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CHAPTER 8514. SAN JACINTO RIVER AUTHORITY

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CHAPTER 8514. SAN JACINTO RIVER AUTHORITY

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 8514.0101. DEFINITIONS. In this chapter:

(1) "Authority" means the San Jacinto River Authority.

(2) "Board" means the authority's board of directors.

(3) "Director" means a board member. (Acts 45th Leg., R.S., Ch. 426, Sec. 1 (part); Acts 52nd Leg., R.S., Ch. 366, Sec. 1 (part); New.)

Source Law

[Acts 45th Leg., R.S., Ch. 426]

Sec. 1. . . . the San Jacinto River Conservation and Reclamation District.

[Acts 52nd Leg., R.S., Ch. 366]

Sec. 1. The name of San Jacinto River Conservation and Reclamation District is hereby changed to San Jacinto River Authority, by which name such governmental agency shall be hereafter known and designated. . . .

Revisor's Note

(1) The definitions of "authority," "board," and "director" are added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definitions. Although Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to the authority as the "District," throughout this chapter the revised law substitutes "authority" for "district" to more clearly conform to the current name of the authority and because "authority" is the defined term under this chapter used to refer to the authority.

(2) Section 1, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to the "San Jacinto River Conservation and Reclamation District."

Section 1, Chapter 366, Acts of the 52nd Legislature, Regular Session, 1951, provides that the name of the San Jacinto River Conservation and Reclamation District is "hereby changed to" the San Jacinto River Authority. Accordingly, the revised law substitutes a reference to the "San Jacinto River Authority" for the reference to the "San Jacinto River Conservation and Reclamation District." The revised law omits the reference in Section 1 of Chapter 366 to the change of name of the district as executed. In addition, Sections 1, 2, 3, and 4 of Chapter 366 specify the effect of the change of name of the district. The revised law omits those provisions as executed. The omitted law reads:

> Sec. 1. . . . All laws heretofore or hereafter enacted applicable to this governmental agency and contracts, bonds, or other debentures effected under its old name, shall be likewise applicable to such governmental agency under its new name.
>
> Sec. 2. Wherever the name San Jacinto River Conservation and Reclamation District or any reference thereto appears in the Statutes of Texas, or in any amendments thereto, or in any of the Acts of any Legislature, or in any court decision, such name and reference shall hereafter mean and apply to the San Jacinto River Authority in order to conform to the new name of said governmental agency as provided in Section 1 hereof.
>
> Sec. 3. All grants and donations of State ad valorem taxes heretofore made by the State of Texas to the San Jacinto River Conservation and Reclamation District and now pertaining thereto, and all appropriations and benefits thereunder, shall be available to and apply to the said San Jacinto River Authority.
>
> Sec. 4. This Act shall in nowise affect the organization, authority, functions or powers of such governmental agency heretofore conferred by law and as expressly authorized in the provisions of the Constitution, Section 59, of Article 16.

<u>Revised Law</u>

Sec. 8514.0102. NATURE OF AUTHORITY. The authority is:

(1) a conservation and reclamation district;

(2) an independent governmental agency;

(3) a body politic and corporate; and

(4) a state agency. (Acts 45th Leg., R.S., Ch. 426, Secs. 1 (part), 2 (part), 9 (part), 10a (part).)

Source Law

> Sec. 1. . . . there is hereby created the San Jacinto River Conservation and Reclamation District.
>
> Sec. 2. The San Jacinto River Conservation and Reclamation District is created as a governmental agency, a body politic and corporate, . . . [and shall have and be recognized to exercise all of the powers] of such governmental agency and body politic and corporate . . . [and shall have and be recognized to exercise all the rights and powers] of an independent governmental agency, body politic and corporate, ...
>
> Sec. 9. The San Jacinto River Conservation and Reclamation District is hereby declared to be a Conservation and Reclamation District, ...
>
> Sec. 10a. . . . the San Jacinto River Conservation and Reclamation District, a State Agency, ...

Revisor's Note

(1) Section 1, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that it is the policy of the state as declared by Section 59, Article XVI, Texas Constitution, to provide for the conservation and development of the natural resources of the state, that the preservation and conservation of the natural resources of the state is a public right and duty, that the preservation and conservation of those resources may be effected through the creation of such conservation and reclamation districts as may be determined to be essential to the accomplishment of the policy expressed in the constitution, and that such districts are governmental agencies and bodies politic and corporate with the rights, privileges, and functions conferred by law. The revised law omits the statements that it is the policy of the state to provide for the conservation and development of the natural resources of the state and that the

preservation and conservation of those resources is a public right and duty because they duplicate, in substance, part of Section 59(a), Article XVI, Texas Constitution, which provides that the conservation and development of the natural resources of the state are public rights and duties and requires the legislature to pass all such laws as may be appropriate for that purpose. The revised law omits the statements regarding the authority of the legislature to create conservation and reclamation districts and the nature, rights, privileges, and functions of such districts because they duplicate, in substance, Section 59(b), Article XVI, Texas Constitution, which authorizes the legislature to create such conservation and reclamation districts as may be determined to be essential to the purposes of Section 59, Article XVI, Texas Constitution, and provides that such districts are governmental agencies and bodies politic and corporate with such powers of government and the authority to exercise such rights, privileges, and functions concerning the subject matter of that section as may be conferred by law. The omitted law reads:

> Sec. 1. It being declared by the Constitutional provision the policy of the State of Texas, Section 59, Article 16, to provide for the conservation and development of all the natural resources of the State, including the control, storing, preservation, and distribution of its storm and flood waters, the waters of its rivers and streams, for irrigation, power, and all other useful purposes, the reclamation and irrigation of its arid, semiarid, and other lands needing irrigation, the reclamation and drainage of its overflowed lands, and other lands needing drainage, the conservation and development of its forests, water and hydro-electric power, the navigation of its inland and coastal waters, and the preservation and conservation of all such natural resources of the State, are each and all hereby declared public rights and duties, which

> may be effected through the creation within the State, or the divisions of the State, into such number of conservation and reclamation Districts as may be determined to be essential to the accomplishment of the purposes of the policy expressed in the Constitution of the State; such Districts to be governmental agencies and bodies politic and corporate, with all rights, privileges, and functions as may be conferred by law, ...

(2) Section 1, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that the San Jacinto River Conservation and Reclamation District is "hereby created." Section 2 of Chapter 426 provides that the district is "created." The revised law omits the references to the district's creation as executed.

Revised Law

Sec. 8514.0103. REVIEW SCHEDULE UNDER SUNSET ACT. A review of the authority under Section 325.025, Government Code, shall be conducted as if the authority were a state agency scheduled to be abolished September 1, 2035, and every 12th year after that year. (Acts 45th Leg., R.S., Ch. 426, Sec. 1A(a) (part).)

Source Law

> (a) . . . The review shall be conducted under Section 325.025, Government Code, as if the District were a state agency scheduled to be abolished September 1, 2035, and every 12th year after that year.

Revisor's Note

Sections 1A(a) and (b), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, relate to a periodic review of the authority by the Sunset Advisory Commission. Section 1A(a) provides in part that the authority is subject to limited review under Chapter 325, Government Code, as if it were a state agency but may not be abolished under that chapter. Section 1A(b) provides that the authority must pay the costs associated with the Sunset Advisory Commission's review of the authority. The revised law omits those provisions because they duplicate Sections

325.025(a), (b), and (d), Government Code. The omitted law reads:

> Sec. 1A. (a) The District is subject to review under Chapter 325, Government Code (Texas Sunset Act), but may not be abolished under that chapter. . . .
>
> (b) The District shall pay the cost incurred by the Sunset Advisory Commission in performing the review. The Sunset Advisory Commission shall determine the cost, and the District shall pay the amount promptly on receipt of a statement from the Sunset Advisory Commission detailing the cost.

Revised Law

Sec. 8514.0104. TERRITORY. (a) The authority is composed of the territory described by Subsection (b) as that territory may have been modified under:

(1) Subchapter J, Chapter 49, Water Code;

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

(3) other law.

(b) The authority is composed of all the territory within the watershed of the San Jacinto River and its tributaries except the portion of that watershed situated within the boundaries of Harris County, as that territory is shown by the written description of the boundaries of the authority as expressed in written calls of the metes and bounds of the authority prepared by the former Reclamation Department of the General Land Office, certified by the commissioner of the General Land Office, approved by the former State Board of Water Engineers, recorded in the minutes of the authority, and:

(1) filed and recorded in the office of the county clerk of each county lying wholly or partly within the boundaries of the authority; and

(2) filed with the tax assessor and collector of each county lying wholly or partly within the boundaries of the authority, together with a map showing the boundaries of the authority. (Acts 45th Leg., R.S., Ch. 426, Sec. 5; New.)

Source Law

Sec. 5. The area of said District is hereby established to comprise all the territory within the watershed of the San Jacinto River and its tributary streams, save and except that portion of said watershed lying and being situated within the boundaries of Harris County, which is hereby expressly excluded from the boundaries of said District. Provided, that prior to September 1, 1941, the actual boundaries of said District shall be established by the Reclamation Department of the General Land Office, so that the same may be expressed in written calls of the metes and bounds of said District. The written description of said boundaries shall be certified by the Commissioner of the General Land Office, approved by the State Board of Water Engineers, and recorded in the minutes of said District. The Board of Directors shall cause a copy of said certified boundaries to be filed and recorded in the office of the County Clerk of each county lying in whole or in part within the boundaries of said District, and shall also file a copy thereof, together with a map showing said boundaries with the Tax Assessor and Collector of each of the counties lying in whole or in part within said District.

Revisor's Note

(1) The revision of the law governing the authority revises the statutory language describing the authority's territory. Because the authority's boundaries are subject to change, that description may not be accurate on the effective date of the revision or at the time of a later reading. For the reader's convenience, the revised law includes a reference to:

(A) the statutory authority to change the authority's territory under:

(i) Subchapter J, Chapter 49, Water Code, applicable to the authority under Sections 49.001 and 49.002 of that code; and

(ii) Subchapter O, Chapter 51, Water Code, applicable to the authority under Section 9, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, which is revised in pertinent part in Section 8514.0301 of this chapter; and

(B) the legislature's general authority to enact a law to change the authority's territory.

(2) Section 5, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that the authority's area is "hereby established." The revised law omits the quoted language as executed.

(3) Section 5, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to the San Jacinto River and its "tributary streams." Throughout this chapter, the revised law substitutes "tributaries" for "tributary streams" for consistency of terminology.

(4) Section 5, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that "prior to September 1, 1941," the actual boundaries of the authority shall be established by the Reclamation Department of the General Land Office so that the boundaries may be expressed in written calls of the metes and boundaries of the authority, requires the written description of the boundaries to be certified by the commissioner of the General Land Office, approved by the State Board of Water Engineers, and recorded in the minutes of the authority, requires the authority's board to cause a copy of the certified boundaries to be filed and recorded in the office of the county clerk of each county lying wholly or partly within the boundaries of the authority, and requires the authority's board to file a copy of the certified boundaries, together with a map showing the boundaries, with the tax assessor and collector of each of those counties. The revised law omits the reference to the deadline for establishing the boundaries of the authority because that provision is executed. The revised law refers to the "former" Reclamation Department of the General Land Office and the "former" State Board of Water Engineers because,

as explained by Revisor's Notes (2) and (3) to Section 8514.0322, the Texas Commission on Environmental Quality is the successor to the reclamation department and the board of water engineers.

Revised Law

Sec. 8514.0105. CORRECTION OF INVALID PROCEDURES. If a court holds that any procedure under this chapter violates the United States Constitution or the Texas Constitution, the authority by resolution may provide an alternative procedure that conforms with that constitution. (Acts 45th Leg., R.S., Ch. 426, Sec. 13 (part).)

Source Law

> Sec. 13. . . . [Federal or State Constitutions] . . . Where any procedure hereunder may be held by any court to be violative of either of such Constitutions, the Authority shall have the power by resolution to provide an alternative procedure conformable with such Constitutions. . . .

Revisor's Note

(1) Section 13, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that the act may not be construed to violate the federal or state constitution and requires that action under the act comply with the constitutions.

The revised law omits as unnecessary the statement that the act may not be construed to violate the constitutions because under Section 311.021(1), Government Code (Code Construction Act), it is presumed that, in enacting a statute, compliance with the constitutions of the United States and this state is intended. The revised law omits as unnecessary the statement that actions done under the act must conform to the constitutions for the following reasons.

The revised law omits the provision as it relates to the federal constitution because under the Supremacy Clause of the United States Constitution

(Clause 2, Article VI), federal law takes precedence over a state statute. The revised law omits the provision as it relates to the state constitution because the state legislature cannot modify a constitutional provision by statute. The omitted law reads:

> Sec. 13. Nothing in this Act, as amended, shall be construed to violate any provision of the Federal or State Constitutions, and all acts done under this Act shall be in such manner as will conform thereto, whether expressly provided or not. . . .

(2) Section 13, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that the authority "shall have the power" to provide an alternative procedure by resolution. Throughout this chapter, in this and similar contexts, the revised law substitutes "may" or "has" for the quoted or similar language because the language has the same meaning and "may" or "has" are more commonly used.

SUBCHAPTER B. BOARD OF DIRECTORS; ADMINISTRATIVE PROVISIONS

Revised Law

Sec. 8514.0201. MEMBERSHIP OF BOARD. (a) The board consists of seven directors appointed by the governor.

(b) Each director must be a freehold property tax payer and a qualified voter of this state.

(c) Four directors must be residents of a county that is wholly encompassed by the authority. (Acts 45th Leg., R.S., Ch. 426, Sec. 6 (part).)

Source Law

> Sec. 6. The management and control of all the affairs of said District shall be vested in, and the powers, rights, privileges, and functions of the District shall be exercised by a Board of Directors consisting of seven members, all of whom shall be freehold property taxpayers and legal voters of the State of Texas and four (4) of whom shall be residents of a county wholly encompassed by the District. Members of such Board of Directors shall be appointed by the Governor . . . .

Revisor's Note

(1) Section 6, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that "[t]he management and control of all the affairs of said District shall be vested in, and the powers, rights, privileges, and functions of the District shall be exercised by" the board. The revised law omits the quoted language because it duplicates, in substance, parts of Sections 49.051 and 49.057, Water Code, which provide that a district is governed by its board and that the board is responsible for the district's management. Throughout this chapter, the revised law omits law that is superseded by or duplicates law in Chapter 49, Water Code, which was enacted by Chapter 715, Acts of the 74th Legislature, Regular Session, 1995, and applies to the authority under Sections 49.001 and 49.002 of that code.

(2) Section 6, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that the members of the board must be "legal voters." The revised law substitutes "qualified" for "legal" because, in context, the terms have the same meaning and "qualified" is more commonly used.

Revised Law

Sec. 8514.0202. TERMS. Directors are appointed for terms of four years. (Acts 45th Leg., R.S., Ch. 426, Sec. 6 (part).)

Source Law

Sec. 6. . . . Members of such Board of Directors shall be appointed . . . for terms of four years.

. . .

Revisor's Note

Section 6, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, requires the directors to continue to hold their offices until

their successors are appointed and have qualified. The revised law omits that provision because it duplicates, in substance, Section 17, Article XVI, Texas Constitution, which requires each officer in this state to continue to perform the officer's duties until a successor has qualified. The omitted law reads:

> Sec. 6 . . .
> The Directors shall hold office after their appointment and qualification until their successors shall be appointed and qualified. . . .

Revised Law

Sec. 8514.0203. REMOVAL. (a) It is a ground for removal from the board that a director:

(1) does not have at the time of taking office the qualifications required by Sections 8514.0201 and 8514.0206;

(2) does not maintain during service on the board the qualifications required by Sections 8514.0201 and 8514.0206;

(3) is ineligible for directorship under Chapter 171, Local Government Code;

(4) cannot, because of illness or disability, discharge the director's duties for a substantial part of the director's term; or

(5) is absent from more than half of the regularly scheduled board meetings that the director is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

(b) The validity of a board action is not affected by the fact that it is taken when a ground for removal of a director exists.

(c) If the general manager has knowledge that a potential ground for removal exists, the general manager shall notify the board president of the potential ground. The president shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal

involves the president, the general manager shall notify the next highest ranking director, who shall then notify the governor and the attorney general that a potential ground for removal exists. (Acts 45th Leg., R.S., Ch. 426, Sec. 6A.)

Source Law

> Sec. 6A. (a) It is a ground for removal from the Board of Directors that a Director:
>
> (1) does not have at the time of taking office the qualifications required by Section 6 of this Act;
>
> (2) does not maintain during service on the Board the qualifications required by Section 6 of this Act;
>
> (3) is ineligible for directorship under Chapter 171, Local Government Code;
>
> (4) cannot, because of illness or disability, discharge the Director's duties for a substantial part of the Director's term; or
>
> (5) is absent from more than half of the regularly scheduled Board meetings that the Director is eligible to attend during a calendar year without an excuse approved by a majority vote of the Board.
>
> (b) The validity of an action of the Board is not affected by the fact that it is taken when a ground for removal of a Director exists.
>
> (c) If the general manager has knowledge that a potential ground for removal exists, the general manager shall notify the President of the Board of the potential ground. The President shall then notify the Governor and the Attorney General that a potential ground for removal exists. If the potential ground for removal involves the President, the general manager shall notify the next highest ranking Director, who shall then notify the Governor and the Attorney General that a potential ground for removal exists.

Revisor's Note

Section 6A, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that a director may be removed for not having, at the time the director takes office, or maintaining, during the director's term, certain qualifications required by "Section 6 of this Act." The relevant provisions of Section 6, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, are revised as Sections 8514.0201 and 8514.0206 of this chapter, and the revised law is drafted accordingly.

