

PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL
Special District Local
Laws Code
Chapter 9063
7/21/14

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20 CHAPTER 9063. UPPER JASPER COUNTY WATER AUTHORITY
21 SUBCHAPTER A. GENERAL PROVISIONS
22 Revised Law
23 Sec. 9063.001. DEFINITIONS. In this chapter:
24 (1) "Authority" means the Upper Jasper County Water
25 Authority.
26 (2) "Board" means the authority's board of directors.

1 (3) "Director" means a board member. (Acts 54th Leg.,
2 R.S., Ch. 508, Sec. 1 (part); New.)

3 Source Law

4 Sec. 1. . . . [a . . . district] to be known as
5 the "Upper Jasper County Water Authority,"

6 Revisor's Note

7 The definitions of "board" and "director" are
8 added to the revised law for drafting convenience and
9 to eliminate frequent, unnecessary repetition of the
10 substance of the definitions.

11 Revised Law

12 Sec. 9063.002. NATURE OF AUTHORITY. (a) The authority is a
13 conservation and reclamation district.

14 (b) The creation of the authority is essential to accomplish
15 the purposes of Section 59, Article XVI, Texas Constitution. (Acts
16 54th Leg., R.S., Ch. 508, Sec. 1 (part).)

17 Source Law

18 Sec. 1. There is hereby created within the State
19 of Texas, a conservation and reclamation district
20 . . . the creation of such Authority is hereby
21 declared to be essential to the accomplishment of the
22 purposes set forth in Section 59 of Article XVI of the
23 Constitution of the State of Texas.

24 Revisor's Note

25 (1) Section 1, Chapter 508, Acts of the 54th
26 Legislature, Regular Session, 1955, provides that the
27 authority "is hereby created within the State of
28 Texas." The revised law omits the quoted language as
29 executed.

30 (2) Section 1, Chapter 508, Acts of the 54th
31 Legislature, Regular Session, 1955, provides that the
32 authority is "a governmental agency and body politic
33 and corporate with the powers of government." The
34 revised law omits the quoted language because it
35 duplicates a portion of Section 59(b), Article XVI,
36 Texas Constitution, which provides that a conservation
37 and reclamation district is a governmental agency and

1 body politic and corporate, with governmental powers
2 conferred by law. The omitted law reads:

3 Sec. 1. . . .
4 The Authority shall be, and is hereby
5 declared to be, a governmental agency and
6 body politic and corporate with the powers
7 of government and

8 Revised Law

9 Sec. 9063.003. AUTHORITY TERRITORY. The authority consists
10 of the territory included in the boundaries of County Commissioners
11 Precincts 1 and 2 of Jasper County, as those boundaries existed on
12 June 22, 1955. The authority's territory may have been modified
13 under:

- 14 (1) Subchapter O, Chapter 51, Water Code;
15 (2) Subchapter J, Chapter 49, Water Code; or
16 (3) other law. (Acts 54th Leg., R.S., Ch. 508, Sec. 1
17 (part); New.)

18 Source Law

19 Sec. 1. . . . which shall include and consist of
20 that part of the State of Texas included within the
21 boundaries of Commissioners Precinct No. 1 and 2 of
22 Jasper County, Texas, and the boundaries of said
23 Precincts shall be the boundaries of said Authority.
24 . . .

25 Revisor's Note

26 (1) Section 1, Chapter 508, Acts of the 54th
27 Legislature, Regular Session, 1955, provides that the
28 authority's territory consists of that part of the
29 state "included within the boundaries of Commissioners
30 Precinct No. 1 and 2 of Jasper County." Under Section
31 18(b), Article V, Texas Constitution, the
32 commissioners court may set the commissioners precinct
33 boundaries. Following the release of each federal
34 decennial census, the commissioners court may change
35 the commissioners precinct boundaries to comply with
36 the "one-person, one-vote" mandate of the Equal
37 Protection Clause of the Fourteenth Amendment of the
38 federal constitution. See Avery v. Midland County,

1 390 U.S. 474, 484-485 (1968).

