

PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL  
Special District Local Laws  
Code  
Chapter 9061  
9/10/14

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15 CHAPTER 9061. TATTOR ROAD MUNICIPAL DISTRICT

16 SUBCHAPTER A. GENERAL PROVISIONS

17 Revised Law

18 Sec. 9061.001. DEFINITIONS. In this chapter:

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

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

21 (3) "District" means the Tattor Road Municipal

22 District. (Acts 61st Leg., R.S., Ch. 846, Sec. 1 (part); New.)

23 Source Law

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

25 known as "Tattor Road Municipal District", hereinafter

26 called the "district", . . . .

27 Revisor's Note

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

29 added to the revised law for drafting convenience and

30 to eliminate frequent, unnecessary repetition of the

31 substance of the definitions.

32 Revised Law

33 Sec. 9061.002. NATURE OF DISTRICT. The district is a

34 conservation and reclamation district in Harris County created

35 under Section 59, Article XVI, Texas Constitution. (Acts 61st Leg.,

1 R.S., Ch. 846, Sec. 1 (part).)

2 Source Law

3 Sec. 1. Under and pursuant to the provisions of  
4 Article XVI, Section 59, Constitution of Texas, a  
5 conservation and reclamation district is hereby  
6 created and established in Harris County, Texas, . . .  
7 which shall be a governmental agency and a body politic  
8 and corporate. . . .

9 Revisor's Note

10 (1) Section 1, Chapter 846, Acts of the 61st  
11 Legislature, Regular Session, 1969, provides that the  
12 district is "created and established." The revised  
13 law omits "established" because the meaning of that  
14 word is included in the meaning of "created."

15 (2) Section 1, Chapter 846, Acts of the 61st  
16 Legislature, Regular Session, 1969, refers to the  
17 district as "a governmental agency and a body politic  
18 and corporate." The revised law omits the quoted  
19 language because it duplicates a portion of Section  
20 59(b), Article XVI, Texas Constitution, which provides  
21 that a conservation and reclamation district is a  
22 governmental agency and body politic and corporate.

23 Revised Law

24 Sec. 9061.003. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)  
25 The district is created to serve a public use and benefit.

26 (b) All land and other property included in the boundaries  
27 of the district will benefit from the works and projects  
28 accomplished by the district under the powers conferred by Section  
29 59, Article XVI, Texas Constitution.

30 (c) The district is essential to accomplish the purposes of  
31 Section 59, Article XVI, Texas Constitution.

32 (d) The accomplishment of the purposes stated in this  
33 chapter will benefit the people of this state and improve their  
34 property and industries.

35 (e) The district in carrying out the purposes of this  
36 chapter will be performing an essential public function under the

1 Texas Constitution. (Acts 61st Leg., R.S., Ch. 846, Secs. 1 (part),  
2 4, 21 (part).)

3 Source Law

4 Sec. 1. . . . The creation and establishment of  
5 the district is hereby declared to be essential to the  
6 accomplishment of the purposes of Article XVI, Section  
7 59, Constitution of Texas.

8 Sec. 4. It is determined and found that all of  
9 the land and other property included within the  
10 boundaries of the district will be benefited by the  
11 works and project which are to be accomplished by the  
12 district pursuant to the powers conferred by the  
13 provisions of Article XVI, Section 59, Constitution of  
14 Texas, and that said district was and is created to  
15 serve as public use and benefit.

16 Sec. 21. The accomplishment of the purposes  
17 stated in this Act being for the benefit of the people  
18 of this state and for the improvement of their  
19 properties and industries, the district in carrying  
20 out the purposes of this Act will be performing an  
21 essential public function under the Constitution, and  
22 . . . .

23 Revisor's Note

24 Section 1, Chapter 846, Acts of the 61st  
25 Legislature, Regular Session, 1969, states that the  
26 "creation and establishment" of the district is  
27 "hereby declared to be" essential to accomplish the  
28 purposes of Section 59, Article XVI, Texas  
29 Constitution. The revised law omits the quoted  
30 language as executed.

31 Revised Law

32 Sec. 9061.004. DISTRICT TERRITORY. (a) The district is  
33 composed of the territory described by Section 2, Chapter 846, Acts  
34 of the 61st Legislature, Regular Session, 1969, as that territory  
35 may have been modified under:

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

37 (2) Subchapter J, Chapter 49, Water Code;

38 (3) Section 9061.005 or its predecessor statute,  
39 former Section 9, Chapter 846, Acts of the 61st Legislature,  
40 Regular Session, 1969; or

41 (4) other law.

42 (b) The boundaries and field notes of the district form a

1 closure. A mistake in the field notes or in copying the field notes  
2 in the legislative process does not affect:

3 (1) the district's organization, existence, or  
4 validity;

5 (2) the district's right to issue any type of bond for  
6 a purpose for which the district is created or to pay the principal  
7 of and interest on the bond;

8 (3) the district's right to impose a tax; or

9 (4) in any other manner, the legality or operation of  
10 the district or its governing body. (Acts 61st Leg., R.S., Ch. 846,  
11 Sec. 3; New.)

12 Source Law

13 Sec. 3. It is determined and found that the  
14 boundaries and field notes of the district form a  
15 closure; and if any mistake is made in copying the  
16 field notes in the legislative process, or otherwise a  
17 mistake is made in the field notes, it shall in no way  
18 affect the organization, existence and validity of the  
19 district, or the right of the district to issue any  
20 type of bonds or refunding bonds for the purposes for  
21 which the district is created, or to pay the principal  
22 and interest thereon, or the right to assess, levy and  
23 collect taxes, or in any other manner affect the  
24 legality or operation of the district or its governing  
25 body.

26 Revisor's Note

27 (1) The revision of the law governing the  
28 district does not revise the statutory language  
29 describing the territory of the district to avoid the  
30 lengthy recitation of the description and because that  
31 description may not be accurate on the effective date  
32 of the revision or at the time of a later reading. For  
33 the reader's convenience, the revised law includes  
34 references to the statutory description of the  
35 district's territory and to statutory authority to  
36 change the district's territory under Subchapter O,  
37 Chapter 51, Water Code, applicable to water control  
38 and improvement districts, Subchapter J, Chapter 49,  
39 Water Code, applicable to the district under Sections  
40 49.001 and 49.002 of that chapter, and Section

1 9061.005 of this chapter or Section 9, Chapter 846,  
2 Acts of the 61st Legislature, Regular Session, 1969,  
3 from which Section 9061.005 is derived. The revised  
4 law also includes a reference to the general authority  
5 of the legislature to enact other laws to change the  
6 district's territory.

7 (2) Section 3, Chapter 846, Acts of the 61st  
8 Legislature, Regular Session, 1969, provides that a  
9 mistake in the description of the district's  
10 boundaries does not affect the right of the district to  
11 issue "any type of bonds or refunding bonds." The  
12 revised law omits the reference to "refunding bonds"  
13 because refunding bonds are included in the meaning of  
14 "any type of bonds."

15 (3) Section 3, Chapter 846, Acts of the 61st  
16 Legislature, Regular Session, 1969, refers to the  
17 district's right to "assess, levy and collect" taxes.  
18 Throughout this chapter, the revised law substitutes  
19 "impose" for "assess," "levy," and "collect" because  
20 "impose" is the term generally used in Title 1, Tax  
21 Code, and includes the assessment, levy, and  
22 collection of a tax.

23 Revised Law

24 Sec. 9061.005. EXPANSION OF DISTRICT. (a) If land is  
25 annexed by the district under Section 49.301 or 51.714, Water Code,  
26 the board may require the petitioners to:

27 (1) assume the petitioners' pro rata share of the voted  
28 but unissued bonds of the district; and

29 (2) authorize the board to impose a tax on the  
30 petitioners' property to pay for the bonds after the bonds have been  
31 issued.

32 (b) If land is annexed by the district under Section 49.302,  
33 Water Code, the board may submit to the voters of the area to be  
34 annexed a proposition on the question of the assumption by the area

1 to be annexed of its part of the voted but not yet issued or sold tax  
2 or tax-revenue bonds of the district and the imposition of an ad  
3 valorem tax on taxable property in the area to be annexed along with  
4 a tax in the rest of the district for the payment of the bonds.

5 (c) If the petitioners consent or if the election results  
6 favorably, the district may issue its voted but unissued tax or  
7 tax-revenue bonds regardless of changes to district boundaries  
8 since the voting or authorization of those bonds. (Acts 61st Leg.,  
9 R.S., Ch. 846, Sec. 9 (part).)

10 Source Law

11 Sec. 9. [Land may be added to or annexed to the  
12 district] . . . provided, however, that the board of  
13 directors may require the petitioners, if land is  
14 being added in the manner provided by Article 7880-75,  
15 Vernon's Texas Civil Statutes, to assume their pro rata  
16 share of the voted but unissued bonds of the district  
17 and authorize the board to levy a tax on their property  
18 in payment for such unissued bonds, when issued, or if  
19 land is being annexed in the manner provided by Article  
20 7880-75b, Vernon's Texas Civil Statutes, the board may  
21 also submit a proposition to the property taxpaying  
22 voters of the area to be annexed on the question of the  
23 assumption by the area to be annexed of its part of the  
24 tax or tax-revenue bonds of the district theretofore  
25 voted but not yet issued or sold and the levy of an ad  
26 valorem tax on all taxable property within the area to  
27 be annexed along with the tax in the rest of the  
28 district for the payment thereof. If the petitioners  
29 consent or if the election results favorably, the  
30 district shall be authorized to issue its voted but  
31 unissued tax or tax-revenue bonds even though the  
32 boundaries of the district have been changed since the  
33 voting or authorization of such bonds.

