

PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL
Special District Local Laws
Code
Chapter 9059
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1 CHAPTER 9059. RIO GRANDE PALMS WATER DISTRICT

2 SUBCHAPTER A. GENERAL PROVISIONS

3 Revised Law

4 Sec. 9059.001. DEFINITIONS. In this chapter:

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

6 (2) "Director" means a member of the board.

7 (3) "District" means the Rio Grande Palms Water
8 District. (Acts 57th Leg., R.S., Ch. 324, Sec. 1 (part); New.)

9 Source Law

10 Sec. 1. . . . [a . . . district] . . . to be
11 known as "Rio Grande Palms Water District,"
12 hereinafter sometimes referred to as the "District."
13 . . .

14 Revisor's Note

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

19 Revised Law

20 Sec. 9059.002. NATURE OF DISTRICT. The district is:

21 (1) a conservation and reclamation district in Cameron
22 County under Section 59, Article XVI, Texas Constitution; and

23 (2) a municipal corporation. (Acts 57th Leg., R.S.,
24 Ch. 324, Secs. 1 (part), 9 (part).)

25 Source Law

26 Sec. 1. Under and pursuant to the provisions of
27 Article XVI, Section 59, of the Constitution, a
28 conservation and reclamation district within Cameron
29 County, Texas, is hereby created and incorporated,
30

31 Sec. 9. [The Legislature] . . . declares the
32 District to be a governmental agency, a body politic
33 and corporate, and a municipal corporation. . . .

34 Revisor's Note

35 (1) Section 1, Chapter 324, Acts of the 57th
36 Legislature, Regular Session, 1961, refers to the
37 creation and incorporation of the district. The
38 revised law omits "created and incorporated" as

1 executed.

2 (2) Section 9, Chapter 324, Acts of the 57th
3 Legislature, Regular Session, 1961, refers to the
4 district as a "governmental agency, a body politic and
5 corporate." The revised law omits the quoted language
6 because it duplicates a portion of Section 59(b),
7 Article XVI, Texas Constitution, which provides that a
8 conservation and reclamation district is a
9 governmental agency and a body politic and corporate.

10 Revised Law

11 Sec. 9059.003. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)
12 The district is essential to accomplish the purposes of Section 59,
13 Article XVI, Texas Constitution, including the conservation and
14 utilization of water.

15 (b) All land included in the district will benefit from that
16 inclusion. (Acts 57th Leg., R.S., Ch. 324, Sec. 9 (part).)

17 Source Law

18 Sec. 9. The Legislature hereby exercises the
19 authority conferred upon it by Section 59, Article XVI
20 of the Constitution, and declares that the District
21 created by this Act is essential to the accomplishment
22 of the purposes of said Constitutional provision,
23 including the conservation and utilization of water,
24 finds that all of the land included therein will be
25 benefited thereby, and

26 Revisor's Note

27 (1) Section 9, Chapter 324, Acts of the 57th
28 Legislature, Regular Session, 1961, provides that the
29 legislature "hereby exercises the authority conferred
30 upon it by" Section 59, Article XVI, Texas
31 Constitution, and "declares that the District created
32 by this Act" is essential to accomplish the purposes of
33 that provision. The revised law omits the quoted
34 language as executed.

35 (2) Section 9, Chapter 324, Acts of the 57th
36 Legislature, Regular Session, 1961, provides that no
37 proceeding for the exclusion of land is necessary or

1 required when the district is created. The revised law
2 omits the provision as executed. The omitted law
3 reads:

4 Sec. 9. [The Legislature . . .
5 declares] . . . that no proceedings for the
6 exclusion of land included herein are
7 necessary or required, and

8 Revised Law

9 Sec. 9059.004. DISTRICT TERRITORY. (a) The district is
10 composed of the territory described by Section 1, Chapter 324, Acts
11 of the 57th Legislature, Regular Session, 1961, as that territory
12 may have been modified under:

13 (1) Subsection (b) or its predecessor statute, Section
14 1, Chapter 324, Acts of the 57th Legislature, Regular Session,
15 1961;

16 (2) Subchapter O, Chapter 51, Water Code;

17 (3) Subchapter J, Chapter 49, Water Code; or

18 (4) other law.

19 (b) The Commissioners Court of Cameron County shall
20 redefine the boundaries of the district contained in Section 1,
21 Chapter 324, Acts of the 57th Legislature, Regular Session, 1961,
22 to correct any error or omission in those boundaries. (Acts 57th
23 Leg., R.S., Ch. 324, Sec. 1 (part); New.)