2 It is unlikely that the legislature intended for
3 the authority boundaries to change when the
4 commissioners precinct boundaries change. An
5 applicable rule of statutory construction provides
6 that the delineation of a political subdivision's
7 boundary by reference to that of another political
8 subdivision refers to the boundary as it existed at the
9 time of the delineation. See Op. Tex. Att'y Gen. No.
10 DM-186 (1992) (Hamilton County Hospital District
11 boundaries do not change after commissioners precinct
12 boundaries changed). Changing the authority
13 boundaries based on changes in the commissioners
14 precinct boundaries would cause some territory
15 included in the authority and subject to an ad valorem
16 tax to be removed from the authority, possibly
17 resulting in an unconstitutional impairment of any
18 contract under which authority bonds issued were
19 supported by an ad valorem tax imposed on authority
20 property.

21 Had the legislature intended this result, it
22 could have provided in the statute a method by which
23 the changes in authority boundaries could have been
24 made to avoid these constitutional issues. See Op.
25 Tex. Att'y Gen. No. DM-186 (1992). Accordingly, the
26 revised law defines the authority boundaries as of the
27 effective date of the act that made the boundaries
28 coextensive with the commissioners precincts.

29 (2) The revision of the law governing the
30 authority revises the statutory language describing
31 the territory of the authority. Because the
32 authority's boundaries are subject to change under
33 general law, that description may not be accurate on
34 the effective date of the revision or at the time of a

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

11 Revised Law

12 Sec. 9063.004. SABINE RIVER AUTHORITY NOT AFFECTED;
13 LEGISLATIVE INTENT. In enacting Chapter 508, Acts of the 54th
14 Legislature, Regular Session, 1955, revised as this chapter, the
15 legislature intended to preserve the area and authority of the
16 Sabine River Authority as that area and authority existed on June
17 22, 1955, and this chapter may not be construed as limiting the area
18 and authority of the Sabine River Authority as it existed on June
19 22, 1955. (Acts 54th Leg., R.S., Ch. 508, Sec. 4 (part).)

20 Source Law

21 Sec. 4. . . . Nothing herein shall be construed
22 as limiting the present area and authority of the
23 Sabine River Authority, and it is the intent of the
24 Legislature to preserve the present area and authority
25 of the Sabine River Authority.

26 Revisor's Note

27 Section 4, Chapter 508, Acts of the 54th
28 Legislature, Regular Session, 1955, provides that
29 nothing in Chapter 508 shall be construed as limiting
30 the "present" area and authority of the Sabine River
31 Authority. Section 4 also provides that it is the
32 intent of the legislature to preserve that "present"
33 area and authority. Accordingly, the revised law omits
34 "present" and substitutes references to June 22, 1955,
35 the effective date of Chapter 508.

1 SUBCHAPTER B. BOARD OF DIRECTORS

2 Revised Law

3 Sec. 9063.051. COMPOSITION OF BOARD. The authority is
4 governed by a board of five elected directors. (Acts 54th Leg.,
5 R.S., Ch. 508, Sec. 2 (part).)

6 Source Law

7 Sec. 2. The governing body of the Authority
8 shall be a Board of Directors, composed of five (5)
9 persons, . . . succeeding directors shall be elected,
10 and

11 Revisor's Note

12 Section 2, Chapter 508, Acts of the 54th
13 Legislature, Regular Session, 1955, refers to
14 "succeeding directors" to distinguish those directors
15 from the initial directors appointed under that
16 section. The revised law omits "succeeding" because
17 all provisions referring to initial directors are
18 omitted as executed and the distinction is no longer
19 required.

20 Revised Law

21 Sec. 9063.052. QUALIFICATIONS FOR OFFICE. (a) A director
22 must be:

- 23 (1) at least 18 years of age;
24 (2) a resident of the state and authority; and
25 (3) the owner of property subject to taxation in the

26 authority.