34 Revisor's Note

35 (1) Section 9, Chapter 846, Acts of the 61st  
36 Legislature, Regular Session, 1969, provides that the  
37 district may add or annex land in the manner provided  
38 by Chapter 3A, Title 128, Vernon's Texas Civil  
39 Statutes, as amended. The revised law omits that  
40 provision as unnecessary. The relevant provisions of  
41 that statute were codified by Chapter 58, Acts of the  
42 62nd Legislature, Regular Session, 1971, as Subchapter  
43 O, Chapter 51, Water Code. Chapter 715, Acts of the  
44 74th Legislature, Regular Session, 1995, repealed some  
45 of the relevant provisions of Subchapter O, Chapter

1 51, Water Code, and enacted Subchapter J, Chapter 49,  
2 Water Code, to govern the addition of land to a water  
3 control and improvement district and certain other  
4 districts. Subchapter J, Chapter 49, Water Code,  
5 applies to the district without an express reference  
6 to Subchapter J by this chapter. The remaining  
7 relevant provisions of Subchapter O, Chapter 51, Water  
8 Code, apply to the district under Section 5, Chapter  
9 846, Acts of the 61st Legislature, Regular Session,  
10 1969, revised in this chapter as Section 9061.101,  
11 without an express reference to those provisions. The  
12 revised law omits "as amended" because under Section  
13 311.027, Government Code (Code Construction Act), a  
14 reference to a statute applies to all reenactments,  
15 revisions, or amendments of that statute, unless  
16 expressly provided otherwise. The omitted law reads:

17           Sec. 9. Land may be added to or  
18           annexed to the district in the manner now  
19           provided by Chapter 3A, Title 128, Vernon's  
20           Texas Civil Statutes, as amended; . . . .

21           (2) Section 9, Chapter 846, Acts of the 61st  
22           Legislature, Regular Session, 1969, refers to Article  
23           7880-75, Vernon's Texas Civil Statutes. Article  
24           7880-75 was codified by Chapter 58, Acts of the 62nd  
25           Legislature, Regular Session, 1971, as Sections  
26           51.714-51.717, Water Code. Section 2, Chapter 778,  
27           Acts of the 74th Legislature, Regular Session, 1995,  
28           amended Section 51.714, Water Code, relating to the  
29           addition of land to a water control and improvement  
30           district by the petition of the landowner. Without  
31           reference to that amendment, Chapter 715, Acts of the  
32           74th Legislature, Regular Session, 1995, repealed  
33           Sections 51.714-51.717, Water Code, and enacted  
34           Section 49.301, Water Code, to govern the addition of  
35           land to certain districts by the petition of the

1 landowner. The revised law is drafted accordingly.

2 (3) Section 9, Chapter 846, Acts of the 61st  
3 Legislature, Regular Session, 1969, refers to Article  
4 7880-75b, Vernon's Texas Civil Statutes. Article  
5 7880-75b was codified by Chapter 58, Acts of the 62nd  
6 Legislature, Regular Session, 1971, as Sections  
7 51.718-51.724, Water Code, relating to the addition of  
8 land to a water control and improvement district by the  
9 petition of less than all the landowners. Chapter 715,  
10 Acts of the 74th Legislature, Regular Session, 1995,  
11 repealed Sections 51.718-51.724, Water Code, and  
12 enacted Section 49.302, Water Code, to govern the  
13 addition of land to certain water districts, including  
14 water control and improvement districts, by the  
15 petition of less than all the landowners. The revised  
16 law is drafted accordingly.

17 (4) Section 9, Chapter 846, Acts of the 61st  
18 Legislature, Regular Session, 1969, refers to  
19 "property taxpaying voters." The revised law omits  
20 "property taxpaying" because in Hill v. Stone, 421  
21 U.S. 289 (1975), the United States Supreme Court  
22 determined that property ownership as a qualification  
23 for voting is an unconstitutional denial of equal  
24 protection.

25 Revised Law

26 Sec. 9061.006. HEARINGS FOR EXCLUSION OF LAND. (a) The  
27 board is not required to call or hold a hearing on the exclusion of  
28 land or other property from the district; provided, however, that  
29 the board shall hold a hearing if an owner of land or other property  
30 located in the district files a written petition for a hearing with  
31 the board secretary before the district's first bond election is  
32 called.

33 (b) The board may act on the petition in the same manner that  
34 it may act on a petition for the addition of land under Section

1 49.301 or 51.714, Water Code. A notice of hearing is not required.

2 (c) The board on its own motion may call and hold an  
3 exclusion hearing under general law. (Acts 61st Leg., R.S., Ch.  
4 846, Sec. 7.)

5 Source Law

6 Sec. 7. It shall not be necessary for the board  
7 of directors to call or hold a hearing on the  
8 exclusions of land or other property from the  
9 district; provided, however, that the board shall hold  
10 such hearing upon the written petition of any  
11 landowner or other property owner within the district  
12 filed with the secretary of the board prior to the  
13 calling of the first bond election for the district.  
14 The board may act on said petition in the same manner  
15 that it may act on a petition for the addition of land  
16 under Article 7880-75, Vernon's Texas Civil Statutes,  
17 and no notice of hearing shall be required. The board  
18 on its own motion may call and hold an exclusions  
19 hearing or hearings in the manner provided by the  
20 general law.

21 Revisor's Note

22 (1) Section 7, Chapter 846, Acts of the 61st  
23 Legislature, Regular Session, 1969, provides that it  
24 is not necessary for the board to call or hold a  
25 hearing on the exclusion of land or other property from  
26 the district unless the board receives a written  
27 petition for such a hearing from an owner of land or  
28 other property in the district before the calling of  
29 the district's first bond election. The section also  
30 provides the manner by which the board may act on the  
31 petition and provides that the authority not to call or  
32 hold an exclusion hearing does not prevent the board on  
33 its own motion from calling and holding such a hearing  
34 under general law. While the provisions relating to  
35 the holding of an exclusion hearing on receipt of a  
36 petition before the calling of the district's first  
37 bond election and the manner by which the board may act  
38 on the petition would normally be omitted as executed  
39 because the district has held a bond election, and the  
40 provision relating to the applicability of general law  
41 would normally be omitted as applicable on its own

1 terms, the revised law retains those provisions to  
2 preserve the ambiguity created by the provision giving  
3 the board discretion not to call or hold an exclusion  
4 hearing. It is unclear whether that provision was  
5 intended to apply only until the first bond election  
6 was called or whether it was intended to continue to  
7 apply after that election was called. The revised law  
8 is drafted accordingly.

9 (2) Section 7, Chapter 846, Acts of the 61st  
10 Legislature, Regular Session, 1969, refers to Article  
11 7880-75, Vernon's Texas Civil Statutes. The revised  
12 law substitutes references to Sections 49.301 and  
13 51.714, Water Code, for the reference to Article  
14 7880-75 for the reasons stated in Revisor's Note (2) to  
15 Section 9061.005.

16 Revised Law

17 Sec. 9061.007. STATE POLICY REGARDING WASTE DISPOSAL. The  
18 district's powers and duties are subject to the state policy of  
19 encouraging the development and use of integrated area-wide waste  
20 collection, treatment, and disposal systems to serve the waste  
21 disposal needs of this state's residents, if integrated systems can  
22 reasonably be provided for an area, so as to avoid the economic  
23 burden on residents and the impact on state water quality caused by  
24 the construction and operation of numerous small waste collection,  
25 treatment, and disposal facilities. (Acts 61st Leg., R.S., Ch.  
26 846, Sec. 5 (part).)

27 Source Law

28 Sec. 5. . . .  
29 The powers and duties conferred on the district  
30 are granted subject to the policy of the state to  
31 encourage the development and use of integrated  
32 area-wide waste collection, treatment and disposal  
33 systems to serve the waste disposal needs of the  
34 citizens of the state, it being an objective of the  
35 policy to avoid the economic burden to the people and  
36 the impact on the quality of the waters in the state  
37 which result from the construction and operation of  
38 numerous small waste collection, treatment and  
39 disposal facilities to serve an area when an  
40 integrated area-wide waste collection, treatment and

1 disposal system for the area can be reasonably  
2 provided.

3 Revisor's Note

4 Section 5, Chapter 846, Acts of the 61st  
5 Legislature, Regular Session, 1969, refers to  
6 "citizens" of the state. The revised law substitutes  
7 "residents" for "citizens" because, in the context of  
8 this section, "citizens" and "residents" are  
9 synonymous and "residents" is more commonly used.

10 Revisor's Note  
11 (End of Subchapter)

12 (1) Section 5, Chapter 846, Acts of the 61st  
13 Legislature, Regular Session, 1969, provides that the  
14 act prevails over any general law that applies to a  
15 water control and improvement district and that is in  
16 conflict or inconsistent with the act. The revised law  
17 omits the provision because the provision duplicates  
18 in substance Section 311.026(b), Government Code (Code  
19 Construction Act), which provides that if there is a  
20 conflict between a general provision of law and a  
21 special or local provision, the special or local  
22 provision prevails unless the general provision is the  
23 later enactment and the manifest intent is that the  
24 general provision prevail. The omitted law reads:

25 Sec. 5. [The district shall have and  
26 exercise, and is hereby vested with, all of  
27 the rights, powers, privileges, authority,  
28 and functions conferred and imposed by the  
29 general laws of this state now in force or  
30 hereafter enacted, applicable to water  
31 control and improvement districts created  
32 under authority of Article XVI, Section 59,  
33 Constitution of Texas, including without  
34 limitation those conferred by Chapter 3A,  
35 Title 128, Vernon's Texas Civil Statutes,  
36 but] to the extent that the provisions of  
37 any such general laws may be in conflict or  
38 inconsistent with the provisions of this  
39 Act, the provisions of this Act shall  
40 prevail. . . .

41 (2) Section 5, Chapter 846, Acts of the 61st  
42 Legislature, Regular Session, 1969, provides that any  
43 general law applicable to water control and

1 improvement districts is adopted and incorporated by  
2 reference. The revised law omits the language because  
3 it is not necessary to duplicate by means of adoption  
4 and incorporation the substance of general laws  
5 applicable to the district. The omitted law reads:

6           Sec. 5. . . . All such general laws  
7           are hereby adopted and incorporated by  
8           reference with the same effect as if  
9           incorporated in full in this Act.  
10           . . .

11           (3) Section 5, Chapter 846, Acts of the 61st  
12 Legislature, Regular Session, 1969, refers to the  
13 continuing right of this state to supervise the  
14 district through the Texas Water Rights Commission.  
15 The revised law omits the provision because the Texas  
16 Commission on Environmental Quality is the successor  
17 to the Texas Water Rights Commission, and therefore  
18 the provision duplicates in substance part of Section  
19 12.081, Water Code, which subjects certain special  
20 districts and authorities, including the district, to  
21 supervision by the commission. The omitted law reads:

22           Sec. 5. . . .  
23           The rights, powers, privileges,  
24           authority and functions herein granted to  
25           the district shall be subject to the  
26           continuing right of supervision of the  
27           state, to be exercised by and through the  
28           Texas Water Rights Commission.  
29           . . .

