GROUNDWATER

CONSERVATION

DISTRICT

OPERATIONS

MANUAL

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GROUNDWATER CONSERVATION DISTRICT OPERATIONS MANUAL

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Electronic Media - The information provided in the Appendices is provided through the capability to download statutes, rules and documents from various homepage locations provided by the Texas Water Development Board, Texas Natural Resource Conservation Commission, Texas Department of Licensing and Regulation, and the office of the Secretary of State.

FOREWORD

The idea behind the Groundwater Conservation District Operations Manual is to help the Board of Directors and staff of a newly created district get past the stage of wondering what to do and become effective as quickly as possible.

Prior to the development of the manual in 1989, districts had no guide to follow. As far as we know, no such entity had ever existed before 1951. In each district, the Board of Directors had to fumble their way along, taking care of whatever came to their attention. They were true pioneers. The editors of this manual have tried to provide the most current information available in regard to the operation of groundwater conservation districts.

We don't guarantee that EVERYTHING you need to know is in this manual, but most of it is. We have given you examples of successful programs of existing districts and references for laws and agency rules that affect districts. We have carefully checked sources; and as far as we know, everything is current as of the date of publication. However, laws and rules are constantly changing. Always check with the source provided in the Appendices to be sure you're working from current information. While you may not want to depend entirely on this manual, it is a good base to build from.

We hope the users of this manual will find it helpful in regard to the creation, the early development and operation of a new district, as well as a handy reference for more established districts. It has been our goal to provide adequate resource references to direct anyone needing or wanting additional information the ability to meet their needs. We sincerely hope this manual will encourage the creation and continued operation of groundwater conservation districts throughout this state.

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CHAPTER I
INTRODUCTION

A. PURPOSE

This manual was originally developed in 1989 through through funding from the Texas Water Commission, High Plains Underground Water Conservation District No. 1 and Texas Tech University and was designed to assist in the operation of new or existing groundwater conservation districts and to assist individuals and groups interested in the creation of a district or residents of areas contemplating annexation into an existing district under the authority of Chapters 35 and 36, Texas Water Code. It includes information on rules, procedures, programs and practices, including budgeting and financial accounting, as well as descriptions of the duties and responsibilities of district directors and staff.

The purpose of the manual has not changed since its inception. Upon review of the current edition of the manual it was decided to rewrite and republish the manual to better address all of the changes to various rules, codes and other laws groundwater conservation districts are required to follow.

The materials contained in the manual should be updated as needed in response to changes in laws, codes, regulations, etc. As additional materials (examples of forms, rules, permits, etc.) are collected, they may be added to appropriate sections of the Appendix. The manual should be considered a "dynamic" document--one that should be constantly updated to remain current.

B. OBJECTIVES

Recognizing a need for a more easily understood source of guidance for those seeking a general understanding of the workings of a groundwater conservation district, the authors/editors have attempted to accomplish the following objectives:

1. Present an overview of districts, their purpose, creation, and operation;
2. Provide assistance in identifying and understanding pertinent legal requirements imposed on districts;
3. Provide information and guidance on district operational functions, such as planning and budgeting;
4. Provide examples of various forms, required documents, model rules and present optional programs and activities; and
5. Provide sources of additional information.

Drawing upon experience and advice from active, seasoned districts, this manual is designed to reduce initial wasted effort by providing guidelines of typical creation and operation activities by locally controlled groundwater conservation districts. Listings of state water agencies, existing groundwater conservation districts, and water associations are provided in the Appendix.

Groundwater conservation districts in Texas have been authorized and created since 1949 by authority of Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution. Districts have been formed for a number of reasons, including: to provide for the conservation and protection of groundwater supplies (both from the standpoint of quantity and quality), to encourage more

efficient use of water, and for certain special purposes (ie., subsidence). In addition to variations in principal focus, the districts that have been created vary in size, ranging from a small portion of a single county to multi-county districts.

By legislation enacted in 1997, the Texas Natural Resource Conservation Commission and the Texas Water Development Board were directed to identify Priority Groundwater Management Areas (PGMA) in Texas. After an area has been designated as a PGMA, the voters have three options. They may:

(1) create one or more districts under Subchapter B, Chapter 36 Texas Water Code;
(2) have the area or areas annexed into one or more districts that adjoin the area; or
(3) create one or more districts through the legislative process.

If the voters reject the creation of a district, the district shall have no further authority, except that any debts incurred shall be paid and the organization of the district shall be maintained until all its debts are paid. If the voters reject the annexation of the area into an existing district, an election to create a district or annex into an existing district may not be held before the first anniversary of the date on which the previous election was held. If the voters reject the creation of a district created through the legislative process, the enabling legislation may address any further action by the district in regard to future elections. However, inaction may invite state management of groundwater in the future (Texas Water Code, Chapter 35, Subsection 35.018). A political subdivision located in an area delineated as a PGMA, and in which qualified voters approve the creation of a district or annexation into an existing district, shall be given consideration to receive financial assistance from the state for funds to be used in addressing issues identified in the PGMA report (Texas Water Code, Chapter 35 Subsection 35.015).

Texas contains numerous major and minor aquifers. Each aquifer is unique, making state-wide rules for groundwater management and use impractical. Many districts have been created within the past few years, and more are likely to be created. Locally-controlled groundwater conservation districts with region-specific rules, programs, and activities have been demonstrated to be an efficient and satisfactory solution to addressing the groundwater problems of the state. "Groundwater conservation districts created as provided by this chapter are the state's preferred method of groundwater management" (Texas Water Code, Chapter 36 Subsection 36.0015).

C. INSTRUCTIONS FOR USE

This manual is not necessarily intended to be read from cover to cover although, for those with little or no working knowledge of groundwater conservation districts, that would be advisable. It is primarily meant to provide reference for quick, practical help with concerns as they arise. The Table of Contents should aid in locating specific sections of interest. Sample forms, rules, permits, sources of information, etc., are located in the Appendices.

In discussion of required activities where the law leaves little room for interpretation, necessary actions are summarized or the law is stated. Where individuality of action is allowed under the law, the material is in the form of guidelines with examples taken from various existing districts.

In addition to the documents listed or referred to within the text of this document that are included in the Appendix, the Appendix also includes copies of various "acts, codes and/or state law" the district should review.

CHAPTER II
OVERVIEW OF GROUNDWATER LAW

The federal government considers groundwater management and/or regulation to be a function of each state. There are certain federal laws or acts which may impact groundwater within each state such as the Clean Water Act, and the Safe Drinking Water Act. These programs are designed to protect the water quality. The Endangered Species Act was used as a vehicle to regulate the use of groundwater in the Edwards Aquifer of Texas.

Many states in the past used the "English common law" or "absolute ownership" rule and did not actually regulate or manage the groundwater. However, this rule has been replaced with other laws or statutes to allow for the management of the resource. Depending on the statutes within each state the regulation of groundwater may be very similar to that in Texas depending on how the state views the ownership of groundwater. "The Groundwater Management Districts Association (GMDA)" published Report of District Activities Within GMDA in 1994. Within this report the various districts throughout the midwest have provided information about their respective districts. The following description of various districts will provide information showing that, although the states are different in their statutes, they have used very similar structure for the management of groundwater on a local level.

Colorado - The Central Colorado Water Conservancy District covers 196,000 acres within 3 counties around Greeley Colorado. The District was formed through the Colorado Revised Statutes Annotated Section 37-45-100 et. Seq. in 1973. The District was created to address conservation, stabilizing stream flows, recharge, and augmentation. It is governed by a 15 member Court-appointed board. They are funded through property tax assessments of 1.1 mills (in 1990) plus annual assessment of $.50 - $2.80 per acre.

Kansas - The Northwest Kansas Groundwater Management District No. 4 covers 3.11 million acres in all or parts of 10 counties around Colby Kansas. The District was formed in 1976 through the Kansas Statutes Annotated 82a-1020 et seq. The district was created to manage groundwater. It is governed by a locally elected 11-member board from the eligible voters. The District is funded through local assessments and charges. Assessments in 1994 were $.042/acre of land ($.05 maximum) and $.097/acre foot of water right ($.60 maximum).

Nebraska - The Central Platte Natural Resource District covers 2,122,640 acres in all or part of 10 counties around Grand Island, Nebraska. The District was formed in 1972 through Nebraska Statutes (2-3201, et al). The district is a multi-purpose district - management, preservation and conservation of all natural resources. It is governed by a locally elected 21-member board and is funded though a District wide levy which provides 40% of the budget (1994 levy was $.0364/$100 of valuation) . State funds provide 33%, co-sponsor reimbursements provides 12% and charges, assessments, rent and investments provide the remaining 15%.

Louisiana - The Capital Area Ground Water Conservation District covers 2090 square miles in 5 parishes around Baton Rouge, Louisiana. The District was formed in 1975 through Louisiana Revised Statutes of 1950, R.S. 38:3071 through 39:3084 (Act 678 of 1974). The District is a single source

groundwater District and manages 123 Industrial and 178 Municipal wells. It is governed by the Capital Area Ground Water Conservation Commission which is a 15-member board nominated by users and state and local government and appointed by the Governor. It is funded through a pumpage charge of $2.50 per million gallons.

Mississippi - The Yazoo Mississippi Delta Joint Water Management District covers 7,000 square miles in all or part of 17 counties in northwest Mississippi. The District was formed in 1989 by the Mississippi Code of 1972, as amended, Chapters 3 and 7. The district is a groundwater and surface water management district responsible for water supply and quality. It is governed by a 21-member board appointed by elected county supervisors. Funding is from a local ad valorem tax with a maximum rate of $.75 millage.

In each of the above examples, local groundwater districts contain programs very similar to the groundwater districts in Texas. The activities and services they provide to the people within their districts are in many instances the same as the Texas districts.

Texas - Groundwater in Texas has historically been treated differently from surface water. The Legislature has not declared state ownership of groundwater and Texas courts have generally allowed the surface landowner to claim all the groundwater that he captures. *E.g.*, Houston & Texas Central Railway Co. v. East, 98 Tex. 146, 81 S.W. 279 (1904) (owner of domestic water well not entitled to damages if water in his well is drained away by heavy pumping from new and larger water well). East, (1904), is most frequently cited as adopting the theory of groundwater ownership that is commonly referred to as the "English common law" or "absolute ownership" rule. Pursuant to the "absolute ownership" rule, percolating groundwater is the property of the owner of the surface who may, in the absence of malice, appropriate such water and make whatever use of it as he pleases. The context in which "absolute ownership" has been used by courts and legal writers, however, indicates the term has a more limited meaning than what it would suggest.

Fifty-one years after East, the Texas Supreme Court reaffirmed the rule of "absolute ownership," when it held that it was not unlawful for the City of Corpus Christi to transport water produced from artesian wells via a natural stream bed, even though a substantial amount of water was lost during transport. City of Corpus Christi v. City of Pleasanton, 154 Tex. 289, 276 S.W.2d 798, 802 (1955). However, the Court recognized two limitations on the "absolute ownership" rule: (1) the owner may not maliciously take water for the sole purpose of injuring his neighbor; and (2) the owner may not wantonly or willfully waste the water.

In 1978, the Texas Supreme Court again discussed the origin of the "absolute ownership" rule and acknowledged that a change in circumstances had occurred since the time of the rule's adoption in Texas. Friendswood Development Co. v. Smith-Southwest Industries, 576 S.W.2d 21, 25-27 (Tex. 1978). The Court narrowed the scope of the doctrine by recognizing a cause of action for subsidence damages caused by the negligent drilling or production of an underground water well.

In spite of Texas courts' adherence to the "absolute ownership" rule, the cases have always made it clear that *both groundwater and surface water are subject to legislative regulation under the police power*. In fact, as early as 1954, in its Comanche Springs decision, the El Paso Court of Civil Appeals

invited legislative action to adjust the rights of users of underground water when the court was unable to do so:

> With regard to plaintiff's plea . . . to have its correlative rights declared we do not find any authority sufficient to authorize the granting of such request. In the field of oil and gas statutory authority, which authority expressly recognizes the ownership of the surface owner and merely regulates the production of said oil and gas is therefore administrative in nature. There is no similar statute in this field except such as is found in those permitting creation of a groundwater district.

In 1913, the legislature passed a statute defining and prohibiting waste from artesian wells. Act of April 9, 1913, ch. 171, §§ 91-95, 1913 Tex. Gen. Laws 358, 378-79 (now codified at TEX. WATER CODE ANN. §§ 11.201-.205 (Vernon 1988)). Article 7880-3c was adopted in 1925 by the 39th Legislature. This Act provides the foundation for the creation, administration, powers and duties, and other activities of local groundwater conservation districts. The legislature, in 1931, passed a law authorizing the Board of Water Engineers to promulgate rules to conserve groundwater. Act of May 28, 1931, ch. 261, 1931 Tex. Gen. Laws 5 (formally codified at TEX. WATER CODE ANN. ch. 28, §§ 28.001, 28.011 and 28.013 (Vernon 1988)). These statutes were amended in 1993 to eliminate the ability of the Commission to regulate production of groundwater. TEX. WATER CODE ANN. § 28.001 (Vernon Supp. 1996). Nevertheless, significant efforts to regulate groundwater production did not occur until 1949, when, in response to concerns over the excessive withdrawal of water from the Ogallala Aquifer, the legislature authorized the creation of underground water conservation districts. Act of June 2, 1949, ch. 306, 1949 Tex. Gen. Laws 559 (codified at TEX. WATER CODE ANN. ch. 52 (Vernon 1988 & Supp. 1991)). Chapter 52 has been further codified into Chapter 36 of the Texas Water Code in the 74th legislative session. Chapter 36 attempted to make a better distinction between other types of water districts, which have little regulatory functions, and underground water conservation districts which mainly are regulatory agencies. *See generally* TEX WATER CODE ANN. ch. 36 (Vernon Supp. 1996).

In 1985, with the passage of House Bill 2, (now codified in TEX. WATER CODE ANN. ch. 35 (Vernon 1988 and Supp. 1996)), the legislature moved Texas closer to local management and regulation of groundwater pumpage than had previously been authorized by the 1949 Act. In general, before 1985, when an area's groundwater problems reached critical mass, the legislature enacted whatever was politically expedient without regard to legal or management realities. More recent legislative creation of underground water districts variously have sought to regulate production by well spacing, proration, absolute ownership, correlative rights, and economic disincentive. House Bill 2 set up a structure to designate critical groundwater areas and provide economic incentive to create underground water districts.

The 71st Texas Legislature further strengthened the legislation contained in House Bill 2 by adopting changes to Chapter 52 of the Texas Water Code, which broadened the Commission's power to designate underground water districts in critical areas. Act of June 14, 1989, ch. 936, § 4, 1989 Tex. Gen. Laws 3981, 3987-94. The new legislation provided a method for the Commission to identify

critical areas and, if necessary, to determine that an underground water district should be created within the critical areas. While there is still local option to create an underground water district recommended by the Commission, failure to create the district prohibits any use of Texas Water Development Board ("TWDB") funds inside the perimeter of the proposed district. TEX. WATER CODE ANN. § 35.015 (Vernon Supp. 1996).

Other than *Beckendorff v. Harris-Galveston Coastal Subsidence Dist.*, 558 S.W.2d 75 (Tex. Civ. App.–Houston [14th Dist.] 1977), *aff'd*, 563 S.W.2d 239 (Tex. 1978), and *Barshop*, there have been very few cases that address the subject of the validity of an underground water district's creation or the propriety of the district's rules.

In the 75th Session of the Texas Legislature there were significant changes make to Chapters 35 and 36, of the Texas Water Code. It requires that all districts adopt and submit to the Texas Water Development Board a five year water conservation and drought management plan. These plans are required to be developed in conjunction with surface water providers. The Water Development Board is required to certify the plans as being administratively complete. The Districts for the first time are also required to stand for a performance audit to be conducted by the State Auditor's Office.

As can be seen, both groundwater and surface water law is in a state of transition as Texas once again realizes that it is a state not blessed with unlimited quantities of fresh water. Further, more and more Texans are beginning to realize that whenever more water is removed from the water supply, there are impacts to the environment and other water right holders. The struggle that will occur over the next several years will, hopefully, result in a balance being struck that recognizes all of the needs for water while at the same time letting additional water be made available for the future.

Regulating Groundwater in Texas And The Rule of Capture

Unlike surface water, which is owned by the State, groundwater in Texas is privately owned. That may be the only point upon which everyone can agree. Many Texas landowners believe that the groundwater beneath their land is sacrosanct, and any regulation is tantamount to a taking. Others believe the Rule of Capture is outdated and should be "modernized," which means replaced with some other theory that makes regulation more attainable. These questions were recently discussed by the Texas Supreme Court in *Barshop v. Medina Underground Water Conservation District*, 925 S.W.2d 618 (Tex. 1996), and is again before the Court in *Sipriano v. Great Spring Waters of America*, Cause No. 98-0247 (Tex. Sup. Ct.) popularly known as the *Ozarka* case. At the same time, the Texas Legislature passed sweeping water legislation with Senate Bill No. 1 from the 75th Legislature, Regular Session, including a statement that Groundwater Conservation Districts are the preferred method of regulating groundwater resources.

The arguments in *Ozarka*, and some of the debate during the consideration of Senate Bill No. 1, centered on abolishing the rule of capture in favor of the Restatement of Torts version of the "American Rule" of Reasonable Use. The following is a discussion of the current status of Texas Groundwater Law, the argument for keeping the law as it is, and myths about the groundwater law in Texas.

A. Texas Groundwater Law.

In 1904, Texas adopted the English "Rule of Capture" in the case of *Houston & T.C. Ry. Co. v. East, 98 Tex. 146, 81 S.W. 279 (Tex. 1904)Houston & T.C. Ry. Co. v. East*, 81 S.W. 279 (Tex. 1904). The Rule of Capture is derived from the common law of England. It is stated as follows:

> [T]hat the person who owns the surface may dig therein, and apply all that is there found to his own purposes at his free will and pleasure; and that if, in the exercise of such right, he intercepts or drains off the water collected from underground springs in his neighbor's well, this inconvenience to his neighbor falls within the description of damnum absque injuria [an injury without a remedy], which cannot become the ground of an action.

Acton v. Blundell, 12 Mees. & W. 324, 152 Eng. Rep. 1223 (Ex. Ch. 1843)Acton v. Blundell, 12 Mees. & W. 324, 354, 152 Eng. Rep. 1223, 1235 (Ex. Ch. 1843).

The *East* Court specifically followed the decision in *Acton*, and even adopted the reasoning of the English court: "In all that has been said in the subsequent discussions, little, if anything, has been added to the arguments of counsel and of the court in [*Acton*]." *East*, 81 S.W. at 280. The Rule of Capture simply limits liability between landowners for withdrawing groundwater. This rule guarantees no landowner any amount of groundwater, nor does it create a vested property right in underground water.

In *Acton* the court considered the consequences of a rule that would grant absolute ownership to landowners of the water beneath their property. The court rejected such a rule:

> But if the man who sinks the well in his own land can acquire by that act an *absolute and indefeasible* right to the water that collects in it, he has the power of preventing his neighbor from making any use of the spring in his own soil which shall interfere with the enjoyment of the well. He has the power, still further, of debarring the owner of the land in which the spring is first found, or through which it is transmitted, from draining his land for the proper cultivation of the soil: and thus, by an act which is voluntary on his part, and which may be entirely unsuspected by his neighbor, he may impose on such neighbor the necessity of bearing

> a heavy expense, if the latter has erected machinery for the purposes of mining, and discovers, when too late, that the appropriation of the water has already been made. Further, the advantage on one side, and the detriment to the other, may bear no proportion. The well may be sunk to supply a cottage, or a drinking-place for cattle; whilst the owner of the adjoining land may be prevented from winning metals and minerals of inestimable value. And, lastly, there is no limit of space within which the claim of right to an underground spring can be confined . . ..

Acton 12 Mees & W. at 351, 152 Eng. Rep. at 1234 (emphasis added). The *Acton* court rejected the notion that landowners had a vested property right in groundwater; their ruling simply said well owners owed no duty of care to prevent damage to other well owners.

The Texas Supreme Court followed the same reasoning and obtained the same result when it considered *East*. Mr. East was a property owner in west Texas. Like many others, he depended upon a shallow, twenty foot deep well to supply water for his home and business. The Houston & Texas Central Railway needed water for the operation of its steam engines, and dug a forty foot well not too far from Mr. East's property. The railway then began extracting and using about 25,000 gallons of water per day from that well. Shortly thereafter, Mr. East's well stopped producing. Believing he owned the water beneath his property, and that the railroad was responsible, Mr. East sued in tort, seeking money damages for the cost of the well. Both the District Court and the Court of Appeals agreed with Mr. East: the "reasonable" use of the water would provide for Mr. East and he was due the damages.

The Supreme Court, however, disagreed. Citing *Acton* and the inability of courts to determine the meanderings of groundwater, the Court ruled that Texas would follow the Rule of Capture, and the Railroad therefore owed no duty of care to Mr. East or his well. The Court's opinion was based primarily on the fact that the State was bound to follow the English Common Law. But the Court did mention the property law basis for the English decision, which is that landowners "absolutely owned" their property and could do with it as they saw fit. And thus did a tort case begin one of the great property law debates still raging in Texas: What is the property interest in groundwater?

Texas appellate courts have historically used the term "absolute ownership" interchangeably with "English Rule" or "Rule of Capture." *See generally Denis v. Kickapoo Land Co.*, 771 S.W.2d 235 (Tex.App.--Austin 1989, writ denied), *Bartley v. Sone*, 527 S.W.2d 754 (Tex. Civ. App.--

San Antonio 1979, writ ref'd n.r.e.)Bartley v. Sone, 527 S.W.2d 754 (Tex. Civ. App.--San Antonio 1979, writ ref'd n.r.e.), *and Pecos County Water Control and Improvement Dist. No. 1 v. Williams*, 271 S.W.2d 503 (Tex. Civ. App.--El Paso 1954, writ ref'd n.r.e.). The term first appeared when the Supreme Court quoted a New York decision in *East*:

'An owner of soil may divert percolating water, consume or cut it off, with impunity. It is the same as land, and cannot be distinguished in law from land. So the owner of land is the *absolute owner* of the soil and of percolating water, which is a part of and not different from, the soil.'

Houston & T.C. Ry. Co. v. East, 81 S.W. 279, 281(Tex. 1904) (emphasis added) (quoting *Pixley v. Clark*, 35 N.Y. 520, 91 Am. Dec. 72. (1866)Pixley v. Clark, 35 N.Y. 520, 91 Am. Dec. 72. (1866)). The use of this quotation does not change the ruling of the Court: that the railroad owed no duty to Mr. East. The Rule of Capture is a liability rule; the *East* Court simply reiterated that no liability should lie for activities on one's own land.

The "absolute ownership" term is unfortunate, for it implies a vested property interest. But the term does not carry that meaning:

The judicial doctrine of groundwater in force in Texas is referred to as the "English" rule and sometimes as the "absolute ownership" rule. The latter may conjure up in one's mind the notion that groundwater ownership in Texas is a super-right subject to no limitation whatever, even legislative control. The context in which the term "absolute ownership" has been used by courts and commentators shows that it has *an entirely different meaning*. Its function is to distinguish the English rule from the "American" or "reasonable use" rule. The "American" rule places limitations upon the right of a landowner to pump groundwater, which accordingly is not "absolute." The "English" rule places almost no limitations upon the right to pump and *only in this respect* may be said to be "absolute." The corollary of this rule is that the landowner is entitled to no judicial protection from the harmful pumping by others. Thus, his "ownership" lacks one of the most significant aspects of ownership. It certainly is not "absolute" in the sense that it is comprehensive.

Corwin Johnson, *The Continuing Voids in Texas Groundwater Law: Are Concepts and Terminology to Blame?*, 17 ST. MARY'S L.J. 1281 (1986)Corwin Johnson, *The Continuing Voids in Texas Groundwater Law: Are Concepts and Terminology to Blame?*, 17 ST. MARY'S L.J. 1281, 1288-89 (1986) (emphasis added) (citations omitted).

The "absolute ownership" term, first used in *East* as a quote of the New York court, may have adequately defined the defendant in *East*, but hardly described Mr. East. In *East*, the defendant railroad's ownership was "absolute" only because it owed Mr. East no duty of care to prevent his well from going dry. Mr. East's ownership was *not* "absolute" because it did not protect Mr. East's groundwater from capture by the railroad. If Mr. East *absolutely owned* the water beneath his land, he should have prevailed. He did not.

Groundwater does not represent a vested property right, so the property interest is limited to the amount that can be captured and put to a beneficial use. It is clear the State does NOT own the groundwater, that it is PRIVATELY owned, but the only remedy to prevent damages is to dig a bigger, deeper well than any neighbors. This creates an incentive to drill wells on the property lines and capture large amounts of water as fast as possible, which necessarily has a negative effect on aquifers. Thus begins the second great debate surrounding groundwater: how to best regulate this privately held resource.