27 (b) At least one director must reside in County
28 Commissioners Precinct 1 of Jasper County. (Acts 54th Leg., R.S.,
29 Ch. 508, Sec. 2 (part).)

30 Source Law

31 Sec. 2. . . . [a Board of Directors] . . . each
32 of whom shall be at least twenty-one (21) years of age,
33 a citizen of the State of Texas, and the owner of
34 property subject to taxation within the District and a
35 resident of said District and at least one of whom
36 shall reside in Precinct No. 1. . . .

37 Revisor's Note

- 38 (1) Section 2, Chapter 508, Acts of the 54th

1 Legislature, Regular Session, 1955, states that a
2 director must be "at least twenty-one (21) years of
3 age." The revised law substitutes "at least 18 years
4 of age" for the quoted language because Section
5 129.001, Civil Practice and Remedies Code, establishes
6 18 years as the age of majority in this state. Section
7 129.002, Civil Practice and Remedies Code, provides
8 that a law adopted before August 27, 1973, that extends
9 a right, privilege, or obligation to an individual on
10 the basis of a minimum age of 19, 20, or 21 years shall
11 be interpreted as prescribing a minimum age of 18
12 years. Section 2 was enacted in 1955 and has not been
13 amended.

14 (2) Section 2, Chapter 508, Acts of the 54th
15 Legislature, Regular Session, 1955, refers to a
16 "citizen" of the state. The revised law substitutes
17 "resident" for "citizen" because, in the context of
18 this section, "citizen" and "resident" are synonymous
19 and "resident" is more commonly used.

20 Revisor's Note
21 (End of Subchapter)

22 (1) Section 2, Chapter 508, Acts of the 54th
23 Legislature, Regular Session, 1955, requires the
24 Commissioners Court of Jasper County to appoint the
25 initial board. The revised law omits the provision as
26 executed. The omitted law reads:

27 Sec. 2. . . . The first Board of
28 Directors shall be appointed by the
29 Commissioners Court of Jasper County,
30 Texas, and

31 (2) Section 2, Chapter 508, Acts of the 54th
32 Legislature, Regular Session, 1955, provides that
33 directors shall be elected and vacancies in office
34 shall be filled in the manner provided for water
35 control and improvement authorities. The revised law
36 omits the provision relating to the manner of electing

1 directors because it duplicates in substance
2 Subchapter D, Chapter 49, Water Code, applicable to
3 the authority under Sections 49.001 and 49.002, Water
4 Code, and Subchapter C, Chapter 51, Water Code,
5 applicable to the authority under Section 3 of Chapter
6 508, revised as Section 9063.102 of this chapter. The
7 revised law omits the provision relating to the manner
8 of filling vacancies because it duplicates in
9 substance Section 49.105, Water Code, applicable to
10 the authority under Sections 49.001 and 49.002, Water
11 Code. The omitted law reads:

12 Sec. 2. . . . [succeeding directors
13 shall be elected, and] vacancies in office
14 filled, in the manner provided by law for
15 water control and improvement authorities.

16 SUBCHAPTER C. POWERS AND DUTIES

17 Revised Law

18 Sec. 9063.101. GENERAL POWERS. The authority may exercise
19 the rights, privileges, and functions provided by this chapter.
20 (Acts 54th Leg., R.S., Ch. 508, Sec. 1 (part).)

21 Source Law

22 Sec. 1. . . . [The Authority shall be . . . a
23 governmental agency] . . . with the power to exercise
24 the rights, privileges and functions hereinafter
25 specified, and

26 Revised Law

27 Sec. 9063.102. WATER CONTROL AND IMPROVEMENT DISTRICT
28 POWERS. The authority has the rights, powers, privileges, and
29 duties provided by general law applicable to a water control and
30 improvement district created under Section 59, Article XVI, Texas
31 Constitution, including Chapters 49 and 51, Water Code. (Acts 54th
32 Leg., R.S., Ch. 508, Sec. 3 (part); New.)