Revised Law

Sec. 8514.0204. VACANCY. The governor shall fill a board

vacancy for the unexpired part of the term in the manner provided by Section 8514.0201. (Acts 45th Leg., R.S., Ch. 426, Sec. 6 (part).)

Source Law

> Sec. 6. . . . Should any vacancy occur in the Board of Directors, the same shall be filled in like manner by the Governor for the unexpired term. . . .

Revisor's Note

Section 6, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that a board vacancy shall be filled "in like manner." The quoted language refers to making the appointment in accordance with Section 6, the relevant provisions of which are revised as Section 8514.0201 of this chapter. The revised law is drafted accordingly.

Revised Law

Sec. 8514.0205. RULES FOR GOVERNMENT AND CONTROL OF AUTHORITY. The board may adopt necessary rules for the government and control of the authority. (Acts 45th Leg., R.S., Ch. 426, Sec. 10f.)

Source Law

> Sec. 10f. The Board of Directors shall have authority to make all necessary rules and regulations for the government and control of the District not inconsistent with the Constitution and Laws of the State of Texas.

Revisor's Note

(1) Section 10f, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that the authority may "make . . . rules and regulations." The revised law substitutes "adopt" for "make" because, in context, the terms have the same meaning and "adopt" is more commonly used. The revised law omits the reference to "regulations" because under Section 311.005(5), Government Code (Code Construction Act), a rule is defined to include a regulation.

(2) Section 10f, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that the

board may adopt rules that are not inconsistent with the constitution and laws of this state. The revised law omits the reference to the state constitution for the reason stated in Revisor's Note (1) to Section 8514.0105. The revised law omits the reference to the laws of this state because as a general principle of law, the authority has the power to take only those actions that are consistent with state law.

Revised Law

Sec. 8514.0206. OATH AND BOND REQUIREMENT FOR DIRECTORS. (a) A director shall, not later than the 30th day after the date of appointment, qualify by taking the constitutional oath of office and shall execute a bond.

(b) The sufficiency of the bond must be determined by the governor.

(c) The bond must be:

(1) in the amount of $5,000;

(2) payable to the authority;

(3) recorded in the official bond records of the county in which the authority maintains its office; and

(4) deposited with the authority's depository. (Acts 45th Leg., R.S., Ch. 426, Sec. 6 (part).)

Source Law

> Sec. 6. . . . The Directors appointed shall, within thirty (30) days after their appointment, qualify by taking the official oath required of County Commissioners, and shall execute bond in the sum of Five Thousand Dollars ($5,000) payable to the District, the sufficiency of which bond shall be determined by the Governor, which bonds after being recorded in the official bond records of the county in which the District maintains its office shall be deposited with the depository selected and approved for the deposit of the funds of the District.
> . . .

Revisor's Note

(1) Section 6, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, requires a director to take the "official oath required of County

Commissioners." The quoted language is a reference to the constitutional oath of office, which is prescribed by Section 1, Article XVI, Texas Constitution. The revised law substitutes "constitutional oath of office" for "official oath required of County Commissioners" for clarification.

(2) Section 6, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to a depository "selected and approved for the deposit of the funds of the District." The revised law omits the quoted language as unnecessary because it duplicates, in substance, Section 49.156(a), Water Code, which provides for the selection of a depository bank by a water district.

Revised Law

Sec. 8514.0207. OFFICERS. (a) The governor shall designate a director as board president to serve in that capacity at the will of the governor. The president is the chief executive officer of the authority.

(b) The board shall elect one director as vice president, one director as secretary, and one director as treasurer.

(c) The vice president shall act as president if the president is absent or disabled.

(d) The secretary shall:

(1) act as board secretary; and

(2) keep a record of all proceedings and orders of the board.

(e) The board shall select a secretary pro tem if the secretary is absent or unable to act.

(f) The treasurer shall:

(1) receive and give a receipt for all money received by the authority; and

(2) keep books and records of all money received and spent by the authority. (Acts 45th Leg., R.S., Ch. 426, Sec. 6

(part).)

Source Law

Sec. 6. . . .

The Governor shall designate a Director as the President of the Board to serve in that capacity at the pleasure of the Governor. The Board of Directors shall organize by electing one of its members Vice-President, one Secretary, and one Treasurer. . . . The President . . . shall be the chief executive officer of the District. The Vice-President shall act as President in case of the absence or disability of the President. The Secretary shall act as Secretary of the Board and shall be charged with the duty of keeping a record of all proceedings and all orders of the Board. The Treasurer shall receive and receipt for all moneys received by the District and shall keep books and records of all moneys received and expended. In case of the absence or inability of the Secretary to act, a Secretary pro tem shall be selected by the Directors.

. . .

Revisor's Note

Section 6, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that the president of the authority serves in that office "at the pleasure" of the governor. The revised law substitutes "at the will" for "at the pleasure" because "at the will" is the more commonly used phrase to describe the termination of an individual's appointment that is at the discretion of another person.

Revised Law

Sec. 8514.0208. DELEGATION. Any director may perform any service required by the board. (Acts 45th Leg., R.S., Ch. 426, Sec. 7(b) (part).)

Source Law

(b) . . . Any director may perform any service required by the Board, ...

Revised Law

Sec. 8514.0209. DIRECTOR TRAINING PROGRAM. (a) A person who is appointed to and qualifies for office as a director may not vote, deliberate, or be counted as a director in attendance at a board meeting until the person completes a training program that

complies with this section.

(b) The training program must provide the person with information regarding:

(1) the law governing the authority's operations;

(2) the authority's programs, functions, rules, and budget;

(3) the scope of and limitations on the authority's rulemaking authority;

(4) the results of the authority's most recent formal audit;

(5) the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosure of conflicts of interest; and

(B) other laws applicable to members of the governing body of a river authority in performing their duties; and

(6) any applicable ethics policies adopted by the authority or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

(d) The general manager shall create a training manual that includes the information required by Subsection (b). The general manager shall distribute a copy of the training manual annually to each director. Each director shall sign and submit to the general manager a statement acknowledging that the director has received and reviewed the training manual. (Acts 45th Leg., R.S., Ch. 426, Sec. 6B.)

Source Law

Sec. 6B. (a) A person who is appointed to and qualifies for office as a Director may not vote, deliberate, or be counted as a Director in attendance at a meeting of the Board of Directors until the person completes a training program that complies with this section.

(b) The training program must provide the person

with information regarding:

(1) the law governing District operations;

(2) the programs, functions, rules, and budget of the District;

(3) the scope of and limitations on the rulemaking authority of the District;

(4) the results of the most recent formal audit of the District;

(5) the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and

(B) other laws applicable to members of the governing body of a river authority in performing their duties; and

(6) any applicable ethics policies adopted by the District or the Texas Ethics Commission.

(c) A person appointed to the Board is entitled to reimbursement for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

(d) The general manager of the District shall create a training manual that includes the information required by Subsection (b) of this section. The general manager shall distribute a copy of the training manual annually to each Director. Each Director shall sign and submit to the general manager a statement acknowledging that the Director received and has reviewed the training manual.

Revised Law

Sec. 8514.0210. MEETINGS. (a) The board may set the time, place, and number of board meetings by resolution, regulation, or bylaw.

(b) Four members, including the president, constitute a quorum for transacting business.

(c) The president shall preside at all board meetings. (Acts 45th Leg., R.S., Ch. 426, Sec. 6 (part).)

Source Law

Sec. 6. . . . Four (4) members, including the President, shall constitute a quorum to transact business. The President shall preside at all meetings of the Board and . . . . The Board of Directors shall have authority to fix the time, place and number of meetings of such Board by proper resolutions, regulations and bylaws passed by said Board. . . .

Revisor's Note

(1) Section 6, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, authorizes the board to "fix" the time, place, and number of meetings of the board. Throughout this chapter, in this and similar contexts, the revised law substitutes "set"

for "fix" because, in context, the terms have the same meaning and "set" is more commonly used.

(2) Section 6, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to the passage by the board of "proper" resolutions, regulations, and bylaws. The revised law omits "proper" because an improper resolution, regulation, or bylaw would not satisfy the requirements of law.

Revised Law

Sec. 8514.0211. SEPARATION OF POLICYMAKING AND MANAGEMENT FUNCTIONS. The board shall develop and implement policies that clearly separate the board's policymaking responsibilities and the general manager's and staff's management responsibilities. (Acts 45th Leg., R.S., Ch. 426, Sec. 6C.)

Source Law

> Sec. 6C. The Board of Directors shall develop and implement policies that clearly separate the policy-making responsibilities of the Board and the management responsibilities of the general manager and the staff of the District.

Revised Law

Sec. 8514.0212. EMPLOYEES. The board may employ engineers, attorneys, and other technical or nontechnical assistants or employees and set the amount and manner of their compensation. (Acts 45th Leg., R.S., Ch. 426, Sec. 7(b) (part).)

Source Law

> (b) The Board of Directors . . . may employ engineers, attorneys, and all other technical and non-technical assistants or employees and fix and provide the amount and manner of their compensation . . . .

Revised Law

Sec. 8514.0213. EXPENDITURES. The board may provide for expenditures found essential in the maintenance and administration of the authority. (Acts 45th Leg., R.S., Ch. 426, Sec. 7(b) (part).)

Source Law

(b) The Board of Directors . . . may . . .

provide . . . for expenditures found essential in the maintenance and administration of the Authority. . . .

Revised Law

Sec. 8514.0214. PUBLIC TESTIMONY. The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the authority's jurisdiction. (Acts 45th Leg., R.S., Ch. 426, Sec. 6E.)

Source Law

Sec. 6E. The Board of Directors shall develop and implement policies that provide the public with a reasonable opportunity to appear before the Board and to speak on any issue under the jurisdiction of the District.

Revised Law

Sec. 8514.0215. PUBLIC ENGAGEMENT POLICY. The board shall develop and implement a comprehensive policy that provides a structure for public engagement in advance of major actions and projects. The policy must include a clear and detailed description of how the authority will seek to actively engage stakeholders, including the possible use of:

(1) advisory committees;

(2) community panels;

(3) town hall meetings;

(4) surveys; and

(5) other strategies on a recurring basis. (Acts 45th Leg., R.S., Ch. 426, Sec. 6F.)

Source Law

Sec. 6F. The Board of Directors shall develop and implement a comprehensive policy that provides a structure for public engagement in advance of major actions and projects. The policy must include a clear and detailed description of how the District will seek to actively engage stakeholders, including the possible use of:

(1) advisory committees;
(2) community panels;
(3) town hall meetings;
(4) surveys; and
(5) other strategies on a recurring basis.

Revised Law

Sec. 8514.0216. AUTHORITY'S DOMICILE AND OFFICE. (a) The

authority's domicile is in the city of Conroe, Montgomery County.

(b) The authority shall maintain its principal office in the city of Conroe, Montgomery County. (Acts 45th Leg., R.S., Ch. 426, Sec. 6 (part).)

Source Law

> Sec. 6. . . .
> The domicile of the District shall be in the City of Conroe, in the County of Montgomery, Texas, where the District shall maintain its principal office. . . .

Revised Law

Sec. 8514.0217. COMPLAINTS. (a) The authority shall maintain a system to promptly and efficiently act on complaints filed with the authority. The authority shall maintain information about the parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and the complaint's disposition.

(b) The authority shall make information available describing its procedures for complaint investigation and resolution.

(c) The authority shall periodically notify the parties to the complaint of the status of the complaint until final disposition, unless the notice would jeopardize an investigation. (Acts 45th Leg., R.S., Ch. 426, Sec. 6D.)

Source Law

> Sec. 6D. (a) The District shall maintain a system to promptly and efficiently act on complaints filed with the District. The District shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.
> (b) The District shall make information available describing its procedures for complaint investigation and resolution.
> (c) The District shall periodically notify the complaint parties of the status of the complaint until final disposition, unless the notice would jeopardize an investigation.

Revisor's Note
(End of Subchapter)

(1) Section 7(b), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that the

members of the board are entitled to receive a per diem of not more than $25.00 per day for the period served and may not receive the per diem and other compensation at the same time. The revised law omits that provision for the following reasons. Section 49.060, Water Code, also provides for a director's fees of office, computed on a rate per day of certain service. Section 49.060(a), Water Code, requires the board to adopt a resolution setting the fees of office in accordance with the requirements of Section 49.060. Section 49.060(e), Water Code, provides that, in all areas of conflict, Section 49.060 takes precedence over all prior statutory enactments. The omitted law reads:

> (b) . . . The members of the Board of Directors shall receive a per diem of not more than Twenty-five ($25.00) Dollars per day for the period served, ... [Any director may perform any service required by the Board,] but in such case may not receive the per diem and other compensation at the same time.

(2) Section 7(b), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides for reimbursement of a director's traveling and other necessary expenses. The revised law omits the provision because it is superseded by Sections 49.060(b) and (c), Water Code, which authorize reimbursement of a director's expenses if certain conditions are met. Section 49.060(e), Water Code, provides that, in all areas of conflict, Section 49.060 takes precedence over all prior statutory enactments. The omitted law reads:

> (b) . . . [The members of the Board of Directors shall receive] . . . together with traveling and other necessary expenses. . . .

(3) Section 2, Chapter 847, Acts of the 78th Legislature, Regular Session, 2003, provides that that act applies only to the appointment of directors on or

after the effective date of that act. The revised law omits that provision because under Section 311.022, Government Code (Code Construction Act), all statutes are presumed to have prospective application unless expressly provided otherwise. The omitted law reads:

> Sec. 2. The changes in law made by this Act to Section 6, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, relating to the appointment and qualifications of members of the board of directors of the San Jacinto River Authority do not affect the entitlement of a member of the board of directors serving immediately before the effective date of this Act to continue to serve on the board of directors for the term to which the member was appointed. As the terms of the members of the board of directors expire or as vacancies on the board of directors occur, the governor shall make appointments to the board of directors as provided by Section 6, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, as amended by this Act.

(4) Section 4, Chapter 1003, Acts of the 88th Legislature, Regular Session, 2023, contains a transition procedure regarding the terms of a certain director. The revised law omits that provision as executed. The omitted law reads:

> Sec. 4. The member of the board of directors of the San Jacinto River Authority whose term expires in November 2027 shall continue in office until the member's successor is appointed to and qualifies for a term of four years beginning in October 2027.

(5) Section 5, Chapter 1003, Acts of the 88th Legislature, Regular Session, 2023, contains transition provisions for the director training requirements contained in Section 6B, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, revised as Section 8514.0209 of this chapter. The revised law omits those provisions as executed. The omitted law reads:

> Sec. 5. (a) Except as provided by Subsection (b) of this section, Section 6B, Chapter 426, Acts of the 45th Legislature,

Regular Session, 1937, as added by this Act, applies to a member of the board of directors of the San Jacinto River Authority appointed before, on, or after the effective date of this Act.

(b) Notwithstanding Section 6B, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, as added by this Act, a person serving on the board of directors of the San Jacinto River Authority may vote, deliberate, and be counted as a director in attendance at a meeting of the board until December 1, 2023. A director may not vote, deliberate, or be counted as a member in attendance at a meeting of the board held on or after December 1, 2023, until the member completes the training required by that section.

SUBCHAPTER C. POWERS AND DUTIES

Revised Law

Sec. 8514.0301. GENERAL POWERS AND DUTIES. (a) The authority has the powers of a governmental agency and a body politic and corporate under the constitution and laws of this state, including the powers:

(1) expressly authorized by Section 59, Article XVI, Texas Constitution, for a district created to conserve, control, and use for beneficial service the stormwater and floodwater of the rivers and streams of this state;

(2) implied by the purposes of that section of the constitution; and

(3) conferred by general law.

(b) The board has:

(1) all powers, express and implied, to perform any acts for and on behalf of the authority that are authorized by the constitution and laws of the United States and of this state for the purpose of the achievement of the plans and purposes intended in the creation of the authority and in the exercise of all powers granted to the authority by the other provisions of this chapter; and

(2) full and complete authority to perform any acts necessary or convenient to the exercise of the powers, privileges, and functions conferred on the authority and the board by this chapter or any other law.

(c) The authority has the powers, duties, and functions, and

shall observe the procedures to the extent the procedures may be applicable and practicable, to accomplish the purposes of this chapter as are provided by Chapters 49 and 51, Water Code, except that:

(1) the provisions of Chapters 49 and 51, Water Code, do not apply to any matter specifically provided by, or expressly or impliedly excluded from, this chapter relating to:

(A) the creation of a district; or

(B) the issuance of preliminary bonds to finance the making of investigations on which to base a plan for improvements and the imposition of a tax for that purpose; and

(2) Sections 51.510-51.530, Water Code, do not control the authority. (Acts 45th Leg., R.S., Ch. 426, Secs. 2 (part), 7(a), 9 (part).)