B. Keeping the Rule of Capture will Keep the Courts Out of Regulating by Decree.

Currently, the only entities authorized to regulate groundwater in Texas are locally controlled Groundwater Conservation Districts (Districts). Some have argued incorrectly that the Rule of Capture no longer exists inside Districts. The tort law of Texas does not change simply because an administrative agency is created to regulate a resource. Wherever Districts are created, the local citizens can elect or appoint Board members who are knowledgeable of both the local economy and resources, and can therefore make the best choices for the region.

The Texas Legislature first began creating local regulatory agencies for the purpose of conserving groundwater immediately after the voters ratified the "Conservation Amendment," Section 59, Article XVI, Texas Constitution. The agencies, now known as Groundwater Conservation Districts, cover either an entire aquifer or some manageable portion thereof. Their only duty is to protect the resource so that those who depend on groundwater are assured of a plentiful, clean supply. Districts have three regulatory tools at their disposal: spacing requirements, production limitations and production fees[1].

Nearly all of the Districts above the Ogallala aquifer in the Texas Panhandle and West Texas have adopted spacing requirements that prevent new wells from being drilled within a certain distance of any other well, and in some instances within a certain distance of the property line. The Ogallala is a flat, sandy aquifer, and the primary problems are depletion and overlapping cones of depression. All water wells create a cone of depression centered at the well and spreading out for some distance from the well. The distance it spreads is dependent on the hydrogeology of the aquifer. In the case of Mr. East, the railroad well's cone of depression extended onto the East property and eventually drained all the water out of his well. Wells much deeper and more powerful than were possible in 1904 can have cones of depression that reach for far greater distances.

By spacing out the wells, the local District can minimize the impact of overlapping cones of depression. This helps ensure each landowner access to some amount of water. Please note that the Rule of Capture still applies: Whiteacre cannot sue Blackacre for allowing the cone of depression to extend onto Whiteacre. But the District's spacing regulation helps protect *both* properties and

thereby increases both the land values and productivity.

In other areas, such as Houston and San Antonio, spacing requirements would have little or no effect on the problems facing those particular aquifer systems. In Houston the problem is subsidence--the sinking of the land surface due to groundwater withdrawals. In San Antonio the problem is rapidly dropping aquifer levels during periods of drought, adversely affecting both well owners and surface springs. In both locations the current method of regulation is limiting the amount of water that can be produced from each regulated well. By reducing the overall production, the aquifer pressure and water levels can be maintained to prevent the harm.

Again, the Rule of Capture still applies. The Texas Supreme Court was asked to address this specific issue in 1978--two years after the creation of the Harris-Galveston Coastal Subsidence District--when a group of landowners filed suit against an industrial group for causing their land to subside. *Friendswood v. Smith-Southwest Indus.*, 576 S.W.2d 21 (Tex. 1978). The Court held that the Rule of Capture still applied, so the defendant owed the plaintiff no duty of care. The Court did, however, prospectively modify the Rule of Capture to allow for future suits where the plaintiff could show that negligent pumping by the defendant had caused plaintiff's land to subside. Never did the Court even consider what some have argued: that inside Districts the Rule of Capture has been abolished or modified.

As aquifer depletion becomes more of a problem, and as cities begin looking to rural groundwater supplies as their future water source, more and more Districts are adopting production limitations.

Production fees, the third tool, is only available to a few of the Districts in the state: The Barton Springs-Edwards Aquifer Conservation District, the Edwards Aquifer Authority, the Fort Bend Subsidence District, and the Harris-Galveston Coastal Subsidence District. Each of these Districts may charge a fee for each gallon of water either allocated in a permit or actually pumped. While the fees do have statutory limits, in each case the fees can be used to help reduce production. Only one of these Districts has adopted a fee schedule designed to create an economic disincentive to pumping groundwater: The Harris-Galveston Coastal Subsidence District. In the *Beckendorff v. Harris-Galveston Coastal Subsidence Dist.*, 558 S.W.2d 75, (Tex.Civ.App.--Houston [14th Dist.] 1977), writ ref'd *per curiam*, 563 S.W.2d 239 (Tex. 1978), decision the Houston Court of Appeals specifically approved the use of fees as a regulatory tool designed to reduce production. The Austin Court of Appeals agreed 13 years later in *Creedmoor Maha Water Supply Corp. v. Barton Spring-Edwards Aquifer Conservation Dist.*, 784 S.W.2d 79

(Tex.App.--Austin 1989, writ denied)Creedmoor Maha Water Supply Corp. v. Barton Spring-Edwards Aquifer Conservation Dist., 784 S.W.2d 79 (Tex.App.--Austin 1989, writ denied). In both cases the appellate court said the fees created a disincentive to pump groundwater, and therefore the fees were regulatory tools rather than taxes.

So what would the American Rule add to regulation by local districts? The most obvious answer is that it would add the Courts. By moving away from an administrative law system to a tort system, Texas Courts would be drawn into a fight they successfully avoided for the last 93 years. Juries would decide if a given activity is reasonable, and judges would weigh the legal questions of beneficial use. It would also move control of the resource away from the locally elected or appointed board members. This key element of local control, which works to balance both the environmental and economic needs of the region, would be replaced by a court fight between two neighboring properties. Courts would have to routinely decide if protecting a 30 foot deep household well was reasonable when measured against a proposed 500 foot deep industrial well. These questions, all of which are more properly answered by scientific investigation and planning by an administrative body, would be left to District and eventually appellate courts.

The clear advantage of locally controlled Groundwater Conservation Districts over any tort driven system seems obvious. While it may be necessary to provide some oversight to ensure the local Districts are actually working to protect the resource, a wholesale change in Texas law is not necessary or even desirable.

C. Myths About the Groundwater Regulation in Texas

1. "The Rule of Capture is also a property law known as the Absolute Ownership Doctrine."

The Rule of Capture is tort law, as is the American Rule of Reasonable Use. One case cited by the Texas Supreme Court's reasoning referred to the Absolute Ownership Doctrine as justification for the Rule of Capture, but that does not make the two equivalent. If nothing else, the Rule of Capture was born with limitations not usually associated with an unbridled property right: the use had to be beneficial, and the owner could neither waste the water nor pump the water maliciously.

2. "The Rule of Capture is modified when a Groundwater Conservation District is created."

Creation of a District does nothing to modify the tort aspects of the Rule of Capture. Once the District adopts rules limiting production, the landowner's ability to take all the water under his own and his neighbor's land is eliminated, and that aspect of the Rule is modified. The Rule of Capture simply prevents one neighbor from suing another to prevent harm to a well, which is still true even after creation of a District. The District does add, however, the ability to protect the resource for the benefit of all users, an element missing from <u>any</u> other tort law system of regulation.

3. "The Rule of Capture inhibits regulation of groundwater."

This would only be true if the Texas Supreme Court decides that as a result of the Rule of Capture there is a vested property right in groundwater before it is pumped and put to a beneficial use. This is an unlikely result, given the fact that the Court has NEVER allowed a groundwater claim to

succeed. Without that vested interest, administrative regulation of an aquifer is a permissible use of the State's police powers. The Rule of Capture only inhibits use of the Court system as a regulatory tool.

Not all Districts have all three of these tools. Nearly all Groundwater Conservation Districts were created by special legislation and the powers and duties of each are unique.

Texas groundwater law is evolving. Though all of the changes so far have been through the legislature, one vote of the Texas Supreme Court could drastically alter the existing landscape. All Districts should remain aware of both court cases and legislation that can affect the ability of citizens to choose their own method of protecting their local resources. Districts should hire legal counsel and legislative experts as necessary to be sure they are not surprised by legal action or legislation. Memberships in the Texas Alliance of Groundwater Districts and the Texas Water Conservation Association, as well as other similar organizations can also help keep a District Board of Directors fully aware of recent developments.

CHAPTER III

GROUND-WATER RESOURCES PERSPECTIVE

The Texas Water Development Board has identified and characterized nine major and 20 minor aquifers in the State, based on the quantity of water supplied by each (see Major Aquifers and Minor Aquifers in Appendix G). A major aquifer is generally defined as supplying large quantities of water over large areas of the State. A minor aquifer typically supplies large quantities of water in small areas or relatively small quantities of water over large areas. The major and minor aquifers underlie approximately 81 percent of the State. Lesser quantities of water may also be found in the remainder of the State.

The surface extent, or outcrop, of each aquifer is the area in which the host geological formations are exposed at the land surface. This area corresponds to the principal recharge zone for the aquifers. Groundwater within this area normally reflects unconfined water-table conditions and is most susceptible to contamination. Some water-bearing formations dip below the surface and are covered by other formations. Aquifers with this characteristic are common. Aquifers covered with less permeable formations, such as clay, are confined under artesian pressure.

Aquifer water quality is described in terms of dissolved-solids concentrations (see Exhibit 1). Delineation of the downdip boundaries of each aquifer is based on chemical water quality criteria. The quality limit for most aquifers is 3,000 milligrams of dissolved solids per liter (mg/l). However, the limit for the Edwards (BFZ) is 1,000 mg/l, and can range up to 5,000 mg/l in the Dockum and Rustler and 10,000 mg/l in the Blaine for specific irrigation and industrial uses. Some aquifers, such as the Hueco Bolson and Lipan, have depth limitations at which water of acceptable quality can be obtained.

The average annual ground-water availability reported for each aquifer is comprised of the annual effective recharge plus, in some cases, an amount that can be recovered from storage. The estimated total amount of water in storage is also reported for some aquifers.

Recharge is the addition of water to an aquifer. This water may be absorbed from precipitation, streams, and lakes either directly into a formation or indirectly from another formation. Generally, only a small portion of the total precipitation seeps down through the soil cover to reach the water table.

Changes in water levels indicate a change in ground-water storage in an aquifer. These changes can be due to many causes, with some regionally significant and others confined to more local areas. In short, water-level fluctuations are caused by changes in recharge and discharge.

Exhibit 1

Classification of Aquifer Water Quality

(milligrams per liter or mg/l)

Fresh less than	1,000 mg/l
Slightly Saline	1,000-3,000 mg/l
Moderately Saline (brackish)	3,000-10,000 mg/l
Very Saline*	10,000-35,000 mg/l

* Sea water is typically about 35,000 mg/l .

When recharge is reduced, as in the case of a drought, or when pumpage is greater than recharge, some of the water discharged from the aquifer must be withdrawn from storage, resulting in a decline of water levels. If water levels are lowered excessively, springs and shallow wells may go dry. However, when sufficient precipitation resumes or pumpage is reduced, the volume of water drained from storage may be replaced, and water levels will rise accordingly. Changes in water levels in water table aquifers are generally less pronounced than in artesian aquifers.

Major Aquifers

Ogallala Aquifer

Location and Use. The Ogallala Aquifer covers more than 35,000 square miles of the High Plains in the Texas Panhandle, providing water to all or parts of 46 counties (see Ogallala Aquifer in Appendix G). Extending through eight states northward to South Dakota, the Texas High Plains is the southernmost extension of the Great Plains physiographic province, often referred to as the "bread-basket" of North America. More water is pumped from the Ogallala in Texas than from any other aquifer. Total pumpage from the Ogallala in 1994 was approximately 5.9 million acre-feet (ac-ft), of which 96 percent was used for irrigation. Many communities use the Ogallala Aquifer as their sole source of drinking water supply.

Hydrogeology. Water-bearing areas of the Ogallala are laterally connected except where the Canadian River has eroded through the formation, thereby forming the boundary between two separate flow systems referred to as the Northern and Southern High Plains. Vertical hydrologic communication also occurs between the Ogallala and the underlying Cretaceous, Jurassic, and Triassic formations in many areas and between the overlying Quaternary Blackwater Draw Formation where present.

The Ogallala is primarily composed of sand, gravel, clay, and silt deposited during the Tertiary

Period. Groundwater moves slowly through the Ogallala Formation in a southeastward direction toward the caprock edge or eastern escarpment of the High Plains. Saturated thickness of the aquifer is generally greater in the northern part of the region and less in the south where the formation overlaps Cretaceous rocks. The saturated thickness ranges up to approximately 600 feet and is greatest where sediments have filled previously eroded drainage channels. Coarse-grained sediments in these channels also have the greatest permeability and supply water to wells with yields as high as 2,000 gal/min.

Water Quality. The chemical quality of the water in the aquifer is generally fresh; however, both dissolved solids and chloride concentrations increase from north to south. In the Northern High Plains, dissolved solids are typically less than 400 mg/l. Dissolved solids range from less than 1,000 to over 3,000 mg/l in the Southern High Plains, and chloride concentrations typically range from less than 300 to over 1,000 mg/l. The chemical quality is substantially influenced by upward leakage and subsequent mixing of water from the underlying Cretaceous aquifers, resulting in increased concentrations of sodium and chloride in Ogallala water. Fluoride content is commonly high and selenium concentrations locally exceed drinking-water standards.

Some ground-water contamination from past oil field practices has occurred mostly in the Southern High Plains. Dissolved-solids concentrations in excess of 3,000 mg/l suggest that the greatest cause of contamination was by oil field brines, particularly the disposal of oil field brines into unlined surface pits prior to the statewide "no pit" order of the Railroad Commission of Texas. Much of the water discharged into these pits probably seeped into the ground and eventually into the ground-water system. Additional brine contamination may be resulting from abandoned oil, gas, and injection wells and wells with broken or poorly cemented casings.

Availability. Total recoverable water in storage within the Ogallala, as calculated by a regional computer flow model, is 385 million ac-ft. Total ground-water availability for the aquifer also includes the annual effective recharge of 438,910 ac-ft. Recharge occurs principally by infiltration of precipitation on the surface and, to a lesser extent, by upward leakage from underlying formations. Only about 1 inch of the precipitation actually reaches the water table because annual rainfall is low, evaporation rate is high, and infiltration rate is low. Highest recharge infiltration rates occur in areas overlain by sandy soils and in playa-lake basins.

Since the expansion of irrigated agriculture in the mid 1940s, greater amounts of water have been pumped from the aquifer than have been recharged. As a result, heavily irrigated areas have experienced water-level declines, some in excess of 100 feet. Reduced pumpage in other areas has resulted in a reduction of water-level declines and, in some cases, water-level rises.

Gulf Coast Aquifer

Location and Use. The Gulf Coast Aquifer forms an irregularly shaped belt along the Gulf of Mexico

from Florida to Mexico. In Texas, the aquifer provides water to all or parts of 54 counties and extends from the Rio Grande northeastward to the Louisiana-Texas border (see Gulf Coast Aquifer in Appendix G). Total pumpage was approximately 1.1 million acre-feet (ac-ft) in 1994. Municipal pumpage accounted for 51 percent of the total, irrigation accounted for 36 percent, and industrial account-ed for 12 percent. The greater Houston metropolitan area, where well yields average about 1,600 gal/min, is the largest municipal user.

Hydrogeology. The aquifer consists of complex interbedded clays, silts, sands, and gravels, which are hydrologically connected to form a large, leaky artesian aquifer system. This system is comprised of four major components consisting of the following generally recognized water-producing formations. The deepest is the Catahoula, which contains groundwater near the outcrop in relatively restricted sand layers. Above the Catahoula is the Jasper Aquifer, primarily contained within the Oakville Sandstone. The Burkeville confining layer separates the Jasper from the over-lying Evangeline Aquifer, which is contained within the Fleming and Goliad sands. The Chicot Aquifer, or upper component of the Gulf Coast Aquifer system, consists of the Lissie, Willis, Bentley, Montgomery, and Beaumont formations, and overlying alluvial deposits. Not all formations are present throughout the system, and nomenclature often differs from one end of the system to the other. Maximum total sand thickness ranges from about 700 feet in the south to 1,300 feet in the northern extent.

Water Quality. Water quality is generally good in the shallower portion of the aquifer. Groundwater containing less than 500 mg/l dissolved solids is usually encountered to a maximum depth of 3,200 feet in the aquifer from the San Antonio River basin northeastward to Louisiana. From the San Antonio River basin southwestward to Mexico, quality deterioration is evident in the form of increased chloride concentration and salt-water encroachment along the coast. Little of this groundwater is suitable for prolonged irrigation use due to either high salinity, or alkalinity, or both.

In several areas at or near the coast, including Galveston Island and the central and southern parts of Orange County in the northeastern part of the aquifer, heavy municipal or industrial pumpage has caused an updip migration, or saltwater intrusion, of poor quality water into the aquifer. Recent reductions in pumpage here have resulted in a stabilization and, in some cases, even improvement of ground-water quality.

Availability. Years of heavy pumpage for municipal and manufacturing use in portions of the aquifer have resulted in areas of significant water-level decline. Historically, declines of 200 to 300 feet have been measured in some areas of eastern and southeastern Harris and northern Galveston counties. Other areas of significant water-level decline include the Kingsville area in Kleberg County and portions of Jefferson, Orange, and Wharton counties. Some of these declines have resulted in compaction of dewatered clays and significant land-surface subsidence. Subsidence is generally less than 0.5 foot over most of the Texas coast, but has been as much as nine feet in Harris and

surrounding counties. As a result, structural damage and flooding have occurred in many low-lying areas in Baytown and Texas City along Galveston Bay, and within the City of Houston.

Although water levels continued to decline in both the water-table and artesian portions of the Gulf Coast Aquifer in certain areas during the 1980 - 1990 decade, the rate of those declines has decreased when compared to historical trends through increased use of available surface-water supplies. Water-table decline in the Chicot Aquifer occurred in five isolated areas in western Harris and northeastern Fort Bend counties during this period. Decline in the Evangeline Aquifer also occurred, but at a faster rate than in the shallower Chicot. In northwest Harris County, a 50-foot decline in water level occurred over approximately a third of the area between 1980 and 1990.

Historical declines have also ended around the City of Kingsville in Kleberg County. Water levels have been rising and will most likely continue to do so as the City's dependence on ground-water is curtailed by increased use of surface water from nearby reservoirs owned by the City of Corpus Christi. Reductions in rice-farming operations in Orange County and near Wharton in Wharton County have also caused a slowdown or halt of localized historical water-level declines. In these areas, as well as in Harris County, controlling or reversing water-level declines has served to minimize or eliminate land-surface subsidence and saline-water encroachment as well.

In South Texas the utilization of groundwater has been greatly reduced and/or restricted, due to relatively poor quality. Use for municipal and livestock supplies has declined significantly, while use for irrigation and industrial supplies has almost ceased, especially in Cameron and Wallace counties. Also, along the coast in areas of saline-water intrusion caused by heavy pumpage and the accompanying water-level declines, long-term development of groundwater is impossible without desalination.

Annual availability of groundwater for the Gulf Coast Aquifer is determined with the application of a regional computer flow model developed for the aquifer. The model simulates the aquifer's response to changes in stress, such as recharge and pumpage, and predicts how the aquifer water levels and flows will change under potential future conditions. Model output indicates areas of the aquifer that are unable to or can be expected to experience problems supplying the demands that may be placed upon it.

The criteria for ground-water availability for future development of the Gulf Coast Aquifer considers issues such as future demand, historic and projected water-level declines and associated land-surface subsidence, potential quality deterioration, depletion of aquifer storage, and alternate supplies. These criteria allow for the lowering of water-levels to meet demands, but not total depletion of water-table or artesian storage and not to a level that would result in unacceptable land-surface subsidence during the planning period. For irrigation demands only, water levels are allowed to decline to a maximum

of 400 feet below the land surface. Also, the criteria incorporates the management plan developed by the Harris-Galveston Coastal Subsidence District for development of water resources in Harris and Galveston counties.

Model simulations for the Gulf Coast Aquifer are made incorporating ground-water use based on the ratio of groundwater to surface water reportedly used in 1990 and the projected 2040 ratio from the 1990 State Water Plan. This ratio is then interpolated for the intervening years and applied to current projected demands through year 2050. With the exception of an area in the northeast part of the aquifer in southern Jasper and Newton counties, model output indicates that ground-water demands can be met with Gulf Coast Aquifer water through the year 2050 without violating the development criteria established for the aquifer. In the area unable to meet ground-water demands, additional supplies of surface water will be needed to meet this demand in the future.

Edwards (BFZ) Aquifer

Location and Use. The Edwards (Balcones Fault Zone, or BFZ) Aquifer covers approximate-ly 4,350 square miles in parts of 11 counties (see Edwards (BFZ) Aquifer in Appendix G). It forms a narrow belt extending from a ground-water divide in Kinney County through the San Antonio area northeastward to the Leon River in Bell County. A poorly defined ground-water divide near Kyle in Hays County hydrologically separates the aquifer into the San Antonio and Austin regions. The Austin region is further divided into the Barton Springs and Northern regions which are also hydro-logically separate. The Edwards Aquifer Authority is the water management entity for the south-ern portion of the aquifer. The Barton Springs/Edwards Aquifer Conservation District is the management authority for the Barton Springs region. Management of the Northern region defaults to the TNRCC in the absence of a ground-water management district. The name Edwards (BFZ) distinguishes this aquifer from the Edwards-Trinity (Plateau) and Edwards-Trinity (High Plains) aquifers.

Principal uses of water from the Edwards (BFZ) Aquifer are for municipal and irrigation purposes. San Antonio, which obtains its entire municipal water supply from the aquifer, is the largest city in the United States and one of the largest in the world that relies solely on a single ground-water source. Of the total 488,691 acre-feet (ac-ft) pumped from the aquifer in 1994, 93 per-cent was for municipal and irrigation supplies. The Edwards (BFZ) also supplies industrial users in the San Antonio and Austin areas. Large springs feed several well-known recreational areas and serve as habitat to several endangered species of plants and animals. Major river systems also derive a significant amount of baseflow from Edwards (BFZ) spring flows that, in turn, is utilized outside the Edwards Region mainly for industrial and agricultural needs.

Hydrogeology. The aquifer, composed predominantly of limestone formed during the early Cretaceous Period, exists under water-table conditions in the outcrop and under artesian conditions where it is confined below the overlying Del Rio Clay. The Edwards (BFZ) Aquifer consists of the Georgetown Limestone, formations of the Edwards Group (the primary water-bearing unit) and their

equivalents, and the Comanche Peak Limestone where it exists. Thickness ranges from 200 to 600 feet.

Recharge to the aquifer occurs primarily by the downward percolation of surface water from streams draining off the Edwards Plateau to the north and west and by direct infiltration of precipitation on the outcrop. This recharge reaches the aquifer through crevices, faults, and sink-holes in the unsaturated zone. Unknown amounts of groundwater enter the aquifer as lateral underflow from the Glen Rose Formation. Water in the aquifer generally moves from the recharge zone toward natural discharge points such as Comal, San Marcos, Barton, and Salado springs. Water is also discharged artificially from hundreds of pumping wells, particularly municipal supply wells in the San Antonio region, and irrigation wells in the western extent.

In the updip portion, groundwater moving through the aquifer system has dissolved large amounts of rock to create highly permeable solution zones and channels which facilitate rapid flow and relatively high storage capacity within the aquifer. Highly fractured strata in fault zones have also been preferentially dissolved to form conduits capable of transmitting large amounts of water. Due to its extensive honeycombed and cavernous character, the aquifer yields moderate to large quantities of water. Several wells yield in excess of 16,000 gal/min, and one well drilled in Bexar County flowed 37,000 gal/min from a 30-inch diameter casing. The aquifer is significantly less permeable farther downdip where the concentration of dissolved solids in the water exceeds 1,000 mg/l.

Water Quality. The chemical quality of water in the aquifer is typically fresh, although hard, with dissolved solids concentrations averaging less than 500 mg/l. The downdip interface between fresh and slightly saline water represents the extent of water containing less than 1,000 mg/l. Within a short distance down gradient of this "bad water line," the groundwater becomes increasingly mineralized.

Availability. Due to its highly permeable nature in the fresh water zone, the Edwards (BFZ) Aquifer responds quickly to changes and extremes in stress placed upon the system. This is indicated by the rapid fluctuations in water levels over relatively short periods of time. During times of adequate rainfall and recharge, the Edwards (BFZ) is able to supply sufficient amounts of water for all demands as well as sustain spring flows at many locations throughout its extent. However, when discharge is low or exceeds recharge, water withdrawn from wells and water discharged at the springs comes mainly from aquifer storage. If these conditions persist, water in storage within the aquifer continues to be depleted with corresponding water-level declines and reduced spring flows.

When an extended drought occurred in Texas during the 1950s, water levels in the Edwards (BFZ) showed large declines and spring flows were greatly reduced. Eventually water levels near Comal Springs fell to a point below the level of the spring outlets causing all flow to cease for several months. During that period severe damage may have occurred to the spring ecosystem,

including damage to what are now recognized to be several endangered species of plants and animals. Drought conditions have also occurred in recent years characterized by below average rainfall and recharge. Combined with increased aquifer pumpage, these conditions resulted in significantly lowered water levels and spring flows that were potentially detrimental to the environment, leading to water use restrictions by many entities throughout the Edwards (BFZ) region.