30           (4) Section 20, Chapter 846, Acts of the 61st  
31 Legislature, Regular Session, 1969, provides that  
32 Article 970a, Vernon's Texas Civil Statutes (Municipal  
33 Annexation Act), does not apply to the creation of the  
34 district. The revised law omits that provision as  
35 executed. The omitted law reads:

36           Sec. 20. This district is hereby  
37           created notwithstanding any of the  
38           provisions of the Municipal Annexation Act,  
39           being Article 970a, Vernon's Texas Civil  
40           Statutes, as amended, and to the extent of  
41           the creation of the district only, said  
42           Article 970a shall have no  
43           application. . . .

1 (5) Section 20, Chapter 846, Acts of the 61st  
2 Legislature, Regular Session, 1969, provides that the  
3 district is subject to certain other laws. The revised  
4 law omits that provision because the laws cited, as  
5 codified, apply by their own terms. In 1987, Article  
6 970a, Vernon's Texas Civil Statutes (Municipal  
7 Annexation Act), was codified as Chapters 42 and 43,  
8 Local Government Code, and Section 212.003, Local  
9 Government Code, and Article 1182c-1, Vernon's Texas  
10 Civil Statutes, was codified as Sections 43.074,  
11 43.075, and 43.081, Local Government Code.

12 The revised law omits the reference to "as  
13 amended" with respect to Article 1182c-1 for the  
14 reason stated in Revisor's Note (1) to Section  
15 9061.005. The omitted law reads:

16 Sec. 20. . . . In all other respects,  
17 the district hereby created is expressly  
18 made subject to all provisions of said  
19 Article 970a. District shall also be  
20 subject to the provisions of Article  
21 1182C-1, Vernon's Texas Civil Statutes, as  
22 amended.

23 SUBCHAPTER B. BOARD OF DIRECTORS

24 Revised Law

25 Sec. 9061.051. COMPOSITION OF BOARD. The board consists of  
26 five elected directors. (Acts 61st Leg., R.S., Ch. 846, Sec. 10  
27 (part).)

28 Source Law

29 Sec. 10. All powers of the district shall be  
30 exercised by a board of five directors. . . .  
31 Succeeding directors shall be elected or . . . .

32 Revisor's Note

33 (1) Section 10, Chapter 846, Acts of the 61st  
34 Legislature, Regular Session, 1969, provides that  
35 "[a]ll powers of the district shall be exercised by"  
36 the board. The revised law omits that provision  
37 because it duplicates in substance provisions of  
38 Sections 49.051 and 49.057, Water Code. Throughout

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

6 (2) Section 10, Chapter 846, Acts of the 61st  
7 Legislature, Regular Session, 1969, refers to  
8 "[s]ucceeding directors" to distinguish the  
9 succeeding directors from the initial directors named  
10 in that section. The revised law omits "succeeding"  
11 because all provisions referring to initial directors  
12 are omitted as executed and the distinction is no  
13 longer required.

14 Revised Law

15 Sec. 9061.052. APPOINTMENT OF TREASURER. The board may  
16 appoint the treasurer. (Acts 61st Leg., R.S., Ch. 846, Sec. 10  
17 (part).)

18 Source Law

19 Sec. 10. . . . The treasurer may be appointed  
20 by the board, and . . . .

21 Revised Law

22 Sec. 9061.053. DIRECTOR AND TREASURER BONDS. (a) Each  
23 director shall qualify by giving bond in the amount of \$5,000 for  
24 the faithful performance of the director's duties.

25 (b) The directors' bonds must be recorded in a record kept  
26 for that purpose in the district's office.

27 (c) The treasurer shall give bond in the amount required by  
28 the board, conditioned on the treasurer's faithful accounting for  
29 all money that comes into the treasurer's custody as district  
30 treasurer. (Acts 61st Leg., R.S., Ch. 846, Sec. 10 (part).)

31 Source Law

32 Sec. 10. . . . Each director shall qualify by  
33 . . . giving bond in the amount of Five Thousand  
34 Dollars (\$5,000) for the faithful performance of his  
35 duties. . . . The bonds of directors . . . shall be  
36 recorded in a record kept for that purpose in the  
37 office of the district. . . . [The treasurer] . . .

1 shall give bond in such amount as may be required by  
2 the board and conditioned that he or it will faithfully  
3 account for all money which shall come into his or its  
4 custody as treasurer of the district.

5 Revisor's Note

6 (1) Section 10, Chapter 846, Acts of the 61st  
7 Legislature, Regular Session, 1969, provides that each  
8 director shall qualify by subscribing to the  
9 constitutional oath of office. The revised law omits  
10 that provision because Section 1, Article XVI, Texas  
11 Constitution, requires all officers in this state to  
12 take the oath (or affirmation) before assuming office.  
13 The omitted law reads:

14 Sec. 10. . . . [Each director shall  
15 qualify by] subscribing to the  
16 Constitutional oath of office and . . . .

17 (2) Section 10, Chapter 846, Acts of the 61st  
18 Legislature, Regular Session, 1969, requires the  
19 district to pay the cost of a director's bond and the  
20 bond to be approved by the board. The revised law  
21 omits that provision because it duplicates in  
22 substance Section 49.055(c), Water Code. The omitted  
23 law reads:

24 Sec. 10. . . . The cost of such bond  
25 shall be paid by the district. . . . [The  
26 bonds of directors] elected or appointed  
27 after the directors named below shall be  
28 approved by the district's board of  
29 directors and . . . .

30 (3) Section 10, Chapter 846, Acts of the 61st  
31 Legislature, Regular Session, 1969, requires each  
32 director to give bond and provides that "[s]uch bond"  
33 shall be approved by the county judge and filed in the  
34 office of the county clerk of the county within which  
35 the district is located. That section also provides  
36 that the bonds of directors elected or appointed after  
37 the initial directors shall be approved by the board  
38 and shall be recorded in a record kept for that purpose  
39 in the district's office. Because the provision

1 requiring directors' bonds to be approved by the county  
2 judge and filed in the county clerk's office is  
3 followed by a provision requiring bonds of successor  
4 directors to be approved by the board and recorded in  
5 the district's records, it appears from the context  
6 that the provision requiring directors' bonds to be  
7 approved by the county judge and filed in the office of  
8 the county clerk applies only to the bond of an initial  
9 director. Accordingly, the revised law omits that  
10 provision as executed. The omitted law reads:

11           Sec. 10. . . . Such bond shall be  
12           approved by the county judge and filed in  
13           the office of the county clerk within which  
14           the district is located. . . .

15                           Revised Law

16           Sec. 9061.054. BOARD VACANCY. (a) Except as provided by  
17 Subsection (b), a vacancy in the office of director shall be filled  
18 in the manner provided by Section 49.105, Water Code.

19           (b) The county judge of Harris County shall appoint  
20 directors to fill all of the vacancies on the board if the number of  
21 qualified directors is less than three. (Acts 61st Leg., R.S., Ch.  
22 846, Sec. 10 (part).)

23                           Source Law

24           Sec. 10. . . . All vacancies in the office of  
25 director shall be filled in the manner provided by  
26 Article 7880-38, Vernon's Texas Civil Statutes;  
27 provided, however, if at any time the number of  
28 qualified directors shall be less than three because  
29 of the failure or refusal of one or more directors to  
30 qualify or serve, or because of his or their death or  
31 incapacitation, or for any other reason, then the  
32 county judge of the county in which the district is  
33 located shall appoint the necessary number of  
34 directors to fill all vacancies on the board. . . .

35                           Revisor's Note

36           (1) Section 10, Chapter 846, Acts of the 61st  
37 Legislature, Regular Session, 1969, refers to Article  
38 7880-38, Vernon's Texas Civil Statutes. Article  
39 7880-38 was codified by Chapter 58, Acts of the 62nd  
40 Legislature, Regular Session, 1971, as Section 51.082,

1 Water Code. Chapter 715, Acts of the 74th Legislature,  
2 Regular Session, 1995, repealed Section 51.082, Water  
3 Code, and enacted Section 49.105, Water Code, to  
4 govern a vacancy in the office of director of certain  
5 districts, including water control and improvement  
6 districts. The revised law is drafted accordingly.

7 (2) Section 10, Chapter 846, Acts of the 61st  
8 Legislature, Regular Session, 1969, refers to a  
9 vacancy in the office of director "because of the  
10 failure or refusal of one or more directors to qualify  
11 or serve, or because of his or their death or  
12 incapacitation, or for any other reason." The revised  
13 law omits the quoted language because it merely  
14 describes every manner in which a vacancy may occur  
15 without limiting in any way the board's duty to fill a  
16 vacancy.

17 (3) Section 10, Chapter 846, Acts of the 61st  
18 Legislature, Regular Session, 1969, requires that  
19 certain vacancies on the board be filled by the county  
20 judge of "the county in which the district is located."  
21 Throughout this chapter, the revised law substitutes  
22 "Harris County" for the quoted language because Harris  
23 County is the county in which the district is located.

24 Revised Law

25 Sec. 9061.055. BOARD PRESIDENT'S POWER TO EXECUTE  
26 CONTRACTS. The board president may execute all contracts, including  
27 construction contracts, entered into by the board on behalf of the  
28 district. (Acts 61st Leg., R.S., Ch. 846, Sec. 10 (part).)

29 Source Law

30 Sec. 10. . . . The president may execute all  
31 contracts, construction or otherwise, entered into by  
32 the board of directors on behalf of the district. . . .

33 Revised Law

34 Sec. 9061.056. ABSENCE OR INACTION OF BOARD PRESIDENT. (a)  
35 When the board president is absent or fails or declines to act, the

1 board vice president shall perform all duties and exercise all  
2 power that this chapter or general law gives the president.

3 (b) If the board president is absent from a board meeting,  
4 the board vice president may sign an order adopted or other action  
5 taken at the meeting, or the board may authorize the president to  
6 sign the order or action. (Acts 61st Leg., R.S., Ch. 846, Sec. 10  
7 (part).)

8 Source Law

9 Sec. 10. . . . The vice president shall perform  
10 all duties and exercise all power conferred by this Act  
11 or the general law upon the president when the  
12 president is absent or fails or declines to act. Any  
13 order adopted or other action taken at a meeting of the  
14 board of directors at which the president is absent may  
15 be signed by the vice president, or the board may  
16 authorize the president to sign such order or other  
17 action. . . .

18 Revised Law

19 Sec. 9061.057. DISTRICT OFFICE. (a) The board shall  
20 designate, establish, and maintain a district office as provided by  
21 Section 49.062, Water Code.