33 Source Law

34 Sec. 3. The Authority shall have and exercise,
35 and is hereby vested with, all of the rights, powers,
36 privileges, authority and duties conferred and imposed
37 by the General Laws of this State now in force or
38 hereafter enacted, applicable to water control and
39 improvement authorities created under authority of
40 Section 59, Article XVI, of the Constitution, but

1

2 Revisor's Note

3 (1) Section 3, Chapter 508, Acts of the 54th
4 Legislature, Regular Session, 1955, states that the
5 authority "shall have and exercise, and is hereby
6 vested with," certain powers. The revised law
7 substitutes "has" for the quoted language because, in
8 context, the terms are synonymous and "has" is more
9 commonly used.

10 (2) Section 3, Chapter 508, Acts of the 54th
11 Legislature, Regular Session, 1955, states that the
12 authority has the rights, powers, privileges,
13 authority, and duties "conferred and imposed" by
14 general law. The revised law substitutes "provided"
15 for the quoted language because regardless of whether
16 a right, power, privilege, authority, or duty is
17 "conferred" by general law or "imposed" by general
18 law, it is not necessary to characterize in the revised
19 law the nature of the granting of that authority. In
20 context, "provided" is synonymous with "conferred and
21 imposed" and "provided" is more commonly used.

22 (3) Section 3, Chapter 508, Acts of the 54th
23 Legislature, Regular Session, 1955, refers to the
24 "rights, powers, privileges, [and] authority" of the
25 authority. The revised law omits the reference to
26 "authority" because, in context, "authority" is
27 included in the meaning of "rights, powers, [and]
28 privileges."

29 (4) Section 3, Chapter 508, Acts of the 54th
30 Legislature, Regular Session, 1955, refers to the
31 general laws of this state "now in force or hereafter
32 enacted." The revised law omits the quoted language as
33 unnecessary under accepted general principles of
34 statutory construction. The "[g]eneral [l]aws of this

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

6 (5) Section 3, Chapter 508, Acts of the 54th
7 Legislature, Regular Session, 1955, refers to the
8 general laws "applicable to water control and
9 improvement authorities." For the reader's
10 convenience, the revised law adds references to
11 Chapter 49, Water Code, applicable under Sections
12 49.001 and 49.002 of that chapter to many types of
13 districts, including water control and improvement
14 districts, created under Section 59, Article XVI,
15 Texas Constitution, and to Chapter 51, Water Code,
16 applicable to water control and improvement districts.

17 (6) Section 3, Chapter 508, Acts of the 54th
18 Legislature, Regular Session, 1955, provides that the
19 act prevails over general law in case of a conflict or
20 other inconsistency and that all general laws
21 applicable to water control and improvement
22 authorities not in conflict or inconsistent with the
23 provisions of the act are adopted and incorporated by
24 reference. The revised law omits the portion of the
25 provision relating to the act prevailing over general
26 law because it duplicates in substance Section
27 311.026(b), Government Code (Code Construction Act).
28 The revised law omits the portion of the provision
29 relating to adoption and incorporation of general laws
30 because the portion of Section 3, Chapter 508, revised
31 as this section already provides that those laws apply
32 to the authority, and it is unnecessary to further
33 adopt and incorporate those laws in this chapter. The
34 omitted law reads:

1 Legislature, Regular Session, 1955, refers to
2 "municipal corporations and political subdivisions of
3 the State." The revised law omits the reference to
4 "municipal corporations" because municipal
5 corporations are political subdivisions of the state.

6 (2) Section 4, Chapter 508, Acts of the 54th
7 Legislature, Regular Session, 1955, provides that the
8 authority may cooperate and enter into certain
9 agreements on "terms and conditions" the board
10 determines to be for the best interests of the
11 authority. The revised law omits "conditions" because
12 "conditions" is included in the meaning of "terms."

