

PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL
Special District Local
Laws Code
Chapter 9057
9/10/14

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19 CHAPTER 9057. MEDINA COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT
20 NO. 2
21 SUBCHAPTER A. GENERAL PROVISIONS
22 Revised Law
23 Sec. 9057.001. DEFINITIONS. In this chapter:
24 (1) "Board" means the district's board of directors.
25 (2) "District" means the Medina County Water Control
26 and Improvement District No. 2. (Acts 53rd Leg., R.S., Ch. 198, Sec.

1 1 (part); New.)

2 Source Law

3 Sec. 1. . . . [a . . . district] . . . to be
4 known as Medina County Water Control and Improvement
5 District No. 2, hereinafter sometimes referred to as
6 the "District." . . .

7 Revisor's Note

8 The definition of "board" is added to the revised
9 law for drafting convenience and to eliminate
10 frequent, unnecessary repetition of the substance of
11 the definition.

12 Revised Law

13 Sec. 9057.002. NATURE OF DISTRICT. The district is:

- 14 (1) a conservation and reclamation district in Medina
- 15 County under Section 59, Article XVI, Texas Constitution; and
- 16 (2) a municipal corporation. (Acts 53rd Leg., R.S.,
- 17 Ch. 198, Secs. 1 (part), 7 (part).)

18 Source Law

19 Sec. 1. Under and pursuant to the provisions of
20 Article 16, Section 59 of the Constitution, a
21 conservation and reclamation district is hereby
22 created and incorporated in Medina County, Texas,
23

24 Sec. 7. [The Legislature] . . . declares the
25 District to be a governmental agency, a body politic
26 and corporate, and a municipal corporation.

27 Revisor's Note

28 (1) Section 1, Chapter 198, Acts of the 53rd
29 Legislature, Regular Session, 1953, refers to the
30 creation and incorporation of the district. The
31 revised law omits "created and incorporated" as
32 executed.

33 (2) Section 7, Chapter 198, Acts of the 53rd
34 Legislature, Regular Session, 1953, refers to the
35 district as a "governmental agency, a body politic and
36 corporate." The revised law omits the quoted language
37 because it duplicates a portion of Section 59(b),
38 Article XVI, Texas Constitution, which provides that a

1 conservation and reclamation district is a
2 governmental agency and a body politic and corporate.

3 Revised Law

4 Sec. 9057.003. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)
5 The district is created to serve a public use and benefit.

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

8 (c) The district is essential to accomplish the purposes of
9 Section 59, Article XVI, Texas Constitution. (Acts 53rd Leg., R.S.,
10 Ch. 198, Secs. 4 (part), 7 (part).)

11 Source Law

12 Sec. 4. It is hereby found and determined that
13 all of the lands included within the boundaries of the
14 District will be benefited and that the District is
15 created to serve a public use and benefit. . . .

16 Sec. 7. The Legislature hereby exercises the
17 authority conferred upon it by Section 59, Article 16
18 of the Constitution, and declares that the District
19 created by this Act is essential to the accomplishment
20 of the purposes of said constitutional provision,
21 finds that all of the land included therein will be
22 benefited thereby, and

23 Revisor's Note

24 Section 7, Chapter 198, Acts of the 53rd
25 Legislature, Regular Session, 1953, provides that the
26 legislature "hereby exercises the authority conferred
27 upon it by" Section 59, Article XVI, Texas
28 Constitution, and "declares that the District created
29 by this Act" is essential to accomplish the purposes of
30 that provision. The revised law omits the quoted
31 language as executed.

32 Revised Law

33 Sec. 9057.004. DISTRICT TERRITORY. The district is
34 composed of the territory described by Section 1, Chapter 198, Acts
35 of the 53rd Legislature, Regular Session, 1953, as that territory
36 may have been modified under:

37 (1) Subchapter O, Chapter 51, Water Code;

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

1 (3) other law. (New.)