22 (b) The board may establish a second district office outside  
23 the district. If the board establishes a district office outside  
24 the district, the board shall give notice of the location of that  
25 office by:

26 (1) filing a copy of the board resolution that  
27 establishes the location of the office:

28 (A) with the Texas Commission on Environmental  
29 Quality; and

30 (B) in the water control and improvement district  
31 records of Harris County; and

32 (2) publishing the location of the office in a  
33 newspaper of general circulation in Harris County.

34 (c) A district office may be a private residence, office, or  
35 dwelling. A district office that is a private residence, office, or  
36 dwelling is a public place for matters relating to the district's  
37 business.

38 (d) The board shall give notice of any change in the

1 location of the district office outside the district in the manner  
2 required by Subsection (b). (Acts 61st Leg., R.S., Ch. 846, Sec.  
3 15.)

4 Source Law

5 Sec. 15. The board of directors shall  
6 designate, establish and maintain a district office as  
7 provided by Article 7880-44, Vernon's Texas Civil  
8 Statutes, and, in addition, may establish a second  
9 district office outside the district. Either or both  
10 district offices so established and maintained may be  
11 a private residence, office or dwelling in which event  
12 such private residence, office or dwelling is hereby  
13 declared a public place for matters relating to the  
14 district's business.

15 If the board of directors establishes a district  
16 office outside the district, it shall give notice of  
17 the location of that district office by filing a true  
18 copy of its resolution establishing the location of  
19 such district office with the Texas Water Rights  
20 Commission, by filing a true copy in the Water Control  
21 and Improvement District records of the county in  
22 which the district is located and also by publishing  
23 the location in a newspaper of general circulation in  
24 said county.

25 If the location of the district office outside  
26 the district is thereafter changed, notice of such  
27 change shall be given in the same manner.

28 Revisor's Note

29 (1) Section 15, Chapter 846, Acts of the 61st  
30 Legislature, Regular Session, 1969, refers to Article  
31 7880-44, Vernon's Texas Civil Statutes. Article  
32 7880-44 was codified by Chapter 58, Acts of the 62nd  
33 Legislature, Regular Session, 1971, as Sections 51.094  
34 and 51.096, Water Code, relating to the district  
35 office and the minutes and records of the district,  
36 respectively. Chapter 1248, Acts of the 71st  
37 Legislature, Regular Session, 1989, repealed Section  
38 51.096, Water Code, and enacted Section 50.029, Water  
39 Code, relating to the keeping of minutes and records  
40 for the district. Chapter 715, Acts of the 74th  
41 Legislature, Regular Session, 1995, repealed Sections  
42 50.029 and 51.094, Water Code, and enacted Section  
43 49.062, Water Code, to govern the designation of  
44 offices for certain districts, including water control  
45 and improvement districts. The revised law is drafted

1 accordingly.

2 (2) Section 15, Chapter 846, Acts of the 61st  
3 Legislature, Regular Session, 1969, refers to a "true  
4 copy" of a document. The revised law omits "true"  
5 because a copy, by definition, accurately reflects the  
6 content of the original document.

7 (3) Section 15, Chapter 846, Acts of the 61st  
8 Legislature, Regular Session, 1969, refers to the  
9 "Texas Water Rights Commission." The revised law  
10 substitutes "Texas Commission on Environmental  
11 Quality" for "Texas Water Rights Commission" to  
12 reflect the current name of the agency with the  
13 relevant regulatory authority.

14 Revisor's Note  
15 (End of Subchapter)

16 (1) Section 10, Chapter 846, Acts of the 61st  
17 Legislature, Regular Session, 1969, provides that each  
18 director shall serve until the director's successor is  
19 elected or appointed and qualified. The revised law  
20 omits that provision because Section 17, Article XVI,  
21 Texas Constitution, requires an officer in this state  
22 to continue to perform the officer's duties until a  
23 successor has qualified. The omitted law reads:

24 Sec. 10. . . . Each director shall  
25 serve for his term of office as herein  
26 provided, and thereafter until his  
27 successor shall be elected or appointed and  
28 qualified. . . .

29 (2) Section 10, Chapter 846, Acts of the 61st  
30 Legislature, Regular Session, 1969, names the initial  
31 directors, requires them to qualify to serve as  
32 directors before the first board meeting, and provides  
33 that the named directors or their successors shall  
34 serve until the second Tuesday in January 1971. The  
35 revised law omits those provisions as executed. The  
36 omitted law reads:

1           Sec. 10. . . . Immediately after  
2 this Act becomes effective, the following  
3 named persons shall be the directors of the  
4 district and shall constitute the board of  
5 directors of the district: James Joseph  
6 Murphy, III, James S. Diggles, J. Richard  
7 Conger, John Randolph Black and Charles Don  
8 Brice. Said persons shall file their bonds  
9 as soon as practicable after the effective  
10 date of this Act and shall otherwise be  
11 fully qualified to serve as director prior  
12 to the first meeting of the board of  
13 directors. . . . The Directors named above  
14 or their duly appointed successor or  
15 successors shall serve until the second  
16 Tuesday in January, 1971. . . .

17           (3) Section 10, Chapter 846, Acts of the 61st  
18 Legislature, Regular Session, 1969, provides for  
19 directors to be elected or appointed and to serve for  
20 the term and in the manner provided by Article 7880-37,  
21 Vernon's Texas Civil Statutes. Article 7880-37 was  
22 codified by Chapter 58, Acts of the 62nd Legislature,  
23 Regular Session, 1971, as Section 51.073, Water Code.  
24 Chapter 715, Acts of the 74th Legislature, Regular  
25 Session, 1995, repealed Section 51.073, Water Code,  
26 and enacted Section 49.103, Water Code, to govern the  
27 terms of office of a director of a water control and  
28 improvement district and certain other water districts  
29 that are required by law to elect their directors.  
30 Section 49.103, Water Code, applies to the district  
31 without an express reference to that section by this  
32 chapter. The revised law omits "appointed" because it  
33 is clear from the context of Section 10 that the  
34 reference applies only to directors appointed to fill  
35 vacancies as provided by Chapter 49, Water Code. The  
36 omitted law reads:

37           Sec. 10. . . . [Succeeding directors  
38 shall be elected or] appointed and shall  
39 serve for the term and in the manner  
40 provided by Article 7880-37, Vernon's Texas  
41 Civil Statutes. . . .

42           (4) Section 10, Chapter 846, Acts of the 61st  
43 Legislature, Regular Session, 1969, provides that  
44 three directors constitute a quorum and that a

1 concurrence of three directors is sufficient in all  
2 matters relating to the business of the district,  
3 including certain construction matters. The revised  
4 law omits that provision because it duplicates in  
5 substance Section 49.053, Water Code. The omitted law  
6 reads:

7           Sec. 10. . . . Three directors shall  
8 constitute a quorum of any meeting, and a  
9 concurrence of three shall be sufficient in  
10 all matters pertaining to the business of  
11 the district including the letting of  
12 construction contracts and the drawing of  
13 warrants in payment for construction work,  
14 the purchase of existing facilities, and  
15 matters relating to construction work.  
16 . . .

17           (5) Section 10, Chapter 846, Acts of the 61st  
18 Legislature, Regular Session, 1969, provides for the  
19 selection of officers by the board. The revised law  
20 omits those provisions because they duplicate in  
21 substance Section 49.054, Water Code. The omitted law  
22 reads:

23           Sec. 10. . . . The board shall  
24 select from its number a president, vice  
25 president, secretary and such other  
26 officers as in the judgment of the board is  
27 necessary. . . .

28           SUBCHAPTER C. POWERS AND DUTIES

29                           Revised Law

30           Sec. 9061.101. WATER CONTROL AND IMPROVEMENT DISTRICT  
31 POWERS. The district has all of the rights, powers, privileges, and  
32 functions provided by general law applicable to water control and  
33 improvement districts created under Section 59, Article XVI, Texas  
34 Constitution, including Chapters 49 and 51, Water Code. (Acts 61st  
35 Leg., R.S., Ch. 846, Sec. 5 (part).)

36                           Source Law

37           Sec. 5. The district shall have and exercise,  
38 and is hereby vested with, all of the rights, powers,  
39 privileges, authority, and functions conferred and  
40 imposed by the general laws of this state now in force  
41 or hereafter enacted, applicable to water control and  
42 improvement districts created under authority of  
43 Article XVI, Section 59, Constitution of Texas,  
44 including without limitation those conferred by

1 Chapter 3A, Title 128, Vernon's Texas Civil Statutes,  
2 but . . . .

3 Revisor's Note

4 (1) Section 5, Chapter 846, Acts of the 61st  
5 Legislature, Regular Session, 1969, provides that the  
6 district "shall have and exercise, and is hereby  
7 vested with" certain powers. The revised law  
8 substitutes "has" for the quoted language because, in  
9 context, the terms are synonymous and "has" is more  
10 commonly used.

11 (2) Section 5, Chapter 846, Acts of the 61st  
12 Legislature, Regular Session, 1969, refers to "rights,  
13 powers, privileges, [and] authority" of the district.  
14 The revised law omits "authority" as included in the  
15 meaning of "powers."

16 (3) Section 5, Chapter 846, Acts of the 61st  
17 Legislature, Regular Session, 1969, states that the  
18 district has the rights, powers, privileges,  
19 authority, and functions "conferred and imposed" by  
20 general law. The revised law substitutes "provided"  
21 for the quoted language because regardless of whether  
22 a right, power, privilege, authority, or function is  
23 "conferred" by general law or "imposed" by general  
24 law, it is not necessary to characterize in the revised  
25 law the nature of the granting of that authority. In  
26 context, "provided" is synonymous with "conferred and  
27 imposed" and "provided" is more commonly used.

28 (4) Section 5, Chapter 846, Acts of the 61st  
29 Legislature, Regular Session, 1969, states that the  
30 district has the rights, powers, privileges,  
31 authority, and functions conferred by the general laws  
32 of this state "now in force or hereafter enacted." The  
33 revised law omits the quoted language as unnecessary  
34 under accepted general principles of statutory  
35 construction. The "general laws of this state" means

1 those laws "in force" at the time the provision was  
2 adopted. It is unnecessary to state that the district  
3 may be granted additional powers by later enacted laws  
4 because those laws apply on their own terms.