24 Source Law

25 Sec. 1. . . .
26 If there is any error or omission in the
27 description of the boundaries of said District, as set
28 forth in Section 1 of this Act, the Commissioners Court
29 of Cameron County, Texas, is hereby authorized and
30 directed to redefine said boundaries and correct the
31 error or supply the omission.

32 Revisor's Note

33 The revision of the law governing the district
34 does not revise the statutory language describing the
35 territory of the district to avoid the lengthy
36 recitation of the description and because that
37 description may not be accurate on the effective date
38 of the revision or at the time of a later reading. For

1 the reader's convenience, the revised law includes a
2 reference to the statutory description of the
3 district's territory and references to statutory
4 authority to change the district's territory under
5 Section 1 of the district's enabling legislation,
6 under Subchapter O, Chapter 51, Water Code, applicable
7 to water control and improvement districts, and under
8 Subchapter J, Chapter 49, Water Code, applicable to
9 the district under Sections 49.001 and 49.002 of that
10 chapter. The revised law also includes a reference to
11 the general authority of the legislature to enact a law
12 to change the district's territory.

13 SUBCHAPTER B. BOARD OF DIRECTORS

14 Revised Law

15 Sec. 9059.051. COMPOSITION OF BOARD. The board is composed
16 of five elected directors. (Acts 57th Leg., R.S., Ch. 324, Sec. 3
17 (part).)

18 Source Law

19 Sec. 3. The management and control of the
20 District is hereby vested in a Board of Directors
21 The Board of Directors shall be composed of
22 five (5) members [persons . . . serve as
23 directors . . . until their successors] shall have
24 been duly elected and

25 Revisor's Note

26 Section 3, Chapter 324, Acts of the 57th
27 Legislature, Regular Session, 1961, provides that the
28 "management and control of the District is hereby
29 vested" in the board. The revised law omits the quoted
30 language because it duplicates in substance parts of
31 Sections 49.051 and 49.057, Water Code. Chapter 49,
32 Water Code, applies to the district under Sections
33 49.001 and 49.002 of that code.

34 Revised Law

35 Sec. 9059.052. QUALIFICATION FOR OFFICE. (a) A director
36 must own land in the district.

1 (b) A director is not required to reside in the district.
2 (Acts 57th Leg., R.S., Ch. 324, Sec. 3 (part).)

3 Source Law

4 Sec. 3. . . . [The Board of Directors shall be
5 composed of five (5) members] who own land in the
6 District, but they need not reside in the
7 District. . . .

8 Revisor's Note
9 (End of Subchapter)

10 (1) Section 3, Chapter 324, Acts of the 57th
11 Legislature, Regular Session, 1961, refers to the
12 powers and authority conferred and imposed on the
13 board under Chapter 25, Acts of the 39th Legislature,
14 Regular Session, 1925, as incorporated in Chapter 3A,
15 Title 128, Vernon's Texas Civil Statutes. The relevant
16 provisions of that chapter were codified in 1971 as
17 Chapter 51, Water Code. Chapter 715, Acts of the 74th
18 Legislature, Regular Session, 1995, repealed many of
19 the provisions of Chapter 51 and enacted similar
20 provisions in Chapter 49, Water Code. The revised law
21 omits the reference to the board's powers and authority
22 because Chapters 49 and 51, Water Code, which both
23 apply to the district on their own terms, provide for
24 the powers and authority of the board. The revised law
25 omits "amendments thereto" with respect to Chapters 25
26 and 3A because under Section 311.027, Government Code
27 (Code Construction Act), a reference to a statute
28 applies to all reenactments, revisions, or amendments
29 of that statute unless expressly provided otherwise.
30 The omitted law reads:

31 Sec. 3. . . . [a Board] . . . which
32 shall have all of the powers and authority
33 conferred and imposed upon Boards of
34 Directors of Water Control and Improvement
35 Districts organized under the provisions of
36 Chapter 25, Acts of the Thirty-ninth
37 Legislature passed in 1925 and amendments
38 thereto, as incorporated in Title 128,
39 Chapter 3A of Vernon's Civil Statutes of the
40 State of Texas, and amendments thereto.
41 . . .