Estimates of annual ground-water availability for the Edwards (BFZ) Aquifer in the Austin region of Texas are based on minimum spring flows and ground-water withdrawals that occurred in the Colorado and Brazos river basins during the long drought of the 1950s. In the Colorado River basin the estimate is based on minimum spring flow at Barton Springs in Travis County which, during the drought, was water supplied by effective recharge to the aquifer and not from water in storage. In the Brazos River basin the availability estimate is based on minimum spring flow at Salado Springs in Bell County and the estimated Edwards (BFZ) withdrawals for 1956 within the basin.

The criteria for ground-water availability for future development of the Edwards (BFZ) in the Austin region involves consideration of issues such as future demand, water-level declines, potential quality deterioration, depletion of aquifer storage, and the availability of alternate surface water supplies. It allows for some increase in ground-water development to meet a portion of future demands, but utilizes available surface water to meet the majority of demands in order to minimize or eliminate any negative effects on the aquifer system.

In the San Antonio region, annual ground-water availability for the Edwards (BFZ) Aquifer is determined with the application of a regional computer flow model developed for the aquifer. The model is used to evaluate different management scenarios for the region by simulating the aquifer's response to changes in stress, such as recharge and pumpage placed upon the flow system. It simulates how the aquifer water levels, regional flow patterns, and spring flows will change under potential future conditions. Model output can roughly indicate areas of the aquifer that are unable to supply or can be expected to experience problems supplying the demands that may be placed upon it.

Establishing the criteria for ground-water availability for future development involves consideration of issues including future demand, historic and projected water-level declines, potential quality deterioration, depletion of aquifer storage, and spring flow requirements. A plan for future development of the Edwards (BFZ) in the San Antonio region was produced by the Texas Legislature in 1993 and is outlined in Senate Bill 1477. This plan calls for a maximum regional pumpage from the aquifer of 450,000 ac-ft per year through the year 2007, at which time it would be reduced to a maximum annual total of 400,000 ac-ft through the year 2012. From this time on, pumpage levels must be kept at a level to protect endangered species to the extent required by Federal law at Comal Springs in Comal County and San Marcos Springs in Hays County. To determine this level, application of the computer flow model for the Edwards (BFZ) was made assuming protection of the

springs as established by Federal mandate in the bill. Model results currently indicate that a regional level of pumpage of 225,000 ac-ft per year is required to protect endangered species under historic recharge conditions, including a recurrence of the drought of record. Final pumping limits after the year 2012 have not been finalized and are subject to revision as better information becomes available or conditions change.

Carrizo-Wilcox Aquifer

Location and Use. The Wilcox Group and the overlying Carrizo Formation of the Claiborne Group form a hydrologically connected system known as the Carrizo-Wilcox Aquifer. This aquifer extends from the Rio Grande in south Texas northeastward into Arkansas and Louisiana, providing water to all or parts of 60 counties in Texas (see Carrizo-Wilcox Aquifer in Appendix G). The Carrizo Sand and Wilcox Group occur at the surface along a narrow band that parallels the Gulf Coast and dip beneath the land surface toward the coast, except in the East Texas structural basin adjacent to the Sabine Uplift where the formations form a trough.

Total ground-water pumpage from the Carrizo-Wilcox in 1994 was 488,802 acre-feet (ac-ft). Municipal pumpage accounted for 31 percent of the total and irrigation accounted for 51 per-cent. The largest metropolitan areas dependent on groundwater from the Carrizo-Wilcox are located in central and northeast Texas and include Bryan-College Station in Brazos County, Lufkin and Nacogdoches in Angelina and Nacogdoches counties, and the City of Tyler in Smith County. Irrigation is the predominant use in the Winter Garden region of South Texas.

Hydrogeology. The Carrizo-Wilcox Aquifer is predominantly composed of sand, locally interbedded with gravel, silt, clay, and lignite deposited during the Tertiary Period. South of the Trinity River and north of the Colorado River, the Wilcox Group is divided into three distinct formations. From oldest to youngest these are the Hooper, Simsboro, and Calvert Bluff. Of the three, the Simsboro typically contains the most massive and coarsest sands. Division into three formations cannot be made outside this area due to the absence of the Simsboro as a distinct unit. Aquifer thickness in the downdip artesian portion ranges from 200 feet in Dimmit County to more than 3,000 feet in Atascosa County.

Where it is found at the surface, the aquifer exists under water-table conditions and in the sub-surface it is under artesian conditions. Yields of wells are commonly 500 gal/min and some may reach 3,000 gal/min downdip where the aquifer is under artesian conditions. Some of the great-est yields are produced from the Carrizo Sand in the southern, or Winter Garden, area of the aquifer. Yields of greater than 500 gal/min are also obtained from the Carrizo and the Simsboro formations in the central region.

Water Quality. Regionally, water from the Carrizo-Wilcox is fresh to slightly saline with quality problems limited to localized areas. In the outcrop, the water is hard yet usually low in dis-solved

solids. Downdip, the water is softer, has a higher temperature, and contains more dis-solved solids. Hydrogen sulfide and methane may occur locally. Excessively corrosive water with a high iron content occurs naturally throughout much of the northeastern part of the aquifer. In this area, some instances of relatively high concentrations of dissolved solids, sulfate, and chloride have also been reported. Some of these sites are in or near areas where lignite is known to occur and may be due to mineralization by waters passing through the lignite, especially in the case of high sulfate. Others are most likely due to past oil-field practices, especially the practice of disposing of and/or storing oil-field brines in unlined surface storage pits.

Localized contamination of the aquifer in the Winter Garden region is associated with extensively faulted areas and heavy irrigation pumping that has facilitated downward leakage of saline water from the overlying Bigford Formation. Some recently sampled wells in Dimmit and Zavala counties were found to contain high concentrations of dissolved solids, chloride, and/or sulfate. Downward leakage of more highly-mineralized water from overlying strata through the uncemented annular space between the well casings and the boreholes of such wells is considered to be the most likely cause.

Availability. Significant historic water-level declines have developed in the semi-arid Winter Garden portion of the southern Carrizo Aquifer, as the region is heavily dependent on ground-water for irrigation purposes. Even though these declines have not exceeded the development criteria (discussed further below), since 1920 they have reached 100 feet in much of the area and over 250 feet in the Crystal City area of Zavala County. From 1980 to 1990, water-level declines in the artesian portion of the aquifer in excess of 50 feet affected parts of Frio and Atascosa counties. Localized water-quality deterioration, as discussed in the previous section, has also been associated with water-level declines in this area.

Extremely large water-level declines have occurred in northeast Texas around Tyler and the Lufkin-Nacogdoches area. In many wells, declines in the artesian portion of the Carrizo-Wilcox in this area have exceeded 400 feet. In a few wells, declines have been as much as 500 feet since the 1940s. Much of this pumpage has been for municipal supply, but industrial pumpage is also significant, especially for the paper mills northeast of Lufkin. Fortunately, in this area the aquifer occurs at a depth in excess of 750 feet, which leaves a large amount of artesian storage available for additional development.

In the northeast part of the aquifer, the outcrop area has been dewatered in the vicinity of lignite surface mining operations. Water-table declines in excess of 20 feet covered parts of Van Zandt, Henderson, and Freestone counties in the Wilcox outcrop belt during the 1980 - 1990 period. A fourth area of water-level decline has affected parts of Robertson and Milam counties in the Simsboro Sand Member of the Wilcox.

Annual ground-water availability for the Carrizo-Wilcox in Texas is determined with the application

of regional computer flow models developed for the aquifer. These models simulate the aquifer's response to changes in stress, such as recharge and pumpage placed upon the flow system, and predict how the aquifer water levels and flows will change under potential future conditions. Model output indicates areas of the aquifer that are unable to or can be expected to experience problems supplying the demands that may be placed upon it.

The criteria for ground-water availability for future development of the Carrizo-Wilcox varies for different geographic regions of the aquifer. Establishing this criteria involves consideration of issues such as future demand, historic and projected water-level declines, pumping lift costs, potential quality deterioration, and depletion of aquifer storage. In the Winter Garden area, these criteria allow for the lowering of water levels to a maximum of 400 feet below the land surface or to the top of the aquifer depending upon which level is reached first during the planning period. In central and northeast Texas, where pumping levels are already more than 400 feet below the land surface in some areas, development criteria allow additional water-level declines, but not total depletion of aquifer water-table or artesian storage during the planning period.

With the development criteria in place, model simulations for the Carrizo-Wilcox Aquifer were made assuming all future demands would be met with ground-water supplies. This places the maximum amount of stress on the system and represents a "worst case scenario". Model out-put indicates that these demands can be met with Carrizo-Wilcox water through the year 2050 without violating the development criteria established for the aquifer. Additionally, in northeast Texas, surface-water supplies are also currently available to meet demands. Therefore, in this area future dependence on groundwater will be less than assumed in the model simulations and negative effects on the system due to heavy long-term pumpage will be diminished.

Trinity Aquifer

Location and Use. The Trinity Aquifer consists of early Cretaceous age rocks of the Trinity Group formations which occur in a band from the Red River in North Texas to the Hill Country of south-central Texas and provides water in all or parts of 55 counties (see Trinity Aquifer in Appendix G). Trinity Group deposits also occur as far west as the Panhandle and Trans-Pecos regions where they are included as part of the Edwards-Trinity (High Plains) and Edwards-Trinity (Plateau) aquifers.

Water from the Antlers portion of the Trinity Aquifer is mainly used for irrigation in the outcrop area of North and Central Texas, although Sherman and Gainesville are two large public supply users. Elsewhere, water from the Trinity is used extensively for municipal supply and other uses. Total water pumped from the Trinity in 1994 was 192,961 acre-feet (ac-ft). Of this total, 55 per-cent was used for municipal purposes and 29 percent was used for irrigation.

Hydrogeology. The Trinity Aquifer is composed of sand, clay, and limestone deposited during the

Cretaceous Period. Formations comprising the aquifer include, in ascending order, the Twin Mountains-Travis Peak, Glen Rose, and Paluxy. In the northern part of the extent where the Glen Rose thins or is missing, the Paluxy and Twin Mountains coalesce to form the Antlers Formation. The Antlers consists of up to 900 feet of sand and gravel; the Paluxy of up to 400 feet of sand interbedded with clay and shale; and the Glen Rose of up to 1,500 feet of limestone with interbedded shale, marl, and occasional anhydrite. Usable quality water (containing less than 3,000 mg/l dissolved solids) occurs to depths of up to about 3,500 feet. Wells completed in the Paluxy and Glen Rose aquifers yield small to moderate amounts of water; while those completed in the Antlers and Twin Mountains yield larger quantities.

In the southern extent, the Trinity includes the Glen Rose and underlying Travis Peak Formation. The Travis Peak contains sands, clays, and limestones, and is subdivided into water-bearing members of the Hensell, Cow Creek, and Hosston. Trinity well yields are rarely more than 100 gal/min in the southern Hill Country area.

Water Quality. Water quality from the Trinity Aquifer is acceptable for most municipal and industrial purposes, however, excess concentrations of certain constituents in many places exceed drinking-water standards for municipal supplies. Although the Twin Mountains is the most prolific of the Trinity Aquifers in North-Central Texas, the quality of the water is generally not as good as that from the Paluxy or Antlers formations. Heavy pumpage and water-level declines in this region have contributed to deteriorating water quality in the aquifer. Dissolved solids in water pumped from municipal wells in the community of Blum increased from approximately 900 mg/l in 1980 to 1500 mg/l in 1986 as a result of water-level declines. This change is indicative of inter-formational leakage from the more highly mineralized overlying Glen Rose Formation. The potential for updip movement of poor quality water also exists where large and ongoing water-level declines have reversed the natural water-level gradient and have allowed water of elevated salinity to migrate back updip toward pumpage centers. In some instances, excess levels of constituents are naturally occurring. For example, several wells completed in the Hensell Member of the Travis Peak Formation exhibit higher levels of sodium, sulfate, and chloride which are believed to be the result of leakage from the overlying Glen Rose. This is less likely to happen in the Hosston Member where the overlying Hammett Shale acts as an aquitard to prevent leakage from occurring. In the southern Hill Country region, the primary contribution to poor quality occurs in wells that have not adequately cased off water in evaporite beds in the upper part of the Glen Rose. Water quality naturally deteriorates in the downdip direction of all the Trinity water-bearing units.

Availability. Estimated future ground-water availability from the Trinity Aquifer is calculated as a combination of annual depletion from storage in the northern region and effective recharge throughout the entire extent. Total ground-water storage in the Trinity Aquifer is 750,450 ac-ft. Recharge to the Trinity occurs primarily from precipitation on the outcrop. Lesser amounts of water may enter from surface streams and lakes on the outcrop and possibly through inter-formational leakage. The annual effective recharge to the aquifer is 95,100 ac-ft or approximately 1.5 percent of

the average annual precipitation.

Extensive development of the Paluxy Aquifer has occurred in the Tarrant and Dallas counties region where water levels have historically dropped as much as 350 feet. Water levels in the Twin Mountains Aquifer have historically declined by as much as 550 feet in the Dallas-Fort Worth area, however, these declines are currently more concentrated in Denton and Johnson counties. The Travis Peak is extensively developed from the Hensell and Hosston in the Waco area where historically the water level has declined as much as 400 feet. In the southern Hill Country, Trinity water levels fluctuate with seasonal precipitation and are highly susceptible to declines during drought conditions.

Water-level declines during the 1985 -1995 period continued to decrease as public supply wells were abandoned in favor of surface-water supplies. Some isolated areas of Central and North Texas continued to experience declines in excess of 50 feet in the artesian portion of the Trinity. Declines of at least 100 feet affected the following areas:

In the Twin Mountains Aquifer, declines occurred in the southwest corner of Dallas County and east of Alvarado and Grandview in Johnson County. In the central region, a small area of declines centered around Itasca in Hill County was the extension of the Johnson County area of decline. Another small area of declines included the communities of Aquilla (Hill County) and Laguna Park (Bosque County). A third area occurred in northwest Limestone County and east-central McLennan County. Two other very small areas of decline occurred at Round Rock in central Williamson County and near Pflugerville in north-central Travis County.

Water-table declines affected much smaller areas in the outcrop portion of the Trinity between 1985 and 1995. Declines continued in Somervell, Hood, and Bosque counties where groundwater is mainly pumped for irrigation, and in western Williamson and Travis counties and in eastern Kerr and Bander and southern Kendall counties where water use is for domestic and livestock purposes. Several water-level declines occurred in this region during the 1996 drought. The Hill Country area from Austin to San Antonio is experiencing some of the most rapid growth of population in the state, and groundwater from the Trinity Aquifer, which is very limited in this area, is almost the only viable supply.

Edwards-Trinity (Plateau) Aquifer

Location and Use. The Edwards-Trinity (Plateau) Aquifer underlies the Edwards Plateau east of the Pecos River and the Stockton Plateau west of the Pecos River, providing water to all or parts of 38 counties (see Edwards-Trinity (Plateau) Aquifer in Appendix G). The aquifer extends from the Hill Country of Central Texas to the Trans-Pecos region of West Texas. Total pumpage from the aquifer was 214,900 acre-feet (ac-ft) in 1994, with irrigation pumpage accounting for 79 percent of the total.

Hydrogeology. The aquifer consists of saturated sediments of lower Cretaceous age Trinity Group formations and overlying limestones and dolomites of the Comanche Peak, Edwards, and the Georgetown formations. The Glen Rose Limestone is the primary unit in the Trinity in the southern part of the plateau and is replaced by the Antlers Sand north of the Glen Rose pinch-out. In the northwestern region, the aquifer may be hydrologically connected to other aquifers such as the Ogallala, Dockum, Rustler, and Cenozoic Pecos Alluvium. Springs issuing from the aquifer form the headwaters for several eastward and southerly flowing rivers.

The aquifer generally exists under water table conditions, however, where the Trinity is fully saturated and a zone of low permeability occurs near the base of the overlying Edwards, artesian conditions may exist. Reported well yields commonly range from less than 50 gal/min where saturated thickness is thin to more than 1,000 gal/min where large-capacity wells are completed in jointed and cavernous limestone.

Water Quality. Natural chemical quality of Edwards-Trinity (Plateau) water ranges from fresh to slightly saline. The water is typically hard and may vary widely in concentrations of dissolved solids made up mostly of calcium and bicarbonate. The salinity of the groundwater tends to increase toward the west. Water-quality deterioration in the northern part of the aquifer result-ed from the disposal of oil-field brines into unlined pits prior to the Railroad Commission's "no pit" order in 1969. Groundwater in these areas contain high levels of chloride. Water quality of springs issuing from the aquifer in the south and eastern border areas is typically excellent.

Availability. The total quantity of water in storage in the aquifer is about 145 million ac-ft, how-ever, this amount is not considered developable in part because extensive withdrawals from storage would deplete available surface-water supplies and adversely affect natural recharge to the Edwards (BFZ) Aquifer. The quantity of groundwater that is considered available is expressed in terms of annual effective recharge and equates to 776,000 ac-ft.

There is little pumpage from the aquifer over most of its extent, and water levels have general-ly remained constant or have fluctuated only with seasonal precipitation. In some instances water levels have declined as a result of increased pumpage. Although historical declines have occurred in the northwestern part of the aquifer in Reagan, Upton, Midland, and Glasscock counties as a result of irrigation, none of the areas supplied by groundwater from the Edwards-Trinity (Plateau) Aquifer have experienced declines greater than 20 feet since 1980.

Seymour Aquifer

Location and Use. The Seymour Formation consists of isolated areas of alluvium that are erosional remnants of a larger area or areas. The aquifer is found in parts of numerous north-central and Panhandle counties (see Seymour Aquifer in Appendix G). About 93 percent of the 151,765 acre-feet

(ac-ft) of water pumped from this aquifer in 1994 was used for irrigation. Municipal pumpage, primarily for the cities of Vernon, Burkburnett, Electra, and Seymour, accounted for about 5.5 percent.

Hydrogeology. The Seymour consists of discontinuous beds of poorly sorted gravel, conglomerate, sand, and silty clay deposited during the Quaternary Period by eastward-flowing streams. Individual accumulations vary greatly in thickness, although most are less than 100 feet thick. In a few isolated spots in Collingsworth County, formation thickness may exceed 300 feet. These thick accumulations overlie buried stream channels or sinkholes in underlying formations. This aquifer is under water-table conditions in most of its extent, but artesian conditions may occur where the water-bearing zone is overlain by clay. The lower, more permeable part of the aquifer produces the greatest amount of groundwater. Yields of wells range from less than 100 gal/min to as much as 1,300 gal/min depending on saturated thickness. Yields average about 300 gal/min.

Water Quality. Water quality in these alluvial remnants generally ranges from fresh to slight-ly saline, although a few higher salinity problems may occur. The salinity has increased in many heavily-pumped areas to the point where the water has become unsuitable for domestic uses. Natural salt pollution in the upper reaches of the Red and Brazos River basins precludes the full usage of these water sources without desalination. Brine pollution from earlier oil-field activities has resulted in localized contamination of formerly fresh ground- and surface-water supplies. Nitrate concentrations in excess of drinking-water standards are widespread in Seymour groundwater. Sources of the nitrate are both naturally occurring and through contamination by man's activities.

Availability. Fresh to slightly saline groundwater recoverable from storage from these scattered alluvial aquifers is estimated to be 3.18 million ac-ft based on 75 percent of the total storage. Annual effective recharge to the aquifer is approximately 215,200 ac-ft or 5 percent of the average annual precipitation that falls on the aquifer outcrop. No significant long-term water-level declines have occurred in areas supplied by groundwater from the Seymour Aquifer.

Hueco-Mesilla Bolson Aquifers

Location and Use. The Hueco and Mesilla Bolson aquifers are located in El Paso and Hudspeth counties in the far western tip of Texas (see Hueco-Mesilla Bolson Aquifers in Appendix G). The aquifers are composed of Tertiary and Quaternary basin-fill (bolson) deposits that extend northward into New Mexico and west-ward into Mexico. The Hueco Bolson, principal aquifer in the El Paso area, is located on the east-ern side of the Franklin Mountains; to the west is the Mesilla Bolson. Of the total 97,257 acre-feet (ac-ft) of groundwater pumped from the aquifers in 1994, 89 percent was used for municipal supply, primarily for the City of El Paso. Across the international border, water for Ciudad Juarez is supplied from the Hueco Bolson.

Hydrogeology. The Hueco Bolson, approximately 9,000 feet in total thickness, consists of silt, sand, and gravel in the upper part and clay and silt in the lower part. Only the upper several hundred feet of the Bolson contain fresh to slightly saline water.

The Mesilla Bolson consists of approximately 2,000 feet of clay, silt, sand, and gravel. Three water-bearing zones in the Mesilla (shallow, intermediate, and deep) have been identified based on water levels and quality. The shallow water-bearing zone includes the overlying Rio Grande Alluvium.

Water Quality. The chemical quality of the groundwater in the Hueco Bolson differs according to its location and depth. Dissolved-solids concentrations in the upper, fresher part of the aquifer range from less than 500 to more than 1,500 mg/l and average about 640 mg/l. Quality of Hueco Bolson water in Mexico is slightly poorer.

Chemical quality of groundwater in the Mesilla Bolson ranges from fresh to saline, with salinity generally increasing to the south along the valley. The water is commonly freshest in the deep zone of the aquifer and contains progressively higher concentrations of dissolved solids in the shallower zones. Increasing deterioration of quality of these aquifers is the result of large-scale ground-water withdrawals which are depleting the aquifers of the freshest water.

Availability. Approximately 9 million ac-ft of recoverable fresh water is estimated to be in storage in the Hueco Bolson, the majority of which occurs in the El Paso metropolitan area. Very little usable quality water occurs in the Hueco Bolson in Hudspeth County. Under the Texas part of the lower Mesilla Valley, Mesilla Bolson deposits and the Rio Grande Alluvium together contain approximately 560,000 ac-ft of fresh water in storage.

The average annual effective recharge to the Hueco Bolson is approximately 18,000 ac-ft and to the Mesilla, recharge is approximately 6,000 ac-ft. The amount of fresh groundwater available on an annual basis from the aquifers is equivalent to their annual effective recharge, induced recharge, and depletion of water recoverable from storage. Years in which pumpage exceeds recharge result in water-table declines.

Historical large-scale ground-water withdrawals, especially from municipal well fields in the downtown area of El Paso and Ciudad Juarez, have caused major water-level declines. These declines in turn have significantly changed the direction of flow, rate of flow, and chemical quality of groundwater in the aquifers. Declining water levels have also resulted in a minor amount of land-surface subsidence.

Cenozoic Pecos Alluvium Aquifer

Location and Use. The Cenozoic Pecos Alluvium Aquifer, located in the upper part of the Pecos River Valley of west Texas, provides water to parts of Crane, Loving, Pecos, Reeves, Ward, and Winkler counties (see Cenozoic Pecos Alluvium Aquifer in Appendix G). The aquifer is the principal source of water for irrigation in Reeves and northwestern Pecos counties and for industrial, power generation, and public supply use elsewhere. Water is exported from Ward County to the City of Odessa by the Colorado River Municipal Water District. Of the total 152,290 acre-feet (ac-ft) of groundwater pumped in 1994, 83 percent was used for irrigation.

Rapid development of irrigation farming in Reeves County began in the late 1940s, peaked in 1953 with 525,000 ac-ft of pumpage, and remained at a rate above 300,000 ac-ft annually until the mid 1970s. Since that time, irrigation pumpage has decreased substantially.

Hydrogeology. Consisting of up to 1,500 feet of alluvial fill, the Cenozoic Pecos Alluvium occupies two hydrologically separate basins: the Pecos Trough in the west and the Monument Draw Trough in the east. The aquifer is hydrologically connected in different areas to underlying water-bearing strata, including the Cretaceous in Pecos and Reeves counties and the Triassic in Ward and Winkler counties.

Groundwater in the Cenozoic Pecos Alluvium Aquifer occurs under semi-confined or unconfined (water-table) conditions, although confining clay beds may create localized artesian conditions. Moderate to large yields can generally be expected from wells completed in this aquifer.

Water Quality. The chemical quality of water in the aquifer is highly variable, differing naturally with location and depth, and is generally better in the eastern Monument Draw Trough. Water from the aquifer is generally hard and contains dissolved-solids concentrations ranging from less than 300 to more than 5,000 mg/l. Sulfate and chloride are the two prominent anions. A natural deterioration of quality occurs with increasing depth of the water-bearing strata.

Even though the natural quality of the groundwater in parts of the aquifer has been relatively poor since before its early development by man, certain areas have experienced a definite deterioration in quality as a result of human activity. This quality deterioration is primarily the result of petroleum industry activities in Loving, Ward, and Winkler counties and irrigation practices in Pecos, Reeves, and Ward counties.