Source Law

> Sec. 2. The San Jacinto River Conservation and Reclamation District is . . . [a governmental agency, a body politic and corporate,] vested with all the authority as such under the Constitution and laws of the State; and shall have and be recognized to exercise all of the powers of such governmental agency and body politic and corporate as expressly authorized in the provisions of the Constitution, Section 59 of Article 16, for Districts created to conserve, control, and utilize to beneficial service the storm and flood waters of rivers and streams of the State, or such powers as may be contemplated and implied by the purposes of this provision of the Constitution, and as may be conferred by General Law, and in the provisions of this Act; and . . . .
>
> Sec. 7. (a) The Board of Directors shall have all powers, both express and implied, to do and perform any and all acts for any on behalf of the Authority which are authorized by the Constitution and laws of the United States of America and the State of Texas for the purpose of the achievement of the plans and purposes intended in the creation of the Authority and in the exercise of all powers elsewhere herein granted to the Authority; and said Board of Directors shall have full and complete authority to do any and all acts necessary or convenient to the exercise of the powers, privileges, and functions conferred upon said Authority and its Board of Directors by this Act or any other Act or law.
>
> Sec. 9. The San Jacinto River Conservation and Reclamation District . . . having all and singular, the powers, duties, functions, and to observe procedures in so far as the same may be applicable and practicable, to accomplish the purposes of this Act, as is provided by Chapter 25 of the General Laws of the

Thirty-ninth Legislature, Regular Session, and the several Amendments thereof; provided however, that the provisions of said Chapter 25, and the subsequent Amendments thereto, shall not apply to any matter specifically provided for herein, or expressly or impliedly excluded, relating to the creation of a district and to the issuance of preliminary bonds to finance the making of investigations upon which to base a plan for improvements and the levy of a tax therefor. . . . Section 15 of Chapter 280, General and Special Laws of the Forty-first Legislature of Texas, Regular Session, amending said Chapter 25, General Laws of the Thirty-ninth Legislature, Regular Session, and Section 6 of Chapter 107 of the General and Special Laws of the Fortieth Legislature, First Called Session, amending said Chapter 25, shall not control this District, but in lieu thereof it is specifically provided as follows:

. . .

Revisor's Note

(1) Section 2, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to the "authority" and "powers" of the authority. Throughout this chapter, the revised law omits "authority" in this context because "authority" is included in the meaning of "powers."

(2) Section 2, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to powers that are "contemplated and implied" by the purposes of Section 59, Article XVI, Texas Constitution. The revised law omits "contemplated" because the meaning of the term is included in the meaning of "implied."

(3) Section 2, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, states that the authority has the powers conferred "in the provisions of this Act." The revised law omits the quoted language because the powers to which it refers are expressly provided by other sections of this chapter and a general reference to them is unnecessary.

(4) Section 9, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925, as amended. Chapter 25 was

incorporated in Chapter 3A, Title 128, Revised Statutes. That chapter was codified in 1971 as Chapter 51, Water Code. Chapter 715, Acts of the 74th Legislature, Regular Session, 1995, repealed many of the provisions of Chapter 51 and enacted similar provisions in Chapter 49, Water Code. To reflect those changes, the revised law substitutes a reference to Chapters 49 and 51, Water Code, for the references to Chapter 25. The revised law omits the references to amendments to Chapter 25 because under Section 311.027, Government Code (Code Construction Act), a reference to a statute applies to all reenactments, revisions, or amendments of that statute unless expressly provided otherwise.

(5) Section 9, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that certain provisions do not apply to the "levy" of a tax. The revised law substitutes "imposition" for the reference to the levying of a tax because "imposition" is the term generally used in Title 1, Tax Code, and includes the levying of a tax.

(6) Section 9, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to Section 15, Chapter 280, General and Special Laws, Acts of the 41st Legislature, Regular Session, 1929. Section 15 amended Section 130, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925. Section 130 of Chapter 25 was incorporated in Chapter 3A, Title 128, Revised Statutes, as Article 7880-130. That article was codified in 1971 as Sections 51.510-51.530, Water Code. The revised law is drafted accordingly.

(7) Section 9, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that

Section 6, Chapter 107, General and Special Laws, Acts of the 40th Legislature, 1st Called Session, 1927, does not control the authority. Section 6 of Chapter 107 amended Section 37, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925. Section 37 of Chapter 25 was incorporated in Chapter 3A, Title 128, Revised Statutes, as Article 7880-37. That article was codified in 1971 as Section 51.073, Water Code. That section was repealed by Chapter 715, Acts of the 74th Legislature, Regular Session, 1995, and replaced by Section 49.103, Water Code. Section 49.103(f)(1), Water Code, provides that Section 49.103 does not apply to any special law district or authority that is not required by the law creating the district or authority to elect its directors by the public. Because the authority is a special law authority whose directors are appointed by the governor, Section 49.103, Water Code, does not apply to the authority by its terms. Accordingly, the revised law omits a reference to that section.

Revised Law

Sec. 8514.0302. GENERAL POWERS RELATING TO WATER. (a) The authority has the rights and powers of an independent governmental agency and a body politic and corporate to formulate any plans considered essential:

(1) to the operation of the authority; and

(2) for the authority's administration in the control, storage, preservation, and distribution for all useful purposes of the stormwater and floodwater of the San Jacinto River and its tributaries.

(b) The authority has the same power of control and regulation over the stormwater and floodwater of the San Jacinto River and its tributaries that this state has, subject to the constitution and statutes of this state. (Acts 45th Leg., R.S., Ch.

426, Sec. 2 (part).)

Source Law

> Sec. 2. The San Jacinto River Conservation and Reclamation District . . . shall have and be recognized to exercise all the rights and powers of an independent governmental agency, body politic and corporate, to formulate any and all plans deemed essential to the operation of the District and for its administration in the control, storing, preservation, and distribution to all useful purposes of the storm and flood waters of the San Jacinto River and its tributary streams; and as such District, shall have and be recognized to exercise such authority and power of control and regulation over such storm and flood waters of the San Jacinto River and its tributaries as may be exercised by the State of Texas, subject to the provisions of the Constitution and the Acts of the Legislature.

Revised Law

Sec. 8514.0303. APPLICABILITY OF CERTAIN WATER CODE PROVISIONS. The authority may exercise the powers provided by Sections 8514.0304, 8514.0306, 8514.0307, 8514.0308, 8514.0309, 8514.0310, 8514.0311, and 8514.0312 by complying where applicable with the provisions of Subchapters A through D, Chapter 11, and Subchapter B, Chapter 12, Water Code. (Acts 45th Leg., R.S., Ch. 426, Sec. 3 (part).)

Source Law

> Sec. 3. The San Jacinto River Authority, in addition to all powers expressly or impliedly granted by other Sections of this Act, by complying where applicable with the provisions of Chapter 1, Title 128, Vernon's Texas Civil Statutes, as amended, is hereby empowered as follows:
>
> . . .

Revisor's Note

(1) Section 3, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that, "in addition to all powers expressly or impliedly granted by other Sections of this Act," the authority has certain powers. The revised law omits the quoted language as unnecessary because an accepted general principle of statutory construction requires a statute to be given cumulative effect with other statutes unless the statute provides otherwise or unless the

statutes are in conflict.

(2) Section 3, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to "Chapter 1, Title 128, Vernon's Texas Civil Statutes, as amended." The pertinent parts of Chapter 1, Title 128, Revised Statutes, were codified as Subchapters A-D, Chapter 11, and Subchapter B, Chapter 12, Water Code, by Section 1, Chapter 58, Acts of the 62nd Legislature, Regular Session, 1971, and Section 1, Chapter 870, Acts of the 65th Legislature, Regular Session, 1977, and the revised law is drafted accordingly. The revised law omits the reference to "as amended" because under Section 311.027, Government Code (Code Construction Act), a reference to a statute applies to all reenactments, revisions, or amendments of that statute unless expressly provided otherwise.

Revised Law

Sec. 8514.0304. ADDITIONAL POWERS RELATING TO PARTICULAR PURPOSES. The authority may:

(1) in order to prevent the devastation of land from recurrent overflows and protect life and property:

(A) store, control, and conserve the stormwater and floodwater of the watershed of the San Jacinto River and its tributaries; and

(B) prevent the escape of that water through every practical means;

(2) provide through every practical means for the control, use, and coordination of regulation of the water of the San Jacinto River and its tributaries;

(3) appropriate the water of the San Jacinto River and its tributaries, construct dams and other facilities for the impoundment, conservation, diversion, and use of that water, and devote that water to municipal, domestic, agricultural, commercial, industrial, mining, and other beneficial uses, within

and without the watershed of that river;

(4) provide water for the irrigation of land where irrigation:

(A) is required for agricultural purposes; or

(B) may be considered helpful to more profitable agricultural production;

(5) provide water for municipal, domestic, commercial, industrial, and mining purposes within and without the watershed of the San Jacinto River, including water supplies for municipalities and industries, and, in connection therewith, construct or otherwise acquire water transportation, treatment, and distribution facilities and supplemental sources of supply;

(6) encourage and develop:

(A) drainage systems and provisions for drainage of land in the valleys of the San Jacinto River and its tributaries needing drainage for profitable agricultural production; and

(B) drainage for other land in the watershed area of the authority requiring drainage for the most advantageous use;

(7) encourage through practical and legal means the conservation of soil against destructive erosion in order to prevent the increased flood menace incident to that erosion;

(8) forest and reforest and aid in the foresting and reforesting of the watershed area of the San Jacinto River and its tributaries;

(9) prevent and aid in the prevention of the erosion of the soil of and the flooding of all land situated within the authority's boundaries;

(10) control, store, and employ the water of the San Jacinto River and its tributaries in the development and distribution of hydroelectric power, if that use may be economically coordinated with other and superior uses and subordinated to the uses declared by law to be superior;

(11) encourage, aid, and protect navigation and harbor improvements;

(12) control, store, and employ the water of the San Jacinto River and its tributaries for any purpose for which the water when controlled and conserved may be used in the performance of a useful service as authorized by the provisions of the constitution; and

(13) operate the water or sewage properties or facilities of another political subdivision or other public body on the terms to which the authority agrees in connection with the supply by the authority of water, sewage, waste disposal, or other services to a public body. (Acts 45th Leg., R.S., Ch. 426, Secs. 3(i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), (x), (xiii), (xvii).)

Source Law

> Sec. 3. The San Jacinto River Authority . . . is hereby empowered as follows:
>
> (i) to store, control and conserve the storm and flood waters of the watershed of the San Jacinto River and its tributaries, and to prevent the escape of any such waters through every practical means; so as to prevent the devastation of lands from recurrent overflows, and to protect life and property;
>
> (ii) to provide through every practical means for the control, utilization and coordination of regulation of the waters of the San Jacinto River and its tributaries;
>
> (iii) to appropriate the waters of the San Jacinto River and its tributaries, to construct dams and other facilities for the impoundment, conservation, diversion and utilization of such waters, and to devote such waters to municipal, domestic, agricultural, commercial, industrial, mining, and other beneficial uses, within and without the watershed of said River;
>
> (iv) to provide waters for the irrigation of lands where irrigation is required for agricultural purposes or may be deemed helpful to more profitable agricultural production;
>
> (v) to provide water for domestic, municipal, commercial, industrial and mining purposes within and without the watershed of said River, including water supplies for cities, towns and industries, and in connection therewith to construct or otherwise acquire water transportation, treatment and distribution facilities and supplemental sources of supply;
>
> (vi) to encourage and develop drainage systems and provisions for drainage of lands in the valleys of the San Jacinto River and its tributary streams needing drainage for profitable agricultural production; and drainage for other lands in the watershed area of the Authority requiring drainage for the most advantageous use;
>
> (vii) to encourage through practical and legal means the conservation of soils against destructive erosion and thereby preventing the increased flood

menace incident thereto;

(viii) to forest and reforest and to aid in the foresting and reforesting of the watershed area of the San Jacinto River and its tributaries and to prevent and aid in the prevention of soil erosion and floods in, on, and upon all lands situated within the boundaries of said Authority;

(ix) to control, store, and employ the waters of the San Jacinto River and its tributaries in the development and distribution of hydroelectric powers, where such use may be economically coordinated with other and superior uses, and subordinated to the uses declared by law to be superior;

(x) to encourage, aid, and protect navigation and harbor improvements;

. . .

(xiii) to control, store and employ all or any of such waters for each and every purpose for which the same when controlled and conserved may be utilized in the performance of a useful service as contemplated and authorized by the provisions of the Constitution and the public policy therein declared;

. . .

(xvii) to operate the water and sewage properties and facilities of other public bodies or political subdivisions upon such terms as the Authority may agree in connection with the supplying by the Authority of any water or sewage or waste disposal or other services to public bodies;

. . .

Revisor's Note

(1) Section 3(v), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to "cities" and "towns." The revised law substitutes "municipalities" for "cities" and "towns" because the meaning of "municipalities" includes both cities and towns, and "municipalities" is the term used in the Local Government Code.

(2) Section 3(xiii), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, authorizes the authority to control, store, and employ water in the performance of a useful service "as contemplated and authorized by the provisions of the Constitution and the public policy therein declared." The revised law omits the reference to a useful service "contemplated" by the constitution because that type of service is included in the meaning of a service "authorized" by the constitution. The revised law omits the reference to a useful service authorized by

the "public policy therein declared" because that type of service is included in the meaning of a service authorized by the "provisions of the Constitution."

Revised Law

Sec. 8514.0305. USE OF BED AND BANKS OF SAN JACINTO RIVER AND ITS TRIBUTARIES. The authority may use the bed and banks of the San Jacinto River and its tributaries for any purpose necessary to accomplish the authority's plans for storing, controlling, conserving, and distributing to useful purposes the stormwater and floodwater of the San Jacinto River watershed. (Acts 45th Leg., R.S., Ch. 426, Sec. 12.)

Source Law

> Sec. 12. In the prosecution of the plans for which the District has been created for the storing, controlling, conserving, and distributing to useful purposes the storm and flood waters of the San Jacinto River watershed, the District shall be recognized to have the right to make use of the bed and banks of the San Jacinto River and of its tributary streams for any and all purposes necessary to the accomplishment of the plans of the District.

Revised Law

Sec. 8514.0306. POWERS RELATING TO WASTE FACILITIES. The authority may acquire or construct facilities for collecting, transporting, treating, and disposing of sewage and industrial waste and effluent. (Acts 45th Leg., R.S., Ch. 426, Sec. 3(xii).)

Source Law

> Sec. 3. The San Jacinto River Authority . . . is hereby empowered as follows:
>
> . . .
>
> (xii) to acquire or construct facilities for the gathering, transporting, treating and disposing of sewage and industrial waste and effluent;
>
> . . .

Revisor's Note

Section 3(xii), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that the authority may acquire or construct facilities for "gathering" sewage and industrial waste and effluent. The revised law substitutes "collecting" for "gathering" because, in context, the terms have the

same meaning and "collecting" is more commonly used.

Revised Law

Sec. 8514.0307. POWERS RELATING TO PARK AND RECREATIONAL FACILITIES. (a) The authority may:

(1) acquire land for park and recreational purposes adjacent to or in the vicinity of:

(A) the San Jacinto River or any of its tributaries; or

(B) water impounded by the authority; and

(2) acquire or construct park and recreational facilities on land acquired under Subdivision (1).

(b) Except as otherwise provided by general law, the acquisition or construction of park and recreational facilities by the authority is subject to:

(1) the approval of the Parks and Wildlife Commission; and

(2) any conditions prescribed by the commission. (Acts 45th Leg., R.S., Ch. 426, Sec. 3(xi).)

Source Law

> Sec. 3. The San Jacinto River Authority . . . is hereby empowered as follows:
>
> . . .
>
> (xi) to acquire land adjacent to or in the vicinity of any waters impounded by the Authority or adjacent to or in the vicinity of the San Jacinto River or any of its tributaries for park and recreation purposes and to acquire or construct park and recreation facilities thereon. Except as may otherwise be provided by the general law, the acquisition or construction of any recreation and park facilities by the Authority shall be subject to the approval of the Texas State Parks and Wildlife Commission and to such conditions as the Commission may prescribe;
>
> . . .

Revisor's Note

Section 3(xi), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to the "Texas State Parks and Wildlife Commission." The revised law substitutes a reference to the "Parks and Wildlife Commission" because that is the proper name of that agency. See Section 11.001, Parks and Wildlife

Code.

Revised Law

Sec. 8514.0308. ACQUISITION, CONSTRUCTION, MAINTENANCE, AND OPERATION OF FACILITIES. The authority may acquire, construct, improve, extend, repair, maintain, and operate works, plants, and other facilities that are necessary or useful for the exercise of a power of the authority, including:

(1) water storage reservoirs, dams, canals, waterways, and water transportation facilities;

(2) water treatment facilities;

(3) hydroelectric facilities;

(4) municipal water supply facilities;

(5) facilities for the treatment of sewage and industrial waste and effluent;

(6) park and recreational facilities; and

(7) other necessary and useful structures, facilities, and equipment. (Acts 45th Leg., R.S., Ch. 426, Sec. 3(xiv).)

Source Law

> Sec. 3. The San Jacinto River Authority . . . is hereby empowered as follows:
>
> . . .
>
> (xiv) to construct and otherwise acquire and to repair, improve, extend, operate and maintain all works, plants and other facilities necessary or useful in the furtherance of any power granted by law to the Authority, including, but not limited to, water storage reservoirs, dams, canals, waterways, and water transportation facilities of all kinds, water treatment facilities, hydroelectric facilities, municipal water supply facilities, facilities for the treatment of sewage and industrial waste and effluent, parks and recreation facilities, and all other necessary and useful structures, facilities and equipment;
>
> . . .

Revisor's Note

Section 3(xiv), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, authorizes the authority to construct, acquire, repair, improve, extend, operate, and maintain all works, plants, and other facilities necessary or useful in the

furtherance of any power granted by law to the authority, "including, but not limited to" certain specified structures, facilities, and equipment. Throughout this chapter, the revised law omits "but not limited to" because Section 311.005(13), Government Code (Code Construction Act), provides that "includes" and "including" are terms of enlargement and not of limitation and do not create a presumption that components not expressed are excluded.