1 (2) Section 3, Chapter 324, Acts of the 57th
2 Legislature, Regular Session, 1961, provides that the
3 provisions of the act applicable to the board and its
4 members prevail over general law applicable to water
5 control and improvement districts in case of a
6 conflict or other inconsistency. The revised law
7 omits the provision because, under general rules of
8 statutory construction, a statute automatically has
9 the effect of repealing prior conflicting enactments
10 and is ineffective to repeal subsequent legislation,
11 and because it duplicates in substance Section
12 311.026(b), Government Code (Code Construction Act),
13 which provides that if there is a conflict between a
14 general provision of law and a special or local
15 provision, the special or local provision prevails
16 unless the general provision is the later enactment
17 and the manifest intent is that the general provision
18 prevail. The omitted law reads:

19 Sec. 3. . . . In the event, and to
20 the extent that any of the provisions of the
21 general laws referred to in this Section are
22 in conflict with or inconsistent with any of
23 the provisions of this Act relating to the
24 powers, authority and duties of the Board of
25 Directors and its members, the provisions
26 of this Act shall prevail. . . .

27 (3) Section 3, Chapter 324, Acts of the 57th
28 Legislature, Regular Session, 1961, provides for the
29 appointment of the initial board of directors and the
30 first election of directors to the board of directors
31 of the district. The revised law omits those
32 provisions as executed. The omitted law reads:

33 Sec. 3. . . . The County Judge of
34 Cameron County is hereby authorized and
35 empowered to appoint five (5) persons
36 qualified under this law to serve as
37 directors of the District until their
38 successors [shall have been duly elected
39 and] shall have qualified. The first
40 election of directors shall be held on the
41 second Tuesday in January, 1962, in
42 accordance with the provisions of Section

1 37 of Chapter 25, Acts of the Thirty-ninth
2 Legislature, as amended by Section 6 of
3 Chapter 107 of the Acts of the First Called
4 Session of the Fortieth Legislature, as
5 carried forward in Article 7880-37 of
6 Vernon's Civil Statutes of the State of
7 Texas, and laws amendatory thereof and
8 supplemental thereto.

9 SUBCHAPTER C. POWERS AND DUTIES

10 Revised Law

11 Sec. 9059.101. 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 57th
16 Leg., R.S., Ch. 324, Sec. 2 (part); New.)

17 Source Law

18 Sec. 2. The District shall have and exercise,
19 and is hereby vested with all of the rights, powers,
20 privileges and duties conferred and imposed by the
21 General Laws of this State now in force or hereafter
22 enacted, applicable to Water Control and Improvement
23 Districts created under authority of Section 59,
24 Article XVI of the Constitution, but

25 Revisor's Note

26 (1) Section 2, Chapter 324, Acts of the 57th
27 Legislature, Regular Session, 1961, states that the
28 district "shall have and exercise, and is hereby
29 vested with" certain rights, powers, privileges, and
30 duties. The revised law substitutes "has" for the
31 quoted language because, in context, the terms are
32 synonymous and "has" is more commonly used.

33 (2) Section 2, Chapter 324, Acts of the 57th
34 Legislature, Regular Session, 1961, states that the
35 district has the rights, powers, privileges, and
36 duties "conferred and imposed" by general law. The
37 revised law substitutes "provided" for the quoted
38 language because regardless of whether a right, power,
39 privilege, or duty is "conferred" by general law or
40 "imposed" by general law, it is not necessary to
41 characterize in the revised law the nature of the

1 granting of that authority. In context, "provided" is
2 synonymous with "conferred and imposed" and "provided"
3 is more commonly used.

4 (3) Section 2, Chapter 324, Acts of the 57th
5 Legislature, Regular Session, 1961, refers to the
6 general laws of this state "now in force or hereafter
7 enacted." The revised law omits the quoted language as
8 unnecessary under accepted general principles of
9 statutory construction. The "General Laws of this
10 State" means those laws "in force" at the time the
11 provision was adopted. It is unnecessary to state that
12 the district may be granted additional powers by later
13 enacted laws because those laws apply on their own
14 terms.

15 (4) Section 2, Chapter 324, Acts of the 57th
16 Legislature, Regular Session, 1961, refers to the
17 general laws "applicable to Water Control and
18 Improvement Districts." For the reader's convenience,
19 the revised law adds references to Chapter 49, Water
20 Code, applicable under Sections 49.001 and 49.002 of
21 that chapter to many types of districts, including
22 water control and improvement districts, created under
23 Section 59, Article XVI, Texas Constitution, and to
24 Chapter 51, Water Code, applicable to water control
25 and improvement districts.