Availability. Water-level declines in excess of 200 feet historically have occurred in south-central Reeves and northwest Pecos counties, but have moderated since the mid 1970s with the decrease in irrigation pumpage. Groundwater that once rose to the surface and flowed into the Pecos River now

flows in the subsurface toward areas of heavy pumpage. As a consequence, baseflow to the Pecos River has declined. Elsewhere, only moderate water-level declines have occurred as a result of less intense pumpage for industrial and public supply use in Ward and Winkler counties.

In areas that are suitable for ground-water withdrawal, more than 30 million ac-ft of fresh to slightly saline groundwater is estimated to be in storage in the Cenozoic Pecos Alluvium Aquifer. Of this amount, only about 9.48 million ac-ft can be withdrawn by wells without significant ground-water quality degradation. Average annual effective recharge to the Cenozoic Pecos Alluvium Aquifer, calculated to be 70,800 ac-ft, is derived principally from precipitation and irrigation return flow.

Minor Aquifers

Bone Spring-Victorio Peak Aquifer

Location and Use. The Bone Spring-Victorio Peak Aquifer underlies a small area in the north-eastern corner of Hudspeth County known as Dell Valley (see Bone Spring-Victorio Peak Aquifer in Appendix G). The valley lies between the Guadalupe Mountains on the east and the Diablo Plateau on the west. The aquifer extends northward into the Crow Flats area of New Mexico and is primarily used for irrigation. In 1994, the 172,979 acre-feet (ac-ft) of groundwater pumped for irrigation was significantly more than in previous years. The remaining 41 ac-ft of pumpage from the aquifer was for public water supply use by Dell City.

Hydrogeology. The Bone Spring-Victorio Peak Aquifer is contained in limestone beds of early Permian age. Groundwater in the aquifer occurs under water-table conditions in joints, fractures, and cavities in the limestone. Permeability of the limestones is highly variable and well yields differ widely from about 150 gal/min to more than 2,200 gal/min. The thickness of the aquifer may be as much as 2,000 feet.

Water Quality. Groundwater withdrawn from the aquifer commonly contains between 2,000 and 6,000 mg/l dissolved solids. Because the water does not meet drinking water standards, the community of Dell City must use a demineralization process.

The groundwater is acceptable for irrigation use because of the high permeability of the soil. However, the quality of the aquifer water is deteriorating as agricultural chemicals and salts are leached from surface soils by irrigation return flow. No indication of saline water encroachment from the nearby salt flats to the east has been noted.

Availability. The average annual amount of ground-water available, calculated as effective annual recharge and irrigation return flow to the aquifer, is 90,000 ac-ft. Based on a comparison of pumpage

and water levels, it is estimated that a yearly pumpage of 90,000 ac-ft would not cause a decline in water levels. Annual measurements from 1983 through 1993 indicate that water levels remained relatively constant suggesting that recharge through irrigation return flow and seasonal precipitation kept pace with the water being withdrawn.

Dockum Aquifer

Location and Use. The Dockum Group of Triassic age underlies the Ogallala Aquifer in much of the Texas Panhandle and is exposed along the eastern edge of the caprock escarpment and in the Canadian River basin (see Dockum Aquifer in Appendix G). It underlies the Cenozoic Pecos Alluvium in the middle Pecos River basin and Cretaceous formations in the northwestern Edwards Plateau region. The aquifer provides water in all or parts of 44 counties.

Dockum groundwater is used for irrigation in the eastern outcrop area, primarily in Mitchell and Scurry counties, and in combination with Ogallala water north of the Canadian River. Municipal-supply use occurs in the northern part of the Southern High Plains, the eastern outcrop area, and in Reeves and Winkler counties. Elsewhere, the aquifer is used extensively for oil field water-flooding operations. Total pumpage from the Dockum Aquifer was approximately 40,035 ac-ft in 1994. Of the total amount, irrigation pumpage was 58 percent, mining use was 23 percent, and municipal pumpage amounted to 13 percent.

Hydrogeology. The primary water-bearing zone in the Dockum Group, commonly called the "Santa Rosa", consists of up to 700 feet of sand and conglomerate interbedded with layers of silt and shale. Additional discontinuous sandstone lenses occur elsewhere within the Dockum that also produce water. Except in the outcrop area, this overlying confining bed causes artesian conditions to prevail. Where the "Santa Rosa" occurs at the top of the Dockum, the aquifer is hydro-logically continuous with overlying, water-bearing formations. Aquifer permeability is typically low, and well yields normally do not exceed 300 gal/min.

Water Quality. Concentrations of dissolved solids in the groundwater range from less than 1,000 mg/l in the eastern outcrop of the aquifer to more than 20,000 mg/l in the deeper parts of the formation to the west. High sodium concentrations pose a salinity hazard for soils, thus limiting regional long-term use of the water for irrigation. Dockum water used for municipal supply by several cities often contains chloride, sulfate, and dissolved solids that are near or exceed safe drinking-water standards.

Availability. Recharge to the Dockum Aquifer is negligible except in the outcrop areas where approximately 23,500 ac-ft is estimated to occur annually. An additional small amount of recharge also occurs as leakage from overlying, water-bearing formations in the southern extent of the aquifer. In the artesian part of the aquifer, production generally exceeds recharge thus resulting in water-level

declines and aquifer depletion.

Brazos River Alluvium Aquifer

Location and Use. The Brazos River Alluvium Aquifer is composed of water-bearing alluvial sediments occurring in floodplain and terrace deposits of the Brazos River in southeast Texas (see Brazos River Alluvium Aquifer in Appendix G). Ranging from less than 1 mile to almost 7 miles wide, the aquifer stretches approximately 350 miles along the sinuous course of the river between southern Hill and Bosque counties and eastern Fort Bend County. In 1994, total aquifer pumpage was 30,021 acre-feet (ac-ft) of which 99 percent was for irrigation purposes.

Hydrogeology. Deposited during the Quaternary Period, the river alluvium forms the flood plain and a series of terraces. The flood plain is of primary significance as a source of ground-water in the Brazos River Valley, however, groundwater also may occur in the terrace alluvium. The river valley alluvium consists of clay, silt, sand, and gravel, and is generally coarsest and most water-bearing in the lower part of the aquifer. Water in the flood-plain alluvium usually exists under water-table conditions, although artesian conditions may occur locally where extensive lenses of clay are present. Saturated thickness of the alluvium is as much as 85 feet or more, with maximum thickness occurring in the central and southeastern parts of the aquifer. Wells can yield up to 1,000 gal/min, but the majority have yields ranging from 250 to 500 gal/min.

Water Quality. The chemical quality of the groundwater in the aquifer varies widely, even with-in short distances. In many areas, concentrations of dissolved solids exceed 1,000 mg/l. Most of the Brazos River Valley that is irrigated with this groundwater contains soils sufficiently permeable to alleviate any soil salinity problems. In some areas, the water from the aquifer is sufficiently fresh to meet safe drinking-water standards.

Availability. Annual availability for the Brazos River Alluvium consists of effective recharge and recoverable storage. Recharge to the alluvium is chiefly by precipitation on the flood plain sur-face. Water-level data indicate that the aquifer is readily replenished by rainfall. This is seen by record low water levels measured at the end of the 1950s drought recovering to pre-development levels in just a few years with above average rainfall. Total annual effective recharge to the Brazos River Alluvium is estimated to be 100,000 ac-ft. based on 75 percent of total storage, approximately 1.38 million ac-ft of water is estimated to be recoverable. Therefore, annual avail-ability for the aquifer through the year 2050 is 134,500 ac-ft.

Hickory Aquifer

Location and Use. The Hickory Aquifer underlies approximately 5,000 square miles in parts of 19

counties within the Llano Uplift region of Central Texas (see Hickory Aquifer in Appendix G). Discontinuous outcrops of the Hickory sandstone overlie and flank the exposed Precambrian rocks that form the central core of the Uplift. The downdip artesian portion of the aquifer encircles the Uplift and extends to maximum depths approaching 4,500 feet.

In 1994, a total of 23,587 acre-feet (ac-ft) of water was pumped from the Hickory Aquifer. Of this total, 17,073 ac-ft, or 72 percent, was used for irrigation, primarily for cultivation of peanuts on the sandy soils of the Hickory outcrops in Mason, McCulloch, San Saba, and Llano counties. The largest capacity wells, however, have been completed for municipal supply purposes at Brady, Mason, and Fredericksburg. Many rural water supply corporations and rural residential subdivisions use water from the aquifer for domestic purposes. A significant part of the flow from San Saba Springs, which supplies water for the City of San Saba, is believed to be from the Hickory Aquifer.

Hydrogeology. The Hickory Sandstone Member of the Cambrian Riley Formation is composed of some of the oldest sedimentary rocks found in Texas. In most of the northern and western portions of the aquifer, the Hickory Sandstone Member can be differentiated into lower, middle, and upper units which reach a maximum thickness of 480 feet in southwestern McCulloch County. In the southern and eastern extent of the aquifer, the Hickory Sandstone Member consists of only two units which range in thickness from about 150 to 400 feet.

Block faulting has compartmentalized the Hickory Aquifer. Apparent vertical fault displacement ranges from a few feet to as much as 2,000 feet and apparent significant lateral fault displacement also occurs. Throughout its extent, the thickness of the aquifer is affected by the relief of the underlying Precambrian surface. Both faulting and relief have caused significant variations in the occurrence, availability, movement, productivity, and quality of groundwater within the aquifer.

The yields of large-capacity wells used for municipal and irrigation purposes usually range between 200 and 500 gal/min. However, some municipal wells have been reported to have yields exceeding 1,000 gal/min. The largest well yields are typically obtained where the aquifer has the greatest saturated thickness in the artesian portion of the aquifer northwest of the Llano Uplift.

Water Quality. Dissolved-solids concentrations of groundwater from the Hickory Aquifer generally range from 300 to 500 mg/l. Groundwater containing considerably less than 3,000 mg/l dissolved solids has been produced from depths greater than 2,500 feet in eastern Concho County and in northern portions of McCulloch and San Saba counties. Locally, the aquifer pro-duces water with excessive alpha particle and total radium concentrations in excess of safe drinking water standards. The water can also contain radon gas. Most of the radioactive water produced from the aquifer is believed to be coming from the middle Hickory unit. The upper unit of the Hickory produces groundwater containing concentrations of iron in excess of safe drinking-water standards.

Concentrations of nitrate in excess of safe drinking-water standards due to septic tanks and farming and ranching activities may be encountered in shallow Hickory wells in the outcrop area.

Availability. The artesian portion of the aquifer containing water with 3,000 mg/l or less dis-solved solids has 110 million ac-ft of water in storage. Of this amount, approximately 10 million ac-ft is recoverable water in artesian storage above an arbitrary depth of 400 feet below land surface. An additional 100 million ac-ft is partly recoverable from artesian storage below 400 feet. In addition, an unknown large amount of partly recoverable water is in water-table storage in the outcrop portion of the aquifer. Approximately 160 million ac-ft of recoverable water is estimated to exist in the entire saturated portion of the aquifer from the outcrop areas to the downdip limit.

Recharge occurs as precipitation and infiltrates the discontinuous outcrops of Hickory Sandstone. The annual effective recharge to the aquifer is estimated to be 52,600 ac-ft. This amount equates to 10 percent of the mean annual precipitation. In much of its extent, Hickory Sandstone underlies the basal sandstones of the Trinity Group Aquifer system where it receives a significant but unknown amount of recharge by downward leakage from the Trinity.

West Texas Bolson Aquifers

Location and Use. In the western part of the Trans-Pecos region of Texas, several deep basins have been filled by erosional material which contains quantities of varying quality groundwater (see West Texas Bolson Aquifers in Appendix G). These filled basins, or bolsons, include the Red Light Draw, Eagle Flat, Green River Valley, Presidio-Redford Bolson, and Salt basin. The Salt basin can be subdivided into the Salt, Wild Horse, Michigan, Lobo, and Ryan Flats. These bolsons provide water mainly used for irrigation purposes in parts of Hudspeth, Culberson, Jeff Davis, and Presidio counties. The communities of Sierra Blanca, Valentine, and Van Horn use these aquifers for municipal supply. In 1994, total pumpage from all the West Texas bolsons was 10,975 acre-feet (ac-ft), 62 percent of which was used for irrigation. A large majority of the irrigation occurs in the Salt basin.

Hydrogeology. Bolson deposits in each of these basins differ according to the type of rock material that was eroded from the adjacent uplands and the manner in which this material was deposited. Sediments range from coarse-grained volcanic and limestone detritus redeposited as alluvial fans to fine-grained silt and clay lake deposits. Water in the aquifer generally occurs under water-table conditions. Yields of some irrigation wells exceed 3,000 gal/min, however, most wells do not exceed 1,000 gal/min. Well depths range from very shallow to over 4,000 feet in some irrigation wells.

Water Quality. Water quality characteristics differ from basin to basin, ranging from fresh in the higher elevations to brine in the Salt Flat where very shallow groundwater continuously evaporates. Typically, in basins where the aquifers are capable of producing large quantities of water, the quality is sufficient to support irrigated agriculture, as well as meet drinking-water quality standards,

Availability. Recharge to the bolsons results from precipitation that falls directly on the basins and the surrounding uplands. The average annual effective recharge for the combined West Texas bolson aquifers is approximately 24,000 ac-ft (greater than half is in the Salt basin) or 1 percent of the mean annual precipitation on the outcrop. Recharge is minimal in this region due to low annual rainfall and high evaporation rate. A total of approximately 7 million ac-ft of fresh to slightly-saline groundwater is in storage in the bolsons.

Queen City Aquifer

Location and Use. The Queen City Aquifer extends in a band across most of the State from the Frio River in South Texas northeastward into Louisiana (see Queen City Aquifer in Appendix G). The southwestern boundary is placed at the Frio River because of a facies change in the formation. This facies change results in reduced amounts of poorer quality water produced from this interval south-west of the Frio River. The aquifer provides water for domestic and livestock purposes through-out most of its extent, significant amounts of water for municipal and industrial supply in north-east Texas, and water for irrigation in Wilson County. Total pumpage for all uses in 1994 was 16,319 acre-feet (ac-ft).

Hydrogeology. Sand, loosely cemented sandstone, and interbedded clay units of the Queen City Formation of the Tertiary Claiborne Group make up the aquifer as delineated within Texas. These rocks dip gently to the south and southeast toward the Gulf Coast. Although total aquifer thickness is usually less than 500 feet, it can approach 700 feet in some areas of northeast Texas. In the outcrop area, water occurs under water-table conditions while in the downdip subsurface, where the Queen City is covered by younger, non water-bearing rocks, the water is under artesian conditions. Usable quality water is generally found within the outcrop and for a few miles downdip, but in some areas it may occur down to depths of approximately 2,000 feet. Yields of individual wells are commonly low, but a few exceed 400 gal/min.

Water Quality. Throughout most of its extent, the chemical quality of the Queen City Aquifer water is excellent, however, quality deteriorates with depth in the downdip direction. The water may have high acidity (low pH) in much of northeast Texas and relatively high iron concentrations in localized areas. Hydrogen sulfide gas is sometimes present. Fortunately, each of these naturally occurring conditions may be treated relatively easily and economically.

Availability. While large amounts of usable quality groundwater are contained within the rocks of the Queen City, yields are low. Estimates of the availability of water from the Queen City Aquifer are based on recharge to the aquifer. Because of differences in topography, vegetative cover, and other factors, only 2 percent of the annual rainfall is estimated recharge in the Trinity, Colorado, Guadalupe, San Antonio, and Neches River basins. Approximately 5 per cent is estimated recharge in the Neches, Sulphur, Sabine, and Cypress Creek basins. Total annual effective recharge to the aquifer is estimated to be 682,100 ac-ft.

Woodbine Aquifer

Location and Use. The Woodbine Aquifer extends from McLennan County in North-central Texas northward to Cooke County and eastward to Red River County, paralleling the Red River (see Woodbine Aquifer in Appendix G).Water produced from the aquifer furnishes municipal, industrial, domestic and livestock, and small irrigation supplies throughout this extensive North Texas region. Total pumpage for all purposes in 1994 was 15,572 acre-feet (ac-ft). The largest user of groundwater for public supply purposes is the City of Sherman which pumped 6,604 ac-ft.

Hydrogeology. The Woodbine Aquifer of Cretaceous age is composed of water-bearing sand and sandstone beds interbedded with shale and clay. The Woodbine Group is divided into three water-bearing parts that differ considerably in productivity and quality. Usually the lower part of the aquifer is developed to supply water for domestic and municipal wells.

The water in storage is under water-table conditions in the outcrop and under artesian conditions in the subsurface. The aquifer dips eastward into the subsurface where it reaches a maxi-mum depth of 2,500 feet below land surface and a maximum thickness of approximately 700 feet. Yields of wells completed in the Woodbine Aquifer range from less than 100 gal/min to about 700 gal/min.

Water Quality. Chemical quality of water deteriorates rapidly in well depths below 1,500 feet. In areas between the outcrop and this depth, quality is considered good overall as long as groundwater from the upper Woodbine is sealed off. The upper Woodbine contains water of extremely poor quality in downdip locales and contains excessive iron concentrations along the outcrop. Water from the artesian portion in Dallas, Ellis, and Navarro counties is characterized by high concentrations of sulfate. Several wells in the outcrop portion of the aquifer in Johnson and Tarrant counties contain sulfate concentrations in excess of drinking-water standards and are apparently associated with extensive non-commercial lignite beds. Relatively high boron concentrations, derived from ancient volcanic sediments, render the groundwater in these areas unsuitable for irrigation due to the boron-toxicity to plants.

Availability. The average annual ground-water availability for the Woodbine, equivalent to the transmission capacity of the aquifer, is estimated to be 26,100 ac-ft. Less than 1 inch of the aver-age annual precipitation of 35 inches is necessary as effective recharge to supply that total.

Since the 1970s, in areas where heavy municipal and industrial pumpage has exceeded local recharge, significant water-level declines within the Woodbine have occurred. This area of region-al water-level decline extends from the Sherman-Denison area in Grayson County into eastern Grayson, southwestern Fannin, and northern Collin counties. Declines in excess of 100 feet have been measured near the City of Sherman and the largest net decline, measuring 159 feet for the period 1976 to 1989, is centered beneath the City of Randolph in Fannin County. Fortunately, in this area the top of the

Woodbine occurs at depths ranging from 400 to greater than 1,000 feet below the land surface and, therefore, additional amounts of artesian storage continue to be available for development.

Edwards-Trinity Aquifer (High Plains)

Location and Use. The Edwards-Trinity (High Plains) Aquifer occurs in 14 counties in the South-Central part of the Texas High Plains and extends westward into New Mexico (see Edwards-Trinity Aqu(HP) in Appendix G). Wells drilled into the Edwards-Trinity are often dual-completed with the overlying Ogallala Aquifer. In 1994, of the total 2,186 acre-feet (ac-ft) pumped from the aquifer, 66 percent was used for irrigation. Lesser amounts were used for municipal supply and livestock.

Hydrogeology. The aquifer occurs in two distinct water-bearing zones in formations of the Cretaceous Fredericksburg and Trinity groups. One zone occurs in the basal sand and sandstone deposits of the Antlers Formation (Trinity Group) and is almost always under artesian pressure. The other water-bearing zone occurs primarily in joints, solution cavities, and along bedding planes in limestones of the Comanche Peak and Edwards formations. In much of the area, this upper zone is hydrologically connected to the overlying Ogallala Aquifer.

Groundwater in the aquifer generally moves toward the east-southeast and naturally discharges from springs along the eastern High Plains escarpment. In many places the ground-water potentiometric surface in the aquifer is higher than in the overlying Ogallala Aquifer, resulting in the upward migration of water from these formations. Well yields generally range between 50 and 200 gal/min.

Water Quality. Water in the aquifer is typically fresh to slightly saline and is generally poorer in quality than water in the overlying Ogallala Aquifer. Water quality deteriorates in areas where these formations are overlain by saline lakes and the gypsiferous Tahoka and Double Lakes formations.

Availability. The amount of groundwater recoverable from storage is estimated to be between 1 and 3 million ac-ft. Recharge to the aquifer occurs laterally from the bounding Ogallala Formation along northern and western parts of the subcrop and by downward percolation from overlying units elsewhere. Upward ground-water movement from the underlying Triassic Dockum Aquifer into the Edwards-Trinity may also occur in some areas.

Since little water is produced from the aquifer, declines are restricted to the immediate areas of water use. Only limited quantitative data on the interaction between the Cretaceous and Ogallala formations are available; however, recent studies have indicated that the Edwards-Trinity (High Plains) has a significant impact on the water level and quality of the Ogallala.

Blaine Aquifer

Location and Use. The Blaine Formation crops out in a band from Wheeler County to King County and extends westward in the subsurface to adjacent counties (see Blaine Aquifer in Appendix G). The aquifer provides water for all or parts of 9 counties in West-Central Texas. Although the formation is present farther south, the limited use of its water does not justify its inclusion as a minor aquifer. In 1994, total aquifer pumpage was 24,094 acre-feet (ac-ft) of which 98 percent was for irrigation purposes. In addition to this amount, a relatively small amount of water was pumped for secondary recovery of oil and gas, municipal, stock, and domestic needs.

Hydrogeology. The Blaine Formation of Permian age is composed of anhydrite and gypsum with interbedded dolomite and clay. Water occurs primarily in the numerous solution channels of the Blaine under water-table conditions. The saturated thickness of the aquifer approaches 300 feet in its northern extent.

Well yields vary from a few gal/min to more than 1,500 gal/min. Although water in storage is generally under water-table conditions, larger yields are associated with the few areas of the aquifer that are confined by relatively impervious beds. Dry holes or wells of low yield are commonly found adjacent to wells of moderate to high yields because of the uneven nature in con-fining beds and the occurrence of the water in solution zones. Groundwater not intercepted by wells tends to discharge naturally in areas of lower topography through seeps and springs.

Water Quality. The concentration of dissolved solids in the Blaine increases with depth of the aquifer and along surface drainages in natural discharge areas. The extent of the aquifer, based upon usage, includes water containing less than 10,000 mg/l dissolved solids and excludes portions that exceed this limit. In addition to natural contamination of the Blaine by halite dissolution and upward migration of deeper waters, nitrates and pollution associated with the production of oil and gas represent significant sources of contamination to the aquifer. The salinity of the water can also increase during periods of sustained pumpage as saline waters underlying the fresh water-bearing sections are drawn into wells through the extensive network of fractures and solution channels within the aquifer.

Availability. Annual availability for the Blaine, as effective recharge, is estimated to be 142,600 ac-ft. The primary source of recharge to the Blaine is precipitation on the outcrop area. Annual effective recharge is estimated to be 5 percent of the mean annual precipitation with the high-est rates of infiltration occurring in areas overlain by sandy soils. Water recharged to the aquifer moves along solution channels and caverns dissolving evaporitic deposits of anhydrite and massive halite which, in turn, contribute to the overall poor quality of water.

Sparta Aquifer

Location and Use. The Sparta Aquifer extends in a narrow band across the state from the Frio River in South Texas northeastward to the Louisiana border in Sabine County (see Sparta Aquifer in Appendix G). The southwestern boundary is placed at the Frio River because of a facies change in the formation which makes it difficult to delineate the boundaries of the Sparta and contiguous formations southwestward. The facies change results in reduced amounts of water and poorer quality water produced from the interval. The Sparta provides water for domestic and livestock supply throughout its extent and, in much of the region, it also provides water for municipal, industrial, and irrigation purposes. Total pumpage for all uses in 1994 was 6,827 acre-feet (ac-ft).

Hydrogeology. The Sparta Formation is part of the Claiborne Group deposited during the Tertiary Period. As delineated within Texas, the aquifer consists of sand and interbedded clay with more massive sand beds in the basal section. These rocks dip gently to the south and southeast toward the Gulf Coast and reach a total thickness ranging up to 300 feet. Usable quality water is commonly found within the outcrop and for a few miles downdip, but in some areas may occur down to depths approaching 2,000 feet. Yields of individual wells are generally low to moderate, although most high-capacity wells average 400 to 500 gal/min. A few wells may produce as much as 1,200 gal/min. Water occurs under water-table conditions in the outcrop and under artesian conditions downdip where the Sparta is covered by younger, non water-bearing rocks.

Water Quality. The Sparta Aquifer produces water of excellent quality throughout most of its extent in Texas, however, water quality deteriorates with depth in the downdip direction. Locally, water within the aquifer contains iron concentrations in excess of drinking water standards, but this iron may be removed easily and economically.

Availability. Relatively large amounts of usable quality groundwater are contained within the rocks of the Sparta Aquifer. The average annual ground-water availability in the Sparta Aquifer is 163,800 ac-ft. Availability is considered to be 5 percent of the average annual rainfall on the aquifer in the Neches and Sabine River basins and, elsewhere, is based on the ability of the aquifer to transmit water from the outcrop to discharge areas downdip.