Revised Law

Sec. 8514.0309. GENERAL CONTRACT POWERS. The authority may enter into any necessary and proper contract with a federal or state agency, district, body politic and corporate, or other person, and may enter into any cooperative and coordinative contract with a federal or state agency, district, body politic and corporate, or other person, necessary or useful in the exercise of any power of the authority, including the power to pledge any of its money or other assets. (Acts 45th Leg., R.S., Ch. 426, Sec. 3(xv).)

Source Law

> Sec. 3. The San Jacinto River Authority . . . is hereby empowered as follows:
>
> . . .
>
> (xv) to enter into any and all necessary and proper contracts with other Federal or State agencies, districts and bodies politic and corporate, and others, to make and enter into such cooperative and coordinative contracts with such agencies, districts and bodies politic and corporate, and others, necessary or useful in the furtherance of any power granted by law to the Authority, including the power to pledge its funds and its other assets or any part thereof;
>
> . . .

Revisor's Note

Section 3(xv), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to the authority's "funds." The revised law substitutes "money" for "funds" because, in context, the terms have the same meaning and "money" is more commonly used.

Revised Law

Sec. 8514.0310. SERVICE CONTRACTS AND CHARGES. (a) The authority may contract with a municipality or other corporate body or person, public or private, for the sale or use of:

(1) water;

(2) water transmission, treatment, or connection facilities;

(3) sewage, industrial, or other waste disposal services or facilities of any type;

(4) park or recreational facilities;

(5) power or electric energy; or

(6) any other service sold, furnished, or supplied by the authority.

(b) A contract entered into under this section may:

(1) establish and provide for the collection of rates and other charges for the services described by Subsection (a); and

(2) be on the terms and for the period approved by the board.

(c) Notwithstanding Subsection (b)(1), the authority by resolution or order may establish and provide for the collection of rates and other charges for the services described by Subsection (a).

(d) Rates and other charges established and collected under this section must be sufficient to produce revenue adequate to:

(1) pay expenses necessary for the operation and maintenance of the authority's properties and facilities;

(2) pay the interest on or the principal of any bonds or other obligations of the authority when the interest or principal becomes due and payable;

(3) fulfill any reserve or other fund obligations of the authority in connection with the bonds; and

(4) pay any other expenses that the board considers necessary and proper for any purpose in the corporate operations and functions of the authority. (Acts 45th Leg., R.S., Ch. 426,

Sec. 3(xviii).)

Source Law

Sec. 3. The San Jacinto River Authority . . . is hereby empowered as follows:

. . .

(xviii) to enter into such contracts, upon such terms and for such periods of time as the Board of the Authority might approve, with municipalities or other corporate bodies or persons, public or private, for the purpose of establishing and collecting, and by resolution or order to otherwise establish and collect, rates and other charges for the sale or use of water, water transmission, treatment or connection facilities, sewage or industrial or other waste disposal services and facilities of all types, park or recreation facilities, power, electric energy, and any other services sold, furnished, or supplied by the Authority, which fees and charges shall be sufficient to produce revenue adequate--

(1) to pay expenses necessary to the operation and maintenance of the properties and facilities of the Authority;

(2) to pay the interest on or the principal of any bonds or other obligations issued by the Authority when and as same become due and payable and to fulfill any reserve or other fund obligations of the Authority in connection with such bonds; and

(3) to pay such other expenses as the Board of Directors shall deem necessary and proper for any purpose in the corporate operations and functions of the Authority; and

. . .

Revisor's Note

Section 3(xviii), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to "rates and other charges" and "fees and charges." The revised law substitutes "rates and other charges" for "fees and charges" for consistency of terminology.

Revised Law

Sec. 8514.0311. JOINT CONSTRUCTION, OPERATION, AND MAINTENANCE OF FACILITIES. The authority by contract may:

(1) authorize another district or an agency, body politic and corporate, or individual to participate with the authority in the joint construction, operation, and maintenance of:

(A) water storage reservoirs, dams, canals, waterways, and water lines and any other structures, facilities, and equipment connected with the subject of the authorization;

(B) any structures, facilities, and equipment

connected with sewage or waste facilities of any type; and

(C) any facilities necessary for the manufacture, sale, and transportation of hydroelectric power; and

(2) allow a person described by Subdivision (1) to receive the portion of the revenue derived from the sale of water and hydroelectric power or the furnishing of sewage and waste facilities and services that the board considers just, equitable, and proper. (Acts 45th Leg., R.S., Ch. 426, Sec. 3(xix).)

Source Law

> Sec. 3. The San Jacinto River Authority . . . is hereby empowered as follows:
>
> . . .
>
> (xix) to authorize by its contracts any other districts, agencies, and bodies politic and corporate and individuals to participate in the joint construction, operation, and maintenance of all of said water storage reservoirs, dams, canals, waterways, and water lines and all other structure, facilities, and equipment in connection therewith, or in connection with sewage or waste facilities of all types, and all necessary facilities for the manufacture, sale, and transportation of such hydroelectric power, along with said Authority, and said Authority may by such contracts allow such other agencies, districts, and bodies politic and corporate, and others to receive such portion of the revenues derived from the sale of water and hydroelectric power or furnishing sewage and waste facilities and services, as the Board of Directors shall deem just, equitable, and proper.

Revised Law

Sec. 8514.0312. POWER TO ACQUIRE PROPERTY IN GENERAL. The authority may, on the terms accepted by the board:

(1) acquire any property necessary for any of the authority's corporate purposes by purchase, the exercise of the power of eminent domain as provided by Section 8514.0314, or gift; and

(2) acquire property by lease or other contract. (Acts 45th Leg., R.S., Ch. 426, Sec. 3(xvi).)

Source Law

> Sec. 3. The San Jacinto River Authority . . . is hereby empowered as follows:
>
> . . .
>
> (xvi) to acquire any properties necessary for any of its corporate purposes by purchase, by condemnation as elsewhere provided in this Act, or by gift, and to acquire property by lease or other

contract, upon such terms as may be accepted by the Authority's Board of Directors;

. . .

Revisor's Note

Section 3(xvi), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, authorizes the authority to acquire property by "condemnation as elsewhere provided in this Act." The revised law substitutes "the exercise of the power of eminent domain" for "condemnation" because the phrase has the same meaning as condemnation and is consistent with modern usage in laws relating to eminent domain. The revised law also substitutes "Section 8514.0314" for the reference to the provisions of Chapter 426 pertaining to condemnation because those provisions are contained in Section 10e of Chapter 426, which is revised in pertinent part as Section 8514.0314 of this chapter.

Revised Law

Sec. 8514.0313. ACQUISITION OR OPERATION OF PROPERTY. (a) The authority may acquire, maintain, use, and operate property of any kind or any property interest inside or outside the authority necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred on the authority by this chapter.

(b) The authority may acquire property or a property interest as provided by Subsection (a) by purchase, lease, gift, or any other manner, other than by the exercise of the power of eminent domain. (Acts 45th Leg., R.S., Ch. 426, Sec. 10e (part).)

Source Law

Sec. 10e. The District shall have the power and is hereby authorized to acquire by purchase, lease, gift, or in any other manner (otherwise than by condemnation) and to maintain, use and operate any and all property of any kind, real, personal, or mixed, or any interest therein, within or without the boundaries of the District necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred upon it by this Act.

. . .

Revisor's Note

(1) Section 10e, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, prohibits the authority from acquiring certain property or property interests by "condemnation." The revised law substitutes "the exercise of the power of eminent domain" for the quoted language for the reason stated in the revisor's note to Section 8514.0312.

(2) Section 10e, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to "property of any kind, real, personal, or mixed." Throughout this chapter, the revised law omits references to "real, personal, or mixed" property because under Section 311.005(4), Government Code (Code Construction Act), "property" includes both real and personal property, and "mixed" property is property consisting of both real and personal property.

Revised Law

Sec. 8514.0314. EMINENT DOMAIN. (a) The authority may acquire by the exercise of the power of eminent domain property of any kind or a property interest inside or outside the authority that is necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred on the authority by this chapter.

(b) The authority must exercise the power of eminent domain in the manner provided by:

(1) Chapter 21, Property Code; or

(2) the statutes relating to the exercise of the power of eminent domain by districts organized under general law under Section 59, Article XVI, Texas Constitution.

(c) The authority is not required to give bond for appeal or bond for costs in an eminent domain proceeding prosecuted by the authority.

(d) The authority may not exercise the power of eminent domain to acquire property or a property interest that is:

(1) located outside the authority; and

(2) owned by a body politic.

(e) The authority's authority under this section to exercise the power of eminent domain expired on September 1, 2013, unless the authority submitted a letter to the comptroller in accordance with Section 2206.101(b), Government Code, not later than December 31, 2012. (Acts 45th Leg., R.S., Ch. 426, Sec. 10e (part); New.)

Source Law

Sec. 10e. . . .

The District shall have the power and right of eminent domain for the purpose of acquiring by condemnation any and all property of any kind, real, personal, or mixed, or any interest therein, within or without the boundaries of the District (other than such property of or any interest therein without the boundaries of the District as may at the time be owned by any body politic) necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred upon it by this Act in the manner provided by General Law with respect to condemnation, or at the option of the District, in the manner provided by Statutes relative to condemnation by District organized under General Law pursuant to Section 59 of Article 16 of the Constitution of the State of Texas.

In condemnation proceedings, being prosecuted by said District, the District shall not be required to give bond for appeal or bond for costs.

. . .

Revisor's Note

(1) Section 10e, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, authorizes the authority to acquire certain property or property interests by "condemnation" and provides that the authority is not required to give bond in "condemnation proceedings." The revised law substitutes "the exercise of the power of eminent domain" and "eminent domain proceeding," respectively, for the quoted language for the reason stated in the revisor's note to Section 8514.0312.

(2) Section 10e, Chapter 426, Acts of the 45th

Legislature, Regular Session, 1937, authorizes the authority to acquire certain property or property interests by condemnation in the manner provided by "General Law with respect to condemnation." The revised law substitutes for the quoted language a reference to Chapter 21, Property Code, because that is the general law regarding eminent domain for governmental entities.

(3) Section 10e, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides the authority eminent domain authority. Section 2206.101, Government Code, required an entity with eminent domain authority to submit a letter with certain information to the comptroller not later than December 31, 2012, to prevent the entity's eminent domain authority from expiring on September 1, 2013. To avoid the appearance that this revision recognizes authority that the authority may not possess at the time of the revision, the revised law includes a provision setting out the requirements of Section 2206.101, Government Code.

(4) Section 10e, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that if, in the exercise of the power of eminent domain, the relocation or change of grade of any railroad facilities is required, the relocation or change of grade shall be accomplished under Article 7880-123a, Revised Statutes. Article 7880-123a, Revised Statutes, was codified by Chapter 58, Acts of the 62nd Legislature, Regular Session, 1971, as Section 51.183, Water Code. Chapter 715, Acts of the 74th Legislature, Regular Session, 1995, repealed Section 51.183, Water Code, and enacted Section 49.223, Water Code, to govern payment of the costs of the relocation or change

of grade of railroad facilities and other property. A reference to Section 49.223, Water Code, is unnecessary because that section applies to the authority under Sections 49.001 and 49.002, Water Code, without an express reference to that section in this chapter. The omitted law reads:

> Sec. 10e. . . .
> That if in the exercise of the power of eminent domain, the relocation or change of grade of any railroad facilities are required, the same shall be accomplished under the provisions of Article 7880-123a, Revised Civil Statutes of Texas, 1925.
> . . .

Revised Law

Sec. 8514.0315. OVERFLOW OR INUNDATION OF PUBLIC PROPERTY; RELOCATION OF ROADS OR HIGHWAYS. The authority may overflow and inundate any public property and require the relocation of a road or highway in the manner and to the extent permitted to a district organized under general law under Section 59, Article XVI, Texas Constitution. (Acts 45th Leg., R.S., Ch. 426, Sec. 10e (part).)

Source Law

> Sec. 10e. . . .
> The District shall have the power and authority to overflow, and inundate any public lands and public property and to require the relocation of roads and highways in the manner and to the extent permitted to Districts organized under General Law pursuant to Section 59 of Article 16 of the Constitution of the State of Texas.

Revisor's Note

Section 10e, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to "public lands and public property." The revised law omits the reference to "public lands" because under Section 311.005(4), Government Code (Code Construction Act), the definition of "property" includes real property, and "land" is included in the meaning of real property.

Revised Law

Sec. 8514.0316. OIL AND GAS LEASES. The authority may enter into oil and gas leases with respect to the authority's properties

on terms the board considers appropriate for producing revenue for the authority. (Acts 45th Leg., R.S., Ch. 426, Sec. 10d (part).)

Source Law

> Sec. 10d. The Authority shall be authorized to enter into oil and gas leases with respect to its properties upon such terms as the Board of Directors may consider appropriate in the production of revenues to the Authority. . . .

Revised Law

Sec. 8514.0317. DISPOSITION OF PROPERTY; EXEMPTION FROM FORCED SALE. (a) The authority may sell or otherwise dispose of authority property or an interest in authority property if the board:

(1) determines that the property or interest is not necessary to the authority's business; and

(2) approves of the terms of the sale.

(b) Authority property is exempt from forced sale under a judgment, suit, or proceeding of any kind. (Acts 45th Leg., R.S., Ch. 426, Sec. 10d (part).)

Source Law

> Sec. 10d. . . . The Authority shall be additionally authorized to sell or otherwise dispose of its properties if its Board of Directors shall have first determined that the property or interest to be disposed of is not necessary to the business of the Authority and shall have approved the terms of any such sale. All property of the Authority, however, shall be at all times exempted from forced sale under any judgment, suit or proceeding of any nature or kind.

Revised Law

Sec. 8514.0318. LIMITATION ON POWERS AND DUTIES OF AUTHORITY; APPROVAL OF CERTAIN PLANS BY CERTAIN STATE AGENCIES. (a) The powers and duties conferred on the authority by this chapter are subject to all legislative declarations of public policy in the maximum use of the stormwater, floodwater, and unappropriated flow water of this state for the purpose for which the authority is created, as provided by this chapter.

(b) The Texas Commission on Environmental Quality shall consider the adequacy of, and approve or refuse to approve, any plan that:

(1) is devised in the exercise of any power granted under this chapter; and

(2) contemplates improvements or facilities the plans pertaining to which are required to be supervised or approved by the commission under general law.

(c) If a plan described by Subsection (b) contemplates the installation, construction, or other acquisition of park and recreational facilities or of facilities for the collection, transportation, or disposal of sewage or industrial waste and effluent, the Texas Commission on Environmental Quality may not approve the plan unless it finds that the commission or the Parks and Wildlife Commission, as applicable, has issued any approvals or permits relating to such matters as may be required by this chapter or general law. (Acts 45th Leg., R.S., Ch. 426, Sec. 4 (part).)

Source Law

> Sec. 4. The powers and duties herein devolved upon the San Jacinto River Authority are recognized to be taken subject to all legislative declarations of public policy in the maximum utilization of the storm, flood and unappropriated flow waters of the State for the purpose for which the Authority is created, as expressed and indicated in this Act, as amended, and [subject to the continuing rights of supervision by the State which shall be exercised through] the Texas Water Rights Commission, which agency shall be charged with the authority and duty to approve, or to refuse to approve, the adequacy of any plan or plans (devised in the exercise of any power granted under this Act) which contemplate improvements or facilities, the plans pertaining to which are required to be supervised or approved by said agency under the provisions of the General Law. If any such plans contemplate the installation, construction or other acquisition of parks and recreation facilities or of facilities for the gathering, transporting or disposal of sewage, or industrial wastes and effluent, said Commission shall not approve such plans until it finds that the Texas State Parks and Wildlife Commission or the Texas Water Pollution Control Board, as the case may be, has issued such approvals or permits relating to such matters as may be required by this Act or the General Law.

Revisor's Note

(1) Section 4, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to "this Act, as amended." Chapter 426 is revised as this chapter, and the revised law is drafted accordingly.

The revised law omits the reference to "as amended" for the reason stated in Revisor's Note (2) to Section 8514.0303.

(2) Section 4, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to the "Texas Water Rights Commission." In 1977, Sections 1 and 9, Chapter 870, Acts of the 65th Legislature, Regular Session, changed the name of the agency to the Texas Water Commission. Subsequently, the name of the Texas Water Commission was changed to the Texas Natural Resource Conservation Commission by Section 1.085, Chapter 3, Acts of the 72nd Legislature, 1st Called Session, 1991. The name of the Texas Natural Resource Conservation Commission was changed to the Texas Commission on Environmental Quality by Section 18.01, Chapter 965, Acts of the 77th Legislature, Regular Session, 2001. The revised law is drafted accordingly.

(3) Section 4, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that the authority's powers and duties are subject to supervision by the state, acting through the Texas Water Rights Commission. The revised law omits that provision because, as explained by Revisor's Note (2) to this section, the Texas Commission on Environmental Quality is the successor to the Texas Water Rights Commission, and therefore it duplicates, in substance, part of Section 12.081, Water Code, which subjects certain special districts and authorities, including the authority, to supervision by the Texas Commission on Environmental Quality. The omitted law reads:

> Sec. 4. [The powers and duties herein devolved upon the San Jacinto River Authority are] . . . subject to the continuing rights of supervision by the State which shall be exercised through [the

Texas Water Rights Commission] . . . .

(4) Section 4, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to the "gathering" of sewage or industrial waste and effluent. The revised law substitutes "collection" for "gathering" for the reason stated in the revisor's note to Section 8514.0306.