26 (5) Section 2, Chapter 324, Acts of the 57th
27 Legislature, Regular Session, 1961, provides that the
28 act prevails over general law that applies to water
29 control and improvement districts and that is in
30 conflict or inconsistent with the act and that all
31 general laws applicable to water control and
32 improvement districts are incorporated by reference.
33 The revised law omits the portion of the provision
34 relating to the act prevailing over general law for the

1 language because under Section 311.005(4), Government
2 Code (Code Construction Act), "property" includes both
3 real and personal property.

4 (3) Section 6, Chapter 324, Acts of the 57th
5 Legislature, Regular Session, 1961, provides that, to
6 facilitate the acquisition of property, the district
7 has "all of the powers of eminent domain available to
8 water control and improvement districts under the
9 general law." The revised law omits the provision
10 because the general law described by the quoted
11 language, including Section 49.222, Water Code,
12 applies to the district on its own terms. The omitted
13 law reads:

14 Sec. 6. . . . to facilitate the
15 acquisition of property it shall have all of
16 the powers of eminent domain available to
17 water control and improvement districts
18 under the general law.

19 Revised Law

20 Sec. 9059.103. LIMIT ON EMINENT DOMAIN POWER. The district
21 may not exercise the power of eminent domain outside the district.
22 (Acts 57th Leg., R.S., Ch. 324, Sec. 9 (part).)

23 Source Law

24 Sec. 9. . . . The District shall not have
25 authority, however, to exercise the right of eminent
26 domain outside the boundaries of the District
27 established herein.

28 Revised Law

29 Sec. 9059.104. COST OF RELOCATING OR ALTERING PROPERTY.
30 (a) In this section, "sole expense" means the actual cost of
31 relocating, raising, lowering, rerouting, changing the grade of, or
32 altering the construction of a facility described by Subsection (b)
33 in providing comparable replacement without enhancement of the
34 facility, after deducting from that cost the net salvage value
35 derived from the old facility.

36 (b) If the district's exercise of the power of eminent
37 domain, the power of relocation, or any other power granted by this

1 chapter makes necessary relocating, raising, rerouting, changing
2 the grade of, or altering the construction of a highway, railroad,
3 electric transmission line, telephone or telegraph property or
4 facility, or pipeline, the necessary action shall be accomplished
5 at the sole expense of the district. (Acts 57th Leg., R.S., Ch.
6 324, Sec. 10.)

7 Source Law

8 Sec. 10. In the event that the District, in the
9 exercise of the power of eminent domain or power of
10 relocation, or any other power granted hereunder,
11 makes necessary the relocation, raising, rerouting or
12 changing the grade of, or altering the construction of
13 any highway, railroad, electric transmission line,
14 telephone or telegraph properties and facilities, or
15 pipeline, all such necessary relocation, raising,
16 re-routing, changing of grade or alteration of
17 construction shall be accomplished at the sole expense
18 of the District. The term "sole expense" shall mean
19 the actual cost of such relocation, raising, lowering,
20 re-routing, or change in grade of or alteration of
21 construction in providing comparable replacement
22 without enhancement of such facilities, after
23 deducting therefrom the net salvage value derived from
24 the old facility.

25 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

26 Revised Law

27 Sec. 9059.151. MAINTENANCE TAX. The board may impose an ad
28 valorem tax on all taxable property in the district for the
29 maintenance and operation of district works and facilities if the
30 tax is authorized by an election held as provided by law relating to
31 water control and improvement district bond elections. (Acts 57th
32 Leg., R.S., Ch. 324, Sec. 7.)

33 Source Law

34 Sec. 7. When authorized by an election called
35 and held as provided by laws relating to Water Control
36 and Improvement bond elections, (except that a
37 petition shall not be required) the Board of Directors
38 of the District may levy an ad valorem tax against all
39 taxable property in the District for the purpose of
40 maintaining and operating the works and facilities of
41 the District.

42 Revisor's Note

43 (1) Section 7, Chapter 324, Acts of the 57th
44 Legislature, Regular Session, 1961, provides that an
45 election to authorize an ad valorem maintenance and

1 operations tax must be "called and held" in a specified
2 manner. The revised law omits the reference to
3 "calling" an election because, in context, "calling"
4 an election is included in the meaning of "holding" an
5 election. Under Chapter 3, Election Code, all
6 elections must be ordered (called) before they may be
7 held.