2 Revisor's Note

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

20 SUBCHAPTER B. BOARD OF DIRECTORS

21 Revised Law

22 Sec. 9057.051. COMPOSITION OF BOARD. The board is composed
23 of five elected directors. (Acts 53rd Leg., R.S., Ch. 198, Sec. 3
24 (part).)

25 Source Law

26 Sec. 3. The management and control of the
27 District is hereby vested in a Board of Directors.
28 . . . The Board of Directors shall be composed of five
29 (5) members who . . . [serve as Directors . . . until
30 their successors] shall have been duly elected and
31

32 Revisor's Note

33 Section 3, Chapter 198, Acts of the 53rd
34 Legislature, Regular Session, 1953, provides that the
35 management and control of the District is vested in the
36 board. The revised law omits the reference because it

1 duplicates in substance parts of Sections 49.051 and
2 49.057, Water Code. Throughout this chapter, the
3 revised law omits law that is superseded by Chapter 49,
4 Water Code, or that duplicates law contained in that
5 chapter. Chapter 49, Water Code, applies to the
6 district under Sections 49.001 and 49.002 of that
7 chapter.

8 Revisor's Note
9 (End of Subchapter)

10 (1) Section 3, Chapter 198, Acts of the 53rd
11 Legislature, Regular Session, 1953, requires a
12 director of the district to have the same
13 qualifications as directors of water control and
14 improvement districts. The revised law omits that
15 language because general law governing the
16 qualifications of directors of water control and
17 improvement districts, including Section 51.072,
18 Water Code, applies by its own terms. The omitted law
19 reads:

20 Sec. 3. . . . [The Board of
21 Directors] . . . shall have the same
22 qualifications as Directors of Water
23 Control and Improvement Districts. . . .

24 (2) Section 3, Chapter 198, Acts of the 53rd
25 Legislature, Regular Session, 1953, refers to the
26 powers and authority conferred and imposed on the
27 board under Chapter 25, Acts of the 39th Legislature,
28 Regular Session, 1925, as amended, as incorporated in
29 Chapter 3A, Title 128, Vernon's Texas Civil Statutes,
30 as amended. The relevant provisions of that chapter
31 were codified in 1971 as Chapter 51, Water Code.
32 Chapter 715, Acts of the 74th Legislature, Regular
33 Session, 1995, repealed many of the provisions of
34 Chapter 51 and enacted similar provisions in Chapter
35 49, Water Code. The revised law omits the reference to
36 the board's powers and authority because Chapters 49

1 and 51, Water Code, which both apply to the district on
2 their own terms, provide for the powers and authority
3 of the board. The revised law omits references to
4 "amendments thereto" with respect to Chapters 25 and
5 3A because under Section 311.027, Government Code
6 (Code Construction Act), a reference to a statute
7 applies to all reenactments, revisions, or amendments
8 of that statute unless expressly provided otherwise.
9 The omitted law reads:

10 Sec. 3. . . . [a Board] . . . which
11 shall have all of the powers and authority
12 conferred and imposed upon boards of
13 directors of Water Control and Improvement
14 Districts organized under the provisions of
15 Chapter 25, Acts of the Thirty-ninth
16 Legislature passed in 1925 and amendments
17 thereto, as incorporated in Title 128,
18 Chapter 3A of Vernon's Civil Statutes of the
19 State of Texas and amendments thereto.
20 . . .