(5) Section 4, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to the "Texas State Parks and Wildlife Commission." The revised law substitutes a reference to the "Parks and Wildlife Commission" for the reason stated in the revisor's note to Section 8514.0307.

(6) Section 4, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to the "Texas Water Pollution Control Board." The Texas Water Pollution Control Board was abolished by Chapter 313, Acts of the 60th Legislature, Regular Session, 1967, and its powers and duties were transferred to the Texas Water Quality Board. Chapter 870, Acts of the 65th Legislature, Regular Session, 1977, abolished the Texas Water Quality Board and transferred its authority to the Texas Department of Water Resources. Chapter 795, Acts of the 69th Legislature, Regular Session, 1985, transferred the relevant authority exercised by the Texas Department of Water Resources to the Texas Water Commission. The name of the Texas Water Commission was changed to the Texas Natural Resource Conservation Commission by Section 1.085, Chapter 3, Acts of the 72nd Legislature, 1st Called Session, 1991. The name of the Texas Natural Resource Conservation Commission was changed to the Texas Commission on Environmental Quality by Section 18.01, Chapter 965, Acts of the 77th Legislature, Regular

Session, 2001. The revised law is drafted accordingly.

Revised Law

Sec. 8514.0319. SURVEYS, INVESTIGATIONS, AND PLANS. The board may:

(1) conduct surveys and engineering investigations for the authority's information;

(2) prepare plans necessary to accomplish the purposes for which the authority was created; and

(3) collect data essential to determine the character, extent, and cost of all improvements essential to the exercise of any power granted to the authority by this chapter or other applicable law. (Acts 45th Leg., R.S., Ch. 426, Sec. 7(b) (part).)

Source Law

> (b) The Board of Directors is hereby authorized and directed to make or cause to be made surveys and engineering investigations for the information of the Authority and to determine the plans necessary to the accomplishment of the purposes for which the Authority is created, and [may employ engineers, attorneys, and all other technical and non-technical assistants or employees] . . . for the making of such surveys, the preparation of plans, and the collection of data essential to the determination of the character, extent, and cost of all improvements essential in the exercise of any power granted herein or in any other law applicable to the Authority, and . . . .

Revisor's Note

Section 7(b), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that the board may "make or cause to be made" certain surveys and engineering investigations. The revised law substitutes "conduct" for "make" because, in context, the language has the same meaning and "conduct" is more commonly used. The revised law omits "cause to be made" as unnecessary because the grant of a power implies the authority to provide for the exercise of that power.

Revised Law

Sec. 8514.0320. COUNTY FUNDING OF SURVEYS AND COLLECTION

AND COMPILATION OF DATA. (a) A county lying wholly or partly within the area of the authority may contribute money to the authority for the procurement of necessary engineering surveys and the collection and compilation of data respecting regional and general conditions relating to the character and extent of the improvements necessary for the storage, control, conservation, and equitable distribution, to the greatest public advantage, of the floodwater of the San Jacinto River and its tributaries.

(b) A county may contribute money for the purposes described by Subsection (a) in the amount considered an equitable part of the cost of the surveys and the compilation of necessary information in relation to the contemplated and probable benefit to be secured by the county from the accomplishment of the plans and purposes of the creation of the authority.

(c) To contribute money for the purposes described by Subsection (a), a county may:

(1) make the necessary collections through its general fund; or

(2) appropriate the amount of the estimated equitable contribution to the costs of developing essential engineering data from its general fund. (Acts 45th Leg., R.S., Ch. 426, Sec. 8.)

Source Law

> Sec. 8. For the purpose of providing funds requisite to procure necessary engineering surveys, the collection and compilation of data respecting regional and general conditions entering into and influencing the character and extent of the improvements necessary to the storage, control, conservation, and equitable distribution, to the greatest public advantage of such flood waters when stored and controlled, it is hereby provided that any county lying in whole or in part within the area of the temporary District, as herein defined, may contribute to the funds from year to year for such engineering surveys and the compilation of data essential to the progress of flood control improvement in such amount as may be deemed an equitable part of the cost of such surveys and the compilation of necessary information in the estimated relations of such expenditures to the contemplated and probable benefit to be secured to the respective counties from the accomplishment of the plans and purposes of the creation of the District, and for the provision of such fund may make the necessary collections through their respective general funds, or may appropriate the amounts of the estimated equitable

contribution of such costs of developing essential engineering data from their general fund.

Revisor's Note

(1) Section 8, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to the "funds" of certain counties. The revised law substitutes "money" for "funds" for the reason stated in the revisor's note to Section 8514.0309.

(2) Section 8, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to the area of the "temporary District." When the authority was created, it was a temporary district governed by a temporary board of directors. Section 9 of Chapter 426 originally provided that at such time as the former State Board of Water Engineers and the former Reclamation Engineer of Texas determined and certified to the temporary directors of the district that the district had produced a plan adequate to provide for the control and use of the storm and flood waters of the San Jacinto River and its tributaries, the temporary or investigation period of the district would end and the district would thereupon become a conservation and reclamation district with certain powers. Because the former State Board of Water Engineers and the former Reclamation Engineer of Texas have certified the adequacy of the authority's plan for the control and use of the stormwater and floodwater of the San Jacinto River and its tributaries, the revised law omits the reference to the "temporary" district as executed.

(3) Section 8, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to "such" flood waters. The revised law refers to the floodwater "of the San Jacinto River and its tributaries" because that is the floodwater to which the provision

pertains.

(4) Section 8, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that certain counties may contribute to the funds "from year to year" for engineering surveys and the compilation of data. The revised law omits the quoted language because the power to take an action implies the power to take the action from year to year.

Revised Law

Sec. 8514.0321. GRANTS, LOANS, AND ALLOTMENTS. The board may negotiate and deal or contract with the United States or another person for a grant, loan, or allotment and receive and accept a grant, loan, or allotment from the United States or another person for the purpose of making an investigation and assembling data or for any other purpose provided by this chapter and may use the money received for a purpose provided by this chapter. (Acts 45th Leg., R.S., Ch. 426, Sec. 10a (part).)

Source Law

> Sec. 10a. The Board of Directors of the San Jacinto River Conservation and Reclamation District . . . shall have full authority to negotiate and deal and/or contract with the United States of America or with any of its governmental agencies now in existence or that may hereafter come into existence and/or others for grants, and/or loans and/or allotments and is hereby granted the right and power to receive and accept grants and/or loans and/or allotments from the United States of America and/or others for the purpose of making investigations and assembling data and/or for any one or more purposes set forth in this Act and/or the Act creating the San Jacinto Conservation and Reclamation District and to receive and use said moneys for the purpose mentioned in said Acts.

Revisor's Note

(1) Section 10a, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to the United States of America or any of its governmental agencies now in existence or that may hereafter come into existence. The revised law omits the reference to governmental agencies because under Section 311.005(9), Government Code (Code Construction Act),

"United States" includes a department, bureau, or other agency of the United States of America.

(2) Section 10a, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to "this Act," meaning Chapter 10 (H.B. 941), page 1097, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, and "the Act creating the San Jacinto Conservation and Reclamation District," meaning Chapter 426, Acts of the 45th Legislature, Regular Session, 1937. Chapter 10 (H.B. 941), page 1097, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, amended Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, and Chapter 426 is revised as this chapter. The revised law is drafted accordingly.

Revised Law

Sec. 8514.0322. IMPLEMENTATION AND ENFORCEMENT OF PLAN. After the completion and approval of a plan for the coordination of improvements considered adequate to serve the San Jacinto River watershed as a whole as provided by this chapter, the Texas Commission on Environmental Quality in authorizing improvements to control the water of, or in allocating the right to use water from, the San Jacinto River and its tributaries shall substantially conform to, and effectually preserve the benefits of, the plan formulated by the authority, and the authority may enforce the observance of the plan by judicial decree. (Acts 45th Leg., R.S., Ch. 426, Sec. 9(a).)

Source Law

(a) After the completion and approval of a plan for the coordination of improvements deemed adequate to serve said watershed as a whole, as herein provided for, the State Board of Water Engineers and the Reclamation Department of the General Land Office of Texas in authorizing improvements to control the waters of, and, or in allocating the right to use waters from said San Jacinto River and its tributaries shall substantially conform to, and shall effectually preserve the benefits of, the plan formulated by this District, and said District shall have the right to

enforce the observance of the same by judicial decree.

Revisor's Note

(1) Section 9(a), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to "said watershed." The revised law substitutes a reference to the San Jacinto River watershed because that is the watershed to which the provision pertains.

(2) Section 9(a), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to the State Board of Water Engineers. The State Board of Water Engineers, created by Chapter 171, General Laws, Acts of the 33rd Legislature, Regular Session, 1913, became the Texas Water Commission under Chapter 4, Acts of the 57th Legislature, 3rd Called Session, 1962. The name of the agency was changed to the Texas Water Rights Commission by Chapter 296, Acts of the 59th Legislature, Regular Session, 1965. In 1977, Sections 1 and 9, Chapter 870, Acts of the 65th Legislature, Regular Session, changed the name of the agency to the Texas Water Commission. Subsequently, the name of the Texas Water Commission was changed to the Texas Natural Resource Conservation Commission by Section 1.085, Chapter 3, Acts of the 72nd Legislature, 1st Called Session, 1991. The name of the Texas Natural Resource Conservation Commission was changed to the Texas Commission on Environmental Quality by Section 18.01, Chapter 965, Acts of the 77th Legislature, Regular Session, 2001. The revised law is drafted accordingly.

(3) Section 9(a), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to the Reclamation Department of the General Land Office. The office of State Reclamation Engineer was abolished and the functions vested by law in the State

Reclamation Engineer were transferred to and vested in the commissioner of the General Land Office by Chapter 1 (S.B. 281), page 704, General Laws, Acts of the 46th Legislature, Regular Session, 1939. The powers and duties of the former State Reclamation Engineer vested by law in the commissioner of the General Land Office were transferred to the State Board of Water Engineers by Chapter 115, Acts of the 57th Legislature, Regular Session, 1961. The Texas Commission on Environmental Quality is the successor to the State Board of Water Engineers as explained by Revisor's Note (2) to this section. The revised law is drafted accordingly.

Revised Law

Sec. 8514.0323. AUTHORITY TO PROVIDE AND MAINTAIN IMPROVEMENTS. The authority may provide and maintain improvements for the common benefit of the authority as a whole, subject only to the applicable constitutional and statutory provisions concerning a vote by the qualified voters of the authority. (Acts 45th Leg., R.S., Ch. 426, Sec. 9(b).)

Source Law

(b) This District shall have the power to provide and maintain improvements for the common benefit of said District as a whole, subject only in appropriate case to the constitutional and statutory provisions concerning a vote by the qualified electors of the District.

Revisor's Note

Section 9(b), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to the "qualified electors" of the authority. The revised law substitutes "voters" for "electors" because the terms have the same meaning and "voters" is more commonly used.

Revised Law

Sec. 8514.0324. POWERS OF AUTHORITY AND VOTERS RELATING TO IMPROVEMENTS PECULIAR TO DEFINED AREA; POWERS OF OTHER POLITICAL

SUBDIVISIONS LOCATED WHOLLY OR PARTLY IN AUTHORITY TO PROVIDE, MAINTAIN, AND OPERATE WORKS. (a) Notwithstanding Section 8514.0301(c)(2), the authority has the powers provided by Sections 51.510-51.530, Water Code, relating to improvements peculiar to a defined area within a district.

(b) The voters of a defined area in the authority may, under the applicable provisions of Chapters 49 and 51, Water Code, create a water control and improvement district for the purpose of independently providing, operating, and maintaining improvements designed to serve the defined area.

(c) A political subdivision of this state located wholly or partly in the authority may independently provide, maintain, and operate works peculiarly designed to benefit that political subdivision.

(d) Any works provided, operated, and maintained under Subsection (b) or (c) must be constructed and operated in a manner that conforms to the authority's plan to the greatest practicable degree. (Acts 45th Leg., R.S., Ch. 426, Secs. 9(c), (d); New.)

Source Law

> (c) Especially shall said District have all and singular the powers contained in Section 15 of said Chapter 280, General and Special Laws of the Forty-first Legislature, relating to improvements peculiar to defined areas within a district.
>
> (d) It is, however, further provided that if the electors of any defined area within this District desire they may become a water control and improvement district for the purpose of independently providing, operating, and maintaining improvements designed peculiarly to serve such defined area. Such contained defined area may be so constituted under the applicable provisions of said Chapter 25 of the General Laws of the Regular Session of the Thirty-ninth Legislature. In like manner any other political subdivision of the State of Texas being in whole or in part in this District may independently provide, maintain, and operate works peculiarly designed to benefit such body politic. In either case, however, such works and the operation thereof shall be constructed and operated in such manner as will conform to this District's plan to the greatest practicable degree.

Revisor's Note

(1) Section 9(c), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that the

authority has the powers provided by Section 15, Chapter 280, General and Special Laws, Acts of the 41st Legislature, Regular Session, 1929, relating to improvements peculiar to defined areas within a district. The revised law substitutes a reference to Sections 51.510-51.530, Water Code, for the reference to Section 15 of Chapter 280 for the reason stated in Revisor's Note (6) to Section 8514.0301. The revised law provides that the authority has the powers provided by those sections "[n]otwithstanding Section 8514.0301(c)(2)" because Section 9, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, revised in pertinent part as that subdivision, provides that Section 15 of Chapter 280 does not control the authority.

(2) Section 9(d), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to the "electors" of any defined area within the authority. The revised law substitutes "voters" for "electors" for the reason stated in the revisor's note to Section 8514.0323.

(3) Section 9(d), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925. The revised law substitutes a reference to Chapters 49 and 51, Water Code, for the reference to Chapter 25 for the reason stated in Revisor's Note (4) to Section 8514.0301.

Revised Law

Sec. 8514.0325. LEGISLATIVE FINDING OF AND AUTHORITY TO PREVENT PUBLIC CALAMITY. The legislature finds and declares that the recurrent, devastating floods in the valley of the San Jacinto River, which have, over a long period of years, caused a deplorable loss of life and property, the erosion of the soil, the depletion of

the fertility of the land in the valley and the watershed served by the river in this state, and damage to the public highways, structures, and land belonging to this state situated within the watershed, to be a public calamity. The authority may do anything necessary or suitable for the prevention of a public calamity described by this section. (Acts 45th Leg., R.S., Ch. 426, Sec. 9(f).)

Source Law

> (f) This Legislature finds and declares that the recurrent, devastating floods in the valley of the San Jacinto River, which have, over a long period of years, caused a deplorable loss of life and property, and the erosion of the soil, and a depletion of the fertility of the lands in said valley and the watershed served by the San Jacinto River in Texas, and the public highways and structures and lands belonging to the State of Texas situated within said watershed, to be a public calamity, and the San Jacinto River Conservation and Reclamation District is hereby authorized to do any and all things necessary or suitable for the prevention of such public calamity.

SUBCHAPTER D. REGULATORY POWERS

Revised Law

Sec. 8514.0401. DEFINITION. In this subchapter, "authority property" means any land, easement, water, property, equipment, work, or facility owned or controlled, wholly or partly, by the authority. The term:

(1) includes a reservoir, impoundment, lake, canal, channel, conduit, pipe, siphon, dam, dike, levee, embankment, or berm; and

(2) excludes Lake Houston and the San Jacinto River below Lake Houston, except for equipment, works, and facilities owned by the authority at or near a dam site. (Acts 45th Leg., R.S., Ch. 426, Sec. 8C(g).)

Source Law

> (g) In this section, "Authority property" means any land, easement, water, property, equipment, work, or facility owned or controlled, in whole or in part, by the Authority, including a reservoir, impoundment, lake, canal, channel, conduit, pipe, siphon, dam, dike, levee, embankment, or berm, but excluding Lake Houston and the San Jacinto River below Lake Houston, except for equipment, works and facilities owned by the Authority at or near a dam site.

Revised Law

Sec. 8514.0402. ADOPTION AND ENFORCEMENT OF RULES. (a) The board may adopt and enforce rules to:

(1) preserve and protect the sanitary condition and prevent waste or unauthorized use of water owned or controlled by the authority;

(2) preserve, protect, secure, and regulate privileges on any authority property; and

(3) ensure the public safety on, in, under, across, or within any authority property.

(b) Rules adopted under the authority of this chapter may not conflict with any provision of the Parks and Wildlife Code or a rule adopted under the authority of the Parks and Wildlife Code. (Acts 45th Leg., R.S., Ch. 426, Secs. 8C(a), (e) (part).)

Source Law

> Sec. 8C. (a) The Board of Directors of the Authority may adopt and enforce rules to:
> (1) preserve and protect the sanitary condition and prevent waste or unauthorized use of water owned or controlled by the Authority;
> (2) preserve, protect, secure, and regulate privileges on any Authority property; and
> (3) ensure the public safety on, in, under, across, or within any Authority property.
>
> (e) . . . Rules promulgated under the authority of this chapter shall not conflict with any provision of the Parks and Wildlife Code or a rule adopted under the authority of the Parks and Wildlife Code.

Revisor's Note

Section 8C(e), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to rules "promulgated" under the authority of that chapter. The revised law substitutes "adopted" for "promulgated" because, in context, the terms have the same meaning and "adopted" is more commonly used.

Revised Law

Sec. 8514.0403. ENFORCEMENT OF RULES; PENALTY. (a) A rule adopted under this subchapter must clearly define any conduct that constitutes an offense and plainly state the punishment for the

offense.

(b) In adopting a rule under this subchapter, the board must prescribe a punishment that is proportionate to the seriousness of the offense.