8 (2) Section 7, Chapter 324, Acts of the 57th
9 Legislature, Regular Session, 1961, provides that an
10 election to authorize an ad valorem maintenance and
11 operations tax must be called and held as provided by
12 the law relating to water control and improvement
13 district bond elections, "except that a petition shall
14 not be required." The revised law omits the quoted
15 language because the general law relating to water
16 control and improvement district bond elections,
17 including Section 49.106, Water Code, applicable to
18 the district under Sections 49.001 and 49.002, Water
19 Code, does not require a petition to hold the election.

20 (3) Section 7, Chapter 324, Acts of the 57th
21 Legislature, Regular Session, 1961, refers to the
22 "levy" of an ad valorem tax. The revised law
23 substitutes "impose" for "levy" because "impose" is
24 the term generally used in Title 1, Tax Code, and
25 includes the levy of an ad valorem tax.

26 SUBCHAPTER E. BONDS

27 Revised Law

28 Sec. 9059.201. AUTHORITY TO ISSUE BONDS. (a) The district
29 may issue bonds pursuant to a resolution adopted by the board if a
30 majority of district voters voting at an election vote to adopt the
31 proposition authorizing the bonds.

32 (b) The district may issue bonds for any purpose permitted
33 to a water control and improvement district, including:

34 (1) the improvement of rivers, creeks, streams,

1 arroyos, and resacas, to prevent overflow, to furnish access to
2 land in the district, to permit navigation of the water or
3 irrigation of land in the district, or in aid of those purposes; or
4 (2) the acquisition of water rights, the construction
5 or acquisition by purchase or other means, and maintenance of
6 pools, lakes, reservoirs, dams, pipelines, canals and waterways,
7 pumps, pump houses, and all other useful equipment, machinery, and
8 facilities, for the purpose or in aid of irrigation, drainage,
9 conservation, or navigation, including the purchase of an existing
10 irrigation or conservation system. (Acts 57th Leg., R.S., Ch. 324,
11 Sec. 4 (part).)

12 Source Law

13 Sec. 4. Bonds may be issued by the District
14 pursuant to a resolution or resolutions adopted by the
15 Board of Directors, when the proposition authorizing
16 the bonds shall have first been submitted to the
17 property tax-paying voters of such District and
18 adopted by not less than a majority of such qualified
19 voters voting at such election. The District may issue
20 bonds thus authorized for any and all purposes
21 permitted to Water Control and Improvement Districts,
22 including, but without limitation of purposes not
23 specified, the following:

24 (a) The improvement of rivers, creeks, streams,
25 arroyos, and resacas, to prevent overflow, to furnish
26 access to land in the District, to permit navigation of
27 such water or irrigation of lands in the District, or
28 in aid of such purposes;

29 (b) The acquisition of water rights, the
30 construction or acquisition by purchase or otherwise,
31 and maintenance of pools, lakes, reservoirs, dams,
32 pipelines, canals and waterways, pumps, pump houses
33 and all other useful equipment, machinery and
34 facilities, for the purpose of irrigation, drainage,
35 conservation or navigation or in aid thereof. Such
36 purpose including the purchase of an existing
37 irrigation or conservation system.

38 . . .

39 Revisor's Note

40 (1) Section 4, Chapter 324, Acts of the 57th
41 Legislature, Regular Session, 1961, refers to
42 "property tax-paying voters." The revised law omits
43 "property tax-paying" because in Hill v. Stone, 421
44 U.S. 289 (1975), the United States Supreme Court
45 determined that property ownership as a qualification
46 for voting is an unconstitutional denial of equal

1 protection.

2 (2) Section 4, Chapter 324, Acts of the 57th
3 Legislature, Regular Session, 1961, refers to a vote
4 of "qualified voters" voting at an election to adopt a
5 proposition authorizing a bond issuance. The revised
6 law omits "qualified" as unnecessary in this context
7 because Chapter 11, Election Code, governs eligibility
8 to vote in an election in this state and allows only
9 "qualified" voters who are residents of the territory
10 covered by the election to vote in an election.