13 (3) Section 4, Chapter 508, Acts of the 54th
14 Legislature, Regular Session, 1955, provides that the
15 powers conferred by Section 4 are cumulative of other
16 powers granted to the authority by Chapter 508. The
17 revised law omits the provision because, as a
18 principle of statutory construction, the various
19 provisions granting power to the authority are read
20 cumulatively. The omitted law reads:

21 Sec. 4. . . . The provisions of this
22 Section shall be cumulative of other powers
23 granted to the Authority herein. . . .

24 Revised Law

25 Sec. 9063.104. COST OF RELOCATING OR ALTERING PROPERTY. If
26 the authority's exercise of the power of eminent domain, the power
27 of relocation, or any other power granted by this chapter makes
28 necessary relocating, raising, rerouting, changing the grade of, or
29 altering the construction of a railroad, highway or other public
30 road, electric transmission line, or telephone or telegraph
31 property or facility, the necessary action shall be accomplished at
32 the sole expense of the authority. (Acts 54th Leg., R.S., Ch. 508,
33 Sec. 3a.)

34 Source Law

35 Sec. 3a. In the event that the District, in the

1 exercise of the power of eminent domain or power of
2 relocation, or any other power granted hereunder,
3 makes necessary the relocation, raising, re-routing or
4 changing the grade of, or altering the construction of
5 any railroad, highways and other public roads,
6 electric transmission line, telephone or telegraph
7 properties and facilities, as such necessary
8 relocation, raising, re-routing, changing of grade or
9 alteration of construction shall be accomplished at
10 the sole expense of the District.

11 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

12 Revised Law

13 Sec. 9063.151. TAX METHOD; HEARING REQUIRED. Before an
14 election authorizing bonds, the board must hold a public hearing on
15 the adoption of the plan of taxation to be used by the authority and
16 adopt a plan of taxation. (Acts 54th Leg., R.S., Ch. 508, Sec. 3
17 (part).)

18 Source Law

19 Sec. 3. . . . The Board of Directors shall,
20 prior to election authorizing the bonds, hold and
21 conduct a public hearing on the adoption of the plan of
22 taxation to be utilized by the District and shall adopt
23 a plan

24 Revisor's Note

25 Section 3, Chapter 508, Acts of the 54th
26 Legislature, Regular Session, 1955, requires the board
27 to adopt a plan of taxation in the manner provided by
28 general law for water control and improvement
29 districts. The revised law omits that provision
30 because general law applicable to water control and
31 improvement districts, including taxation provisions
32 in Chapters 49 and 51, Water Code, applies on its own
33 terms or under the relevant part of Section 3 of
34 Chapter 508 (revised by this chapter as Section
35 9063.102). The omitted law reads:

36 Sec. 3. . . . [The Board] . . .
37 [shall adopt a plan] in the same manner as
38 is now provided by the General Law governing
39 water control and improvement districts.

40 Revisor's Note
41 (End of Chapter)

42 (1) Section 3, Chapter 508, Acts of the 54th
43 Legislature, Regular Session, 1955, includes

1 provisions controlling the creation of the authority
2 that relate to the applicability of general laws
3 governing the creation of water control and
4 improvement districts. The provisions are transition
5 provisions clarifying procedures relative to the
6 creation of the authority, and the revised law
7 therefore omits those provisions as executed. The
8 omitted law reads:

9 Sec. 3. . . . It shall not be
10 necessary for the Board of Directors to call
11 a confirmation election. It shall be
12 necessary, however, for the Board of
13 Directors to have and conduct a hearing for
14 the exclusion of lands in the same manner as
15 now provided by the General Law governing
16 water control and improvement districts.
17 . . .

18 (2) Section 5, Chapter 508, Acts of the 54th
19 Legislature, Regular Session, 1955, provides that the
20 act is severable. The revised law omits that provision
21 because it duplicates in substance Section 311.032,
22 Government Code (Code Construction Act), which
23 provides that a provision of a statute is severable
24 from each other provision of the statute that can be
25 given effect. The omitted law reads:

26 Sec. 5. If any section, sentence,
27 clause or part of this Act is for any reason
28 held to be invalid, such decision shall not
29 affect the remaining portions of this Act.