21 (3) Section 3, Chapter 198, Acts of the 53rd
22 Legislature, Regular Session, 1953, provides that the
23 provisions of the act applicable to the board and its
24 members prevail over general laws applicable to water
25 control and improvement districts in case of a
26 conflict or an inconsistency. The revised law omits
27 that provision because, under general rules of
28 statutory construction, a statute automatically has
29 the effect of repealing prior conflicting enactments
30 and is ineffective to repeal subsequent legislation,
31 and because it duplicates in substance Section
32 311.026(b), Government Code (Code Construction Act).
33 Section 311.026(b) provides that if there is a
34 conflict between a general provision of law and a
35 special or local provision, the special or local
36 provision prevails unless the general provision is the
37 later enactment and the manifest intent is that the
38 general provision prevail. The omitted law reads:

39 Sec. 3. . . . In the event, and to

1 the extent that any of the provisions of the
2 General Laws referred to in this Section are
3 in conflict with or inconsistent with any of
4 the provisions of this Act relating to the
5 powers, authority, and duties of the Board
6 of Directors and its members, the
7 provisions of this Act shall prevail. . . .

8 (4) Section 3, Chapter 198, Acts of the 53rd
9 Legislature, Regular Session, 1953, provides for the
10 appointment of the initial board of directors and the
11 first election of directors to the board of directors
12 of the district. The revised law omits those
13 provisions as executed. The omitted law reads:

14 Sec. 3. . . . The County Judge of
15 Medina County, Texas, is hereby authorized
16 and empowered to appoint five (5) persons
17 qualified under the law to serve as
18 Directors of the District until their
19 successors [shall have been duly elected
20 and] shall have qualified. The first
21 election of Directors shall be held on the
22 second Tuesday in January, 1954, in
23 accordance with the provisions of Section
24 37 of Chapter 25, Acts of the Thirty-ninth
25 Legislature, as amended by Section 6 of
26 Chapter 107 of the Acts of the First Called
27 Session of the Fortieth Legislature, as
28 carried forward in Article 7880-37 of
29 Vernon's Civil Statutes of the State of
30 Texas and laws amendatory thereof and
31 supplemental thereto.

32 SUBCHAPTER C. POWERS AND DUTIES

33 Revised Law

34 Sec. 9057.101. WATER CONTROL AND IMPROVEMENT DISTRICT
35 POWERS. The district has the rights, powers, privileges, and
36 duties provided by general law applicable to a water control and
37 improvement district created under Section 59, Article XVI, Texas
38 Constitution, including Chapters 49 and 51, Water Code. (Acts 53rd
39 Leg., R.S., Ch. 198, Sec. 2 (part).)

40 Source Law

41 Sec. 2. The District shall have and exercise,
42 and is hereby vested with all of the rights, powers,
43 privileges and duties conferred and imposed by the
44 General Laws of this State now in force or hereafter
45 enacted, applicable to water control and improvement
46 districts created under authority of Section 59,
47 Article 16 of the Constitution, but

48 Revisor's Note

49 (1) Section 2, Chapter 198, Acts of the 53rd

1 Legislature, Regular Session, 1953, states that the
2 district "shall have and exercise, and is hereby
3 vested with" certain rights, powers, privileges, and
4 duties. The revised law substitutes "has" for the
5 quoted language because, in context, the terms are
6 synonymous and "has" is more commonly used.

7 (2) Section 2, Chapter 198, Acts of the 53rd
8 Legislature, Regular Session, 1953, states that the
9 district has the rights, powers, privileges, and
10 duties "conferred and imposed" by general law. The
11 revised law substitutes "provided" for the quoted
12 language because regardless of whether a right, power,
13 privilege, or duty is "conferred" by general law or
14 "imposed" by general law, it is not necessary to
15 characterize in the revised law the nature of the
16 granting of that authority. In context, "provided" is
17 synonymous with "conferred and imposed" and "provided"
18 is more commonly used.

19 (3) Section 2, Chapter 198, Acts of the 53rd
20 Legislature, Regular Session, 1953, refers to the
21 general laws of this state "now in force or hereafter
22 enacted." The revised law omits the quoted language as
23 unnecessary under accepted general principles of
24 statutory construction. The "[g]eneral [l]aws of this
25 [s]tate" means those laws "in force" at the time the
26 provision was adopted. It is unnecessary to state that
27 the district may be granted additional powers by later
28 enacted laws because those laws apply on their own
29 terms.