11 (3) Section 4, Chapter 324, Acts of the 57th
12 Legislature, Regular Session, 1961, provides that the
13 district may issue bonds for certain purposes,
14 "including, but without limitation of purposes not
15 specified," those powers listed in the district's
16 enabling legislation. The revised law omits "without
17 limitation of purposes not specified" because Section
18 311.005(13), Government Code (Code Construction Act),
19 provides that "includes" and "including" are terms of
20 enlargement and not limitation and do not create a
21 presumption that components not expressed are
22 excluded.

23 Revised Law

24 Sec. 9059.202. EXCHANGING BONDS FOR PROPERTY. The district
25 may exchange bonds for property acquired for the use and benefit of
26 the district. (Acts 57th Leg., R.S., Ch. 324, Sec. 4 (part).)

27 Source Law

28 Sec. 4. . . . The District may exchange bonds
29 for property to be acquired for the use and benefit of
30 the District. . . .

31 Revised Law

32 Sec. 9059.203. CERTAIN BOND COVENANTS AUTHORIZED. A
33 resolution authorizing the issuance of district bonds may contain
34 any covenant the board considers necessary to ensure:

35 (1) the creation and maintenance of proper reserves;

1 and

2 (2) the payment of the principal of and interest on the
3 bonds. (Acts 57th Leg., R.S., Ch. 324, Sec. 4 (part).)

4 Source Law

5 Sec. 4. . . .

6 The resolution or resolutions authorizing the
7 issuance of the bonds may contain such covenants which
8 in the discretion of the Board of Directors are
9 necessary to assure the creation and maintenance of
10 proper reserves and the payment of the principal of and
11 interest on the bonds. . . .

12 Revised Law

13 Sec. 9059.204. MATURITY. District bonds, including
14 refunding bonds, must mature not later than 40 years after the date
15 of their issuance. (Acts 57th Leg., R.S., Ch. 324, Sec. 4 (part).)

16 Source Law

17 Sec. 4. . . .

18 Such bonds may be issued to mature serially or
19 otherwise as may be determined by the Board of
20 Directors, the maximum maturity date not to exceed
21 forty (40) years, and

22 [The bonds of the District may be refunded] . . .
23 provided the maximum maturity of the refunding bonds
24 shall not exceed forty (40) years.

25 . . .

26 Revisor's Note

27 Section 4, Chapter 324, Acts of the 57th
28 Legislature, Regular Session, 1961, provides that
29 district bonds may be issued to mature "serially or
30 otherwise." The revised law omits the quoted language
31 because it is superseded by Section 1201.021,
32 Government Code (enacted as Section 3, Bond Procedures
33 Act of 1981 (Article 717k-6, Vernon's Texas Civil
34 Statutes)), which provides that the governing body of
35 an issuer may determine the time of payment of public
36 securities it issues, and by Section 1201.022,
37 Government Code (enacted as Section 5(a), Bond
38 Procedures Act of 1981 (Article 717k-6, Vernon's Texas
39 Civil Statutes)), which provides that a public
40 security may be issued with specified characteristics,
41 on specified terms, or in a specified manner. Sections

1 1201.021 and 1201.022, Government Code, apply to
2 district bonds under Sections 1201.002 and 1201.003,
3 Government Code.

4 Revised Law

5 Sec. 9059.205. USE OF BOND PROCEEDS. The district may
6 appropriate and pay from the proceeds of the sale of bonds the
7 interest to accrue on the bonds for a period not to exceed three
8 years from their date. (Acts 57th Leg., R.S., Ch. 324, Sec. 4
9 (part).)

10 Source Law

11 Sec. 4. . . . Interest to accrue on the bonds
12 for a period not to exceed three (3) years from their
13 date may be appropriated and paid from the proceeds
14 from the sale of the bonds.

15 . . .

16 Revised Law

17 Sec. 9059.206. BONDS SECURED BY AD VALOREM TAXES. (a) If
18 bonds have been voted, the board shall impose a continuing ad
19 valorem tax on all property in the district sufficient:

20 (1) to pay the principal and interest on the bonds as
21 the principal and interest respectively mature;

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

24 (3) to pay the expense of assessing and collecting the
25 tax; and

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

27 (b) The board annually shall determine and set or cause to
28 be determined and set the rate of the ad valorem tax to be imposed
29 under this section. (Acts 57th Leg., R.S., Ch. 324, Sec. 5.)