5 (5) Section 5, Chapter 846, Acts of the 61st  
6 Legislature, Regular Session, 1969, grants the  
7 district certain powers, "including without  
8 limitation" the powers conferred by Chapter 3A, Title  
9 128, Vernon's Texas Civil Statutes. The revised law  
10 omits "without limitation" because Section  
11 311.005(13), Government Code (Code Construction Act),  
12 provides that "includes" and "including" are terms of  
13 enlargement and not limitation and do not create a  
14 presumption that components not expressed are  
15 excluded.

16 (6) Section 5, Chapter 846, Acts of the 61st  
17 Legislature, Regular Session, 1969, refers to "Chapter  
18 3A, Title 128, Vernon's Texas Civil Statutes." The  
19 relevant provisions of that statute were codified by  
20 Chapter 58, Acts of the 62nd Legislature, Regular  
21 Session, 1971, as Chapter 51, Water Code. In 1995,  
22 Chapter 715, Acts of the 74th Legislature, Regular  
23 Session, repealed many provisions of Chapter 51, Water  
24 Code, and enacted similar provisions in Chapter 49,  
25 Water Code. To reflect those changes, the revised law  
26 substitutes a reference to Chapters 49 and 51, Water  
27 Code, for the reference to "Chapter 3A, Title 128,  
28 Vernon's Texas Civil Statutes."

29 Revised Law

30 Sec. 9061.102. ADDITIONAL POWERS. (a) The district may:

31 (1) make, purchase, construct, lease, or otherwise  
32 acquire property, works, facilities, or improvements, existing or  
33 to be made, constructed, or acquired, inside or outside the  
34 district's boundaries and necessary to carry out the powers granted

1 by this chapter or general law; or

2 (2) enter into a contract with a person on terms the  
3 board considers desirable, fair, and advantageous for:

4 (A) the purchase or sale of water;

5 (B) the transportation, treatment, and disposal  
6 of the domestic, industrial, or communal wastes of the district or  
7 others;

8 (C) the continuing and orderly development of  
9 land and property in the district through the purchase,  
10 construction, or installation of facilities, works, or  
11 improvements that the district is otherwise authorized to do or  
12 perform so that, to the greatest extent reasonably possible,  
13 considering sound engineering and economic practices, all of the  
14 land and property may ultimately receive the services of the  
15 facilities, works, or improvements; and

16 (D) the performance of any of the rights or  
17 powers granted by this chapter or general law relating to water  
18 control and improvement districts.

19 (b) A contract under Subsection (a)(2) may not have a  
20 duration of more than 40 years. (Acts 61st Leg., R.S., Ch. 846,  
21 Sec. 5 (part).)

22 Source Law

23 Sec. 5. . . .

24 Not by way of limitation, the district shall have  
25 and is hereby expressly granted the following rights,  
26 powers, privileges and functions:

27 (a) The power and authority to make, purchase,  
28 construct, lease, or otherwise acquire property,  
29 works, facilities, and improvements (whether  
30 previously existing or to be made, constructed or  
31 acquired) within or without the boundaries of the  
32 district necessary to carry out the powers and  
33 authority granted by this Act and the general laws.

34 (b) The right, power, and authority to enter  
35 into contracts, of not exceeding 40 years duration  
36 with persons, corporations, public or private,  
37 municipal corporations, political subdivisions of the  
38 State of Texas, and others, on such terms and  
39 conditions as the board of directors may deem  
40 desirable, fair and advantageous for:

41 (1) the purchase and sale of water, or  
42 either;

43 (2) the transportation, treatment and  
44 disposal of its domestic, industrial or communal  
45 wastes or the transportation, treatment and disposal

1 of domestic, industrial or communal wastes of others;  
2 (3) the continuing and orderly development  
3 of the lands and property within the district through  
4 the purchase, construction or installation of  
5 facilities, works or improvements which the district  
6 may otherwise be empowered and authorized to do or  
7 perform so that, to the greatest extent reasonably  
8 possible, considering sound engineering and economic  
9 practices, all of such lands and property may be placed  
10 in a position to ultimately receive the services of  
11 such facilities, works or improvements; and

12 (4) the performance of any of the rights or  
13 powers granted in this Act and the general laws  
14 relating to water control and improvement districts.  
15 . . .

16 Revisor's Note

17 (1) Section 5, Chapter 846, Acts of the 61st  
18 Legislature, Regular Session, 1969, provides that,  
19 "[n]ot by way of limitation," the district is granted  
20 certain specified rights, powers, privileges, and  
21 functions. The revised law omits the quoted language  
22 because it is an accepted general principle of  
23 statutory construction that a grant of a right, power,  
24 privilege, or function does not act as a limitation.  
25 The general principle applies to this revision.

26 (2) Section 5, Chapter 846, Acts of the 61st  
27 Legislature, Regular Session, 1969, provides that the  
28 district "shall have and is hereby expressly granted  
29 the following rights, powers, privileges and  
30 functions" and that the district has the "power and  
31 authority" and the "right, power, and authority" to  
32 take certain actions. The revised law substitutes  
33 "may" for the quoted language because that term is more  
34 concise and is the substantive equivalent of the  
35 quoted language.

36 (3) Section 5, Chapter 846, Acts of the 61st  
37 Legislature, Regular Session, 1969, refers to the  
38 "powers and authority" granted by the act and general  
39 laws. The revised law omits "authority" for the reason  
40 stated in Revisor's Note (2) to Section 9061.101.

41 (4) Section 5, Chapter 846, Acts of the 61st

1 Legislature, Regular Session, 1969, refers to the  
2 power of the district to enter into contracts with  
3 persons, "corporations, public or private, municipal  
4 corporations, political subdivisions of the State of  
5 Texas, and others." The revised law omits the quoted  
6 language because under Section 311.005(2), Government  
7 Code (Code Construction Act), "person" is defined to  
8 include any legal entity.

9 (5) Section 5, Chapter 846, Acts of the 61st  
10 Legislature, Regular Session, 1969, provides that the  
11 district may enter into a contract on "terms and  
12 conditions" the board considers desirable, fair, and  
13 advantageous. The revised law omits "conditions"  
14 because "conditions" is included in the meaning of  
15 "terms."

16 (6) Section 5, Chapter 846, Acts of the 61st  
17 Legislature, Regular Session, 1969, refers to  
18 activities the district is "empowered and authorized"  
19 to do or perform. The revised law omits "empowered" in  
20 this context as included in the meaning of  
21 "authorized."

#### 22 Revised Law

23 Sec. 9061.103. LIMIT ON EMINENT DOMAIN. The district may  
24 exercise the power of eminent domain only:

- 25 (1) in Harris County; and  
26 (2) when necessary to carry out the purposes for which  
27 the district was created. (Acts 61st Leg., R.S., Ch. 846, Sec. 13  
28 (part).)

#### 29 Source Law

30 Sec. 13. The power of eminent domain of the  
31 district shall be limited to the county or counties in  
32 which the district is situated, and to situations  
33 where the exercise of such power is necessary in order  
34 to carry out the purposes for which the district was  
35 created. . . .

1 Revised Law

2 Sec. 9061.104. COST OF RELOCATING OR ALTERING PROPERTY.

3 (a) In this section, "sole expense" means the actual cost of  
4 relocating, raising, lowering, rerouting, changing the grade of, or  
5 altering the construction of a facility described by Subsection (b)  
6 in providing comparable replacement without enhancement of the  
7 facility, after deducting from that cost the net salvage value  
8 derived from the old facility.

9 (b) If the district's exercise of the power of eminent  
10 domain makes necessary relocating, raising, rerouting, changing  
11 the grade of, or altering the construction of a highway, railroad,  
12 electric transmission line, telegraph or telephone property or  
13 facility, or pipeline, the necessary action shall be accomplished  
14 at the sole expense of the district. (Acts 61st Leg., R.S., Ch.  
15 846, Sec. 13 (part).)

16 Source Law

17 Sec. 13. . . . In the event that the district,  
18 in the exercise of the power granted hereunder, makes  
19 necessary the relocation, raising, rerouting or  
20 changing the grade of, or altering the construction  
21 of, any highway, railroad, electric transmission line,  
22 telegraph or telephone properties and facilities, or  
23 pipeline, all such necessary relocation, raising,  
24 rerouting, changing of grade or alteration of  
25 construction shall be accomplished at the sole expense  
26 of the district. The term "sole expense" shall mean the  
27 actual cost of such relocation, raising, lowering,  
28 rerouting, or change in grade or alteration of  
29 construction in providing comparable replacement  
30 without enhancement of such facilities, after  
31 deducting therefrom the net salvage value derived from  
32 the old facility.

33 Revised Law

34 Sec. 9061.105. NOTICE OF ELECTION. Notice of an election  
35 may be given under the hand of the board president or secretary.  
36 (Acts 61st Leg., R.S., Ch. 846, Sec. 18 (part).)

37 Source Law

38 Sec. 18. Notice of all elections may be given  
39 under the hand of either the president or the secretary  
40 of the district. . . .

41 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

1 Revised Law

2 Sec. 9061.151. TAX METHOD. (a) The district shall use the  
3 ad valorem plan of taxation.

4 (b) The board is not required to call or hold a hearing on  
5 the adoption of a plan of taxation. (Acts 61st Leg., R.S., Ch. 846,  
6 Sec. 8.)

7 Source Law

8 Sec. 8. The ad valorem plan of taxation shall be  
9 used by the district and it shall not be necessary for  
10 the board of directors to call or hold a hearing on the  
11 adoption of a plan of taxation.

12 Revised Law

13 Sec. 9061.152. DISTRICT ACCOUNTS. The district shall keep  
14 a complete system of the district's accounts. (Acts 61st Leg.,  
15 R.S., Ch. 846, Sec. 14 (part).)

16 Source Law

17 Sec. 14. . . .  
18 A complete system of accounts shall be kept by the  
19 district and . . . .

20 Revised Law

21 Sec. 9061.153. COPY OF AUDIT REPORT. A copy of the audit  
22 report prepared under Subchapter G, Chapter 49, Water Code, shall  
23 be delivered:

24 (1) to each director; and

25 (2) to a holder of at least 25 percent of the  
26 outstanding bonds of the district, on request. (Acts 61st Leg.,  
27 R.S., Ch. 846, Sec. 14 (part); New.)

28 Source Law

29 Sec. 14. . . . A written report of the audit  
30 shall be delivered to each member of the board of  
31 directors . . . a copy of such audit report shall be  
32 delivered upon request to the holder or holders of at  
33 least twenty-five percent of the then outstanding  
34 bonds of the district; and . . . .

