is being contested or is under attack in any
36 suit or litigation pending at the time this
37 Act becomes effective, if such suit or
38 litigation is ultimately determined against
39 the validity thereof.

40 (5) Section 8, Chapter 246, Acts of the 58th
41 Legislature, Regular Session, 1963, provides that
42 after approval and registration district bonds are
43 "negotiable, valid, legal, and binding obligations"
44 and incontestable for any reason. Section 8, Chapter
45 611, Acts of the 60th Legislature, Regular Session,
46 1967, provides that after approval and registration
47 district bonds are "binding, legal, valid, and
48 enforceable obligations" and incontestable for any

1 reason. The revised law omits the reference in Section
2 8, Chapter 246, to the bonds being negotiable because
3 Section 1201.041, Government Code, applicable to
4 district bonds under Sections 1201.002 and 1201.003,
5 Government Code, provides that a public security is a
6 negotiable instrument. The revised law omits the rest
7 of the provisions in Section 8, Chapter 246, and
8 Section 8, Chapter 611, in its entirety because they
9 duplicate in substance Section 1202.006, Government
10 Code. Section 1202.006, Government Code, applies to
11 district bonds under Sections 1202.001 and 1202.003,
12 Government Code. The omitted law reads:

13 [Acts 58th Leg., R.S., Ch. 246]

14 Sec. 8. When bonds or refunding bonds
15 have been issued by the District and said
16 bonds or refunding bonds have been approved
17 by the Attorney General of Texas and
18 registered by the Comptroller of Public
19 Accounts, said bonds or refunding bonds
20 shall be negotiable, valid, legal, and
21 binding obligations and shall be
22 incontestable for any cause. . . .

23 [Acts 60th Leg., R.S., Ch. 611]

24 Sec. 8. When bonds of the district
25 have been voted at an election held for and
26 within the district, and the Attorney
27 General has approved such bonds, and they
28 have been registered by the Comptroller of
29 Public Accounts of the State of Texas, and
30 sold and delivered, such bonds shall be
31 binding, legal, valid, and enforceable
32 obligations of said district, and such
33 bonds shall be incontestable for any cause.

34 (6) Section 8, Chapter 246, Acts of the 58th
35 Legislature, Regular Session, 1963, provides that,
36 before issuing any construction bonds, the district
37 shall submit plans to the Texas Water Commission for
38 approval in accordance with Article 7880-139, Vernon's
39 Texas Civil Statutes, and that the district's project
40 is subject to inspection during construction as
41 provided by that article. Article 7880-139 was
42 codified by Chapter 58, Acts of the 62nd Legislature,
43 Regular Session, 1971, as Sections 51.421 and 51.422,

1 Water Code. Chapter 715, Acts of the 74th Legislature,
2 Regular Session, 1995, repealed Sections 51.421 and
3 51.422, Water Code, and enacted Sections 49.181 and
4 49.182, Water Code, to govern the authority of the
5 Texas Commission on Environmental Quality over the
6 issuance of district bonds and supervision by the
7 commission of projects and improvements,
8 respectively. The revised law therefore omits the
9 plan submission and inspection provisions in Section 8
10 because Sections 49.181 and 49.182, Water Code, apply
11 to the district on their own terms. The omitted law
12 reads:

13 Sec. 8. . . . Provided, however,
14 that before issuing any construction bonds
15 said District shall submit plans and
16 specifications therefor to the Texas Water
17 Commission (successor to State Board of
18 Water Engineers) for approval in the manner
19 required by Acts of the 57th Legislature,
20 Regular Session, Chapter 336, 1961,
21 codified in Vernon's Annotated Civil
22 Statutes of Texas as Article 7880-139, and
23 said District's project and improvements
24 during the course of construction shall be
25 subject to inspection in the manner
26 provided by said Article 7880-139.

27 (7) Section 11, Chapter 611, Acts of the 60th
28 Legislature, Regular Session, 1967, lists the entities
29 for which district bonds are legal investments and
30 provides that district bonds may secure deposits of
31 public funds of political subdivisions of this state.
32 The revised law omits the provision relating to the
33 eligibility of district bonds to be considered as
34 investments for various entities because it duplicates
35 Section 49.186(a), Water Code. The revised law omits
36 the provision relating to securing deposits of funds
37 of political subdivisions because the provision is
38 impliedly repealed by Chapter 2257, Government Code
39 (enacted in 1989 as Article 2529d, Vernon's Texas Civil
40 Statutes), which governs eligible collateral for

1 deposits of funds of certain public agencies,
2 including political subdivisions, and permits those
3 deposits to be secured by obligations issued by
4 conservation and reclamation districts. The omitted
5 law reads:

6 Sec. 11. All bonds and refunding
7 bonds of the district shall be and are
8 hereby declared to be legal, eligible and
9 authorized investments for banks, savings
10 and loan associations, insurance companies,
11 fiduciaries, trustees, and for the sinking
12 funds of cities, towns, villages, counties,
13 school districts, or other political
14 corporations or subdivisions of the State
15 of Texas. Such bonds and refunding bonds
16 shall be eligible to secure the deposit of
17 any and all public funds of cities, towns,
18 villages, counties, school districts, or
19 other political corporations or
20 subdivisions of the State of Texas; and such
21 bonds shall be lawful and sufficient
22 security for said deposits to the extent of
23 their face value, when accompanied by all
24 unmatured coupons appurtenant thereto.