Nacatoch Aquifer

Location and Use. The Nacatoch Aquifer occurs in a narrow band in northeast Texas and extends eastward into Arkansas and Louisiana (see Nacatoch Aquifer in Appendix G). Pumpage from the aquifer totaled 3,484 acre-feet (ac-ft) in 1994, 74 percent of which was used for municipal purposes. The City of Commerce is the largest community pumping from the aquifer for municipal supply, however, significant amounts of water from the Nacatoch are also used for rural domestic and live-stock purposes.

Hydrogeology. The Nacatoch Formation, composed of one to three sequences of sands separated by impermeable layers of mudstone or clay, was deposited in the East Texas basin during the Cretaceous Period. The aquifer also includes a hydrologically connected mantle of alluvium up to 80 feet thick where it covers the Nacatoch along major drainage ways. The south and east basinward dip of the formation is interrupted by the Mexia-Talco fault zone, which alters the nor-mal flow direction and adversely affects the chemical quality of the groundwater. Groundwater in this aquifer is usually under artesian conditions except in shallow wells on the outcrop where water-table conditions exist. Well yields are generally low, less than 50 gal/min, and rarely exceed 500 gal/min.

Water Quality. The quality of groundwater in the aquifer is generally alkaline, high in sodium bicarbonate, and soft. Dissolved-solids concentrations increase in the downdip portion of the aquifer and are significantly higher downdip of faults. In areas where the Nacatoch occurs as multiple sand layers, the upper layer contains the best-quality water. The water quality is generally acceptable for most uses, however, the high degree of mineralization precludes its use for irrigation in some areas.

Availability. Annual availability, equivalent to annual effective recharge, for the Nacatoch Aquifer is estimated to be 3,030 ac-ft. Recharge to the aquifer occurs mainly from precipitation on the outcrop. Aquifer water levels have been significantly lowered in some areas as a result of pumpage exceeding the effective recharge. For example, long term municipal pumpage in past years has resulted in water level declines around the City of Commerce in Delta and Hunt counties. Fortunately, these declines have been stabilized with conjunctive use of available surface-water supplies. Although water level data does not indicate any significant declines for the Nacatoch since 1985, aquifer storage will be depleted if future pumpage exceeds effective recharge.

Lipan Aquifer

Location and Use. The Lipan Aquifer is located in the Lipan Flats area of eastern Tom Green, western Concho, and southern Runnels counties (see Lipan Aquifer in Appendix G). Groundwater from the aquifer is used principally for irrigation with very limited amounts used for rural domestic and livestock purposes.

Hydrogeology. The Lipan Aquifer is comprised of saturated alluvial deposits of the Leona Formation of Pleistocene age. Total thickness of the alluvium ranges from a few feet to about 125 feet. Also included in the aquifer are the updip portions of the underlying Choza Formation and Bullwagon Dolomite of Permian age that are hydrologically continuous with the Leona and contain fresh to slightly-saline water. Groundwater in the Lipan Aquifer exists under water-table conditions. It naturally discharges by seepage to the Concho River and by evapotranspiration in areas where the water table is at or near land surface. Saturated thickness of the Leona alluvial sediments ranges from zero to over 100 feet. Well yields generally range from 100 to over 1,000 gal/min.

Water Quality. Groundwater in the Leona Formation ranges from fresh to slightly saline and is very hard. Water in the underlying updip portions of the Choza and Bullwagon tends to be slightly saline. The chemical quality of groundwater in the Lipan Aquifer often does not meet drinking water standards; however, it is generally suitable for irrigation. Nitrates are also a problem. The CRMWD reports that virtually all of the 600 wells they sampled in the past year had nitrate levels in excess of ten parts per million, and some far exceeded those levels.

The quality of the groundwater in the Lipan Aquifer has been affected by two man-induced conditions, oil field activities and irrigation practices. Leaking abandoned oil wells have allowed brine to infiltrate into fresh-water zones in local areas. Seasonal heavy irrigation pumpage has encouraged the upward migration of poorer quality water from deeper zones. Additionally, irrigation return flow has concentrated minerals in the water through evaporation and the leaching of natural salts from the unsaturated zone.

Availability. The calculated availability of water from the Leona part of the aquifer is 130,000 ac-ft which includes a specified volume in storage that is allowed to be depleted and average annual effective recharge. This quantity does not include usable quality water in the underlying Choza and Bullwagon. The actual annual volume of recoverable water has been demonstrated to be variable and dependent on annual recharge.

Recharge to the aquifer primarily results from the infiltration of local precipitation. Lesser amounts of recharge are derived from lateral underflow from adjacent water-bearing formations, seepage from the Tom Green County Water Control and Improvement District No. 1 water conveyance structures, irrigation return flow, and seepage below the three surface-water reservoirs near San Angelo. The average annual effective recharge to the aquifer is estimated to be 60,000 ac-ft. The average annual ground-water availability from the Lipan aquifer is considered to be the water extracted from the aquifer during normal precipitation years for the combined usage in Tom Green, Concho and Runnels counties.

Igneous Aquifer

Location and Use. The Igneous Aquifer occurs in three separate areas in the arid Trans-Pecos region of West Texas within Brewster, Presidio, and Jeff Davis counties (see Igneous Aquifer in Appendix G). In 1994, total aquifer pumpage was 4,291 acre-feet (ac-ft) of which 57 percent was for municipal supplies, primarily for the cities of Alpine, Fort Davis, and Marfa. Water is also produced for domestic, livestock, and mining uses.

Hydrogeology. The aquifer occurs in intrusive and extrusive igneous rocks of Tertiary age which contain useable quantities of good-quality groundwater. Groundwater occurs under water-table conditions in fissures and fractures in lava flows, tuffs, and related igneous rocks. Average thickness

is 900 to 1,000 feet.

Water-bearing formations in the Alpine area include the Cottonwood Springs basalt, Sheep Canyon basalt, Crossen Trachyte, and associated alluvium. Of these, the principal water-bearing units are the Cottonwood Springs and Sheep Canyon basalt. Principal water-bearing units in the Marfa area include parts of the Petan basalt and the Tascotal Formation. The aquifer in the Davis Mountains area includes the Barrel Springs Formation and associated alluvium.

Well yields are moderate to large in the Marfa area and small to moderate in the Alpine and Fort Davis areas. Well yields vary due to a wide range in permeability. Lower permeabilities generally occur in the lower sections of the aquifer, and moderately high permeabilities occur in the faulted and fractured upper layers.

Water Quality. Water quality of the Igneous Aquifer is acceptable for municipal and domestic uses. Although dissolved solids, sulfate, and chloride content are within recommended safe drinking-water standards, elevated levels of silica and fluoride that reflect the igneous origin of the rock have been found in some wells.

Availability. The average annual availability, calculated as effective recharge to the Igneous Aquifer near Alpine, Marfa, and the Davis Mountains, is estimated to be about 14,300 ac-ft. This estimate is based on 2.5 percent of the mean annual precipitation. Recharge to the aquifer is from precipitation on the outcrop area and runoff from the adjacent mountains, particularly through permeable alluvial fans over-lying the aquifer at the base of the mountains.

Rita Blanca Aquifers

Location and Use. The Rita Blanca Aquifer underlies the Ogallala Formation in western Dallam and Hartley counties in the northwest corner of the Texas Panhandle and makes up a small part of a large aquifer system that extends into Oklahoma, Colorado, and New Mexico (see Rita Blanca Aquifer in Appendix G).Total pumpage from the Rita Blanca in 1994 was 4,573 acre-feet (ac-ft) of which 98 percent was for irrigation purposes. Texline is the only community that uses the aquifer for municipal supply.

Hydrogeology. Groundwater in the Rita Blanca occurs in sand and gravel formations of Cretaceous and Jurassic age. Flow intervals in the Cretaceous Mesa Rica and Lytle Sandstones are capable of yielding small to large quantities of water while the Romeroville Sandstone of the Dakota Group yields small quantities. Groundwater also occurs in small quantities in the Jurassic Exeter Sandstone and sandy sections of the Morrison Formation. Highest yields of between 600 and 800 gal/min are obtained from wells completed in the Mesa Rica and Lytle Sandstones.

Water Quality. Water quality in the Cretaceous formations is usually fresh, but very hard, with concentrations of dissolved solids less than 300 mg/l. Some wells, however, produce water that is slightly saline, which is unsuitable for irrigating most crops grown in the region. Groundwater produced from wells completed in Jurassic formations within the Rita Blanca Aquifer is moderately to very hard and fresh to slightly saline. Dissolved-solids concentrations range from 400 mg/l to approximately 1,100 mg/l.

Availability. Water available for development from the aquifer on an annual basis consists of a combination of effective recharge and recoverable storage. Recharge to the aquifer in Texas occurs by leakage through the Ogallala and by lateral flow from portions of the aquifer system in New Mexico and Oklahoma. Effective recharge and recoverable storage for the Rita Blanca have not been quantified but, historically, have been included with regional recharge and storage estimates for the Ogallala Aquifer.

Aquifer water-level declines in excess of 50 feet have occurred in some irrigated areas from the early 1970s to the middle 1980s. These declines are the result of pumpage exceeding effective recharge and storage being depleted and are evident by the disappearance of many springs in the northern part of Dallam County that once contributed to the constant flow in creeks that are now ephemeral. Since the middle 1980s, the rate of decline has generally slowed and, in some areas, have reversed and water-level rises have occurred. However, water levels will continue to decline in areas where recharge is exceeded by pumpage of water from the aquifer.

Ellenburger-San Saba Aquifer

Location and Use. The Ellenburger-San Saba Aquifer underlies about 4,000 square miles in parts of 15 counties in the Llano Uplift area of Central Texas (see Ellenburger-San Saba Aquifer in Appendix G). Discontinuous outcrops of the aquifer generally encircle older rocks in the core of the Uplift. The remaining downdip portion contains fresh to slightly-saline water to depths of approximately 3,000 feet below land surface.

In 1994, 61 percent of the 5,518 acre-feet (ac-ft) of water pumped from the aquifer was used for municipal supplies including the Cities of Fredericksburg, Johnson City, Bertram, and Burnet. Most of the deep municipal wells which supply the City of Brady also produce an unknown amount of water from the Ellenburger-San Saba sequence of rocks. A large portion of water flowing from San Saba Springs, which is the water supply for the City of San Saba, is believed to be from the Ellenburger-San Saba and Marble Falls aquifers.

Hydrogeology. The aquifer occurs in the various limestone and dolomite facies of the San Saba Member of the Wilberns Formation of Late Cambrian age, and in the Honeycut, Gorman, and Tanyard Formations of the Ellenburger Group of Early Ordovician age. In the southeastern portion

of the aquifer, these units have a combined maximum thickness of about 2,700 feet while in the northeastern portion of the aquifer, the combined maximum thickness is about 1,100 feet. In some areas, where the overlying beds are thin or absent, the Ellenburger-San Saba Aquifer may be hydrologically connected to the Marble Falls Aquifer.

Groundwater in the aquifer is mostly under artesian pressure, even in much of the outcrop areas where relatively impermeable carbonate rocks of the thick Ellenburger-San Saba sequence function as confining layers. Local and regional block faulting has significantly compartmentalized the Ellenburger-San Saba. Dissolution along such faulting and related fractures has formed various-sized cavities which are the major water-bearing features of the aquifer.

The maximum yields of large capacity wells used for municipal and irrigation purposes generally range between 200 and 600 gal/min. Most other wells generally yield less than 100 gal/min. The anisotropic nature of the aquifer makes it difficult to obtain desired well yields in some areas, particularly in Fredericksburg and Bertram.

Water Quality. Water produced from the aquifer has a range in dissolved solids between 200 and 3,000 mg/l, but is usually less than 1,000 mg/l. The quality of water, however, deteriorates rapidly away from outcrop areas. Approximately 20 miles or more downdip from the outcrop, water is typically unsuitable for most uses. In the northwestern portion of the aquifer, water quality deterioration increases with depth due to excess sodium and chloride. In the southeast-ern portion, deterioration is due to increases in calcium and sulfate. All of the groundwater produced from the aquifer is inherently hard. Some wells in the Pedernales River Valley between Fredericksburg and Johnson City produce water from the aquifer with nitrate concentrations exceeding safe drinking-water standards.

Availability. Approximately 20 million ac-ft of fresh to slightly-saline groundwater is estimated to be in storage in the aquifer. Recoverable storage above a depth of 400 feet is estimated to be 8 million ac-ft. The remaining 12 million ac-ft in storage below this depth is only partly recoverable by wells.

An estimated 29,400 ac-ft of water is being discharged annually from the aquifer in its outcrop areas and represents the average annual effective recharge to the aquifer. This amount was deter-mined from spring flow measurements and equates to about 2 percent of the mean annual precipitations on the outcrop. Where the aquifer is overlain by saturated basal sands and sandstones of the Trinity Aquifer system, the Ellenburger-San Saba Aquifer also receives a significant, but unknown, amount of recharge.

Blossom Aquifer

Location and Use. The Blossom Aquifer occupies a narrow east-west band in parts of Bowie, Red River, and Lamar counties in the northeast corner of the State (see Blossom Aquifer in Appendix G). In 1994, municipal pumpage accounted for 80 percent of the total pumpage of 986 acre-feet (ac-ft) from the Blossom. The majority of groundwater pumped for municipal use is provided by the City of Clarksville and the Red River Water Supply Corporation.

Hydrogeology. The Blossom Sand formation consists of alternating sequences of sand and clay deposited during the Cretaceous Period along the northern edge of the East Texas basin. In places it attains a thickness of 400 feet, although no more than 29 percent of this thickness consists of water-bearing sand.

The Blossom Aquifer yields water in small to moderate amounts over a limited area on and south of the outcrop area. Most of the water in storage is under water-table conditions. The largest known yields of 650 gal/min occur in Red River County where production is greatest. Production decreases in the western half of the aquifer where yields of 35 to 85 gal/min are more typical.

Water Quality. Wells producing fresh to slightly-saline water are located on the formation outcrop in northwestern Bowie and eastern Red River counties and in the City of Clarksville. The groundwater is generally soft, slightly alkaline and, in some areas, high in sodium, bicarbonate, and iron. Water quality, although not acceptable for irrigation due to high mineralization, is generally acceptable for most non-industrial uses.

Availability. Annual availability for the Blossom Aquifer is equal to the annual effective recharge which occurs mainly through infiltration of rainfall on the outcrop. Because deep loamy soils containing significant amounts of clay overlie most of the Blossom outcrop area, only one-half of one percent of the mean annual precipitation that falls on the sandy rechargeable portion of the formation outcrop is considered effective recharge. The average annual effective recharge for the aquifer is estimated to be 811 ac-ft.

Pumpage near the City of Clarksville has caused significant historical water-level declines. However, since 1988 when the City began conjunctive use of surface and groundwater, water levels have risen nearly 100 feet. Because of accessibility to public water supply systems (including surface water), many individual wells have been abandoned resulting in water level rises in other areas. Water-level data do not indicate any significant declines in the Blossom since 1985, how-ever, aquifer storage will again be depleted if future pumpage exceeds effective recharge.

Marble Falls Aquifer

Location and Use. The Marble Falls Aquifer occurs in several separated outcrops, primarily along the northern and eastern flanks of the Llano Uplift region of Central Texas (see Marble Falls Aquifer in Appendix G). The downdip portion of the aquifer is of unknown extent. It provides water to parts of McCulloch, San Saba, Lampasas, Burnet, and Blanco counties, and to smaller parts of Kimble, Llano, and Mason counties. In 1994, a total of 1,524 acre-feet (ac-ft) of water was pumped from the aquifer with 1,051 ac-ft, or 69 percent, for municipal needs. San Saba and Rochelle are the two largest communities that withdraw water from the aquifer for public supply use. Smaller amounts of water are also used for rural domestic supplies, watering of livestock, and irrigation.

Hydrogeology. Groundwater occurs in fractures, solution cavities, and channels in the lime-stones of the Marble Falls Formation of the Pennsylvanian Bend Group. Maximum thickness of the formation is 600 feet. Numerous large springs issue from the aquifer and provide a significant part of the baseflow to the San Saba River in McCulloch and San Saba counties and to the Colorado River in San Saba and Lampasas counties. The aquifer contributes a significant portion of the flow at San Saba Springs, the source of drinking water for the City of San Saba. Where underlying beds are thin or absent, the Marble Falls and Ellenburger-San Saba aquifers may be hydrologically connected. Wells completed in these limestones have been reported to yield as much as 2,000 gal/min, however, most wells produce substantially less due to the anisotropic condition of the aquifer.

Water Quality. The quality of water produced from the aquifer is generally suitable for most purposes. However, wells in Blanco County have produced water having nitrate concentrations in excess of drinking water standards. The downdip artesian portion of the aquifer in most areas is not extensive and water becomes significantly mineralized within relatively short distances downdip from the outcrop recharge area. Because the fractured and dissolutioned limestones of the Marble Falls are relatively shallow, the aquifer is quite susceptible to pollution by the activities of man.

Availability. The quantity of groundwater available as annual effective recharge has been estimated to be 26,400 ac-ft based on spring flow data. This amount equates to approximately 5 percent of the mean annual precipitation on the outcrop of the aquifer.

Rustler Aquifer

Location and Use. The Rustler Aquifer crops out in a north-south band in eastern Culberson County in the Trans-Pecos region of West Texas and extends downdip into Reeves, Loving, Ward, and Pecos counties (see Rustler Aquifer in Appendix G). In 1994, total aquifer pumpage of 1,486 acre-feet (ac-ft) was used for irrigation, livestock, and water-flooding operations in oil-producing areas. High dissolved- solids concentrations render water from the Rustler unsuitable for human consumption.

Hydrogeology. Dolomite, limestone, and gypsum beds of the Rustler Formation were deposited in the Delaware basin during the Permian and reach a maximum thickness of 500 feet. Water is produced primarily from highly permeable solution channels, caverns, and collapsed breccia zones.

The aquifer exists under water-table conditions where it crops out in Culberson County and under artesian conditions throughout the remainder of its extent. Except where the porosity is well developed in the solution zones in the formation, storage capacity is relatively low. Acidizing wells usually results in yields ranging from 300 to 1,000 gal/min.

Water Quality. Groundwater from the Rustler Aquifer is generally unsuitable for human consumption because it contains from 2,000 to 6,000 mg/l dissolved solids. However, the water is suitable for other purposes including irrigation.

The dissolved-solids concentration increases down gradient, eastward into the basin, with a shift from sulfate to chloride as the predominant anion. Highly mineralized groundwater may be caused by the dissolution of evaporites within the Rustler due to local ground-water flow and/or mixing with brine which has migrated upward from saline aquifers underlying the Rustler. An area of greater than 10,000 mg/l dissolved solids occurs around the City of Pecos in Reeves County.

Less mineralized water, with a dissolved-solids content of less than 1,000 mg/l, occurs only in one area within the outcrop in southern Culberson County. An area of slightly-saline water (containing less than 3000 mg/l dissolved solids) in eastern Loving County corresponds to a portion of the aquifer that is relatively close to the surface and may be the result of recharge which has infiltrated through the overlying permeable cover.

Availability. The average annual ground-water availability from the aquifer as effective recharge is conservatively estimated to be 4,000 ac-ft. Recharge from the infiltration of precipitation on the outcrop moves eastward into the basin and may migrate upward into the overlying Edwards-Trinity (Plateau) and Cenozoic Pecos Alluvium. Due to limited pumpage from the Rustler, no regional water-level declines are evident.

Capitan Reef Complex Aquifer

Location and Use. The Capitan Reef formed along the margins of the Delaware basin, an embayment covered by a shallow Permian sea. In Texas, the reef parallels the western and eastern edges of the basin in two arcuate strips 10 to 14 miles wide and is exposed in the Guadalupe, Apache, and Glass mountains (see Capitan Reef Complex Aquifer in Appendix G). Elsewhere, the reef occurs in the subsurface. The reef extends northward into New Mexico where it provides abundant fresh water to the City of Carlsbad. Most of the groundwater pumped from the aquifer in Texas is used for oil

reservoir water-flooding operations in Ward and Winkler counties and agricultural irrigation in Pecos, Culberson, and Hudspeth counties. Total recorded pumpage from the aquifer in 1994 was 2,832 acre-feet (ac-ft), however, a significant amount of pumpage for water-flooding operations is unaccounted.

Hydrogeology. The aquifer is composed of up to approximately 2,000 feet of massive, vuggy to cavernous dolomite and limestone, bedded limestone, and reef talus. Water-bearing formations include the Capitan Limestone, Goat Seep Limestone, and most of the Carlsbad facies of the Artesia Group which includes the Grayburg, Queen, Seven Rivers, Yates, and Tansill formations. Yields of wells commonly are more than 1,000 gal/min in Culberson and Hudspeth counties; while in the Apache Mountains area, limited data indicate that yields are as high as 400 gal/min. One well in northern Pecos County flows at a rate of about 1,000 gal/min, and wells in Ward and Winkler counties, likewise, yield large quantities.

Water Quality. The aquifer generally contains water of marginal quality, with most wells yielding water with total dissolved solids ranging between 1,000 and 3,000 mg/l. High salt concentrations in some areas are probably caused by migration of brine water injected for secondary oil recovery. Freshest quality water is located near areas of recharge where the reef is exposed at the surface in the three mountain ranges. Many of the wells that exist in the aquifer are quite old and their casing is potentially in a state of deterioration. Artesian conditions in these wells allow water from the aquifer to migrate through casing ruptures and commingle with fresh-water zones.

Availability. Recharge to the aquifer occurs by precipitation and infiltration of surface water directly into cavernous reef deposits in outcrop areas in the Guadalupe Mountains along the Texas and New Mexico border, the Apache Mountains in southern Culberson County, and the Glass Mountains in Brewster and Pecos counties. The average annual ground-water availability from the aquifer has been estimated to be 12,500 ac-ft as effective recharge. In the Culberson County area south of the Guadalupe Mountains, 375,000 ac-ft of water is estimated to be recoverable from storage. In the Apache Mountains area, 10,000 ac-ft is estimated to be available. Elsewhere in Pecos, Ward, and Winkler counties, undetermined amounts of groundwater occur in storage.

Marathon Aquifer

Location and Use. The Marathon Aquifer occurs entirely within the north-central portion of Brewster County in west Texas (see Marathon Aquifer in Appendix G). It is utilized primarily for municipal supply by the City of Marathon and for domestic and stock purposes. Total aquifer pumpage in 1994 was 117 acre-feet (ac-ft).

Hydrogeology. The Marathon Aquifer is contained within the Gaptank, Dimple, Tesnus, Caballos, Maraviallas, Fort Pena, and Marathon Limestone formations deposited during the Early Paleozoic Era. Of these, the Marathon Limestone is the most productive unit. Water in the Marathon is

generally under water-table conditions and occurs in crevices, joints, and cavities associated with the complex folding and faulting that characterizes the Marathon Uplift region. Total aquifer thickness ranges from 350 to about 900 feet. Most wells are less than 250 feet deep and yield from less than 10 to more than 300 gal/min with the greatest yields occurring where aquifer formations are most fractured and faulted. Many of the shallow wells in the region actually produce from alluvial deposits that cover portions of the rock formations.

Water Quality. Water from the Marathon Aquifer, although hard, is typically of good quality. Dissolved solids usually range from 500 to 1,000 mg/l.

Availability. Annual availability of groundwater from the Marathon Aquifer is calculated as effective recharge derived from precipitation that falls on the outcrop and from runoff that flows off the surrounding highlands. Annual effective recharge is approximately 18,300 ac-ft which is equivalent to 2.5 percent of the mean annual precipitation.

CHAPTER IV

GETTING STARTED

A. DEFINITIONS - The following words will have the following meaning throughout this manual unless the text indicates otherwise.

Abandoned Well - A well that has not been used for six consecutive months. A well is considered to be in use in the following cases:

(a) a non-deteriorated well which contains the casing, pump and pump column in good condition; or

(b) a non-deteriorated well which has been capped.

Annexation - The act of incorporating additional territory into an existing water district's area and under its jurisdiction. This may require a ratification election within the area to be annexed.

Applicant- A newly confirmed district applying for a loan from the loan fund.

Audit Report - A detailed outline of district fiscal accounts and records produced annually for the district by a certified public accountant or public accountant holding a permit from the Texas State Board of Public Accounting.

Board- Board of Directors of a district.

Budget- An itemized summary of anticipated expenditures and revenue for a fiscal year of a district.

Chapter 35 - Refers to Sections 35.001 through 35.019 of the Texas Water Code, which authorize the Texas Natural Resource Conservation Commission (TNRCC) to designate groundwater management areas and create groundwater conservation districts. This Chapter also outlines the Priority Groundwater Management Area (PGMA) process. A reference to a specific section or subsection may be identified using the symbol "§" or using the abbreviation of "Sec."