(c) The board may designate an offense only as a Class C misdemeanor.

(d) A penalty provided by a rule adopted under this subchapter is in addition to any other penalty provided by law.

(e) A rule adopted under this subchapter is enforceable in a jurisdiction in which authority property is located in the same manner as a penal statute under state law. (Acts 45th Leg., R.S., Ch. 426, Secs. 8C(b), (e) (part).)

Source Law

> (b) A rule adopted under this section must clearly define any conduct that constitutes an offense and plainly state the punishment for the offense. In adopting a rule under this section, the Board must prescribe a punishment that is proportionate to the seriousness of the offense. The Board may designate an offense only as a Class C misdemeanor.
>
> (e) A rule adopted under this section . . . is enforceable by complaint filed in the appropriate court by the proper prosecuting authority in a jurisdiction in which Authority property is located in the same manner as a penal statute under state law. A penalty provided by a rule adopted under this section is in addition to any other penalty provided by law. . . .

Revisor's Note

Section 8C(e), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that a rule adopted under Section 8C "is enforceable by complaint filed in the appropriate court by the proper prosecuting authority." The revised law omits the reference to complaints because the Code of Criminal Procedure, applicable to all criminal proceedings in this state under Article 1.02 of that code, provides that the prosecution of an offense may be initiated by the filing of a complaint before a magistrate or a district or county attorney. The revised law omits the

references to the appropriate court and the proper prosecuting authority because the constitution and general laws of this state determine which courts have jurisdiction to accept, and which prosecuting authorities have jurisdiction to file, a criminal complaint charging the violation of a rule adopted by the board for which the board has also adopted a penalty under this subchapter.

Revised Law

Sec. 8514.0404. NOTICE AND EFFECTIVE DATE OF RULE. (a) A rule adopted under this subchapter does not take effect until the authority has published once a week for two consecutive weeks a substantive statement of the rule and the penalty for a violation of the rule in a newspaper with general circulation in each county in which the rule is to be effective.

(b) The statement must:

(1) intelligently explain the purpose to be accomplished by or the acts prohibited by the rule; and

(2) advise the public that:

(A) a violation of the rule will subject the violator to a penalty;

(B) the full text of the rule is on file in the principal office of the authority; and

(C) any interested person is entitled to read the full text.

(c) The board may use one statement to satisfy the notice requirements of this section for any number of rules the board adopts.

(d) The board may amend a rule after the rule is adopted but must meet the notice requirements under this section.

(e) The violation of a rule is not punishable as an offense unless the violation occurs after the 30th day after the date on which the notice requirements under this section are met.

(f) A rule adopted under this subchapter is effective until

repealed, revoked, rescinded, or amended by official action of the board. (Acts 45th Leg., R.S., Ch. 426, Secs. 8C(c), (d).)

Source Law

> (c) A rule adopted under this section does not take effect until the Authority has published once a week for two consecutive weeks a substantive statement of the rule and the penalty for violation of the rule in a newspaper with general circulation in each county in which the rule is to be effective. The statement must intelligently explain the purpose to be accomplished by or the acts prohibited by the rule. The statement must advise the public that violation of the rule will subject the violator to a penalty. The statement must advise the public that the full text of the rule is on file in the principal office of the Authority and that any interested person is entitled to read the full text. The Board may use one statement to satisfy the notice requirements of this section for any number of rules the Board adopts. The Board may amend a rule after the rule is adopted, but must meet the notice requirements under this subsection.
>
> (d) The violation of a rule is not punishable as an offense unless the violation occurs after the 30th day after the date on which the notice requirements under this section are met. A rule adopted under this section is effective until repealed, revoked, rescinded, or amended by official action of the Board.

Revisor's Note

(1) Sections 8C(c) and (d), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refer to the notice requirements of "this section." The revised law retains the references to "this section" because the pertinent parts of Section 8C are revised in this section.

(2) Section 8C(c), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to the notice requirements under "this subsection." The revised law substitutes "this section" for "this subsection" because Section 8C(c) is revised in this section. Although this section also revises Section 8C(d), it is appropriate to refer to this section in its entirety because Section 8C(d) does not contain notice requirements.

Revised Law

Sec. 8514.0405. JUDICIAL RECOGNITION OF RULES. A rule

adopted under this subchapter shall be recognized by the courts of this state. (Acts 45th Leg., R.S., Ch. 426, Sec. 8C(e) (part).)

Source Law

> (e) A rule adopted under this section shall be recognized by the courts of the state and . . . .

Revised Law

Sec. 8514.0406. CONTRACT FOR LOCAL ENFORCEMENT OF RULES. (a) The board, the commissioners court, and the law enforcement officials in a county in which authority property is located may enter into a contract to provide for the employment, assignment, duties, equipping, or compensation of local law enforcement personnel to enforce the board's rules.

(b) A contract under this section may require the authority to pay to the commissioners court a specified portion of the cost of providing the law enforcement personnel. (Acts 45th Leg., R.S., Ch. 426, Sec. 8C(f).)

Source Law

> (f) The Board, the commissioners court, and the law enforcement officials in a county in which Authority property is located may enter into a contract to provide for the employment, assignment, duties, equipping, or compensation of local law enforcement personnel to enforce the Board's rules. A contract under this subsection may require the Authority to pay to the commissioners court a specified portion of the cost of providing the law enforcement personnel.

SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS

Revised Law

Sec. 8514.0501. ACCOUNTS, CONTRACTS, AND OTHER RECORDS; PUBLIC INSPECTION. (a) The board shall keep complete and accurate accounts conforming to approved methods of bookkeeping.

(b) The accounts and all contracts, documents, and records of the authority shall be kept at the authority's principal office.

(c) All contracts, documents, and records of the authority shall be open to public inspection at all reasonable times. (Acts 45th Leg., R.S., Ch. 426, Sec. 6 (part).)

Source Law

> Sec. 6. . . . Said Board shall cause to be kept

complete and accurate accounts conforming to approved methods of bookkeeping. Said accounts and all contracts, documents, and records of the District shall be kept at said principal office, and same shall be open to public inspection at all reasonable times.

Revisor's Note

Section 6, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that "accounts and all contracts, documents, and records of the District . . . shall be open to public inspection at all reasonable times." The revised law omits that provision insofar as it pertains to accounts as superseded by Sections 49.191(b) and 49.196(b), Water Code (enacted by Section 2, Chapter 715, Acts of the 74th Legislature, Regular Session, 1995), which provide that a district's fiscal records shall be available for public inspection during regular business hours.

Revised Law

Sec. 8514.0502. INVESTMENT OF AUTHORITY MONEY; APPLICATION OF INCOME FROM INVESTMENTS. (a) Money in any fund of the authority or any fund established by the board in connection with the authorization of its bonds, including proceeds from the sale of bonds, that is not needed to satisfy its particular purpose for any period may be:

(1) invested or reinvested in:

(A) direct obligations of the United States; or

(B) obligations the principal of and interest on which are guaranteed by the United States; or

(2) invested in direct obligations of or participation certificates guaranteed by:

(A) a farm credit bank;

(B) the Federal National Mortgage Association;

(C) a federal home loan bank;

(D) a bank for cooperatives; or

(E) a certificate of deposit of a bank or trust

company the deposits of which are fully secured by a pledge of securities of any of the kind specified by this subsection.

(b) The board shall determine the type and maturity of investments made under this section.

(c) A resolution relating to the issuance of bonds must provide appropriate recitals with regard to the investment of money in funds established in connection with the authorization of those bonds.

(d) The income from investments made under this section shall be applied:

(1) as provided by any resolution relating to the issuance of bonds; or

(2) in the absence of a provision described by Subdivision (1), to the uses specified by this chapter for bond proceeds. (Acts 45th Leg., R.S., Ch. 426, Sec. 7(d).)

Source Law

> (d) Money in any fund of the Authority or any fund established by the Board of Directors in connection with the authorization of its bonds, including but not limited to proceeds from the sale of bonds, and which funds are not needed to satisfy their particular purpose for any period of time may be invested or reinvested from time to time in direct obligations of or obligations the principal and interest of which are guaranteed by the United States of America or invested in direct obligations of or participation certificates guaranteed by the Federal Intermediate Credit Banks, Federal Land Banks, Federal National Mortgage Association, Federal Home Loan Banks, Banks for Cooperatives, and in certificates of deposit of any bank or trust company the deposits of which are fully secured by a pledge of securities of any of the kind hereinabove specified. The type and maturity of investments made hereunder shall be determined by the Board which, in the case of funds established in connection with the authorization of bonds, shall provide appropriate recitals with regard thereto in the resolutions relating to the issuance of such bonds. Income and profits on such investments shall be applied as provided in any such resolution, and, absent such provision, shall be applied to the uses hereinabove specified for bond proceeds.

Revisor's Note

(1) Section 7(d), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that certain money of the authority may be invested or

reinvested "from time to time" in certain obligations. The revised law omits the quoted language because the power to take an action implies the power to take the action at any time.

(2) Section 7(d), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to investment in direct obligations of or participation certificates guaranteed by the "Federal Intermediate Credit Banks" and the "Federal Land Banks." Under the Agricultural Credit Act of 1987 (Pub. L. No. 100-233), each of the 12 federal intermediate credit banks was merged with a federal land bank to create 12 farm credit banks. See 12 U.S.C. Section 2011. The revised law is drafted accordingly.

(3) Section 7(d), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to "[i]ncome and profits" from investments. The revised law omits the reference to "profits" because "profits" is included in the meaning of "income."

Revised Law

Sec. 8514.0503. AUTHORITY TO IMPOSE TAXES. The authority may impose taxes, equitably distributed, to the extent necessary to enable the authority to:

(1) construct, maintain, and operate works beneficial to the authority as a whole;

(2) give supervision;

(3) perform any service inuring to the benefit of the authority as a whole; and

(4) provide money adequate to defray the cost of the administration of the authority. (Acts 45th Leg., R.S., Ch. 426, Sec. 9(e).)

Source Law

(e) To the extent necessary to enable this District to construct, maintain, and operate works beneficial to the District as a whole, or to give

supervision, or to perform any service inuring to the benefit of the District as a whole and provide funds adequate to defray the cost of the administration to this District, it shall have power to levy and collect taxes, equitably distributed, which taxes shall be in addition to other taxes that may lawfully be levied by the State and other political subdivisions thereof.

Revisor's Note

(1) Section 9(e), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to the authority's "funds." The revised law substitutes "money" for "funds" for the reason stated in the revisor's note to Section 8514.0309.

(2) Section 9(e), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that the authority may "levy" and "collect" taxes. The revised law substitutes "impose" for the reference to the levying and collection of taxes because "impose" is the term generally used in Title 1, Tax Code, and includes the levying and collection of a tax.

(3) Section 9(e), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, authorizes the authority to impose taxes for certain purposes, "which taxes shall be in addition to other taxes that may lawfully be levied by the State and other political subdivisions thereof." The revised law omits the quoted language because an accepted general principle of statutory construction requires that a statute be given cumulative effect with other statutes unless the statute provides otherwise or unless the statute conflicts with another statute.

Revisor's Note
(End of Subchapter)

Chapter 10 (H.B. 1079), page 984, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, allocated to the former San Jacinto River Conservation and Reclamation District for a period of 10 years commencing with the fiscal year beginning September 1,

1939, 50 percent of the state ad valorem taxes imposed on property in certain counties in the district. Chapter 457, Acts of the 50th Legislature, Regular Session, 1947, extended the term of the allocation of revenue to the district and various other political subdivisions by two years but provided that for the second year of the extension each political subdivision was allocated only one-fourth of the taxes allocated to it for the first year of the extension. Chapter 309, Acts of the 51st Legislature, Regular Session, 1949, allocated to the district an additional 50 percent of the state ad valorem taxes imposed on property in certain counties in the district for each of the years 1949 and 1950 and collected in each of the fiscal years 1949-1950 and 1950-1951, in addition to allocating revenue to various other political subdivisions. Because the period for which the specified revenue was allocated to the former district has expired, the revised law omits Chapter 10 (H.B. 1079), page 984, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, as executed. The revised law does not codify the provisions of Chapter 457, Acts of the 50th Legislature, Regular Session, 1947, and Chapter 309, Acts of the 51st Legislature, Regular Session, 1949, pertaining to the district because those provisions are executed and does not omit those acts because those acts also apply to other political subdivisions. The omitted law reads:

> Sec. 1. The purpose of this Act is to further carry out the command to the Legislature contained in Article 16, Section 59a of the Constitution of the State of Texas to pass such laws as may be appropriate to the conservation and development of all the natural resources of this State, including the control, storing, preservation, and distribution of its storm and flood waters, the waters of its rivers and streams, for irrigation, power, and all

other useful purposes, the reclamation and irrigation of its arid, semiarid, and other lands needing drainage, the conservation and development of its forests, water, and hydroelectric power, the preservation and conservation of all such natural resources in said District by aiding said District in carrying out the powers, duties, and functions conferred upon such District under and by virtue of the Act creating the San Jacinto River Conservation and Reclamation District, and in the promotion of the comfort, health, and general welfare of the citizens of such District. The grants and aids hereinabove set out are made and authorized by this Act.

Sec. 2. For a period of ten (10) years or for such portion of such period as may be required, but no longer, and commencing with the fiscal year beginning September 1, 1939, there is hereby donated and granted by the State of Texas to the San Jacinto River Conservation and Reclamation District fifty (50) per cent of all State ad valorem taxes collected for General Revenue purposes upon the property and from persons in the Counties of Montgomery, Walker, San Jacinto, and all that part of Liberty County embraced in the San Jacinto Watershed, said counties comprising in whole or in part the respective District herein above set out, and shall include the rolling stock belonging to railroad companies which shall be ascertained and apportioned as now provided by law. The taxes hereby donated shall be used by the respective District for the purpose of carrying out the powers, duties, and functions conferred upon such District by the Legislature of the State of Texas, provided, however, that the taxes herein donated and granted in the Counties of Walker and San Jacinto shall not apply, nor be allocated or donated in this Act, until the provisions of Senate Bill No. 89, passed at the Regular Session of the Forty-sixth Legislature, become inoperative; however, in that event taxes accruing in the counties hereinabove named shall apply and be donated as is provided herein for the other counties embraced in this Act, and provided further that all that part of Liberty County embraced in the San Jacinto Watershed shall be embraced in this Act, and all taxes inuring from that portion of such County shall be allocated and donated to the San Jacinto River Conservation and Reclamation District as hereinabove provided.

Sec. 3. At the end of each month, the Assessor-Collector of Taxes of any county named in this Act shall on forms to be furnished by the Comptroller of Public Accounts make an itemized report, under oath, to said Comptroller of Public Accounts, showing State ad valorem taxes collected by him for General Revenue purposes as provided for in this Act, upon the property and from persons within any

such county or part of county and accompany the same with a summarized statement showing disposition of such State taxes collected. Such Assessor-Collector shall forward his report to the Comptroller of Public Accounts and shall pay over to the Treasurer, or other officer authorized to receive and receipt for funds, of the San Jacinto River Conservation and Reclamation District, in which such county or part of county is located, fifty (50) per cent of all State ad valorem taxes collected by him during said month, under the provisions of this Act, except such amounts as are allowed by law for assessing and collecting the same, and shall forward a duplicate copy of the receipt given him by the Treasurer, or other officer of the District, for such moneys to the Comptroller of Public Accounts at Austin, Texas.

The Board of Directors of the District hereinabove mentioned shall, on or before the first day of January of each year, cause to be made an itemized statement, under oath and in triplicate, showing the amount of money received by such District under this Act during the next preceding year ending August 31st, and showing how, to whom, and for what purpose the same has been expended. One copy of each statement, after having been audited, shall be forwarded to the Comptroller of Public Accounts, the statement shall be sworn to by the Treasurer and Secretary of the District named in this Act, and the correctness thereof shall be certified by the State Auditor, which Auditor shall, while auditing said statement, have before him all vouchers upon which expenditures have been made from said fund, and no item or expenditure shall be allowed or passed by the Auditor unless he have in his possession legal and proper vouchers therefor, showing compliance with this Act. Upon the completion of the audit, a copy of the report and all vouchers shall be attached together, numbered consecutively, and by the Auditor returned to and thereafter be safely kept by the Secretary of the San Jacinto River Conservation and Reclamation District.

Sec. 4. The Treasurer of the San Jacinto River Conservation and Reclamation District shall, at the end of each month, make an itemized report, under oath, to the Comptroller of Public Accounts, showing the amount of money received by him from the Assessor-Collector of Taxes for the Counties of Montgomery, Walker, San Jacinto, and all that part of Liberty County embraced in the San Jacinto Watershed.

Sec. 5. It is hereby expressly provided that this Act shall in nowise affect any tax donation heretofore made and now in effect to the San Jacinto River Conservation and Reclamation District.

SUBCHAPTER F. BONDS

Revised Law

Sec. 8514.0601. PRELIMINARY BONDS. The authority on a vote of the qualified voters may issue preliminary bonds as described by Section 8514.0301(c)(1)(B) and impose a tax to retire the bonds. (Acts 45th Leg., R.S., Ch. 426, Sec. 9 (part).)

Source Law

> Sec. 9. . . . It is, however, provided that the District may upon a vote of the qualified electors issue such preliminary bonds and levy a tax to retire the same, which tax may be in addition to all other taxes hereby authorized; . . . .

Revisor's Note

(1) Section 9, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to the "qualified electors" of the authority. The revised law substitutes "voters" for "electors" for the reason stated in the revisor's note to Section 8514.0323.