30 (4) Section 2, Chapter 198, Acts of the 53rd
31 Legislature, Regular Session, 1953, refers to the
32 general laws "applicable to water control and
33 improvement districts." For the reader's convenience,
34 the revised law adds references to Chapter 49, Water

1 Code, applicable under Sections 49.001 and 49.002 of
2 that chapter to districts created under Section 59,
3 Article XVI, Texas Constitution, and Chapter 51, Water
4 Code, applicable to water control and improvement
5 districts.

6 (5) Section 2, Chapter 198, Acts of the 53rd
7 Legislature, Regular Session, 1953, provides that the
8 act prevails over general law that applies to water
9 control and improvement districts and that is in
10 conflict or inconsistent with the act and that all
11 general laws applicable to water control and
12 improvement districts are incorporated by reference.
13 The revised law omits the portion of the provision
14 relating to the act prevailing over general law for the
15 reasons stated in Revisor's Note (3) to the end of
16 Subchapter B. The revised law omits the portion of the
17 provision relating to incorporation of general laws
18 because Section 2 of Chapter 198 (revised as this
19 section) already provides that those laws apply to the
20 district, and it is unnecessary to repeat that
21 authority. The omitted law reads:

22 Sec. 2. [The District shall have and
23 exercise, and is hereby vested with all of
24 the rights, powers, privileges and duties
25 conferred and imposed by the General Laws of
26 this State now in force or hereafter
27 enacted, applicable to water control and
28 improvement districts created under
29 authority of Section 59, Article 16 of the
30 Constitution, but] to the extent that the
31 provisions of any such General Laws may be
32 in conflict or inconsistent with the
33 provisions of this Act, the provisions of
34 this Act shall prevail. All such General
35 Laws are hereby incorporated by reference
36 with the same effect as if incorporated in
37 full in this Act.

38 Revised Law

39 Sec. 9057.102. ACQUISITION OF PROPERTY; LIMIT ON EMINENT
40 DOMAIN POWER. (a) The district may acquire property that is
41 necessary to accomplish the objectives of the district.

1 (b) To facilitate the acquisition of property, the district
2 may exercise the power of eminent domain available to water control
3 and improvement districts under general law.

4 (c) The powers granted in this section apply only in Medina
5 County. (Acts 53rd Leg., R.S., Ch. 198, Sec. 6 (part).)

6 Source Law

7 Sec. 6. The District shall have authority to
8 acquire all property real and personal which is needed
9 in accomplishing the objectives of the District and to
10 facilitate the acquisition of property it shall have
11 all of the powers of eminent domain available to water
12 control and improvement districts under the General
13 Law; provided, however, that all of the powers granted
14 in this Section shall be limited in their application
15 to Medina County. . . .

16 Revisor's Note

17 (1) Section 6, Chapter 198, Acts of the 53rd
18 Legislature, Regular Session, 1953, provides that the
19 district "shall have authority to" acquire property.
20 The revised law substitutes "may" for the quoted
21 language because that term is more concise and is the
22 substantive equivalent of the quoted language.

23 (2) Section 6, Chapter 198, Acts of the 53rd
24 Legislature, Regular Session, 1953, refers to property
25 "real and personal." The revised law omits the quoted
26 language because under Section 311.005(4), Government
27 Code (Code Construction Act), "property" includes both
28 real and personal property.

29 (3) Section 6, Chapter 198, Acts of the 53rd
30 Legislature, Regular Session, 1953, provides that the
31 district "shall have all of" the powers of eminent
32 domain available to water control and improvement
33 districts. The revised law substitutes "may exercise"
34 for the quoted language because that phrase is more
35 concise and is the substantive equivalent of the
36 quoted language.

37 Revised Law

38 Sec. 9057.103. COST OF RELOCATING PROPERTY. If the

1 district's exercise of a power granted by this chapter makes
2 necessary the relocation of a railroad line or right-of-way, the
3 district shall pay the cost of the relocation and any actual and
4 reasonable damage incurred in changing and adjusting the railroad
5 lines and grades. (Acts 53rd Leg., R.S., Ch. 198, Sec. 6 (part).)