Chapter 36 - Refers to Sections 36.001 through 36.374 of the Texas Water Code, which authorize creation of groundwater conservation districts and outline the powers and duties of a groundwater conservation district. A reference to a specific section or subsection may be identified using the symbol "§" or using the abbreviation of "Sec."

County Committee - Elected or appointed officials who serve to advise and recommend action to the Board on approval of water well permits and agricultural water conservation loans. They serve as a community contact for local citizens for identifying problems or suggesting programs or services which need to be considered by the board.

Commission- The Texas Natural Resource Conservation Commission (TNRCC).

Deteriorated Well - A well, the condition of which is causing or will likely cause pollution of any water in this state, including groundwater.

Director - A member of the board of a groundwater conservation district.

District - Any district or authority created under Section 52, Article III, or Section 59, Article XVI, of the Texas Constitution, that has the authority to regulate the spacing of water wells, the production

of water wells, or both. Within this document the term district refers to a groundwater conservation district unless otherwise indicated.

Executive Administrator- The executive administrator of the Texas Water Development Board (TWDB).

Executive Director- The executive director of the commission.

Election - A public vote on special propositions such as confirmation of the district or annexation of territory into an existing district and/or to elect directors or other elected officials authorized within a district.

General Manager or Manager - Administrator of a ground water district responsible for carrying out and enforcing board policy and rules of the District. Specific responsibilities and powers of the manager are defined by the board of directors of each district.

Groundwater- Water percolating below the surface of the earth.

Groundwater Reservoir- A specific subsurface water-bearing reservoir having ascertainable boundaries containing groundwater.

Legal Notices - Information posted or published to inform the public of changes in district rules, announce public hearings or elections, announce effective tax rates for the district, etc.

Loan Fund- The groundwater district loan assistance fund created under TWC Section 36.371.

Management Area - An area designated and delineated by the commission under TWC Chapter 35 as an area suitable for management of groundwater resources.

Permit - A document issued by a water district to assure compliance with water district rules, such as spacing between wells or limits of production of water from wells.

Political Subdivision- A county, municipality, or other body politic or corporate of the state, including a district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, a state agency, or a nonprofit water supply corporation created under Chapter 76, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 1434 a, Vernon's Texas Civil Statutes).

Priority groundwater management area (PGMA)- An area designated and delineated by the commission under Chapter 35 as an area experiencing or expected to experience critical groundwater problems.

Public Hearing - Public meeting, advertised in advance by legal notice, for the purpose of inviting public opinion on the announced topic, such as budget, annexation or rules.

Pump Installer - An individual who installs or repairs water well pumps and equipment for hire or compensation.

Rule - A regulation adopted by the board to protect water quality, prevent waste of water supplies, regulate production, prevent subsidence, or encourage water conservation within the district's jurisdiction etc.

Subdivision of a groundwater reservoir- A defined part of a groundwater reservoir in which the

groundwater supply will not be appreciably affected by withdrawing water from any other part of the reservoir, as indicated by the known geological and hydrological conditions and relationships and on foreseeable economic development at the time the subdivision is designated or its boundaries altered.

Subsidence- The lowering in elevation of the land surface caused by withdrawal of groundwater.

Tax Rate - The rate of ad valorem taxation set by the board sufficient to meet the budget necessary to support operations of the district during the upcoming fiscal year.

Texas Department of Licensing and Regulation (TDL&R) - The state agency responsible for the licencing and regulation of water well drillers and pump installers.

Texas Water Code(TWC) - Laws which govern the use and disposition of water in the State of Texas.

Use for a beneficial purpose- Any use which is advantageous and does not constitute waste.

Waste - Refers to various activities that unnecessarily diminish groundwater quantity or quality. See Subchapter A of Chapter 36 (located in the Appendix) for a detailed definition.

Water Well Driller - Any person (including an owner, operator, contractor, or drilling supervisor) who engages in the drilling, boring, coring or construction of any water well in this state. The term, however, shall not include any person who drills, bores, cores, or constructs a water well on his or her own property for his or her own use or a person who assists in the construction of a water well under the direct supervision of a licensed driller and is not primarily responsible for the drilling operations.

Well Construction Standards - Water well construction criteria set by law (Water Well Drillers Act and district rules) to prevent groundwater contamination from drilling or repair of a water well.

B. DISTRICT CREATION

1. **Local initiative.** Individuals may start the district creation process upon their own motion in three ways. These processes carry with them the advantage of the local people being able to define the boundaries of the district and in some cases the ability to include additional powers or exclude certain provisions of Chapter 36.

   a. **Creation of a district by the Commission under Subchapter B of Chapter 36, Texas Water Code**. A petition requesting creation of a district is filed with the executive director of the commission. This requires a majority of the landowners' signatures or at least 50 landowners if there are more than 50 in the proposed district.

   b. **Creation of a district through the legislative process.** This process requires that a state Senator or Representative introduce and pass through both houses of the Legislature a bill which creates the district. The legislation will carry with it certain provisions specific to the district, the minimum of which will be the boundaries of the district and may include or exclude some provisions of Chapters 35 and/or 36 as well as addressing certain powers, duties and funding specific to the district being created.

   c. **Creation of a district through annexation into an existing district**. Although this is

not actually creating a new district, it is creating a district within the area to be annexed and the same powers and duties apply as exist in the district accepting the additional territory.

Procedures for annexation of individual parcels of land or territories to an existing groundwater conservation district are described in Chapter 35, and Subchapters B and J of Chapter 36 of the Texas Water Code.

Individual landowners adjoining the district may petition the district board for consideration of inclusion into the district. Since all landowners involved sign the petition, the board's decision to annex is sufficient, and no election is necessary (Sections 36.321-36.324).

Landowners of a defined area may petition the district for inclusion into the district. The petition must be signed by a majority of the landowners or at least 50 landowners if the number of landowners is more than 50. This type of annexation requires hearings and an election. (Sections 36.325-36.331).

2. **Priority Groundwater Management Area (PGMA).** When the Commission designates an area as a PGMA they may propose the creation of one or more districts or annexation into an existing district. Under the PGMA process, the Commission has the authority to delineate the boundaries of the district(s) and/or areas to be proposed for annexation. The Commission must request and receive approval from the board of the existing district before annexation procedures can take place.

   a. If the Commission proposes the creation of one or more districts, the Texas Agricultural Extension Service shall begin an educational program within the area with the assistance of other state agencies and existing districts to inform the residents of the status of the area's water resources and various management options available to them before beginning the district creation process under §35.012.

   b. The Commission is required to make a report to the legislature no later than January 31 of each odd-numbered year. The report is in respect to the activities during the preceding two years pertaining to the designation of PGMA and the creation and operation of districts. If the report includes areas within PGMA in which the voters failed to create a district or failed to annex into an existing district, the report may also include recommendations for the future management of the PGMA. The recommendations may include but are not limited to:

   (1) creation of a groundwater district by the legislature;

   (2) annexation of a PGMA into an existing district by the legislature; or

   (3) management of the PGMA by the nearest regional office of the commission. The commission may be authorized to:

   (i) adopt spacing and annual per acre pumping restrictions;

   (ii) issue well permits in accordance with Sections 36.113 and 36.1131;

(iii) prevent waste and protect the quality of groundwater in accordance with Sections 36.001(8)(A)-(G),

(iv) levy administrative penalties for violations; and

(v) collect fees in accordance with Sections 36.206(a) and (b).

If the commission is required by the legislature to manage the PGMA, a new election may not be called for three years from the date of the last election (§35.018).

C. Confirmation Election

All of the options available to people interested in the creation of a district or the annexation into an existing district may require an election be held in accordance with the commission order (§35.012) or the district enabling legislation. The election will be held to 1) confirm the creation of the district and 2) vote to assess and collect taxes to operate the district and/or pay off any bonded indebtedness. As stated in Section B 2 of this chapter, if the election fails, there may not be a second chance to create a district or there may be a waiting period to consider creation or annexation again. In the case of a failed election under the PGMA process, the Commission may be instructed to manage the district. For these reasons it is very important that the election is not held until it seems certain the voters will support the proposition.

Areas that failed to confirm the creation of a district may have failed because the voters were not informed or included from the beginning of the process. An election can result in a negative outcome if there is much opposition. Usually the reason for opposition is that the people were not provided the correct information and voters became confused by misinformation and decided to vote against the confirmation of the district.

Usually district creation begins with a few "key" people who believe local control is the best way to manage the groundwater resource. This interest may come from the knowledge they have about the area, their association with an existing district or from the "priority groundwater management area process". Whatever the reason, these people are the driving force to a successful election.

The key people have decided that they would like to see local control of their groundwater resource. However, at this point, they may not know whether they want to form their own single county district, join with an adjoining county or counties to form a multi-county district, or annex into an adjoining district. This will be a good time for the group to expand and try to form a larger group of interested residents to help with these decisions. This committee should begin to contact various entities and organizations within the county to discuss the possibilities of groundwater management. City councils, county commissioner courts, local extension agencies, and various civic clubs are always a good place to find out if there is any additional support. Before contacting these entities it is best to have some knowledge of the need for a district and how the district could function within the area.

The wide variety of options available in district creation (single county, multi-county, or annexation) may be a source of initial confusion to those interested in creating or joining a groundwater conservation district. There are several sources of information that should be investigated to help prepare a preliminary determination for the proposed district under consideration. The Texas Agricultural Extension Service (TAEX), Texas Natural Resource Conservation Commission (TNRCC) and the Texas Water Development Board (TWDB) are three state level sources. Existing groundwater conservation districts can also provide useful information and assistance.

The Texas Alliance of Groundwater Districts (TAGD) was formed in 1988. The purpose of this organization is to exchange ideas, develop or influence programs for the management, conservation, protection and development of groundwater management within Texas. The Alliance has quarterly meetings at various district headquarters throughout the state. Persons who are in the beginning stages of considering district creation or annexation should contact the Alliance. The members will provide helpful information as well as attend meetings to present programs and answer questions. Many of the districts have relied on TAGD during their creation process as well as the "start-up" phase of their district. Newly-formed districts may join the Alliance and receive information from established districts. (See the Appendix for a contact source and a membership application.)

An important concern in forming a groundwater conservation district is size; particularly the size of its tax base. Small districts of one county or less can sometimes collect enough tax revenue for district operations and programs only by setting relatively high tax rates. Cooperation among adjoining districts is being used as a method to increase services without increasing tax rates. (An example of a cooperative agreement is provided in the Appendix.)

Districts based upon political subdivision boundaries, such as a county, have the advantages of local control and direction. The major disadvantage of using political subdivision boundaries as district boundaries is that they may not coincide with the groundwater reservoir or its subdivision.

Multi-county districts have the advantage many times of having a larger tax base for the support of the maintenance and operating expenses of the district. This helps keep the tax rate low and maintains the ability to provide outstanding service to the water users. There is also the benefit of having the same management of the groundwater over a larger area of an aquifer. An objection to the multi-county district which is usually voiced is the loss of local control because some of the directors will be from the other county or counties. However, Chapter 36 allows a district to have from 5 to 11 elected board members. This should provide equal representation on the board from all counties included in the district.

Annexation into an existing district has an advantage over the creation of a new district. The established district will have addressed most of the beginning steps in district organization after the

confirmation election. In most cases they will have staff, office space, field and office equipment, and are fully engaged in the process of local management of groundwater. When considering annexation, it is suggested that a review be made of the rules and management plan of the district for which annexation is being considered. If the rules and management plan seem to address the concerns it may be advantageous to pursue this avenue. The same objection in regard to board representation is voiced. Chapter 36 has addressed this issue and requires that the existing district provide equal representation on its board if the annexation is successful. The board may add new directors (so long as they do not exceed 11 members) or redraw the director precinct lines. This can be decided at the time the annexation proposition is discussed with the existing district.

The most important consideration is not the size of a district, but whether there is a common vision of the district's purpose among its citizens and whether those citizens are willing to bear the expense necessary to carry out that purpose.

Once the proposed district boundary has been decided, it is necessary to determine which method to use for the initial district creation or annexation from the options outlined in Section A of this document. Depending on which option is chosen, there will be help in completing this process. The Commission, State Representative or Senator, or the existing district will help with the process chosen in a local initiative. If the PGMA process has started it is advised that the committee work with the Commission in the delineation of the area preferred for the district creation or annexation.

Depending on the option chosen for district creation, there will be some indication of when to plan on holding a confirmation election. Chapters 35 and 36 identify the time frame temporary directors have to work within if creation is through the petition to the Commission process or the PGMA process. Legislatively-created districts often set the date of the election within the enabling legislation. The date of an annexation election is decided by the established district.

A positive public relation campaign aimed at a successful confirmation election should be started as early as possible. It is very important that local entities support the creation of the district.

The beginning of the public relations campaign may consist of a news release provided to all of the local news media. Establishing the issue before the public is important and usually stimulates numerous questions. However, be sure to contact all local newspaper, radio and television news media. The news media should be the first to be educated on the need for the district and its purpose. Invite and encourage them to become members of the planning committee. Not only can they help in providing news coverage, but they can help the committee contact other individuals and groups for support.

There is not a set number of public meetings to hold; however, public meetings are a must. Chapters

35 and 36 require hearings to be held. These hearings are identified in the various sections of these Chapters depending on the process used. Public hearings are much more structured and many people will not express their opinion or ask questions in a formal setting like they will at an informal meeting. Plan on having speakers who are knowledgeable about groundwater districts and about the groundwater resource. Keep the meeting as informative as possible but don't use up all the time in prepared speeches. Having one or two speakers at several short (2-hour) meetings is better than one long meeting with numerous speakers. Begin holding meetings far enough in advance of the election that there is time for people to schedule their attendance. A good time to schedule one of the last meetings is on the day early voting begins or shortly thereafter. This allows the committee to remind people to vote and also provides the opportunity to identify and address any negative issues which may have been raised that could hinder the success of the election.

In cities and communities where there are various civic clubs, it is advisable to present a program on the district creation issue. Most of the civic clubs are looking for programs and can usually arrange for a presentation within 30 days. Once a program date is identified, contact one or more speakers for the presentation. When working with speakers, see if they are willing to provide more than one presentation during that same day, possibly at a public meeting. This will allow the use of their expertise and knowledge to a larger number of voters. Usually the people who you invite will be willing to speak at two meetings and possibly meet with the committee to discuss its progress.

Early voting begins 17 days before the election. During this time, have committee members out to remind people to vote for the district creation. Begin to plan any news media campaign the committee feels is needed. If Public Service Announcements (PSA) are used, only encourage the voter to participate in the voting process. Early voting will end four days before the election.

During the four days before the election, the committee should still be encouraging people to vote to confirm the district creation on election day. If a news media campaign is planned, now may be the time to start. However, if funds are limited, the best time will be on election day.

Election day is here. To help pass the time the committee can participate in a phone campaign to get the voters out to the polls to vote. At any rate, by this time, hopefully the committee has provided the voters with the best and most accurate information available and they have made an informed decision.

D. The District is Confirmed, What Next?

District operations begin when the district is confirmed and directors are elected. These directors have many decisions to make over the next 12 to 18 months. The directors will need the continued support of the people who created the district and the success of the district depends on the support of all the people.

If the election confirmed an annexation into an existing district, the committee needs to become a participant in the activities of the district. The board will appoint a director or directors to represent the new area. The meetings of the board are open meetings and the board will be receptive to any comments, suggestions or concerns the committee has in regard to groundwater management within the district.

The remaining chapters of the manual will provide outlines, examples, copies of state codes and laws, along with other reference information to hopefully assist in the development of the new district. Should users of this manual be unable to find answers to questions, please feel free to contact any of the resource agencies, districts and associations listed.

CHAPTER V

INITIAL OPERATIONS

This chapter will outline the beginning phases of district operation. For areas annexed into existing districts, the new area will be notified of the existing district's rules and the process of appointing additional district representation from the new area. A public notice and waiting period is required before any rules become effective. The appointed director or directors will serve until a new director or directors for the area are elected.

A. WHERE TO BEGIN.

The confirmation election has been held (The Open Meetings Act contained in the Appendix provides the legal notice requirements for holding open meetings.) The board is required to meet not earlier than the third day or later than the sixth day after election day to canvass the votes. If the election was successful and new directors were elected, the meeting may also include the swearing in of the new directors. During this meeting, the board may also elect officers. The board shall file a copy of the election results with the Commission (§36.017) and if applicable, the election of directors(§36.054). A sworn statement, public official faithful performance bond, and oath shall be filed with the district and retained in its records. A duplicate original of the sworn statement and the oath shall also be filed with the secretary of state within 10 days after their execution and need not be filed before the new director begins to perform the duties of office. (§36.055)

The first meeting of the board is a good time to start considering various issues in regard to getting the district operations started. There are many activities the district will need to accomplish during the first two years of operation. Chapter 36 requires that a district submit a management plan to the executive administrator for review and certification no later than two years after the confirmation election (§36.1072).

The district's ability to assess and collect taxes the first year of operation is dependant upon when the election was held and how much preliminary information various entities have in regard to the district. For elections held prior to the first of July, there may be time for the district to assess and collect taxes and receive funds during the same calendar year as it is created. The board must establish a fiscal year and develop and adopt a budget before the district can set the tax rate. In some cases, issues such as operation costs of the district may have been discussed prior to the election. If this is the case, the directors may have some idea of an amount to set for the first year's budget and the tax rate can be calculated from this broad range figure. However, a detailed budget should be prepared prior to the hearing process and before setting the tax rate. To calculate the tax rate, it is necessary to know the certified tax values of the property to be taxed within the district. This will involve the help of the appraisal district(s) and the county tax assessor/collector(s). The directors must decide on an entity to assess and collect the taxes, or they may decide to include the assessment and collection of taxes as one of the duties of the district. In districts where part of the county is not

included, the boundary of the district must be identified before tax assessment and collection can begin.

There are other funding options available if the election was held too late to assess and collect taxes during the calendar year of creation. The district may request funds from the Texas Water Development Board for start up operations. The district may borrow funds or receive a line of credit from a local lending institution. Both of these options can be repaid after the district begins to collect taxes. Many districts have started out on borrowed funds that have been repaid within two years.

B. ORGANIZATIONAL STRUCTURE

Once the details of funding the district during the first few years of operation have been decided, the directors should consider the organizational structure of the district. The organizational structure of the district is generally dependent upon: 1) whether the district is part of a county, an entire county, parts of several counties, or several entire counties, and 2) the budget of the district. These will be discussed as the political organization, staff organization, and office and equipment needs of the district, respectively.

Political Organization

According to Chapter 36, a water district is governed by an elected (five-member up to eleven-member) board of directors. If the district is composed of a single county or part of a single county or similar political subdivision, this may represent the entire political organizational structure of the district.

If the district is made up of multiple counties or multiple portions, there may be an additional level of representation at the county level. A county committee may be elected by each county's registered voters or appointed to their office by the elected board of directors. If the county committee is elected, the election process is normally in conjunction with the directors' election. If the county committee is appointed, the process used may be determined by the board. The county committees provide the district and the board of directors with a closer working relationship with the people within each of the member counties. The county committees should meet on a regular basis with the director representing that county, district manager and/or staff to conduct business such as reviewing water well permits, staying informed of any new developments in water-related issues relevant to the area, and to voice their opinions concerning local problems and possible remedies.

Staff

Regardless of whether the district is a single-county or multi-county district, the staff organization will depend on the financial base and activity level of the district. There is no time requirement as to when staff is to be employed. Chapter 36 simply says the board may hire staff and a general manager

to operate the district. At a minimum, the Board of Directors will hire a district manager, whether full-time or part-time, to carry out the day-to-day operations and responsibilities of the district. There are several approaches used in regard to hiring a manager for the district.

1. Hire the manager during the first stages of district operation. The manager can help in the development of the management plan, rules, programs, and take care of the daily operations of the district from the beginning. This certainly has its advantages, especially if the manager has knowledge of the general operations of a groundwater district.
2. Develop the management plan and rules before hiring a manager. A board may be able to develop a management plan and rules for the district without any outside assistance. They can then hire the staff and be able to provide an outline of the work they require. This approach requires more on the part of each director in addition to one or more directors being willing to handle the day-to-day operations.
3. In districts composed of a single county, the manager may be one of the directors, provided compensation is set by the other directors (Water Code, Section 36.056). This director may continue to be the manager if at some point in time another director takes their place on the board.

A secretary may be employed to handle the district's work related to information, data collection, communications, filing and the record-keeping. In practice, such a "two-person" staff organization is common. The board may delegate to the general manager the authority to employ all persons necessary for the proper handling of the business and operation of the district and to determine the compensation to be paid all employees other than the general manager.

In contrast to "two-person" district staff organizations, several districts have more elaborate organizational structures, including a staff in excess of ten full-time employees with a variety of skills. This organizational structure is based on functional areas, with employees hired for and assigned specialized responsibilities. This allows for a broad base of expertise and consequently an in-depth program for the district.

A small district staffed by one or two people has neither the time nor the combined expertise to offer as many programs as a district with a larger staff. On the other hand, a small district has less territory to cover and can do a first-rate job of serving its people with planning and dedication to the goals of the district. If the need arises for a special project or program, it may be considered in the best interest of the district to contract the work to be performed rather than hiring additional staff.

FACILITIES AND EQUIPMENT

An office or office space is necessary for conducting the business of the district, regardless of the length of time the district has been in operation. A place to file all the documents involved in the creation process up to this point is necessary. Chapter 36 and other codes and laws the district must

follow require that records be kept and certain documents be filed. The following are items and issues to consider when deciding on the best office arrangement for a district:

When a District is started, two important factors in choosing an office are visibility and easy access for the people. Office space requirements will be determined by the staff size and the level and types of activities the district plans to pursue. Additional space is needed periodically for board meetings, public hearings or other meetings. Space must also be provided for files and other data and records storage. In choosing office space, several alternatives may deserve consideration:

- Contribution - Existing office space may be made available to the District through contribution or donation. Courthouse office space and/or use of public facilities for meetings, etc., may be arranged.
- Lease/Rental - For some districts, especially those just getting started, short-term arrangement through lease or rental agreements may be desirable.
- Purchase Existing - The purchase of existing buildings or other facilities may be considerably less costly than new construction. Remodeling may be necessary, but could be postponed if funds are not readily available.
- Construct New (Temporary) - If the District is able to purchase property in a desirable location, temporary facilities may be constructed or prefabricated buildings moved to the site. Later, expansions or replacements may be constructed.
- Construct New (Permanent) - New, permanent facilities may be constructed. However, this is recommended primarily for well-established districts.

Office equipment requirements will vary with the size of programs and the types and level of activities conducted by the District. At a minimum, each District should have a telephone, typewriter, and file cabinets for storing records, data and other essential information. Other equipment that may be necessary (or at least desirable) include a photocopying machine, calculator/adding machine, office furniture (desks, chairs, tables, etc.), computer/printer/software (word processing, bookkeeping, etc.), telefax machine, and telephone message recorder.

Field equipment will be needed if the district is to provide any services to the residents in regard to the quantity of water produced, the pumping and static water levels, or water quality monitoring. The district may provide a vehicle for the staff or pay mileage for use of personal vehicle for district business.

The following alternatives may be considered with respect to acquiring equipment:

- Purchase (New) - Although usually the most expensive alternative, new purchases carry the advantage of manufacturer's warranties. In addition, exact specifications help to insure that the purchaser receives exactly what is desired.

- Purchase (Used) - Used equipment is less expensive than new, but the purchaser takes a risk. Some good "bargains" may be found through the Texas Surplus Property Agency, with locations in Fort Worth, Houston, Lubbock and San Antonio.
- Borrow - May be desirable for short-term situations, as long as such activities do not strain relationships between the lender and the borrower.
- Lease/Rent - Good for solving many needs, particularly those of a short-term or intermediate nature, or those requiring frequent service (e.g., copy machines).
- Utilize Existing Services - Many operational needs may be satisfied through the use of existing commercial services, such as typing, photocopying, printing, computer, etc.

C. Management Plan

Under the Water Code, Section 36.1071, it is the responsibility of the district's board of directors to determine the short-term and long-term goals of the district by developing a comprehensive management plan which addresses the following management goals, as applicable:

(1) providing the most efficient use of groundwater;

(2) controlling and preventing waste of groundwater;

(3) controlling and preventing subsidence;

(4) addressing conjunctive surface water management issues; and

(5) addressing natural resource issues.

The district management plan and amendments to it must be certified by the executive administrator. A district management plan can serve several purposes, including the following:

1. To identify the major groundwater problems of the district and possible solutions to those problems as a focus point for the activities of the district,
2. To be used as a framework to launch programs of the district to deal with these concerns,
3. To guide budgeting and program activities of the district, and
4. To make community members aware of the goals of the district and programs necessary to achieve these goals.