(2) Section 9, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to "such" preliminary bonds. The provision of Section 9 of Chapter 426 to which the quoted language pertains is revised as Section 8514.0301(c)(1)(B), and the revised law is drafted accordingly.

(3) Section 9, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that the authority may "levy" a tax to retire preliminary bonds. The revised law substitutes "impose" for the reference to the levying of a tax for the reason stated in Revisor's Note (5) to Section 8514.0301.

(4) Section 9, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, authorizes the authority to impose a tax to retire preliminary bonds, "which tax may be in addition to all other taxes hereby authorized." The revised law omits the quoted language for the reason stated in Revisor's Note (3) to

Section 8514.0503.

Revised Law

Sec. 8514.0602. POWER TO ISSUE BONDS IN GENERAL. The authority may not issue bonds or incur any form of continuing obligations or indebtedness for purposes of effecting improvements comprehended in the plan of organization and administration of the authority or incur any indebtedness in the form of a continuing charge on land or other property in the authority unless a proposition authorizing the bonds, obligations, or indebtedness has been:

(1) submitted to the qualified voters of the authority or, in an appropriate case, the voters of a defined area or political subdivision within the authority; and

(2) approved by a majority of the voters voting on the proposition. (Acts 45th Leg., R.S., Ch. 426, Sec. 10.)

Source Law

> Sec. 10. The San Jacinto River Conservation and Reclamation District shall not be authorized to issue bonds nor to incur any form of continuing obligations or indebtedness for purposes of effecting improvements comprehended in the plan of organization and administration of the District, nor incur any indebtedness in the form of a continuing charge upon land or properties within the District, unless such proposition shall have been submitted to the qualified property taxpaying voters of the District, or, in appropriate case, such voters of a defined area or political subdivision within the District, and approved by a majority of such electors voting thereon.

Revisor's Note

(1) Section 10, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to a vote by "the qualified property taxpaying voters of the District, or, in appropriate case, such voters of a defined area or political subdivision within the District." The revised law omits the reference to voting by property taxpaying voters because in Hill v. Stone, 421 U.S. 289 (1975), the United States Supreme Court determined that property ownership as a

qualification for voting is an unconstitutional denial of equal protection.

(2) Section 10, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to the "electors" voting on a bond proposition. The revised law substitutes "voters" for "electors" for the reason stated in the revisor's note to Section 8514.0323.

Revised Law

Sec. 8514.0603. POWER TO ISSUE REVENUE BONDS. (a) The authority may issue revenue bonds for the purpose of:

(1) making investigations or assembling data;

(2) purchasing, acquiring, or condemning land, easements, rights-of-way, or other property;

(3) constructing, repairing, improving, or extending structures, dams, reservoirs, transmission facilities, water supply facilities, or sewage or other waste collection, transmission, treatment, or disposal facilities;

(4) developing park or recreational facilities; or

(5) acquiring, constructing, improving, repairing, or extending other property or facilities considered appropriate by the board in the exercise of the powers granted the authority by this chapter.

(b) Any of the purposes described by Subsection (a) may be combined into a single issue of bonds.

(c) The bonds must be issued in accordance with, and may be secured by and payable from revenue of the authority permitted by, Section 8514.0605, including the proceeds of a contract between the authority and another person. (Acts 45th Leg., R.S., Ch. 426, Sec. 10b (part).)

Source Law

> Sec. 10b. The Authority shall have the authority and is hereby authorized to issue from time to time its negotiable revenue bonds for the purpose of making investigations and assembling data; for the purposes of purchasing, acquiring, and/or condemning lands, easements, rights-of-way and other properties; and for the purpose of constructing, repairing,

improving and extending any structures, dams, reservoirs, transmission facilities, water treatment, water supply, sewage and other waste gathering, transmission, treatment and disposal facilities, for developing park and recreation facilities; and for the purposes of acquiring, constructing, improving, repairing and extending any other properties and facilities deemed appropriate by the Board of Directors of the Authority in the exercise of powers granted the Authority in Section 3 and elsewhere in this Act. Any one or more or a combination of the foregoing purposes may be combined into a single issue of bonds. Such bonds shall be issued in accordance with, and may be secured by and payable from any or all the revenues of the Authority permitted by, Section 10c hereof, including, but not limited to, the proceeds of any one or more contracts between the Authority and any persons, firms, corporations, cities and political subdivisions.

. . .

Revisor's Note

(1) Section 10b, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, authorizes the authority to issue bonds "from time to time." The revised law omits the quoted language for the reason stated in Revisor's Note (1) to Section 8514.0502.

(2) Section 10b, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, authorizes the authority to issue "negotiable" revenue bonds. The revised law omits the reference to "negotiable" revenue bonds because Section 1201.041, Government Code, provides that a public security is a negotiable instrument. Throughout this chapter, the revised law omits law that is superseded by Chapter 1201, Government Code, or that duplicates law contained in that chapter. Chapter 1201, Government Code, applies to authority bonds under Sections 1201.002 and 1201.003, Government Code.

(3) Section 10b, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to sewage and other waste "gathering," transmission, treatment, and disposal facilities. The revised law substitutes "collection" for "gathering" for the reason stated in the revisor's note to Section 8514.0306.

(4) Section 10b, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that revenue bonds shall be issued in accordance with, and may be secured by and payable from any or all of the revenue of the authority permitted by, Section 10c of Chapter 426. That section is revised in pertinent part in this chapter as Section 8514.0605, and the revised law is drafted accordingly.

(5) Section 10b, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to contracts between the authority and any persons, "firms, corporations, cities and political subdivisions." The revised law omits the quoted language because under Section 311.005(2), Government Code (Code Construction Act), "person" is defined to include any legal entity.

(6) Section 10b, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that if and when the legislature remits the ad valorem tax in the counties in the authority for a certain period of years, the board may in its discretion if necessary with the approval of the commissioners court of the applicable county use part of all of the taxes remitted to the county for certain purposes. The Texas Supreme Court has opined that that provision refers to the taxes attempted to be remitted to the counties under Chapter 20 (S.B. 224), page 668, General Laws, Acts of the 46th Legislature, Regular Session, 1939. San Jacinto River Conservation & Reclamation District v. Sellers, 184 S.W.2d 920, 923 (Tex. 1945). Chapter 20 purported to grant for a five-year period beginning in 1940 from the state to each respective county in the state one-half of the state ad valorem taxes collected in the county. The Texas Supreme Court held that act

unconstitutional in Dallas County v. McCombs, 140 S.W.2d 1109 (Tex. 1940). Furthermore, Section 1-e, Article VIII, Texas Constitution, prohibits a state ad valorem tax. Because the legislature is not authorized to impose ad valorem taxes or remit the revenue derived from such taxes to the applicable counties, the revised law omits the provision as inoperative. The omitted law reads:

> Sec. 10b. . . .
> If and when the Legislature remits the ad valorem tax in the counties for a certain period of years, the Directors may in their discretion if necessary with approval of the Commissioners Court of the county in the watershed use part or all of the taxes remitted to said counties for the purpose of paying back to the United States of America or any of its agencies or others the money borrowed by the Authority for the purposes herein mentioned.

Revised Law

Sec. 8514.0604. TERMS OF ISSUANCE. Authority bonds may be:

(1) sold for cash;

(2) issued on terms the board considers necessary or convenient for any corporate purpose; or

(3) issued to refund bonds issued under this chapter.

(Acts 45th Leg., R.S., Ch. 426, Sec. 10c (part).)

Source Law

> Sec. 10c. The bonds issued by the authority of this Act may either be (1) sold for cash, at public or private sale, . . . (2) may be issued on such terms as the Board of Directors shall deem necessary or convenient for any corporate purpose, or (3) may be issued to refund any bonds issued at any time under authority of this Act. . . .

Revisor's Note

(1) Section 10c, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that authority bonds may be sold "at public or private sale." The revised law omits the quoted language because it duplicates Section 1201.022(a)(3)(A), Government Code.

(2) Section 10c, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that authority bonds may be sold at a price or prices as the board determines, not to be for less than par and accrued interest. The revised law omits that provision as superseded by general law. Section 1201.022, Government Code, as amended in 2001, provides that an issuer may sell public securities "under the terms determined by the governing body of the issuer to be in the issuer's best interests." In addition, Section 1204.006(b), Government Code (enacted as Section 2, Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes)), provides that an issuer may sell public securities at any price. Section 1204.006(b), Government Code, applies to authority bonds under Sections 1204.001 and 1204.002 of that code. The omitted law reads:

> Sec. 10c. [The bonds issued by the authority of this Act may either be (1) sold for cash,] . . . at such price or prices as the Board of Directors shall determine, not to be for less than par and accrued interest, provided that . . . .

Revised Law

Sec. 8514.0605. RESOLUTION REQUIRED; RESOLUTION PROVISIONS. (a) Authority bonds must be authorized by a board resolution concurred in by a majority of the board members.

(b) A resolution authorizing bonds may contain provisions:

(1) reserving the right to redeem the bonds at the time, in the amount, and at the price, not exceeding 102 percent of the principal amount of the bonds, plus accrued interest, as may be provided;

(2) providing for the setting aside of sinking funds or reserve funds and the regulation and disposition of those funds;

(3) pledging to secure the payment of the principal of

and interest on the bonds and the sinking fund or reserve fund payments agreed to be made with respect to the bonds:

(A) all or any part of the money that may be donated or granted under this chapter by this state;

(B) all or any part of the gross or net revenue subsequently received by the authority with respect to the property to be acquired or constructed with the bonds or the proceeds of the bonds; or

(C) all or any part of the gross or net revenue subsequently received by the authority from any source;

(4) prescribing the purposes to which the bonds or any bonds subsequently to be issued, or the proceeds of the bonds, may be applied;

(5) agreeing to impose rates and other charges sufficient to produce revenue, together with the money that may be granted or donated by this state, adequate to pay the items specified by this chapter and prescribing the use and disposition of all revenue;

(6) prescribing limitations on the issuance of additional bonds and on the agreements that may be made with the purchaser and successive bondholders;

(7) with regard to the construction, extension, improvement, operation, maintenance, depreciation, replacement, and betterment of the authority's properties and the carrying of insurance on all or any part of those properties covering loss or damage or loss of use and occupancy resulting from specified risks;

(8) setting the procedure, if any, by which the authority may change the terms of a contract with the bondholders, the amount of bonds the holders of which must consent to that change, and the manner in which the consent must be evidenced;

(9) providing for the execution and delivery by the authority to a bank or trust company authorized by law to accept such a trust, or to the United States, of indentures or agreements authorized by this chapter to be made with or for the benefit of the

bondholders and any other provisions that are contained in such indentures or agreements; and

(10) approved by the board that are not inconsistent with this chapter.

(c) A provision authorized by this section that is contained in a bond resolution is part of the contract between the authority and the bondholders. (Acts 45th Leg., R.S., Ch. 426, Sec. 10c (part).)

Source Law

> Sec. 10c. . . . All such bonds shall be authorized by resolution or resolutions of the Board of Directors concurred in by a majority of the members of the Board, and . . . . Any resolution or resolutions authorizing any bonds may contain provisions, which shall be part of the contract between the directors and the bondholders thereof from time to time.
>
> (a) Reserving the right to redeem such bonds at such time or times, in such amounts and at such prices not exceeding one hundred and two (102) per cent of the principal amount thereof, plus accrued interest, as may be provided;
>
> (b) Providing for the setting aside of sinking funds or reserve funds and the regulation and disposition thereof;
>
> (c) Pledging to secure the payment of the principal and interest on such bonds and the sinking fund or reserve fund payments agreed to be made in respect to such bonds all or any parts of the moneys that may be donated and/or granted herein by the State of Texas and all or any part of the gross or net revenues hereafter received by the district in respect of the property, real, personal, or mixed, to be acquired and/or constructed with such bonds or with proceeds thereof, or all or any part of the gross or net revenues thereafter received by the District from whatsoever source derived;
>
> (d) Prescribing the purposes to which such bonds or any bonds thereafter to be issued or the proceeds thereof, may be applied;
>
> (e) Agreeing to fix and collect rates and charges sufficient to produce revenues together with the moneys that may be granted and/or donated by the State of Texas adequate to pay the items specified herein, and prescribing the use and disposition of all revenues;
>
> (f) Prescribing limitations upon the issuance of additional bonds and upon all agreements which may be made with the purchaser and successive bondholders;
>
> (g) With regard to the construction, extension, improvement, operation, maintenance, depreciation, replacement, and betterments of the properties of the District and carrying of insurance upon all or any part of said property covering loss or damage or loss of use and occupance resulting from specified risks;
>
> (h) Fixing the procedure, if any, by which, if the District shall so desire, the terms of any contract with bondholders of such bonds may be amended or abrogated, the amount of bonds the holders of such must

consent thereto, and the manner in which such consent shall be evidenced, for the execution and delivery by the district to the bank or trust company authorized by law to accept such trust, or to the United States of America or any office or agency thereof, of indentures or agreements therein authorized to be made with all for the benefit of the holders of such bonds and such other provisions as may be contained in such indentures or agreements; and

(i) Such other provisions not inconsistent with provisions of this Act as the Board may approve.

. . .

Revisor's Note

(1) Section 10c, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that the provisions of the resolution authorizing bonds are "part of the contract between the directors and the bondholders thereof from time to time." The revised law substitutes a reference to the "authority" for the reference to the "directors" because the contract is between the authority and the bondholders. The revised law omits "from time to time" because, to the extent the language modifies "the contract [made]," the power to make a contract includes the power to do so at any time, and to the extent the language modifies "the bondholders," "bondholder" includes anyone holding a bond at any time the statute is read.

(2) Section 10c(a), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that a resolution authorizing bonds may reserve the right to redeem the bonds at a time "or times" provided by the resolution. The revised law omits the quoted language because Section 311.012(b), Government Code (Code Construction Act), provides that a reference to the singular includes the plural and vice versa. Throughout this chapter, similar provisions in the source law that use a noun in both its singular and plural forms are revised using only the singular form.

(3) Section 10c(e), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that

a resolution authorizing bonds may contain provisions under which the authority agrees to "fix and collect rates and charges." The revised law substitutes "impose" for "fix and collect" because, in context, the language has the same meaning and "impose" is more commonly used. The revised law substitutes "rates and other charges" for "rates and charges" for consistency of terminology.

(4) Section 10c(g), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to "loss of use and occupance." The revised law substitutes "occupancy" for "occupance" because it is clear from the context that "occupance" is a typographical error and that the legislature intended to refer to loss of use and "occupancy."

(5) Section 10c(h), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that the authority may set the procedure, if any, by which the terms of bond contracts may be "amended or abrogated." The revised law substitutes "change" for the quoted language because, in context, the terms have the same meaning and "change" is more commonly used.

(6) Section 10c(h), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to the "United States of America or any office or agency thereof." The revised law omits the reference to an agency of the United States for the reason stated in Revisor's Note (1) to Section 8514.0321.

Revised Law

Sec. 8514.0606. DEFAULT PROCEDURES. (a) This section applies only to a default in:

(1) the payment of the principal of bonds as they become due and payable, whether at maturity, by call for

redemption, or otherwise;

(2) the payment of the interest on bonds as the interest becomes due and payable; or

(3) the performance of an agreement made with the purchasers or successive holders of bonds.

(b) A resolution authorizing bonds and any indenture or agreement entered into under the resolution may provide that in the event of a default described by Subsection (a) that continues for a period, if any, prescribed by the resolution, the trustee under the indenture entered into with respect to the bonds authorized by the resolution or, if there is no indenture, a trustee appointed in the manner provided by the resolution by the holders of 25 percent in aggregate principal amount of the bonds authorized by the resolution and then outstanding may, and on the written request of the holders of 25 percent in aggregate principal amount of the bonds authorized by the resolution then outstanding, shall, in the trustee's own name, but for the equal and proportionate benefit of the holders of all of the bonds, and with or without having possession of the bonds:

(1) enforce by mandamus or other action or proceeding at law or in equity all rights of the bondholders;

(2) bring an action on the bonds or the related coupons;

(3) require by action in equity the directors to act as if they were the trustees of an express trust for the bondholders;

(4) enjoin by action in equity any act or things that may be unlawful or in violation of the rights of the bondholders; or

(5) after such notice to the directors as the resolution may provide, declare the principal of all of the bonds due and payable, and if all defaults have been satisfied, then with the written consent of the holders of 25 percent in aggregate principal amount of the bonds then outstanding, annul the declaration and its consequences.

(c) Notwithstanding Subsection (b), the holders of more

than a majority in principal amount of the bonds authorized by the resolution and then outstanding, by written instrument delivered to the trustee, are entitled to direct and control any and all actions taken or to be taken by the trustee under this section.

(d) A resolution, indenture, or agreement relating to bonds may provide that in an action or proceeding under this section, the trustee, whether or not all of the bonds have been declared due and payable and with or without possession of the bonds, is entitled to the appointment of a receiver who may:

(1) enter and take possession of all or any part of the authority's properties;

(2) operate and maintain the properties;

(3) impose rates and other charges that, together with the money that may be granted or donated by this state, will be sufficient to provide revenue adequate to pay the items specified by this chapter and the costs and disbursements of the action or proceeding; and

(4) apply the revenue in accordance with this chapter and the resolution authorizing the bonds.

(e) In an action or proceeding by a trustee or receiver under this section, if any, the attorney's fees and expenses of the trustee and of the receiver, if any, constitute taxable disbursements, and all costs and disbursements allowed by the court are a first charge on any revenue pledged to secure the payment of the bonds.