6 Source Law

7 Sec. 6. . . . In the event it becomes necessary
8 in the exercise of the powers conferred by this Act
9 that any railroad line or right-of-way should be
10 relocated, the cost of such relocation and any actual
11 and reasonable damage incurred in changing and
12 adjusting the lines and grades of such railroad shall
13 be paid by the District.

14 SUBCHAPTER D. BONDS

15 Revised Law

16 Sec. 9057.151. AUTHORITY TO ISSUE BONDS; BOND ELECTION.

17 (a) The district may issue bonds pursuant to a board order or
18 resolution adopted after the proposition authorizing the bonds is:

19 (1) submitted to district voters at an election; and

20 (2) adopted by a majority of the district voters
21 voting at the election.

22 (b) The district may issue bonds under this section for any
23 purpose permitted to water control and improvement districts and in
24 the manner and to the extent provided by the general laws governing
25 water control and improvement districts. (Acts 53rd Leg., R.S., Ch.
26 198, Sec. 5 (part).)

27 Source Law

28 Sec. 5. Bonds may be issued by the District
29 pursuant to an order or a resolution adopted by the
30 Board of Directors, when the proposition authorizing
31 the bonds shall first have been submitted to the
32 resident qualified property taxpaying voters of such
33 District, who own taxable property in such District,
34 and who have duly rendered the same for taxation and
35 adopted by not less than a majority of such qualified
36 voters voting at such election. The District may issue
37 bonds thus authorized for any and all purposes
38 permitted to Water Control and Improvement Districts
39 and in the manner and to the extent provided by the
40 General Laws governing Water Control and Improvement
41 Districts. . . .

42 Revisor's Note

43 Section 5, Chapter 198, Acts of the 53rd

1 Legislature, Regular Session, 1953, provides that the
2 "resident qualified property taxpaying voters . . .
3 who own taxable property in such District, and who have
4 duly rendered the same for taxation" may vote in the
5 bond election. The revised law omits the reference to
6 "resident qualified" voters as unnecessary in this
7 context because Chapter 11, Election Code, governs
8 eligibility to vote in an election in this state and
9 allows only qualified voters who are residents of the
10 territory covered by the election to vote in an
11 election. The revised law also omits the reference to
12 voting by persons who own taxable property and render
13 that property for taxation because in Hill v. Stone,
14 421 U.S. 289 (1975), the United States Supreme Court
15 determined that property ownership as a qualification
16 for voting is an unconstitutional denial of equal
17 protection.

18 Revised Law

19 Sec. 9057.152. CERTAIN BOND COVENANTS AUTHORIZED. An order
20 or resolution authorizing the issuance of district bonds may
21 contain any covenant the board considers necessary to ensure:

- 22 (1) the creation and maintenance of proper reserves;
23 and
24 (2) the payment of the principal of and interest on the
25 bonds. (Acts 53rd Leg., R.S., Ch. 198, Sec. 5 (part).)

26 Source Law

27 Sec. 5. . . .
28 The order or resolution authorizing the issuance
29 of the bonds may contain such covenants which in the
30 discretion of the Board of Directors are necessary to
31 assure the creation and maintenance of proper reserves
32 and the payment of the principal of and interest on the
33 bonds. . . .

34 Revisor's Note
35 (End of Subchapter)

36 (1) Section 5, Chapter 198, Acts of the 53rd
37 Legislature, Regular Session, 1953, prohibits the

1 district from issuing bonds before the bonds and the
2 record supporting the bonds are approved by the
3 attorney general. The revised law omits that provision
4 because it duplicates in substance part of Section
5 1202.003, Government Code. Section 1202.003,
6 Government Code, applies to district bonds under
7 Sections 1202.001 and 1202.003(c), Government Code.
8 The omitted law reads:

9 Sec. 5. . . .
10 No bonds shall be issued by the
11 District until the record supporting such
12 bonds and the bonds shall first have been
13 approved by the Attorney General. . . .