35 Revisor's Note

36 (1) Section 14, Chapter 846, Acts of the 61st  
37 Legislature, Regular Session, 1969, refers to various  
38 audit procedures, including who may receive a copy of  
39 the audit report. As detailed in the revisor's notes

1 that follow, procedures contained in Section 14 that  
2 conflict with Subchapter G, Chapter 49, Water Code,  
3 have been omitted as superseded by Section 49.191(b),  
4 Water Code, which states that Subchapter G "shall take  
5 precedence over all prior statutory enactments."  
6 Subchapter G, Chapter 49, Water Code, was enacted in  
7 1995 by Section 2, Chapter 715, Acts of the 74th  
8 Legislature, Regular Session. For context and the  
9 convenience of the reader, the revised law adds a  
10 reference to the audit report required by Subchapter  
11 G, Chapter 49, Water Code.

12 (2) Section 14, Chapter 846, Acts of the 61st  
13 Legislature, Regular Session, 1969, provides that an  
14 annual audit of the district's affairs shall be  
15 prepared by an independent certified public accountant  
16 or a firm of independent certified public accountants  
17 of recognized integrity and ability. The revised law  
18 omits that provision as superseded by Sections  
19 49.191(b) and (c), Water Code (enacted by Section 2,  
20 Chapter 715, Acts of the 74th Legislature, Regular  
21 Session, 1995). The omitted law reads:

22 Sec. 14. . . . an audit of its  
23 affairs for each year shall be prepared by  
24 an independent certified public accountant,  
25 or a firm of independent certified public  
26 accountants, of recognized integrity and  
27 ability. . . .

28 (3) Section 14, Chapter 846, Acts of the 61st  
29 Legislature, Regular Session, 1969, provides that a  
30 written report of the audit shall be delivered to each  
31 board member not later than 90 days after the close of  
32 each fiscal year. The revised law omits the deadline  
33 for delivery of the report as superseded by Sections  
34 49.191(b) and (d), Water Code (enacted by Section 2,  
35 Chapter 715, Acts of the 74th Legislature, Regular  
36 Session, 1995). The omitted law reads:

1                   Sec. 14. . . . [A written report of  
2                   the audit shall be delivered to each member  
3                   of the board of directors] not later than 90  
4                   days after the close of each fiscal year;  
5                   and . . . .

6                   (4) Section 14, Chapter 846, Acts of the 61st  
7                   Legislature, Regular Session, 1969, provides that at  
8                   least five copies of the audit report shall be  
9                   delivered to the district office and that one of those  
10                  copies shall constitute a public record. The revised  
11                  law omits those provisions as superseded by Sections  
12                  49.191(b), 49.194(c), and 49.196(b), Water Code  
13                  (enacted by Section 2, Chapter 715, Acts of the 74th  
14                  Legislature, Regular Session, 1995). The omitted law  
15                  reads:

16                  Sec. 14. . . . at least five  
17                  additional copies of said audit shall be  
18                  delivered to the office of the district, one  
19                  of which shall be kept on file, and shall  
20                  constitute a public record open to  
21                  inspection by any interested person or  
22                  persons within normal office hours; and  
23                  . . . .

24                  (5) Section 14, Chapter 846, Acts of the 61st  
25                  Legislature, Regular Session, 1969, provides that one  
26                  copy of the audit report shall be filed with the Texas  
27                  Water Rights Commission. The revised law omits that  
28                  provision as superseded by Sections 49.191(b) and  
29                  49.194(a), Water Code (enacted by Section 2, Chapter  
30                  715, Acts of the 74th Legislature, Regular Session,  
31                  1995). The omitted law reads:

32                  Sec. 14. . . . one copy of such audit  
33                  report shall be filed with the Texas Water  
34                  Rights Commission. . . .

35                  (6) Section 14, Chapter 846, Acts of the 61st  
36                  Legislature, Regular Session, 1969, provides that the  
37                  district shall pay the cost of the audit. The revised  
38                  law omits that provision because it duplicates Section  
39                  49.191(a), Water Code. The omitted law reads:

40                  Sec. 14. . . . The cost of such audit  
41                  shall be paid for by the district.

1 Revised Law

2 Sec. 9061.154. PAYMENT OF TAX OR ASSESSMENT NOT REQUIRED.

3 The district is not required to pay a tax or assessment on:

4 (1) district property; or

5 (2) a purchase made by the district. (Acts 61st Leg.,  
6 R.S., Ch. 846, Sec. 21 (part).)

7 Source Law

8 Sec. 21. . . . the district shall not be  
9 required to pay any tax or assessment on its properties  
10 or any part thereof or on any purchases made by the  
11 district.

12 Revised Law

13 Sec. 9061.155. DEPOSITORY. (a) The board shall select one  
14 or more banks in this state to act as depository for the district's  
15 money.

16 (b) To the extent that money in the depository bank is not  
17 insured by the Federal Deposit Insurance Corporation, the money  
18 must be secured in the manner provided by law for the security of  
19 county funds.

20 (c) A director may be a shareholder in a bank that is a  
21 depository of district money. (Acts 61st Leg., R.S., Ch. 846, Sec.  
22 14 (part).)

23 Source Law

24 Sec. 14. The board of directors of the district  
25 shall select any bank or banks in the State of Texas to  
26 act as depository or depositories for the funds of the  
27 district. To the extent that funds in the depository  
28 bank or banks are not insured by the Federal Deposit  
29 Insurance Corporation, they shall be secured in the  
30 manner provided by law for the security of county  
31 funds. Any director of the district may be a  
32 shareholder in said depository bank or banks.  
33 . . .

34 Revisor's Note

35 Section 14, Chapter 846, Acts of the 61st  
36 Legislature, Regular Session, 1969, refers to the  
37 district's "funds." Throughout this chapter, the  
38 revised law substitutes "money" for "funds" because,  
39 in the context of district funds, the meaning is the  
40 same and "money" is the more commonly used term.



1 and as authorized by Article 7880-90a, Vernon's Texas  
2 Civil Statutes, and Chapter 3A of Title 128, Vernon's  
3 Texas Civil Statutes, as presently or hereafter  
4 amended, provided, however, that bonds payable solely  
5 from net revenues may be issued by resolution or order  
6 of the board of directors and no election therefor  
7 shall be necessary.

8 The bonds issued hereunder may be payable from  
9 all or any designated part or parts of the revenues of  
10 the district's properties and facilities or under  
11 specific contracts, as may be provided in the orders or  
12 resolutions authorizing the issuance of such bonds;  
13 and, . . . .

14 Revisor's Note

15 (1) Section 12, Chapter 846, Acts of the 61st  
16 Legislature, Regular Session, 1969, authorizes the  
17 district to issue "negotiable" bonds. The revised law  
18 omits "negotiable" because, under Section 1201.041,  
19 Government Code, a public security is a negotiable  
20 instrument. Section 1201.041 applies to district  
21 bonds under Sections 1201.002 and 1201.003, Government  
22 Code.

23 (2) Section 12, Chapter 846, Acts of the 61st  
24 Legislature, Regular Session, 1969, provides that  
25 district bonds shall be issued in the manner provided  
26 and as authorized by "Article 7880-90a, Vernon's Texas  
27 Civil Statutes, and Chapter 3A of Title 128, Vernon's  
28 Texas Civil Statutes." The revised law substitutes a  
29 reference to Chapters 49 and 51, Water Code, for the  
30 source law reference to Chapter 3A, Title 128, Vernon's  
31 Texas Civil Statutes, for the reasons stated in  
32 Revisor's Note (6) to Section 9061.101. Further,  
33 because Article 7880-90a was codified by Chapter 58,  
34 Acts of the 62nd Legislature, Regular Session, 1971,  
35 as Sections 51.450-51.454, Water Code, the revised law  
36 omits an additional reference to those specific  
37 sections of Chapter 51 as unnecessary.

38 (3) Section 12, Chapter 846, Acts of the 61st  
39 Legislature, Regular Session, 1969, refers to the  
40 district's authority to issue bonds under Chapter 3A,

1 Title 128, and Article 7880-90a, Vernon's Texas Civil  
2 Statutes, "as presently or hereafter amended." The  
3 revised law omits the quoted language for the reason  
4 stated in Revisor's Note (1) to Section 9061.005.

5 (4) Section 12, Chapter 846, Acts of the 61st  
6 Legislature, Regular Session, 1969, provides that  
7 Chapter 3A, Title 128, Vernon's Texas Civil Statutes,  
8 applies to district bonds except when Chapter 3A is  
9 inconsistent or in conflict with the act. The revised  
10 law omits this provision for the reason stated in  
11 Revisor's Note (1) to the end of Subchapter A. The  
12 omitted law reads:

13 Sec. 12. . . . except as the same may  
14 be inconsistent or in conflict with the  
15 provisions of this Act, the provisions of  
16 said Chapter 3A of Title 128, Vernon's Texas  
17 Civil Statutes, as presently or hereafter  
18 amended, shall apply to all bonds issued  
19 under the provisions of this Act (the  
20 provisions of this Act to govern and take  
21 precedence in the event of any such  
22 inconsistency or conflict).

23 . . .

24 Revised Law

25 Sec. 9061.202. ADDITIONAL SECURITY. (a) Within the  
26 discretion of the board, bonds issued under this subchapter may be  
27 additionally secured by a deed of trust or mortgage lien on physical  
28 property of the district and franchises, easements, water rights  
29 and appropriation permits, leases, contracts, and all rights  
30 appurtenant to that property, vesting in the trustee:

31 (1) the power to sell the property for payment of the  
32 debt;

33 (2) the power to operate the property; and

34 (3) all other powers to further secure the bonds.

35 (b) A purchaser under a sale under the deed of trust or  
36 mortgage lien, if one is given:

37 (1) is the absolute owner of the property, facilities,  
38 and rights purchased; and

39 (2) may maintain and operate the property and

1 facilities. (Acts 61st Leg., R.S., Ch. 846, Sec. 12 (part).)

2 Source Law

3 Sec. 12. . . .

4 Such bonds, within the discretion of the board of  
5 directors, may be additionally secured by a deed of  
6 trust or mortgage lien upon part or all of the physical  
7 properties of the district, and franchises, easements,  
8 water rights and appropriation permits, leases, and  
9 contracts and all rights appurtenant to such  
10 properties, vesting in the trustee power to sell such  
11 properties for payment of the indebtedness, power to  
12 operate the properties and all other powers and  
13 authority for the further security of the bonds. . . .  
14 Any purchaser under a sale under the deed of trust or  
15 mortgage lien, where one is given, shall be absolute  
16 owner of the properties, facilities and rights so  
17 purchased and shall have the right to maintain and  
18 operate same.