30 Source Law

31 Sec. 5. Whenever bonds shall have been voted
32 within the District in accordance with the provisions
33 of law the Board of Directors shall levy a continuing
34 ad valorem tax upon all property within the District
35 sufficient in amount to pay the interest on such bonds
36 and the principal thereof as such interest and
37 principal respectively mature and to create and
38 maintain such reserves as may be required in the
39 resolution or resolutions authorizing the issuance of
40 such bonds, and the Board of Directors of the District
41 shall annually determine and fix, or cause to be

1 determined and fixed the rate of ad valorem tax to be
2 assessed and collected for such year upon all property
3 within said District in an amount sufficient for such
4 requirements of principal and interest and to create
5 and maintain such reserves, including an amount
6 sufficient to pay the expenses of assessing and
7 collecting such tax, and for anticipated delinquencies
8 in tax payments.

9 Revisor's Note

10 (1) Section 5, Chapter 324, Acts of the 57th
11 Legislature, Regular Session, 1961, refers to bonds
12 that have been voted "in accordance with the
13 provisions of law." The revised law omits the quoted
14 language because an election to authorize the issuance
15 of district bonds must be conducted in accordance with
16 law.

17 (2) Section 5, Chapter 324, Acts of the 57th
18 Legislature, Regular Session, 1961, refers to the
19 board's duty to "levy" a tax and to determine and fix
20 the rate of the tax to be "assessed and collected." The
21 revised law substitutes "impose" for "levy" and
22 "imposed" for "assessed and collected" because
23 "impose" is the term generally used in Title 1, Tax
24 Code, and includes the assessment, levying, and
25 collection of a tax.

26 (3) Section 5, Chapter 324, Acts of the 57th
27 Legislature, Regular Session, 1961, requires the board
28 to levy a continuing tax to pay the principal of and
29 interest on bonds. The revised law specifies that the
30 tax is an "ad valorem" tax because it is clear from the
31 source law that the tax is a property tax. Section
32 1(b), Article VIII, Texas Constitution, requires all
33 property that is taxed to be taxed in proportion to its
34 value, and accordingly "ad valorem" tax is the term
35 most commonly used in Texas law to refer to a tax on
36 property.

37 Revised Law

38 Sec. 9059.207. REFUNDING BONDS. (a) The district may issue

1 refunding bonds without an election.

2 (b) District bonds may be refunded by:

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

5 (2) the sale of refunding bonds and the use of the
6 proceeds for retiring the outstanding bonds. (Acts 57th Leg., R.S.,
7 Ch. 324, Sec. 4 (part).)

8 Source Law

9 Sec. 4. . . .

10 The bonds of the District may be refunded,
11 without the necessity of an election, either by the
12 issuance and delivery to holders of refunding bonds in
13 lieu of the outstanding bonds or through the sale of
14 refunding bonds and the use of the proceeds for
15 retiring the outstanding bonds,

16 Revisor's Note
17 (End of Subchapter)

18 (1) Section 4, Chapter 324, Acts of the 57th
19 Legislature, Regular Session, 1961, provides that
20 district bonds may be sold "at a price and under terms
21 determined by the Board of Directors to be the most
22 advantageous reasonably obtainable." The revised law
23 omits the quoted language because it is superseded by
24 general law. Section 1201.022, Government Code, as
25 amended in 2001, provides that an issuer may sell
26 public securities "under the terms determined by the
27 governing body of the issuer to be in the issuer's best
28 interests." Section 1201.022, Government Code,
29 applies to district bonds by application of Sections
30 1201.002 and 1201.003, Government Code. The omitted
31 law reads:

32 Sec. 4. . . .

33 [Such bonds] . . . may be sold at a
34 price and under terms determined by the
35 Board of Directors to be the most
36 advantageous reasonably obtainable,

37 (2) Section 4, Chapter 324, Acts of the 57th
38 Legislature, Regular Session, 1961, provides that the
39 interest cost of district bonds may not exceed six

1 percent per year. Section 4 also provides that the
2 average annual interest rate of district refunding
3 bonds, calculated to maturity, shall not be greater
4 than the average interest rate of the bonds refunded,
5 calculated to maturity. The revised law omits those
6 provisions because they are superseded by other law.
7 Chapter 3, Acts of the 61st Legislature, Regular
8 Session, 1969 (Article 717k-2, Vernon's Texas Civil
9 Statutes), now Chapter 1204, Government Code,
10 established a maximum interest rate for public
11 securities. Section 1204.006, Government Code,
12 permits a public agency to issue public securities at
13 any net effective interest rate of 15 percent or less.
14 Section 1204.006, Government Code, applies to district
15 bonds, including refunding bonds, under Sections
16 1204.001 and 1204.002, Government Code. The omitted
17 law reads:

18 Sec. 4. . . .
19 [Such bonds] . . . [may be sold] . . .
20 provided that the interest cost to the
21 District, calculated by use of standard
22 bond interest tables currently in use by
23 insurance companies and investment houses
24 does not exceed six per cent (6%) per
25 annum. . . .
26 [The bonds of the District may be
27 refunded] . . . provided that the average
28 annual interest rate of the refunding
29 bonds, calculated to maturity shall not be
30 greater than the average interest rate of
31 the bonds refunded, calculated to maturity,
32 and

33 (3) Section 4, Chapter 324, Acts of the 57th
34 Legislature, Regular Session, 1961, prohibits the
35 district from issuing bonds before the bonds and the
36 record supporting the bonds are approved by the
37 attorney general. The revised law omits that
38 provision because it duplicates in substance part of
39 Section 1202.003, Government Code. Section 1202.003,
40 Government Code, applies to district bonds under
41 Sections 1202.001 and 1202.003(c), Government Code.

1 The omitted law reads:

2 Sec. 4. . . .
3 No bonds shall be issued by the
4 District until the record supporting such
5 bonds and the bonds shall first have been
6 approved by the Attorney General. . . .

7 (4) Section 4, Chapter 324, Acts of the 57th
8 Legislature, Regular Session, 1961, provides that
9 after approval the bonds shall be registered with the
10 comptroller. The revised law omits that provision
11 because it duplicates in substance Section 1202.005,
12 Government Code. Section 1202.005, Government Code,
13 applies to district bonds under Sections 1202.001 and
14 1202.003(c), Government Code. The omitted law reads:

15 Sec. 4. . . . Bonds thus approved
16 shall be registered in the office of the
17 Comptroller of Public Accounts. . . .

18 (5) Section 4, Chapter 324, Acts of the 57th
19 Legislature, Regular Session, 1961, provides that
20 after approval and sale district bonds are negotiable
21 instruments and incontestable. The revised law omits
22 the reference to the bonds being negotiable
23 instruments because Section 1201.041, Government
24 Code, applicable to district bonds under Sections
25 1201.002 and 1201.003, Government Code, provides that
26 a public security is a negotiable instrument. The
27 revised law omits the reference to the bonds being
28 incontestable because it duplicates in substance
29 Section 1202.006, Government Code. Section 1202.006,
30 Government Code, applies to district bonds under
31 Sections 1202.001 and 1202.003(c), Government Code.

32 The omitted law reads:

33 Sec. 4. . . . Bonds thus approved by
34 the Attorney General after sale by the
35 District shall be fully negotiable
36 instruments and shall be incontestable.
37 . . .

38 (6) Section 4, Chapter 324, Acts of the 57th
39 Legislature, Regular Session, 1961, provides that

1 general law provisions "pertaining to the issuance of
2 bonds by Water Control and Improvement Districts"
3 apply to the issuance of district bonds if not in
4 conflict with the provisions of Chapter 324. The
5 revised law omits the portion of the provision
6 relating to the applicability of general law
7 provisions to the issuance of district bonds because
8 Section 2 of Chapter 324 (revised as Section 9059.101)
9 provides that the general law applicable to water
10 control and improvement districts applies to the
11 district. The revised law omits the portion of the
12 provision relating to the applicability of general law
13 provisions that are not "in conflict" with Chapter 324
14 for the reasons stated in Revisor's Note (2) to the end
15 of Subchapter B. The omitted law reads:

16 Sec. 4. . . . Provisions of the law
17 pertaining to the issuance of bonds by Water
18 Control and Improvement Districts when not
19 in conflict with the provisions of this Act
20 shall be applicable.

21 (7) Section 8, Chapter 324, Acts of the 57th
22 Legislature, Regular Session, 1961, provides for the
23 imposition of an ad valorem tax for the year 1961.
24 This provision is omitted as executed. The omitted law
25 reads:

26 Sec. 8. Ad valorem taxes for the
27 payment of bonds and interest thereon and
28 for the payment of maintenance and
29 operation costs, if voted prior to October
30 1, 1961, may be levied for the year 1961.