14 (2) Section 5, Chapter 198, Acts of the 53rd
15 Legislature, Regular Session, 1953, provides that
16 after approval the bonds shall be registered with the
17 comptroller. The revised law omits that provision
18 because it duplicates in substance Section 1202.005,
19 Government Code. Section 1202.005, Government Code,
20 applies to district bonds under Sections 1202.001
21 1202.003(c), Government Code. The omitted law reads:

22 Sec. 5. . . . Bonds thus approved
23 shall be registered in the office of the
24 Comptroller of Public Accounts. . . .

25 (3) Section 5, Chapter 198, Acts of the 53rd
26 Legislature, Regular Session, 1953, provides that
27 after approval and sale district bonds are negotiable
28 instruments and incontestable. The revised law omits
29 the reference to the bonds being negotiable
30 instruments because Section 1201.041, Government
31 Code, applicable to district bonds under Sections
32 1201.002 and 1201.003, Government Code, provides that
33 a public security is a negotiable instrument. The
34 revised law omits the reference to the bonds being
35 incontestable because it duplicates in substance
36 Section 1202.006, Government Code. Section 1202.006,
37 Government Code, applies to district bonds under

1 Sections 1202.001 and 1202.003(c), Government Code.

2 The omitted law reads:

3 Sec. 5. . . . Bonds thus approved by
4 the Attorney General, after sale by the
5 District, shall be fully negotiable
6 instruments and shall be incontestable.
7

8 (4) Section 5, Chapter 198, Acts of the 53rd
9 Legislature, Regular Session, 1953, provides that
10 general law provisions "pertaining to the issuance of
11 bonds by Water Control and improvement Districts"
12 apply to the issuance of district bonds if not
13 inconsistent with the provisions of Chapter 198. The
14 revised law omits the portion of the provision
15 relating to the applicability of general law
16 provisions to the issuance of district bonds because
17 Section 2 of Chapter 198 (revised as Section 9057.101)
18 provides that the general law applicable to water
19 control and improvement districts applies to the
20 district. The revised law omits the portion of the
21 provision relating to the applicability of general law
22 provisions that are not "inconsistent" with Chapter
23 198 for the reasons stated in Revisor's Note (3) to the
24 end of Subchapter B. The omitted law reads:

25 Sec. 5. . . . Provisions of the law
26 pertaining to the issuance of bonds by Water
27 Control and improvement Districts when not
28 inconsistent with the provisions of this
29 Act shall be applicable. . . .

30 (5) Section 5, Chapter 198, Acts of the 53rd
31 Legislature, Regular Session, 1953, authorizes the
32 district to issue refunding bonds. The revised law
33 omits that language because it duplicates in substance
34 Chapter 1207, Government Code, which contains general
35 authority for an issuer to issue refunding securities.
36 That chapter applies to the district because the
37 district is an issuer under Section 1207.001,
38 Government Code. The omitted law reads:

1 Sec. 5. . . .
2 The bonds of the District may be
3 refunded in the manner provided by the
4 General Laws governing Water Control and
5 Improvement Districts.

6 Revisor's Note
7 (End of Chapter)

8 Section 4, Chapter 198, Acts of the 53rd
9 Legislature, Regular Session, 1953, provides that it
10 is unnecessary to hold a confirmation election or a
11 hearing to determine whether land should be excluded
12 from the district. The provision is a transition
13 provision addressing procedures relative to the
14 creation of the district, and the revised law
15 therefore omits the provision as executed. The
16 omitted law reads:

17 Sec. 4. . . . No election shall be
18 necessary for the purpose of confirming its
19 organization and no hearings shall be held
20 to determine whether any lands included
21 within its boundaries should be excluded.