19 . . .

20 Revisor's Note

21 Section 12, Chapter 846, Acts of the 61st  
22 Legislature, Regular Session, 1969, refers to a  
23 trustee's "powers and authority" to further secure the  
24 bonds. The revised law omits "authority" for the  
25 reason stated in Revisor's Note (2) to Section  
26 9061.101.

27 Revised Law

28 Sec. 9061.203. TRUST INDENTURE. A trust indenture created  
29 under Section 9061.202, regardless of the existence of a deed of  
30 trust or mortgage lien on the property, may:

- 31 (1) contain provisions prescribed by the board for the
- 32 security of the bonds and the preservation of the trust estate;
- 33 (2) provide for amendment or modification of the trust
- 34 indenture;
- 35 (3) provide for the issuance of bonds to replace lost
- 36 or mutilated bonds;
- 37 (4) condition the right to spend district money or
- 38 sell district property on the approval of a licensed engineer
- 39 selected as provided by the trust indenture; and
- 40 (5) provide for the investment of district money.

41 (Acts 61st Leg., R.S., Ch. 846, Sec. 12 (part).)



1 obligations payable from the pledged revenue or reserve the right  
2 to issue additional bonds to be secured by a pledge of and payable  
3 from the revenue on a parity with, or subordinate to, the lien and  
4 pledge in support of the bonds being issued, subject to any  
5 conditions set forth in the order or resolution; and

6 (4) include any other provision or covenant, as the  
7 board determines, that is not prohibited by the Texas Constitution  
8 or this chapter.

9 (b) The board may adopt and cause to be executed any other  
10 proceeding or instrument necessary or convenient in the issuance of  
11 the bonds. (Acts 61st Leg., R.S., Ch. 846, Sec. 12 (part).)

12 Source Law

13 Sec. 12. . . .

14 In the orders or resolutions authorizing the  
15 issuance of any revenue, tax-revenue, revenue  
16 refunding, or tax-revenue refunding bonds authorized  
17 hereunder, the district's board of directors may  
18 provide for the flow of funds; the establishment and  
19 maintenance of the interest and sinking fund or funds,  
20 reserve fund or funds, and other funds, and may make  
21 additional covenants with respect to the bonds and the  
22 pledged revenues and the operation and maintenance of  
23 those improvements and facilities (the revenues of  
24 which are pledged), including provisions for the  
25 operation or for the leasing of all or any part of said  
26 improvements and facilities and the use or pledge of  
27 moneys derived from such operation contracts and  
28 leases, as such board may deem appropriate. Such  
29 orders or resolutions may also prohibit the further  
30 issuance of bonds or other obligations payable from  
31 the pledged revenues, or may reserve the right to issue  
32 additional bonds to be secured by a pledge of and  
33 payable from said revenues on a parity with, or  
34 subordinate to, the lien and pledge in support of the  
35 bonds being issued, subject to such conditions as are  
36 set forth in such orders or resolutions. Such orders or  
37 resolutions may contain other provisions and  
38 covenants, as the district's board may determine, not  
39 prohibited by the Constitution of Texas or by this Act,  
40 and said board may adopt and cause to be executed any  
41 other proceedings or instruments necessary and/or  
42 convenient in the issuance of any such bonds.

43 . . .

44 Revised Law

45 Sec. 9061.205. USE OF BOND PROCEEDS. (a) The district may  
46 appropriate or set aside out of proceeds from the sale of district  
47 bonds an amount for:

48 (1) the payment of interest, administrative, and  
49 operating expenses expected to accrue during the period of

1 construction, as may be provided in the bond orders or resolutions;  
2 and

3 (2) the payment of all expenses incurred and to be  
4 incurred in the issuance, sale, and delivery of the bonds.

5 (b) For purposes of this section, the period of construction  
6 may not exceed three years. (Acts 61st Leg., R.S., Ch. 846, Sec. 12  
7 (part).)

8 Source Law

9 Sec. 12. . . .

10 From the proceeds of sale of any bonds issued  
11 hereunder, the district may appropriate or set aside  
12 out of the bond proceeds an amount for the payment of  
13 interest, administrative and operating expenses  
14 expected to accrue during the period of construction,  
15 (such period not to exceed three years), as may be  
16 provided in the bond orders or resolutions, and an  
17 amount necessary to pay all expenses incurred and to be  
18 incurred in the issuance, sale and delivery of the  
19 bonds. . . .

20 Revisor's Note  
21 (End of Subchapter)

22 (1) Section 11, Chapter 846, Acts of the 61st  
23 Legislature, Regular Session, 1969, provides that the  
24 district shall comply with the requirements of Article  
25 7880-139, Vernon's Texas Civil Statutes. Article  
26 7880-139 was codified by Chapter 58, Acts of the 62nd  
27 Legislature, Regular Session, 1971, as Sections 51.421  
28 and 51.422, Water Code. Chapter 715, Acts of the 74th  
29 Legislature, Regular Session, 1995, repealed Sections  
30 51.421 and 51.422, Water Code, and enacted Sections  
31 49.181 and 49.182, Water Code, to govern the authority  
32 of the Texas Commission on Environmental Quality over  
33 the issuance of district bonds and supervision by the  
34 commission of projects and improvements,  
35 respectively. The revised law omits this provision  
36 because Sections 49.181 and 49.182, Water Code, apply  
37 to the district on their own terms, without an express  
38 reference to those sections in this chapter. The  
39 omitted law reads:

1           Sec. 11. The district shall comply  
2 with the requirements of Article 7880-139,  
3 Vernon's Texas Civil Statutes, as it  
4 presently exists or as it may be hereafter  
5 amended.

6           (2) Section 12, Chapter 846, Acts of the 61st  
7 Legislature, Regular Session, 1969, provides for the  
8 investment or placement of money established in a bond  
9 order. The revised law omits that provision because it  
10 duplicates in substance Section 49.157, Water Code,  
11 and is superseded by Subchapter A, Chapter 2256,  
12 Government Code (enacted as Chapter 889, Acts of the  
13 70th Legislature, Regular Session, 1987). The omitted  
14 law reads:

15           Sec. 12. . . . Moneys in the interest  
16 and sinking fund or funds and the reserve  
17 fund or funds, and in the other fund or  
18 funds established or provided for in the  
19 bond orders or resolutions may be invested  
20 in such manner and in such securities as may  
21 be provided in the bond order or orders or  
22 may be placed on interest-bearing time  
23 deposit. . . .

24           (3) Section 12, Chapter 846, Acts of the 61st  
25 Legislature, Regular Session, 1969, provides that bond  
26 proceeds may be invested in securities of the United  
27 States or placed on interest-bearing time deposit.  
28 The revised law omits that provision as superseded by  
29 Subchapter A, Chapter 2256, Government Code (enacted  
30 as Chapter 889, Acts of the 70th Legislature, Regular  
31 Session, 1987). The omitted law reads:

32           Sec. 12. . . . Until such time as the  
33 bond proceeds are needed to carry out the  
34 bond purpose, such proceeds may be invested  
35 in securities of the United States  
36 Government or any agency thereof or may be  
37 placed on interest-bearing time deposit,  
38 either or both. . . .

39           (4) Section 12, Chapter 846, Acts of the 61st  
40 Legislature, Regular Session, 1969, provides that  
41 district bonds may be registered as to principal or as  
42 to principal and interest. The revised law omits that  
43 provision because it duplicates in substance Section

1 1201.024, Government Code, which applies to district  
2 bonds under Sections 1201.002 and 1201.003, Government  
3 Code. The omitted law reads:

4           Sec. 12. . . . Any such revenue  
5 bonds, tax-revenue, revenue refunding  
6 bonds, or tax-revenue refunding bonds  
7 hereinafter mentioned may be registrable as  
8 to principal, or as to both principal and  
9 interest.

10           . . .

11           (5) Section 12, Chapter 846, Acts of the 61st  
12 Legislature, Regular Session, 1969, authorizes the  
13 district to issue refunding bonds for district bonds  
14 and provides procedures applicable to refunding bonds.  
15 The revised law omits these provisions because they  
16 duplicate in substance Section 51.438, Water Code,  
17 which provides general authority for a district to  
18 issue refunding securities and prescribes procedures  
19 applicable to those refunding securities. Section  
20 51.438 applies to the district under Section 5,  
21 Chapter 846, Acts of the 61st Legislature, Regular  
22 Session, 1969, revised as Section 9061.101 of this  
23 chapter. The omitted law reads:

24           Sec. 12. . . .

25           By orders or resolutions adopted by  
26 its board of directors, said district shall  
27 have the power and authority to issue  
28 revenue refunding bonds or tax-revenue  
29 refunding bonds to refund revenue bonds or  
30 tax-revenue bonds (either original bonds or  
31 refunding bonds) theretofore issued by such  
32 district. Said refunding bonds shall be  
33 approved by the attorney general as in the  
34 case of original bonds, and shall be  
35 registered by the comptroller of public  
36 accounts upon the surrender and  
37 cancellation of the bonds to be refunded,  
38 but in lieu thereof, the orders or  
39 resolutions authorizing their issuance may  
40 provide that they shall be sold and the  
41 proceeds thereof deposited in the place or  
42 places where the underlying bonds are  
43 payable, in which case the refunding bonds  
44 may be issued provided an amount sufficient  
45 to pay the interest and principal on the  
46 underlying bonds to their maturity dates,  
47 or to their option dates if said bonds have  
48 been duly called for payment prior to  
49 maturity according to their terms, has been  
50 so deposited in the place or places where

1           said underlying bonds are payable, and the  
2           comptroller of public accounts shall  
3           register them without the surrender and  
4           cancellation of the underlying bonds.  
5           . . .