If a district is to be run in a "management by objectives" format, the management plan represents the district's objectives.

Plan Components and Monitoring

Although many similarities will exist, each district's management plan will be unique because each

district's goals, objectives and performance standards will differ. A management plan should indicate specific goals (i.e., eliminate contamination, reduce depletion, educate the public on ways to protect the quality and conserve groundwater) and program activities which are directed toward these goals (i.e., pass and enforce rules to protect the groundwater from human activities which might contaminate the groundwater, pass and enforce rules to eliminate waste of water, publish and distribute newsletters to inform the public on water-related issues). Monitoring or tracking of district activities is important in evaluating progress toward achieving the district goals.

Where two or more districts exist within a management area designated by TNRCC, each district shall forward a copy of the new revised management plan to the other districts in the management area. (Texas Water Code, Section 36.108). An example of a management plan is included in the Appendix.

D. RULES

The development and enforcement of district rules represent the most important policy-making activity of any district. Rulemaking represents one of the expressed powers and duties that a district has under subchapter D of Chapter 36. Relevant sections include:

1.Rule-Making Power. A district may make and enforce rules to provide for conserving, preserving, protecting, recharging, controlling subsidence and preventing waste of a groundwater reservoir or its subdivisions and to carry out the powers and duties provided by this chapter.

2. Enforcement of Rules.
    a. The district may enforce its rules by injunction, mandatory injunction, or other appropriate remedy in a court of competent jurisdiction.
    b. The board may set reasonable civil penalties for breach of any rule of the district that shall not exceed the jurisdiction of a justice court as provided by Section 27.031, Government Code.

3. Rules Reasonable; Appeal of Rules.
    c. The rules adopted by a district must be reasonable.
    d. A person may appeal the reasonableness and validity of a rule adopted by a district as provided by Subchapter H of Chapter 36.

Rule-Making Process

Some districts have adopted a legalistic approach to rule-making; legal counsel is asked to draft the

appropriate rule for the district. Given the increasing volume of litigation in American society and the fact that rules can be appealed, such an attitude may be understandable. However, courts have recognized the power of districts to set rules subject to their reasonableness. Uniform rules, treating all user groups equally, which are not confiscatory of property, are generally deemed to be reasonable. Adoption of rules similar to those of existing groundwater districts are likely to be reasonable if the underlying hydrological conditions and socioeconomic situations are similar. The district shall adopt rules necessary to implement the management plan (§36.1070 (f)).

An alternate approach in rule-making is the pragmatic approach. The manager and board recognize an underlying problem, then devise a solution and express it as a proposed rule in plain language, incorporating any technical language or specification considered necessary (i.e., diameter of pipe and distances in well-spacing regulations). The approved draft of the rule may then be sent to legal counsel for an opinion on whether or not it conforms to language and requirements of the Texas Water Code. This task may be simplified for newer districts as there is sufficient historical and legal precedent of the rules adopted by many of the more established districts. These district rules can be used as a "model" and adapted to local district concerns. (See Appendix for addresses and telephone numbers of existing districts.)

To insure widespread acceptability of proposed new rules, some districts involve the general public by holding public meetings. This allows the district a two-way communication with the public to: 1) explain the need for the rule and its specification, and 2) receive public feedback. In such a manner, the district may modify its proposed rule to reflect the additional information received and to obtain greater district acceptance before formal action is taken by the board.

Adoption of the proposed rules requires a public hearing and formal action by the board of directors at a regular board meeting held in accordance with the Open Meetings Act. A quorum of the board can approve or disapprove any proposed rule and indicate the effective date of the applicability.

Amended Rules

Amended rules involve modifications or additions to existing rules. With time and experience the district may find that one or more of its rules is no longer appropriate in its current language. Such amended rules go through the same process for the original rule.

Rule Implementation and Enforcement

Once a district rule becomes effective, methods to implement the rule district-wide become important. Widespread public dissemination of the rule and its purpose should be undertaken through the various channels of communication available to the district such as press releases and newsletters. Public education and awareness tend to foster public acceptance and understanding of the districts rule-making intent.

Implementation of district rules must address ways to deal with noncompliance, whether due to innocent oversight or outright disregard, by district residents. The following steps might be appropriate and rely initially on voluntary compliance:

1. Send a notice detailing what the district rule is and that it carries the force of the law.
2. Notify the party that they are in noncompliance with the rule and that the district expects voluntary compliance within a stated time period.

    (a) The district may offer to bring the violation into compliance (i.e., closure of abandoned well) at cost of services.

    (b) With continued non-response, or noncompliance, the district might send notice of intent to seek legal remedies and then follow up with the same (i.e., reasonable civil penalties or injunction to compel compliance, lien) after a stated time has lapsed.

In the overwhelming majority of cases, noncompliance is due to a lack of awareness of the rule. Therefore, a policy of gradually increasing stringency, coupled with public education and voluntary compliance, is preferable.

CHAPTER VI

LEGAL REQUIREMENTS

After the creation of a district, there has generally been a period of "wasted effort" before constructive activity begins. Frequently district directors, managers and staff members in a "first-time" situation are overwhelmed by the vast array of legal, technical and/or procedural requirements facing them. Even though their specific responsibilities are essentially spelled out in one or more sections of the Water Code, Election Code, Tax Code, Open Records Act, Open Meetings Act or other legal documents, the sheer bulk and sometimes confusing language contained in these documents can be intimidating. In fact, such concern for "doing the right thing" may hinder a district's progress in establishing programs and activities and in rule making.

A. CHAPTER 36 OF TEXAS WATER CODE

Chapter 36 of the Texas Water Code prescribes the creation, administration, powers, duties and finances of groundwater conservation districts in Texas. The provisions of Chapter 36 apply to all groundwater conservation districts. Other laws governing the administration or operations of districts created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, do not apply to any district governed by Chapter 36. This chapter prevails over any other law in conflict or inconsistent with this chapter, except that any special law governing a specific district prevails over this chapter. (Special laws are usually stated in the district's creation legislation.)

Subchapter C of Chapter 35 discusses the creation of districts or addition of land to a district in Priority Groundwater Management Areas. Subchapter B of Chapter 36 addresses district creation and boundaries. Subchapters C, I, and J of Chapter 36 cover administrative and procedural provisions for district organization. Districts are charged with duties which can be described as either mandatory or encouraged. Subchapters D through G cover these duties. A brief listing of the duties follows. A chart is included in the Appendix which identifies various duties the district may do and ones they shall or must do.

Mandatory Duties

A district must:

- Hold regular meetings at least quarterly, and the meetings shall be conducted and notice posted in accordance with the Open Meetings Act, Chapter 551, Government Code. (36.064)
- Keep a complete account of all its meetings and proceedings, and shall preserve it minutes, contracts, records, notices, and other records, and have a records management program. (36.065. Records).
- Develop a comprehensive management plan for providing the most efficient use of groundwater, controlling and preventing waste of groundwater, controlling and preventing subsidence, addressing conjunctive surface water management issues, and addressing natural resource issues

applicable to the district (36.1071. Management Plan),

- Adopt rules necessary to implement the management plan (36.1071. Management Plan),
- Adopt amendments to the management plan as necessary (36.1071. Management Plan),
- Require that records be kept and reports be made of the drilling, equipping, and completing of water wells and of the production and use of groundwater (36.111. Records and Reports),
- Require that driller's logs of water wells be kept and filed with the District (36.112. Drillers's Logs),
- Require permits for the drilling, equipping, or completing of wells or for substantially altering the size of wells or well pumps (36.113 Permits for Wells),
- Upon request of the Texas Natural Resource Conservation Commission or the Texas Water Development Board, the district shall make available information which the district acquires concerning groundwater resources, plans, and activities for groundwater conservation and protection (36.120. Information).
- Operate on the basis of a fiscal year (36.152. Fiscal Year),
- Have an audit of financial accounts prepared annually (36.153. Annual Audit).
- Prepare and approve an annual budget (36.154 Annual Budget).
- Name one or more banks to serve as depository for the district funds (36.155),

Encouraged Duties

Subchapters D through G describe numerous encouraged duties and activities for districts. These subchapters allow freedom for districts to provide services as needed by the district for the management of the resource.

The district may:

- Make and enforce rules to provide for conserving, preserving, protection, recharging, and preventing waste of the groundwater (36.101. Rulemaking Power),
- A district may build, acquire, or obtain by any lawful means any property necessary for the district to carry out its purpose and the provisions of this chapter. The district may acquire land to drain lakes, depressions, draws, and creeks; and install pumps and other equipment necessary to recharge the groundwater reservoir (36.103. Improvements and Facilities).
- Make surveys of the groundwater reservoir or subdivision and surveys of the facilities for development, production, transportation, distribution, and use of the water (36.106. Surveys),
- Carry out research projects, 36.107. Research),
- Collect any information the board deems necessary, including information regarding the use of groundwater (36.109. Collection of Information),
- Publish its plans and the information it develops (36.110. Publication of Plans and Information),

- Provide for the spacing of water wells and regulate the production of wells (36.116. Regulation of Spacing and Production),
- Enforce its rules by injunction, mandatory injunction, or other appropriate remedy in a court of competent jurisdiction (36.102. Enforcement of Rules),
- Levy taxes on an annual basis to pay bonds, operating and maintenance expenses (36.201 Levy Taxes),

Districts have been given great flexibility in determining what powers they will exercise. This allows for the development of strong, active districts to best serve the needs of a specific area in the conservation and preservation of groundwater resources. They are governed by an elected board who determines what powers and duties they need for the best management of the resource within their district. The local board also develops and adopts the various rules, programs, policies and practices the district will have. Because the board is elected by the local voters, they must stay informed of the needs of the people within the district.

C. ELECTIONS

All water district elections must be held in accordance with the Texas Election Laws. The complete text of the election laws is available from Hart Graphics, 11500 Metric Blvd., Suite 300, Austin, Texas 78758-4043. In some cases the district may be able to contract with another entity to conduct the election. One of the entities to contact for this service is the county clerk. If a county has an election administrator, that administrator is required by law to contract to conduct the election if requested by the district. Another entity to contact is the local school district. Since the school districts are already having elections, they will often contract with the local water district to conduct the election for either a flat rate or a cost share. This reduces the cost of both entities to hold elections.

Chapter 36 of the Water Code carries a few specific provisions concerning elections in regard to the creation of a new district or the annexation into and/or consolidation of districts. Legislatively-created districts may carry specific provisions in relation to that district. In cases where the enabling legislation for a district differs from the Water Code and/or the Election Code; the specific instructions in the enabling legislation prevails.

The following information is for quick reference in planning and conducting an election. The major activities of the election process, along with the law reference covering each vicinity, are listed on a chart in the Appendix.

A quick and easy way to schedule all the activities of an election is to enter the election date on a planning calendar and then count days backward or forward from the election date to enter each activity.

Election Date (Election Code, Section 41.001)

With a few specific exceptions, all elections must be held on one of four uniform election dates:

- The 3rd Saturday in January,
- The 1st Saturday in May,
- The 2nd Saturday in August, or
- The First Tuesday after the 1st Monday in November in odd-numbered years.

The date of the election of board members may be set by the enabling legislation of the district or by other special legislation passed for the benefit of the district.

After the date of the election is determined, the board must officially order the election. However, if directors are to be elected at the election, there are other requirements which must be met and deadlines for each must be considered after the election date is established. These requirements include filing deadlines for candidates and possible declaration of an unopposed candidate.

Order of Election (Election Code, Section 3.005, 3.006 and 3.008)

The Board of Directors of the district must order the election at least 45 days before the election is to be held and enter the order in the official records.

The prescribed contents of the order must include the date of the election and the offices or measures to be voted on. In addition, information in regard to early voting is required.

Notice of Election (Election Code, Section 4.003 and 4.004)

The language in the Election Code is long and may be confusing. In practice, the Notice of Election should be posted, if possible, everywhere a notice is normally posted for any public meeting held within the area of the election. The notice must be posted at least 21 days before the election.

In addition, the Notice of Election must be published once in a newspaper with general circulation in the county or counties in which the district is located. Notice must be published at least once, not earlier than the 30th day or later than the 10th day before the election day.

The Notice of Election must include:

- The nature and date of the election,
- The location of each polling place, unless the notice is being posted in each voting precinct (in

which case the notice does not have to list the voting places in other precincts),

- Location of early voting polling place(s) and days and hours early voting polling place(s) will be open,
- The hours that the polls will be open on election day,
- The offices to be filled or the proposition stating the measure to be voted on,
- The names and addresses of the election officers, and
- Any other information required by other law (Election Code, Section 4.004).

Notice to Election Judge (Election Code, Section 4.007)

At least 15 days before election day or 7 days after the election order, whichever is later, the presiding judge of each election precinct must receive a written notice containing:

- The nature and date of the election,
- The location of the polling place to be served by the judge,
- The hours that the polls will be open,
- The judge's duty to hold the election in the precinct specified by the notice,
- The maximum number of clerks that the judge may appoint for the election,
- The name and address of the alternate election judge. The notice sent to the alternate election judge must contain the name and address of the presiding judge (Election Code, Section 32.009).

Filing Deadlines for Director Elections

The filing deadline for a candidate's name to be placed on the ballot is 45 days before the date of the election (Election Code, Section 144.005).

The filing deadline for a write-in candidate is 5 days after the deadline for application for candidate's name to be placed on the ballot (Election Code, Section 146.054). Write-in candidacies for any district office shall be governed by Subchapter C, Chapter 46, Election Code (Section 146.051 through Section 146.055).

Election of Unopposed Candidate (Subchapter C. Section 2.051 through Section 2.054)

In the event that only one candidate makes application for their name to be placed on the ballot in accordance with Section 144.005 and no candidate has made application to run as a write-in, the board may declare that the candidate is elected and not hold the election for that office.

Campaign Reporting (Election Code, Section 254.001 through 254.205)

Every candidate for public office must file an accounting of campaign funds received and expended. There are three reporting periods. If the candidate expects no reportable activity to occur after the period covered by a report, he may designate the report as final.

Time and Place of Elections (Election Code Section 41.001 through Section 43.034)

When a district is deciding on polling places within directors' precincts, they should consider other entities that are holding an election at the same time. This offers the opportunity to share the various needs of the district with other entities and reduce the cost of holding the election. They can share the same polling location, some of the same election clerks, poll watchers, translators, use the same notices at the polling location and help with the tabulation of the votes during and after the election.

An example:

> Within a multi-county district, the same school district covers parts of two directors' precincts. One of the election precincts for each of the directors is held at the same polling place and at the same polling place as the school district election. The district uses a separate judge for each of the directors' precincts but uses some or all of the same clerks for both elections. This has saved the district money each time an election is held. This same district has defined all of the voting precincts for each director precinct to coincide as closely as possible with the various school district boundaries.

Voting

Early Voting (Election Code, Title 7, Section 81.001 through 113.006)

Early voting begins on the 17th day before Election Day and continues through the 4th day prior to Election Day. For elections held by a political subdivision, the governing body appoints the early voting clerk. This clerk must be a resident of the district and may be an employee of the district. The district may contract with the county clerk to hold the early voting or they may want to use the same clerk as another entity holding an election during the same time as the district election.

Canvass Returns and Certificate of Election (Election Code Chapter 67, Section 67.001 through 67.016)

The returns must be delivered to the Board of Directors for canvassing. Canvassing must be done not earlier than the third day or later than the sixth day after the election. An official tabulation must state the number of votes received for each candidate, votes cast for and against each measure in each precinct and the precinct totals. All voting materials, including the official tabulation, must be preserved for 60 days following the election.

The presiding officer of the canvassing authority must prepare a certificate of election for each candidate who is elected to an office.

Meeting the time frame required for the board to canvass the election may require that a special meeting of the board be called. However, at this meeting new directors may be sworn in and other business of the district may occur.

Voting Supplies

All forms needed for elections can be obtained from Hart Graphics in Austin. Forms can also be made by the district, as long as the requirements set by the Secretary of State's office are followed. Forms which are typed and photocopied are acceptable and much less expensive than those which are purchased. Forms can also be obtained from the Secretary of State office over the internet.

U.S. Justice Department Preclearance

Under the Federal Voting Rights Act, any change in election procedure is subject to Preclearance from the Justice Department. Both the envelope and the submission should state that it is a "Submission Under Section 5, Voting Rights Act." Send to: Assistant Attorney General, Civil Rights Division, Voting Section, U.S. Department of Justice, P.O. Box 66128, Washington, D.C. 20035-6128. The telephone number is (202) 724-5767.

Bilingual Requirements

In any county subject to Section 427, U.S. Code, Sec. 1973 b, Subsection. (f) and Sec. 1973 aa-1a, all election materials must be in both English and Spanish. The published or posted Order of Election does not require a Spanish translation. The notice of Election does need to be translated. A paragraph in Spanish stating that a full translation is available at the district's main office is sufficient for the posted and published versions. Be sure to have the translation available.

D. DISTRICT FINANCES

The rules governing district finance are covered in the Texas Water Code Chapter 36 Subchapter E. Sections 36.151 through 36.205. The Public Funds Investment Act also applies to groundwater districts. This act was amended in 1997 and requires investment officers of the district to attend an investment training session not less than once in a two-year period and receive not less than ten hours of instruction relating to investment responsibilities from an independent source approved by the district board.

The regulations in the Water Code are, for the most part, self-explanatory in regard to district finances. The following is the language included in Subchapter E.

§ 36.151. EXPENDITURES.

(a) A district's money may be disbursed only by check, draft, order, or other instrument.

(b) Disbursements shall be signed by at least two directors, except the board may by resolution allow certain employees of the district, or a combination of employees and directors, to sign disbursements on behalf of the board.

(c) The board may by resolution allow disbursements to be transferred by federal reserve wire system to accounts in the name of the district.

§ 36.152. FISCAL YEAR.

(a) The district shall be operated on the basis of a fiscal year established by the board.

(b) The fiscal year may not be changed during a period in which revenue bonds of the district are outstanding or more than once in a 24-month period.

§ 36.153. ANNUAL AUDIT.

(a) Annually, the board shall have an audit made of the financial condition of the district.

(b) The annual audit and other district records must be open to inspection during regular business hours at the principal office of the district.

§ 36.154. ANNUAL BUDGET.

(a) The board shall prepare and approve an annual budget.

(b) The budget shall contain a complete financial statement, including a statement of:

(1) the outstanding obligations of the district;

(2) the amount of cash on hand to the credit of each fund of the district;

(3) the amount of money received by the district from all sources during the previous year;

(4) the amount of money available to the district from all sources during the ensuing year;

(5) the amount of the balances expected at the end of the year in which the budget is being prepared;

(6) the estimated amount of revenues and balances available to cover the proposal budget; and

(7) the estimated tax rate or fee revenues that will be required.

(c) The annual budget may be amended on the board's approval.

§ 36.155. DEPOSITORY.

(a) The board shall name one or more banks to serve as depository for the district funds.

(b) District funds, other than those transmitted to a bank for payment of bonds issued by the district, shall be deposited as received with the depository bank and shall remain on deposit. This subsection does not limit the power of the board to place a portion of the district's funds on time deposit or to purchase certificates of deposit.

(c) To the extent that funds in the depository are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of funds by the Public Funds Collateral Act, Chapter 2257, Government Code.

§ 36.156. INVESTMENTS.

(a) Funds of the district may be invested and reinvested in accordance with the provisions of the Public Funds Investment Act, Chapter 2256, Government Code.

(b) The board, by resolution, may provide that an authorized representative of the district may invest and reinvest the funds of the district and provide for money to be withdrawn from the appropriate accounts of the district for investments on such terms as the board considers advisable.

§ 36.157. REPAYMENT OF ORGANIZATIONAL EXPENSES.

(a) A district may pay all costs and expenses necessarily incurred in the creation and organization of a district, including legal fees and other incidental expenses, and may reimburse any person for money advanced for these purposes.

(b) Payments may be made from money obtained from the sale of bonds first issued by the district or out of maintenance taxes or other revenues of the district.

§ 36.158. GRANTS.

A district may make or accept grants, gratuities, advances, or loans in any form to or from any source approved by the board, including any governmental entity, and may enter into contracts, agreements, and covenants in connection with grants, gratuities, advances, or loans that the board considers appropriate.

§ 36.159. GROUNDWATER DISTRICT MANAGEMENT PLAN FUNDS.

The Texas Water Development Board may allocate funds from the water assistance fund to a district to conduct initial data collections under this chapter, to develop and implement a long-term management plan under Section 36.1071, and to participate in regional water plans.

§ 36.160. FUNDS.

The Texas Water Development Board, the commission, the Parks and Wildlife Department, the Texas Agricultural Extension Service, and institutions of higher education may allocate funds to carry out the objectives of this chapter and Chapter 35, which include but are not limited to:

(1) conducting initial and subsequent studies and surveys under Sections 36.106, 36.107, and 36.109;

(2) providing appropriate education in affected areas identified in Section 35.007 relating to the problems and issues concerning water management that may arise;

(3) processing priority groundwater management area evaluations under this chapter and Chapter 35;

(4) providing technical and administrative assistance to newly created districts under this chapter and Chapter 35;

(5) covering the costs of newspaper notices required under Sections 35.009 and 36.014 and failed elections in accordance with Sections 35.014(c), 36.017(h), and 36.019; and

(6) providing for assistance from the Parks and Wildlife Department to the Texas Water Development Board or a district for the purpose of assessing fish and wildlife resource habitat needs as they may apply to overall management plan goals and objectives of the district.

§ 36.161. ELIGIBILITY FOR FUNDING.

(a) The Texas Water Development Board may provide funds under Sections 36.159 and 36.160, Chapters 15, 16, and 17, and Subchapter L of this chapter to a district if the Texas Water Development Board determines that such funding will allow the district to comply or continue to comply with provisions of this chapter.

(b) The Texas Water Development Board may, after notice and hearing, discontinue funding described in Subsection (a) if the Texas Water Development Board finds that the district is not using the funds to comply with the provisions of this chapter.

(c) The Texas Water Development Board, when considering a discontinuance under Subsection(b), shall give written notice of the hearing to the district at least 20 days before the date set for the hearing. The hearing shall be conducted in accordance with Chapter 2001, Government Code, or the rules of the respective agency. General notice of the hearing shall be given in accordance with the rules of the agency.

(d) The Texas Water Development Board may delegate to the State Office of Administrative Hearings the responsibility to conduct a hearing under this section.

E. DISTRICT REVENUES

Levy of Taxes

If the district has taxing authority, the board may levy taxes on an annual basis. The annual tax levy may be for repayment of bonds issued by the district and/or for maintenance and operating expenses of the district. The annual tax rate may not exceed 50 cents on each 100 dollars of assessed valuation or the maximum tax rate adopted by the voters (§36.201. Levy of Taxes). A district may not levy a tax unless an election has been held within the district and the voters of the district approved an annual tax rate.

Board Authority.

The board may levy taxes for the entire year in which the district is created or in which territory is added. A board must levy a uniform tax rate on all taxable property throughout the district (§36.202).

Tax Rate

In setting the tax rate for the district the board must take into consideration any other income to the district. This income may be interest on investment, any fees charged by the district, sale of equipment and any other income the district may expect for the upcoming year. After the tax rate is adopted by the board they must certify it to the assessor-collector (§36.203).

Tax Appraisal, Assessment, and Collection

The Tax Code governs the appraisal, assessment, and collection of district taxes. The board may, at its own discretion, provide for the appointment of an assessor-collector for the district or may contract for the assessment and collection of taxes as provided by the Tax Code (§36.204).

In addition to Chapter 36, the Property Tax Code applies (a copy of the Property Tax Code is included in the Appendix). The formulas prescribed for the setting of the tax rate can be found in the publication Truth in Taxation, A Guide for Setting Tax Rates, published annually by the State Property Tax Board (SPTB). The local tax assessor/collector and/or the appraisal district can be of great help in understanding taxation procedures. Don't forget to consult with them.

The Property Tax Code requires taxing units to comply with "truth-in-taxation" laws in setting their tax rates. Since these regulations may change from one tax year to another, the State Property Tax Board should be consulted each year before the tax rates are set. Each year's publication outlines the steps to be taken to determine the "effective tax rate". The "effective tax rate" is the rate which will produce the same revenue as was collected in the previous tax year. This rate is calculated through the use of a worksheet from the Truth in Taxation brochure. The following are steps toward setting the district tax rate:

(a) The appraisal district(s) will send a notice to taxpayers, called "notices of appraised value" about May 15 of each year. This notice is to inform the taxpayer of the taxable value of his property for the upcoming tax year. The appraising entity must certify the taxable values to the

taxing entities no later than the last of July so that the tax rates can be set.