(f) In addition to the powers specifically provided by this section, a trustee has all powers necessary or appropriate for the exercise of the powers specifically provided or incident to the general representation of the bondholders in the enforcement of their rights. (Acts 45th Leg., R.S., Ch. 426, Sec. 10c (part).)

Source Law

Sec. 10c. . . .

Any such resolution and any indenture or agreement entered into pursuant thereto may provide that in the event that,

(1a) Defaults may be made in the payment of the

interest on any or all bonds when and as the same shall become due and payable, or

(1b) Defaults shall be made in payment of the principal of any or all bonds when and as the same shall become due and payable, whether at maturity thereof, by call for redemption or otherwise, or

(1c) Defaults shall be made in the performance in agreement made with purchasers or successive holders of any bonds, and such defaults shall have continued for such period, if any, as may be prescribed by said resolution in respect thereof, the trustee under the indenture or indentures entered into in respect of the bonds authorized, and by, or, if there shall be in such indenture, a trustee appointed in the manner provided in such resolution or resolutions by the bondholders of twenty-five (25) per cent aggregate principal amount of the bonds authorized hereby and at the time outstanding may, and upon the written request of the holders of twenty-five (25) per cent in aggregate principal amount of the bonds authorized by such resolution or resolutions at the time outstanding, shall, in his or its own name, be for the equal and proportionate benefit of the holders of all such bonds; and with or without having possession thereof for the holders of all such bonds:

(1) By mandamus or suit, action or proceeding at law or in equity, enforce all rights of the holders of such bonds,

(2) Bring suit upon such bonds and/or appurtenant coupons,

(3) By action or suit in equity requiring the Directors to act as if they were the trustees of an express trust for the bondholders,

(4) By action or suit in equity enjoin any act or things which may be unlawful or in violation of the rights of the holders of such bonds, and/or

(5) After such notice of the Directors as such resolution may provide, declare the principal of all such bonds due and payable and if all defaults shall be made good, then with the written consent of the holders of twenty-five (25) per cent aggregate principal amount of such bonds at the time outstanding, annul such declaration and its consequent; provided, however, that the bondholders of more than the majority and principal amounts of bonds authorized thereby and at the time outstanding shall by instrument or instruments in writing delivered to such trustee, have the right to direct and control any and all actions taken or to be taken by such trustee under this paragraph. Such resolution, indenture or agreement may provide that in any such suit, action or proceeding, any such trustee, whether or not all of such bonds shall have been declared due and payable, and with or without possession of any thereof, shall be entitled as of right to the appointment of a receiver who may enter and take possession of all or any part of the properties of the District, and operate and maintain the same, and fix, collect and receive rates and charges that together with the moneys that may be granted and/or donated by the State of Texas will be sufficient to provide revenues adequate to pay the items set forth herein, and cost and disbursements of such suit, action or proceeding, and to apply such revenue in conformity with the provisions of this Act and the resolution or resolutions authorizing such bonds. In any suit, action or proceeding by any such trustee or receivers, if any, counsel fees and expenses of such trustee and of receiver or receivers,

if any, shall constitute taxable disbursements and all costs and disbursements allowed by the Court shall be a fixed charge upon any revenue pledged to secure the payment of such bonds. In addition to the powers hereinabove specifically provided for, each trustee shall have and possess all powers necessary or appropriate for the exercise of any thereof, or incident to the general representation of the bondholders in enforcement of their rights.

. . .

Revisor's Note

(1) Section 10c(1c), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to the performance "in" agreement made with purchasers or successive holders of bonds. The revised law substitutes "of an" for "in" because it is clear from the context that "in" is a typographical error and that the legislature intended to refer to the performance "of an" agreement.

(2) Section 10c(1c), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to the trustee under the indenture entered into in respect of the bonds "and by, or, if there shall be in such indenture" a trustee appointed in the manner provided in the resolution by the bondholders. The revised law substitutes "or, if there is no indenture" for the quoted language because it is clear from the context that the quoted language is a typographical error and that the legislature intended to refer to a trustee appointed in a case in which there is no indenture.

(3) Section 10c(1c), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that a trustee shall, in the trustee's own name, "be" for the equal and proportionate benefit of all of the bondholders, take certain actions. The revised law substitutes "but" for "be" because it is clear from the context that "be" is a typographical error and that the legislature intended to provide that a trustee shall, in the trustee's own name, "but" for the equal and

proportionate benefit of all of the bondholders, take certain actions.

(4) Section 10c(1c), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to a "suit" or "action." The revised law omits "suit" because that term is included in the meaning of "action."

(5) Section 10c(1c)(5), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to notice "of" the directors. The revised law substitutes "to" for "of" because it is clear from the context that "of" is a typographical error and that the legislature intended to refer to notice "to" the directors.

(6) Section 10c(1c)(5), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to a declaration of default and its "consequent." The revised law substitutes "consequences" for "consequent" because it is clear from the context that "consequent" is a typographical error and that the legislature intended to refer to a declaration of default and its "consequences."

(7) Section 10c(1c)(5), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to the majority "and" principal amounts of bonds authorized and outstanding. The revised law substitutes "in" for "and" because it is clear from the context that "and" is a typographical error and that the legislature intended to refer to a majority "in" principal amount of bonds authorized and outstanding.

(8) Section 10c(1c)(5), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that a resolution, indenture, or agreement may provide that in a suit, action, or proceeding, a trustee "shall be

entitled as of right" to the appointment of a receiver. The revised law substitutes "is entitled to" for the quoted language because under Section 311.016(4), Government Code (Code Construction Act), "is entitled to" creates or recognizes a right.

(9) Section 10c(1c)(5), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that a receiver may "fix, collect and receive rates and charges." The revised law substitutes "impose" for "fix, collect and receive" because, in context, the language has the same meaning and "impose" is more commonly used. The revised law substitutes "rates and other charges" for "rates and charges" for the reason stated in Revisor's Note (3) to Section 8514.0605.

(10) Section 10c(1c)(5), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, refers to "counsel fees" incurred in a suit, action, or proceeding by a trustee or receiver. The revised law substitutes "attorney's fees" for "counsel fees" because, in context, the terms have the same meaning and "attorney's fees" is more commonly used.

(11) Section 10c(1c)(5), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that certain expenses are a "fixed" charge on any revenue pledged to secure the payment of bonds. The revised law substitutes "first" for "fixed" because it is clear from the context that "fixed" is a typographical error and that the legislature intended to provide that the specified expenses are a "first" charge on any revenue pledged to secure the payment of bonds.

(12) Section 10c(1c)(5), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that in addition to the powers specifically provided

for, each trustee "shall have and possess" all powers necessary or appropriate for the exercise of the powers specifically provided or incident to the general representation of the bondholders in the enforcement of their rights. The revised law substitutes "has" for "shall have and possess" because, in context, the terms have the same meaning and "has" is more concise.

Revisor's Note
(End of Subchapter)

(1) Section 7(c), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, lists the entities for which authority bonds are legal and authorized investments and provides that authority bonds may secure deposits of public funds of the state and political subdivisions. The revised law omits those provisions because they duplicate, in substance, Section 49.186, Water Code. The omitted law reads:

> (c) All bonds issued by the Authority shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries and trustees, and for any sinking funds of cities, towns, villages, counties, school districts and other political corporations and subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts and other political corporations or sub-divisions of the State of Texas, and such bonds shall be lawful and sufficient security for said deposits at their market value when accompanied by all unmatured coupons appurtenant thereto.

(2) Section 10c, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that the interest cost of the money received for authority bonds, computed to maturity, may not exceed five percent per year. That section also provides that the interest rate on authority bonds may not exceed five

percent per year. The revised law omits those provisions as superseded by other law. Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes), now Chapter 1204, Government Code, established a maximum interest rate for public securities. Section 1204.006, Government Code, reflecting the 1981 amendment of Article 717k-2 by Section 1, Chapter 61, Acts of the 67th Legislature, Regular Session, permits a public agency to issue public securities at any net effective interest rate of 15 percent or less. Section 1204.006, Government Code, applies to authority bonds under Sections 1204.001 and 1204.002 of that code. The omitted law reads:

> Sec. 10c. [The bonds . . . may either be (1) sold for cash, . . . at such price or prices as the Board of Directors shall determine, not to be for less than par and accrued interest, provided that] the interest cost of the money received therefor, computed to maturity in accordance with the standard bonds tables in general use by banks and insurance companies, shall not exceed five (5) per cent per annum, or . . . . [All such bonds . . . shall . . . bear interest at such rate or rates] (not exceeding five (5) per cent per annum) . . . [as such resolution or resolutions may provide.] . . .

(3) Section 10c, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that a resolution authorizing the issuance of bonds by the authority may specify the date or dates of the bonds and the date the bonds are "made." It is clear from the context that the reference to the date the bonds are "made" is a typographical error and that the legislature intended to refer to the date the bonds "mature." The revised law omits that provision because it duplicates, in substance, parts of Sections 1201.021, 1201.022, and 1201.024, Government Code, which provide for the characteristics, terms of

issuance, and form of a public security. The omitted law reads:

> Sec. 10c. . . . [All such bonds] . . . shall bear such date or dates, made at such time or times, . . . as such resolution or resolutions may provide. . . .

(4) Section 10c, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that authority bonds may bear interest at the rate or rates as provided by the bond resolution. The revised law omits that provision because it duplicates Section 1201.021(2), Government Code. The omitted law reads:

> Sec. 10c. . . . [All such bonds . . . shall] . . . bear interest at such rate or rates . . . [as such resolution or resolutions may provide.] . . .

(5) Section 10c, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that interest on authority bonds may be payable annually or semiannually, as provided by the bond resolution. The revised law omits that provision because it is superseded by Section 1201.021(5), Government Code, which provides that a public security is payable at the times and in the amounts specified by the governing body of the issuer. The omitted law reads:

> Sec. 10c. . . . [All such bonds . . . shall . . . bear interest at such rate or rates . . .] payable annually or semiannually, . . . [as such resolution or resolutions may provide.] . . .

(6) Section 10c, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that authority bonds may be in the denominations provided by the bond resolution. The revised law omits that provision because it duplicates, in substance, Section 1201.021(1), Government Code, which provides that a public security may be issued in any denomination. The omitted law reads:

> Sec. 10c. . . . [All such bonds . . .

shall] . . . that such denominations . . . [as such resolution or resolutions may provide.] . . .

(7) Section 10c, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that a resolution authorizing the issuance of bonds may specify the form of the bonds. The revised law omits the provision because it is superseded by or duplicates law in Sections 1201.021 and 1201.024, Government Code, which provide for the form and characteristics of a public security. The omitted law reads:

> Sec. 10c. . . . [All such bonds . . . shall] . . . be in such form, either coupon or registered, . . . [as such resolution or resolutions may provide.] . . .

(8) Section 10c, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, describes registration and exchange privileges for authority bonds. The revised law omits those provisions because they duplicate, in substance, Section 1201.022(a)(4), Government Code, and part of Section 1201.024, Government Code. Section 1201.022(a)(4), Government Code, provides that a public security may be issued with specified characteristics, on specified terms, or in a specified manner, and that law is sufficient authority for authority bonds to be exchangeable for bonds of another denomination. Section 1201.024, Government Code, provides that a public security may be registrable as to principal and interest or only as to principal and that an issuer may provide that coupon bonds are exchangeable for registered bonds and vice versa. The omitted law reads:

> Sec. 10c. . . . [All such bonds . . . shall] . . . carrying such registered privileges as to principal only or as to both principal and interest, and as to exchange of coupon bonds for registered bonds or vice versa, in exchange of bonds of one denomination for bonds of other

denominations, . . . [as such resolution or resolutions may provide.] . . .

(9) Section 10c, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that a resolution that authorizes the issuance of authority bonds may specify the manner of execution of the bonds issued. The revised law omits that provision because it duplicates, in substance, Section 1201.026, Government Code, which provides for execution of a public security. The omitted law reads:

> Sec. 10c. . . . [All such bonds . . . shall] . . . be executed in such manner and . . . [as such resolution or resolutions may provide.] . . .

(10) Section 10c, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that authority bonds may be payable at the place or places inside or outside this state as provided by the bond resolution. The revised law omits that provision because it duplicates, in substance, Section 1201.021(5)(C), Government Code, which provides that a public security may be payable at a specified place or places. The omitted law reads:

> Sec. 10c. . . . [All such bonds . . . shall] . . . be payable at such place or places within or without the State of Texas, [as such resolution or resolutions may provide.] . . .

(11) Section 10c, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, provides that before bonds may be sold by the authority, a certified copy of the proceedings for the issuance of the bonds and other information must be submitted to the attorney general. It also provides that if the attorney general finds that the bonds have been issued in accordance with law and approves the bonds, the attorney general shall execute a certificate to that effect. In addition, it requires that the certificate

be filed and recorded in the office of the comptroller and prohibits the issuance of bonds until they have been registered by the comptroller. Finally, it requires the comptroller to register the bonds if the attorney general files with the comptroller the attorney general's certificate approving the bonds and the proceedings for the issuance of the bonds. The revised law omits those provisions because they are superseded by or duplicate law in Chapter 1202, Government Code (enacted as Article 3, Chapter 53, Acts of the 70th Legislature, 2nd Called Session, 1987 (Article 717k-8, Vernon's Texas Civil Statutes)). Section 1202.003(a), Government Code, requires bonds to be submitted to the attorney general. Section 1202.003(b), Government Code, provides for approval of the bonds by the attorney general and requires the attorney general to submit the approved bonds to the comptroller for registration. Section 1202.005, Government Code, requires registration of the bonds by the comptroller. The omitted law reads:

> Sec. 10c. . . .
> Before any bonds shall be sold by the District, a certified copy of the proceedings for the issuance thereof, including the term of such bonds, together with any other information which the Attorney General of the State of Texas may require, shall be submitted to the Attorney General, and if he shall find that such bonds have been issued in accordance with law, and he shall approve such bonds, he shall execute a certificate to that effect which shall be filed in the office of the Comptroller of the State of Texas and be recorded in a record kept for that purpose. No bonds shall be issued until the same shall have been registered by the Comptroller who shall so register the same if the Attorney General shall have filed with the Comptroller his certificate approving the bonds and the proceedings for the issuance thereof as hereinabove provided.
> . . .

(12) Section 10c, Chapter 426, Acts of the 45th

Legislature, Regular Session, 1937, provides that after approval and registration, authority bonds are incontestable and binding obligations. The revised law omits that provision because it is superseded by or duplicates law in Section 1202.006, Government Code (enacted as Section 3.002(d), Chapter 53, Acts of the 70th Legislature, 2nd Called Session, 1987 (Article 717k-8, Vernon's Texas Civil Statutes)), which provides that after approval and registration, bonds are incontestable and binding obligations. The omitted law reads:

> Sec. 10c. . . .
> All bonds approved by the Attorney General as aforesaid, and registered by the Comptroller as aforesaid, and issued in accordance with proceedings so approved shall be valid and binding obligations of the District and shall be incontestable for any cause from and after the time of such registration.

Revisor's Note
(End of Chapter)

(1) Section 13, Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, Section 7, Chapter 480, Acts of the 47th Legislature, Regular Session, 1941, and Section 2, Chapter 367, Acts of the 52nd Legislature, Regular Session, 1951, provide that those acts are severable. The revised law omits those provisions because the same result is produced by the application of Section 311.032, Government Code (Code Construction Act), which provides that a provision of a statute is severable from each other provision of the statute that can be given effect. The omitted law reads:

> [Acts 45th Leg., R.S., Ch. 426]
> Sec. 13. . . . If any provision of this Act should be invalid, such fact shall not affect the validity of any other provisions of this Act, and the Legislature hereby declares that it would have enacted the valid provisions of this Act notwithstanding the invalidity of any other

provision or provisions hereof.

[Acts 47th Leg., R.S., Ch. 480]

Sec. 7. If any section, subsection, paragraph, clause, sentence, or word of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect the validity of the remaining provisions of the Act; and this Legislature hereby declares it would have passed such remaining portions despite such invalidity.

[Acts 52nd Leg., R.S., Ch. 367]

Sec. 2. If any word, phrase, section, or part of this Act shall be held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the remaining portions thereof, it being the express intention of the Legislature to enact such Act without respect to such word, phrase, section, or part so held to be invalid or unconstitutional.

(2) Section 3, Chapter 367, Acts of the 52nd Legislature, Regular Session, 1951, repeals all laws or parts of laws in conflict with that act. The revised law omits that provision as unnecessary because, under general rules of statutory construction, a statute automatically has the effect of repealing prior conflicting enactments and is ineffective to repeal subsequent legislation. The omitted law reads:

Sec. 3. All laws or parts of laws in conflict herewith are hereby repealed to the extent of the conflict.

(3) Section 7, Chapter 547, Acts of the 60th Legislature, Regular Session, 1967, and Section 6, Chapter 1003, Acts of the 88th Legislature, Regular Session, 2023, contain legislative findings relating to the performance of certain procedural requirements for legislation affecting the authority under the constitution and other laws and rules, including proper legal notice and the filing of recommendations. The revised law omits those provisions as executed. The omitted law reads:

[Acts 60th Leg., R.S., Ch. 547]

Sec. 7. Proof of Publication of the

Constitutional notice required in the enactment hereof under the provisions of Paragraph (d) of Section 59 of Article XVI of the Texas Constitution has been made in the manner provided therein and a copy of said notice and the bill as originally introduced have been delivered to the Governor of the State of Texas as required in such constitutional provision and such notice and delivery are hereby found and declared to be proper and sufficient to satisfy such requirements.

[Acts 88th Leg., R.S., Ch. 1003]

Sec. 6. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.