6           (6) Section 12, Chapter 846, Acts of the 61st  
7           Legislature, Regular Session, 1969, requires district  
8           bonds to be examined and approved by the attorney  
9           general and registered with the comptroller. Those  
10          provisions are omitted because they duplicate in  
11          substance Sections 1202.003 and 1202.005, Government  
12          Code. Section 1202.003 provides for the review and  
13          approval of obligations by the attorney general.  
14          Section 1202.005 provides for the registration of the  
15          obligations with the comptroller. Chapter 1202,  
16          Government Code, applies to district bonds under  
17          Sections 1202.001 and 1202.003(c), Government Code.  
18          The omitted law reads:

19                   Sec. 12. . . .  
20                   After any bonds have been authorized  
21                   by the district hereunder, such bonds and  
22                   the record relating to their issuance shall  
23                   be submitted to the Attorney General of the  
24                   State of Texas for his examination as to the  
25                   validity thereof, and after said attorney  
26                   general has approved the same, such bonds  
27                   shall be registered by the Comptroller of  
28                   Public Accounts of the State of Texas. . . .

29          (7) Section 12, Chapter 846, Acts of the 61st  
30          Legislature, Regular Session, 1969, provides that  
31          after approval and registration, district bonds are  
32          incontestable except for forgery or fraud. The  
33          revised law omits that provision as impliedly repealed  
34          by Section 1202.006, Government Code (enacted as  
35          Section 3.002(d), Chapter 53, Acts of the 70th  
36          Legislature, 2nd Called Session, 1987). Section  
37          1202.006, Government Code, provides that after  
38          approval and registration, bonds are incontestable for  
39          any reason. Section 1202.006 applies to district  
40          bonds under Sections 1202.001 and 1202.003(c),  
41          Government Code. The omitted law reads:

1           Sec. 12. . . . When such bonds have  
2           been approved by the attorney general,  
3           registered by the comptroller of public  
4           accounts, and delivered to the purchasers,  
5           they shall thereafter be incontestable  
6           except for forgery or fraud. . . .

7           (8) Section 12, Chapter 846, Acts of the 61st  
8           Legislature, Regular Session, 1969, details various  
9           procedures regarding approval of bond contracts and  
10          proceedings by the attorney general. The revised law  
11          omits the portion of Section 12 regarding the validity  
12          and incontestability of a contract the proceeds of  
13          which are pledged to the payment of a bond as impliedly  
14          repealed by Section 1202.006, Government Code (enacted  
15          as Section 3.002(d), Chapter 53, Acts of the 70th  
16          Legislature, 2nd Called Session, 1987). Section  
17          1202.006, Government Code, provides that after  
18          approval and registration of the bond, the bond and  
19          contract are incontestable for any reason. Section  
20          1202.006 applies to district bonds under Sections  
21          1202.001 and 1202.003(c), Government Code. The  
22          omitted law reads:

23                 Sec. 12. . . . When any bonds recite  
24                 that they are secured partially or  
25                 otherwise by a pledge of the proceeds of a  
26                 contract or contracts made between the  
27                 district and another party or parties  
28                 (private or public) a copy of such contract  
29                 or contracts and the proceedings  
30                 authorizing the same may or may not be  
31                 submitted to the attorney general along  
32                 with the bond record and, if so submitted,  
33                 the approval by the attorney general of the  
34                 bonds shall constitute an approval of such  
35                 contract or contracts, and thereafter the  
36                 contract or contracts shall be  
37                 incontestable for any cause except for  
38                 forgery or fraud. . . .

39          (9) Section 12, Chapter 846, Acts of the 61st  
40          Legislature, Regular Session, 1969, provides that the  
41          district may sell bonds only after taking public bids.  
42          The revised law omits that provision because it  
43          duplicates in substance Section 49.183(a), Water Code.  
44          The omitted law reads:

1           Sec. 12. . . . The district's bonds  
2 shall be sold only after taking public bids  
3 therefor.

4           (10) Section 16, Chapter 846, Acts of the 61st  
5 Legislature, Regular Session, 1969, provides that the  
6 district's board of directors may sell bonds at a price  
7 and on terms determined by the board of directors of  
8 the district, except that the bonds may not be sold for  
9 an amount less than provided by law. The revised law  
10 omits those provisions as duplicative of other law or  
11 unnecessary. The revised law omits the price and terms  
12 provision because it duplicates language in Section  
13 1204.006(b), Government Code, that allows an issuer to  
14 sell bonds at any price, and Section 1201.022(a),  
15 Government Code, which provides that a public security  
16 may be issued with specified characteristics, on  
17 specified terms, or in a specified manner. Section  
18 1204.006, Government Code, applies to district bonds  
19 under Sections 1204.001 and 1204.002 of that code.  
20 Section 1201.022, Government Code, applies to district  
21 bonds under Sections 1201.002 and 1201.003 of that  
22 code.

23           The revised law omits the provision prohibiting  
24 the sale of bonds for an amount less than provided by  
25 law because a law that sets a minimum price for  
26 district bonds would apply by its own terms and does  
27 not require a reference. The omitted law reads:

28           Sec. 16. Bonds of the district may be  
29 sold at a price and upon the terms  
30 determined by the board of directors of the  
31 district, except that such bonds shall not  
32 be sold for a less amount than provided by  
33 law.

34           (11) Section 17, Chapter 846, Acts of the 61st  
35 Legislature, Regular Session, 1969, provides that  
36 elections to authorize district bonds must be held  
37 under general law applicable to water control and

1 improvement districts. Section 17 also provides that  
2 if the first bond election fails, any provision of the  
3 general law relating to the dissolution of a district  
4 when a bond election fails does not apply to the  
5 district. The revised law omits the provision  
6 relating to the first bond election as executed. The  
7 revised law omits the provision requiring bond  
8 elections to be held under applicable general law  
9 because the provision duplicates in substance Section  
10 49.101, Water Code. The omitted law reads:

11           Sec. 17. All elections to authorize  
12 the issuance of bonds by the district shall  
13 be held pursuant to the general law  
14 applicable to water control and improvement  
15 districts; provided however, that if the  
16 first bond election fails, Article  
17 7880-77b, Vernon's Texas Civil Statutes, or  
18 any other provision of the general law  
19 pertaining to dissolution of the district  
20 when a bond election fails, shall not apply.

21           (12) Section 19, Chapter 846, Acts of the 61st  
22 Legislature, Regular Session, 1969, lists the entities  
23 for which district bonds are legal investments and  
24 provides that district bonds may secure deposits of  
25 public funds of the state or political subdivisions.  
26 The revised law omits the provision relating to the  
27 eligibility of district bonds to be considered as  
28 investments for various entities because it duplicates  
29 Section 49.186(a), Water Code. The revised law omits  
30 the provision relating to deposits of state funds as  
31 impliedly repealed by Section 404.0221, Government  
32 Code (enacted in 1995), which lists eligible  
33 collateral for deposits of state funds by the  
34 comptroller. As to deposits of other funds, the  
35 provision is impliedly repealed by Chapter 2257,  
36 Government Code (enacted as Chapter 627, Acts of the  
37 71st Legislature, Regular Session, 1989), which  
38 governs eligible collateral for deposits of funds of

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

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

27                           Revisor's Note  
28                           (End of Chapter)

29           (1) Section 6, Chapter 846, Acts of the 61st  
30 Legislature, Regular Session, 1969, provides that it  
31 is not necessary for the board of directors to hold an  
32 election to confirm the district's organization and  
33 that the district is validly created from and after the  
34 passage of that act. The revised law omits that  
35 provision as executed. The omitted law reads:

36           Sec. 6. It shall not be necessary for  
37 the board of directors to call or hold an  
38 election to confirm the organization of the  
39 district and such district shall be validly  
40 created from and after the passage of this  
41 Act.

42           (2) Section 18, Chapter 846, Acts of the 61st  
43 Legislature, Regular Session, 1969, provides that the  
44 board shall canvass the returns of all elections. The  
45 revised law omits that requirement because it  
46 duplicates in substance Section 67.002, Election Code,  
47 which requires the governing body of a political

1 subdivision that orders an election to canvass the  
2 returns. Section 18 also provides that the board shall  
3 canvass the election returns "as soon as reasonably  
4 practicable after an election." The revised law omits  
5 that provision as superseded by Section 67.003,  
6 Election Code (enacted by Section 1, Chapter 211, Acts  
7 of the 69th Legislature, Regular Session, 1985).  
8 Chapter 67, Election Code, applies to district  
9 elections under Section 67.001 of that code. The  
10 omitted law reads:

11           Sec. 18. . . . The returns of all  
12           elections shall be canvassed by the board of  
13           directors of the district as soon as  
14           reasonably practicable after an election.

15           (3) Section 22, Chapter 846, Acts of the 61st  
16           Legislature, Regular Session, 1969, provides in part  
17           that the act is severable. The revised law omits that  
18           provision because the same result is produced by  
19           application of Section 311.032, Government Code (Code  
20           Construction Act), which provides that a provision of  
21           a statute is severable from each other provision of the  
22           statute that can be given effect. The omitted law  
23           reads:

24           Sec. 22. If any word, phrase, clause,  
25           paragraph, sentence, part, portion or  
26           provision of this Act or the application  
27           thereof to any person or circumstance shall  
28           be held to be invalid or unconstitutional,  
29           the remainder of the Act shall nevertheless  
30           be valid, and the Legislature hereby  
31           declares that this Act would have been  
32           enacted without such invalid or  
33           unconstitutional word, phrase, clause,  
34           paragraph, sentence, part, portion or  
35           provision.

36           (4) Section 23, Chapter 846, Acts of the 61st  
37           Legislature, Regular Session, 1969, recites  
38           legislative findings that the procedural requirements  
39           for the creation of the district under Section 59(d),  
40           Article XVI, Texas Constitution, including proper  
41           legal notice and the filing of recommendations, have

1           been accomplished.     The revised law omits that  
2           provision as executed. The omitted law reads:

3                   Sec. 23. It is determined and found  
4           that a proper and legal notice of the  
5           intention to introduce this Act, setting  
6           forth the general substance of this Act, has  
7           been published at least 30 days and not more  
8           than 90 days prior to the introduction of  
9           this Act in the Legislature of Texas, in a  
10          newspaper having general circulation in  
11          Harris County, Texas; that a copy of such  
12          notice and a copy of this Act have been  
13          delivered to the Governor of Texas who has  
14          submitted such notice and Act to the Texas  
15          Water Rights Commission, and said Texas  
16          Water Rights Commission had filed its  
17          recommendation as to such Act with the  
18          Governor, Lieutenant Governor and Speaker  
19          of the House of Representatives of Texas  
20          within 30 days from the date such notice and  
21          Act were received by the Texas Water Rights  
22          Commission; and that all the requirements  
23          and provisions of Article XVI, Section  
24          59(d), Constitution of Texas have been  
25          fulfilled and accomplished as therein  
26          provided.