(b) Once the district has the certified property values, the "effective tax rate" can be calculated and published, along with the "rollback" tax rates. This legal notice is required by law to be published in a newspaper of general circulation. The notice must conform with the SPTB model form (see the Appendix). This notice must be published before the tax rate is set. Entities which assess and collect taxes for the district may provide this service. Districts in which property is taxed in more than one county must publish the effective tax rate and the rollback tax rate for the entire area the district covers. To calculate the various tax rates, the total appraised value must be used rather than calculations based on each individual county's values. In this case it is usually best if the district publishes its own effective tax rate notice.

(c) If the proposed tax rate based on the total taxable value for the current year is calculated to collect more tax revenue than the proceeding year tax revenue, a hearing must be held after proper notice of the meeting is printed and published in accordance with the Open Meetings Act. After the hearing, a "notice of vote on tax rate" must be published giving the time and place of the public hearing held on the increase and specifying the percentage of increase over the effective tax rate and giving the time and place at which the vote on the tax rate is scheduled.

Authority to Set Fees

The district has the authority to set administrative fees, as long as it does not unreasonably exceed the cost of the administrative function for which the fee was charged. A fee shall be set for any services provided outside the boundaries of the district. A district may not charge production fees unless it has specific authority to do so in its enabling legislation. If a production fee is charged for the amount of water withdrawn from a well, the amount can not exceed one dollar per acre foot of water for irrigating agricultural crops, or 17 cents per thousand gallons of water for any other purpose. The total amount of water use fees assessed cannot exceed 60 percent of the total funding the district receives from a municipality (§36.205).

A temporary board may set user fees to pay for the creation and initial operation of a district, until such time as the district creation has been confirmed and a permanent board has been elected. The rate of fees set for crop or livestock production or other agricultural uses shall be no more than 20 percent of the rate applied to municipal uses (§36.206).

A district may use funds obtained from permit fees collected for any purpose consistent with the district's certified water management plan (§36.207).

F. LEGAL NOTICES

Many of the activities of a water district require that notice be published and/or posted in a prescribed

way. Any required notice must be published in a newspaper of general circulation within the district and must be clearly headed LEGAL NOTICE.

G. OPEN MEETINGS

Since groundwater conservation districts are political subdivisions of the state, meetings of their boards are subject to the Texas Open Meetings Act and all records of the district are subject to the Texas Open Records Act. This means that any gathering of the board, for other than social purposes, attending conventions, etc., requires that notice of the meeting be posted and that a few simple rules be followed in conducting the meetings.

Although the law is somewhat intimidating, in practice there is no difficulty in complying with it. If a sincere effort is made to list all items of business on the agenda and post notice of all meetings, problems will be rare. This will bring the action in compliance with the Texas Open Meetings Act.

The following Guidelines were taken from a copy of the Attorney General's Handbook on the Texas Open Meetings Act, which provides full explanation of the ramifications of the Act.

A copy of the Government Code, Chapter 551, Open Meeting Act is included in the Appendix.

Determining When the Open Meetings Act Applies

a. All "meetings" held by the district must be open to the public unless an executive session is expressly permitted. A meeting may be defined as a gathering of a quorum, or majority, of the members of the board of directors for the purpose of addressing any public business or public policy under the influence of the district.

b. All "deliberations" between a quorum of members of a governmental body constitute "meetings" subject to the act. Deliberations may be defined as a verbal exchange during a meeting between a quorum of board members or between a quorum of the board and any other person over an issue under the district's jurisdiction.

c. A meeting of a committee of the board, or a committee composed of representatives of more than one board, where less than a quorum of any one board is present is not subject to the provisions of the Open Meetings Act, Chapter 551, Government Code §36.064 (b).

Complying with the Texas Open Meeting Act.

a. All meetings must be preceded by public notices. The notice must include the date, hour, place, and subject of the meeting.

b. The act requires that notices be readily accessible to the general public, and posted at least 72 hours preceding the scheduled time of a regular or special called meeting. The notice

must be posted where it can be seen, which means that if the building closes, the notice must be in a position to be read from the outside of the building.

c. The act requires notice that will reasonably inform the public of subjects to be discussed.

d. Notices for "emergency" meetings must state the reason for the emergency. Only imminent threats to public health and safety or reasonably unforeseeable situations requiring immediate action constitute emergency, and urgent public necessity under the law. Notice for emergency meetings must be posted at least 2 hours before the meeting and the reason for the emergency must be clearly identified in the notice.

Closed Sessions

Closed sessions may be held only when expressly authorized under the Open Meetings Act and when certain procedural requirements are met.

a. Executive sessions must be preceded with prescribed notice and with a properly convened open meeting.

b. No final action may be taken in closed session. The final decision must be taken in open session.

c. The Open Meetings Act contains specific, narrow provisions authorizing executive sessions. During the open meeting, the presiding officer must announce that a closed will be held and identify the section or sections under the Open Meetings Act authorizing the holding of such closed meeting. A water district is most likely to hold executive sessions on one of three topics. Section 551.071 authorizes the board to hold closed sessions for certain consultations with their attorneys. Section 551.072 authorizes closed sessions for the discussion of matters pertaining to real property under certain conditions. Section 5512.074 allows executive sessions to discuss personnel matters unless the officer or employee who is the subject of deliberation requests a public hearing.

d. Governmental bodies must keep a "certified agenda" or tape of a closed session. An announcement must be made by the presiding officer at the beginning and end of the executive session indicating the date and time. The subject of each deliberation must be stated. The board must preserve the certified agenda or tape for at least two years after the date of the meeting.

Other Provisions

Certain procedural requirements, in addition to notice, apply to meetings of governmental bodies.

a. A governmental body must ordinarily meet and act as a body. All members of the board must be given notice of all meetings and given the opportunity to attend.

b. The Open Meetings Act requires governmental bodies to prepare and retain minutes and/or a tape of each of its open meetings. The minutes must state the subject matter of each deliberation and indicate each vote, order, decision or other action taken by the board. The

minutes or tapes prepared under this section must be kept permanently and are public records.

c. The Open Meetings Act grants the public a right, subject to reasonable rules, to record open meetings by means of a tape recorder or video camera. All or any part of the proceedings of a public meeting may be recorded by any person in attendance. The board may, however, adopt rules to maintain order at the meeting place. These rules may include the location of equipment and manner of recording, as long as they do not prevent camera coverage or tape recording. **The Open Meetings Act does not grant the public a right to speak at or control public meetings. It only provides for access to public meetings.**

H. OPEN RECORDS

The Board by resolution shall appoint a district records manager officer and file his/her name with the Texas State Library. All information collected by the district is subject to the Open Records Act. A simple rule of thumb is that any information that the district has must be available to whomever wants to see it, unless it is an exception under the law. A copy of the complete text of Government Code, Chapter 552, Open Records Act is in the Appendix.

The information may be provided in the form that it exists. There is no requirement to assemble information nor to compile it into a desired form. Also, for a request of more than 50 pages, actual costs for copying, etc., including the employee's time, may be billed to the requestor. Technically, only written requests must be honored and a request must be specific.

"The Attorney General's Handbook on the Texas Open Records Act" is available free and provides detailed information about the Open Records Act. If there is doubt concerning whether or not requested materials may be an exception, the Attorney General's Office can be asked for an opinion. A copy of the material in question must accompany the request for an opinion.

The Board shall adopt and file with the Texas State Library - State and Local Records Management Division a records retention schedule. Form (SLR 500) for this may be obtained from the Texas State Library.

I. RECORDS MANAGEMENT PROGRAM

The goal of district record-keeping should be to provide recorded information to those who need it, when they need it, and in the most cost-effective manner - whether those who need the information are the governing body, administrators or staff, or members of the public. This goal can only be accomplished by records management; that is, the application of proven management techniques to the creation, use, maintenance, retention, preservation and disposal of records for the purposes of reducing costs and improving the efficiency of record keeping. An effective district records management program should provide for the systematic control of records throughout their life cycle-

from creation, through use and maintenance, to final disposition.

Chapter 36, Subchapter C, §36.065. Records (Texas Water Code) requires a district to preserve its records under the requirements of Chapter 201, Local Government Code. The Local Government Records Act (Chapters 201 to 205) was established in 1989 to establish efficient and uniform standards and procedures for managing local government records and to preserve records of historical value. In effect, §203.047 (Local Government Code) requires that a local government established after September 1, 1989, shall, within one year after the date of its establishment:

1. Appoint a records management officer, §203.025 (Local Government Code);
2. Adopt a records management program by ordinance, order or resolution, §203.026 (Local Government Code); and
3. Either file records control schedules (Form SLR 500, Local Government Records Control Schedule), adopt commission schedules, or declare that all records will be retained permanently, §203.041 (Local Government Code).

Senate Bill 366 (SB 366) enacted by the 74th Texas Legislature and effective September 1, 1995, extended the filing deadline for the records control schedules to January 4, 1999, but did not extend the deadlines for adopting the records management program or the designation of the records management officer. In addition, SB 366 allowed for the filing of a Declaration of Compliance (Form SLR 508) with the minimum requirements established on records retention schedules issued by the Texas State Library and Archives Commission in lieu of completing detailed records control schedules.

As required by the Local Government Code §203.041(a), each local government must develop a records control schedule and file the schedule (Form SLR 500, Local Government Records Control Schedule) for approval with the director and librarian of the Texas State Library and Archives Commission, State and Local Records Management Division, Box 12927, Austin, Texas 78711-2927, (512) 452-9242. If the director and librarian or their designee accepts the records control schedule or amended schedule for filing, it may be used as the basis for the destruction by the local government of records listed on it without additional notice to the director and librarian. If the schedule is rejected for filing, the reasons for the rejection will be stated in writing within a reasonable time to the records management officer and the schedule will need to be corrected and resubmitted. The director and librarian may make it a condition of acceptance of a records control schedule that a record listed on the schedule be transferred to the custody of the commission on the expiration of its retention period rather than being destroyed.

State law also requires that records control schedules previously submitted to the Texas State Library and Archives Commission be reviewed periodically by the records management officer and amendments (Form SLR 520, Amendment to Local Government Records Control Schedule) prepared

as needed to reflect new records created or received by the local government or changes to retention periods (§§203.041(d) and 203.04(c), Local Government Code).

Two copies of Form SLR 540 (Records Control Schedule Certification and Acceptance) must be attached to each records control schedule, amended schedule or amendment to schedule (Forms SLR 500, 520, or their equivalents) submitted for filing with the Texas State Library and Archives Commission. At least one copy of the transmittal sheet must have an original signature.

The State and Local Records Management Division of the Texas State Library and Archives Commission is organized to assist local governments in establishing and implementing records management programs. The staff of the Records Management Assistance unit provides training and consulting services to local government records management officers in all aspects of records management. Classes in basic and advanced records management are offered at the State Records Center, 4400 Shoal Creek Boulevard, Austin, Texas and at various other locations throughout the state. Class training schedules can be obtained by calling the government records consultant at (512) 452-9242.

The Texas State Library and Archives Commission Website can be found at *http://www.tsl.state.tx.us/SLRM/SLRMhome.html* and provides local government records management officers and others involved in government records management ready access to laws, regulations, and other resources for records management in local governments of Texas. A copy of the Local Government Code, Chapters 201 through 205, Local Government Records Act is included in the Appendix.

CHAPTER VII

PROGRAMS AND ACTIVITIES

Groundwater conservation districts are created for the purpose of providing for the conservation, preservation, protection, recharging, and prevention of waste of groundwater. Except for those specifically mandated by Chapter 36 of the Texas Water Code, the programs and activities that a district becomes involved with, to accomplish its objectives, will vary from one district to another. The following sections outline typical programs. In many cases, supporting information can be found in the Appendix.

WELL PERMITTING

The Law: Requirements; Spacing; Production; Restrictions

Subchapter D of Chapter 36 states that a district "shall require permits for the drilling, equipping or completing of wells, or for substantially altering the size of wells or well pumps." The district may "provide for the spacing of water wells and may regulate the production of wells," in order to achieve the goals listed in the Texas Water Code.

Wells exempted from regulation by the Water Code must be completed and maintained, in accordance with the district's rules regarding prevention of waste and pollution of the groundwater, and these wells must be registered with the district.

Forms

Forms used for permitting will be determined by what information is wanted and needed by the district and how the information is to be used. Texas Water Code §36.113 requires the district to require permits for the drilling, equipping, or completing of wells or for substantially altering the size of wells or well pumps and require that an application for a permit be in writing and sworn to. In addition to §36.113 provisions, §36.1131 lists other elements that the district may include in the well permit process.

Descriptions of forms used in the permitting process used by both a large district and a medium-sized district will serve as examples.

The permit application form used by some districts requires:

1. The location of a proposed well, through measurements given in yards, from two non-parallel legal lines and from other wells;
2. Relative position from legal boundaries and other wells, through a diagram drawn to rough scale;

3. Landowner's name and address;
4. Time and date of the permit application;
5. The size and approximate production expected from the well;
6. The legal description of the property on which the well is to be located; and
7. The field well number, which identifies the well on maps and in the files.

The second form that may be used by a district after the well is completed is a registration and log of well. This form duplicates the location of the well by legal description, the size and yield for which the well is to be permitted, the landowner's name and address, and the field well number. The log and well completion information is to be filled in by the driller. Whoever sets the pump is to fill in the information on how the well is equipped and may include any production information, pumping level, description of pump, power source, etc.

Together, these two forms provide a great deal of information to anyone interested in land near the site and in probable water availability.

A well abandonment form is signed by the landowner or his agent, usually when he is about to drill a new well near the old well site. It alerts the district to a possible open hole, as well as informing the owner that the old well site will no longer be given spacing protection.

A district may have forms for extending the time on a permit and for applying for a spacing exception.

Districts may also utilize other forms in the permitting process. The first is an application for a permit to drill and produce water from the district. This form is used for well(s) already completed (or at least partially completed), as well as for new wells to be drilled. It contains most of the same information required on the application form discussed above, but requires additional information such as crop types and number of acres to be irrigated, as well as type of production facilities and conservation measures to be used. A form may be required which will provide information to aid in the evaluation of the effects on the quantity and quality of groundwater in the aquifer resulting from the intended withdrawal. It requires estimates of water level changes and effects on water quality of the aquifer adjacent to the proposed production of water. A form may be used to provide notice and proof of completion of production works. This form is filled out by the applicant. It is used to notify the district of the drilling of the well and to provide geologic information related to the completion. A separate form may be used as the actual permit to drill and produce water. It is issued to the applicant and certifies that the application has been examined and authorizes the applicant to proceed with the construction of the production works, subject to the terms, conditions and limitations specified. The Appendix provides examples of various forms used by districts.

Files and Maps

A file is only useful if the information in it can be retrieved when it is wanted. When most people think of "files", they think of the alphabet. Permits can be filed alphabetically by the landowner's last name. This method is acceptable unless the land is sold or a renter obtains the permit and lists himself instead of the landowner on the form. Some districts use a system of filing by legal description.

For example, a complete set of cross reference files allows the permit information to be located if any piece of information is known. When a new permit application is received, entries can be made using each of the following :

1. United States Geographical Survey (USGS) topographic maps available from Texas Natural Resources Information System (TNRIS) on which district staff can plot well locations may serve as a quick check for spacing from other wells. It also serves as a quick reference to locate wells, when information is needed about a specific well or general information about the area;
2. A pending file, by permit expiration date, with the landowner's name, address and the county;
3. A numerical file by the permit number with the landowner's name;
4. A new permits book which shows the date the permit was received in the office and helps keep track of outstanding permits;
5. An alphabetical listing by the landowner's name which references the legal description of the land on which the well is to be located, along with the field well number; and
6. A legal description file which cross references the landowner's name and the field well number.

Once a log is completed and returned, an entry is made in a "New Wells Completed" book. The permit form, along with the completed registration and log of well form, are then filed in the permanent file by legal description.

For a relatively small amount of time invested in recording the data, this system provides a method that is extremely valuable in developing information about the geologic formation, the amount of water that can be produced in a given area, the depth and thickness of the formation, the depth to the water table, and the location of abandoned wells.

If the district has a computer and database software, all of the information required for a permit may be entered into the database as a separate record. The system may be effectively used to cross-index files by name, well number, filing date, location, etc. The record can then be updated as additional information becomes available. Information in regard to the permit or well can be located through

a "search" for any of the pieces of information contained in the database record. Additionally, this database may be merged or linked with other computer-generated documents. However, be sure to make backups and periodic "hard copies" of all files.

Other filing systems may work as well or even more efficiently. The key, however, is to develop and use a system. The Texas Water Code §36.065 requires the district to keep records and the records are subject to Government Code, Chapter 552 Open Records Act and Local Government Code, Chapter 201, Local Government Records Act. (The Appendix contains copies of these Acts).

B. WATER WELL INVENTORY

An essential, basic tool for accomplishing the objectives of a district is a complete, accurate inventory of all wells in the district. All wells shall be registered with the district, including those which are exempt from permitting requirements of §36.117 . When a district is created, or when an area is annexed, there may be a large number of existing wells to be registered. The registration process can represent a formidable challenge.

A water well inventory can be accomplished by a number of different methods. Some of the more common methods are as follows:

1. Ownership Report -- In this method, a questionnaire is sent to each landowner in the district. The mailing list may be taken from the tax rolls. The information requested would be essentially the same as that required on the permit application for new wells. In fact, a single form may be employed for both registration and permit application. The Appendix provides examples of various forms used by districts.
2. Physical Inspection -- Although time consuming, this method is most frequently employed. It has the advantage of providing district personnel with the opportunity of visiting each landowner and parcel of land in the district, thus insuring that they become thoroughly acquainted with their district. Even if some other method is used initially, inspection can be employed to continuously update the data base.
3. Aerial Photographs and Existing Maps -- Photogrammetry may be employed to locate many existing wells. This method could serve new districts with a relatively fast and efficient method for developing a preliminary data base that could be updated by means of the other approaches. Aerial photographs are available for most areas of the state through County Soil Surveys from the United States Department of Agriculture (USDA) Natural Resource Conservation Service (NRCS) or other maps from the county USDA Farm Service Agency (FSA) offices. The date of any maps or aerial photographs used must be noted, as data taken from the older sources will be most in need of updating. TWDB and TNRIS also have many photographs. USGS topo maps of the 7-1/2 minutes series, water well drillers' books and other data on located wells should be considered.
4. Well Permitting - The well permitting process should be employed as a mechanism for

continuously updating the well inventory data base. As each permit is filed, the information should be made a part of the inventory. Likewise, as each well abandonment is reported, necessary information should be transferred to the inventory.

C. WELL SPACING AND PRODUCTION

Subchapter D, of Chapter 36, permits districts to regulate the spacing and the production of wells, in order to accomplish, as far as practicable, any of the following:

1. To minimize the draw down of the water table,
2. To minimize the reduction of artesian pressure,
3. To control subsidence, and
4. To prevent waste.

The best method employed to regulate well spacing or production is the use of district rules, but writing a rule for this purpose should not be taken lightly. Because aquifer characteristics vary considerably from one part of an aquifer to another, and even more so from one aquifer to another, studies of the impact or effect of various well spacing or production limitation alternatives are warranted.

Four types of regulations are common:

1. Minimum distance from other wells or authorized well sites,
2. Minimum distance from property lines,
3. Maximum number of wells in a specified area of land (e.g., 1/4-section, ½-section, or full-section), and
4. Maximum allowable production per given unit of land (ie. 5 gpm/acre).

Additional refinements may be included, such as setting minimum distances on the basis of pump size (inside diameter of collar pipe), or setting a maximum allowable cumulative production rate (e.g., so many gallons or acre feet per acre per year for a tract).

Examples of rules for regulating well spacing and production are included in the appendix.

D. ABANDONED WELLS

Legal Requirements

Several sections of the Texas Water Code, as well as other laws, address the issue of open or uncovered wells. These include the following:

1. Title 2 - State Water Administration
2. Subchapter D - Powers and Duties; Section 36.118 - Open or Uncovered Wells
3. Chapter 28 - Water Wells and Drilled or Mined Shafts; Subchapter P.- Water Wells; Section 28.011- Groundwater: Regulations
4. Texas Administrative Code (TAC) 30; Section 238, Section 32.017 Plugging of Water Wells and Section 33.014 - Completion, Repair and Plugging of Water Wells
5. Texas Water Code Chapters 32 Water Well Drillers /Construction Standards and 33 Pump Installers Standards.

Abandoned water wells (see definition in Chapter I of this manual) are thought to be one of the greatest sources of groundwater pollution in Texas and a health hazard to man and animal alike. It has been conservatively estimated that 150,000 water wells in Texas have been abandoned. Subchapter D, Chapter 36, encourages districts to develop and enforce rules for the capping and closure of wells.

The state has an active Underground Injection Control (UIC) program which seeks out abandoned wells and notifies landowners that the well must be properly capped or plugged. These wells are regulated by the Commission and TDL&R. Local governments are rapidly becoming more involved in locating and plugging abandoned wells, through the Texas Source Water Protection Program.

Unused wells may be temporarily or permanently sealed or capped. Temporary caps may be used on wells which are constructed to state standards and have not deteriorated. Permanently abandoned wells require removal of casing and filling of the entire well with cement or bentonite mud with a cement plug of not less than 10 feet extending from the land surface or below plow depth. Exceptions to the above procedures may be authorized by the Texas Department of Licensing and Regulation on a case-by-case basis.

District Activities

Districts may become actively involved in open hole location programs. In order to do so, the following activities are suggested:

1. Establish rules -- The language of §36.118 may be utilized as the basis for a rule:

   (a) A district may require the owner or lessee of land, on which an open or uncovered well is located, to keep the well permanently closed or capped with a covering capable of sustaining weight of at least 400 pounds, except when the well is in actual use.

   (b) As used in this section, "open or uncovered well" means an artificial excavation that is dug or drilled for the purpose of exploring for, or producing, water from the groundwater reser-

voir and is not capped or covered as required by this chapter.

(c) If the owner or lessee fails or refuses to close or cap the well in compliance with this chapter within 10 days after being requested to do so in writing by an officer, agent, or employee of the district, any person, firm or corporation employed by the district may go on the land and close or cap the well safely and securely.

(d) Reasonable expenses incurred by the district in closing or capping a well constitute a lien on the land on which the well is located.

(e) The lien is perfected by filing an affidavit in the deed records of the county where the well is located. It can be executed by any person conversant with the facts, stating the following:

(1) The existence of the well;

(2) The legal description of the property on which the well is located;

(3) The approximate location of the well on the property;

(4) The failure or refusal of the owner or lessee to close the well, within 10 days after notification;

(5) The closing of the well by an authorized agent, representative, or employee of the district; and

(6) the expense incurred by the district in closing the well.

(f) The district may make and enforce rules that are necessary or appropriate to effectively exercise the powers granted in this section. An example of the rule is included in the Appendix.

2. Involve District Staff -- District staff may actively contribute to the locating of open, unused or abandoned wells by making and recording observations, while engaged in any other district programs such as the following:

   a. Measuring water levels,

   b. Collecting water samples,

   c. Field checking permits,

   d. Conducting inventories or surveys, and

   e. Performing any other field activities.

3. Involve the Public -- The public can easily be incorporated into a program and can contribute significantly to its success. The following mechanisms may be utilized effectively:

   a. Press releases,

   b. Public service announcements,

   c. Radio,

   d. Television, and

e. District newsletter.

4. Establish Active Seeking Program -- As a last resort, a program to seek out abandoned wells/open holes can be undertaken. A systematic, scheduled, program of "combing" the entire district can be developed and implemented.

5. Investigate the sites -- A site investigation may consist of the following:

   a. Record the location, and other identification information (example form in Appendix),

   b. Take pictures,

   c. Locate owner and/or operator (address obtained from District records, appraisal district, or FSA office), and

   d. Set up a file folder.

When open holes are located, it is important to follow through to see that they are closed safely. To do so, perform the following:

1. Contact Owner and/or Operator -- Every effort should be made to locate and inform the owner/operator of the problem and to allow them the opportunity to remedy the situation. Letters should contain information on both the legal responsibilities of the owner and procedures for properly closing a well. The Appendix provides examples of various forms used by districts.

2. Offer Plugging Service -- At the owner/operator's expense, the district may offer to cap or plug any well.

E. PUBLIC INFORMATION/EDUCATION

An old adage states that "if you don't tell it, you can't sell it." This holds true for water districts. If the public doesn't know what the district is doing, they can not be expected to take time out from their busy schedule to support district activities.

This section presents some ideas for use in information/education programs. Any of these ideas may be adapted to suit budgets and goals of the individual district.

There are a number of approaches that a district can utilize to strengthen its overall programs and activities. These include information programs, education programs, and informational materials.

Information Programs

District Newsletters -- A district newsletter serves as an extremely effective tool to keep residents, legislators, and other water leaders informed of district programs and activities. It also helps to

promote better communications between districts.

A quarterly publication, with distribution limited to the taxpayers in the district, is a good starting point. Taxpayer mailing lists may be available through the county tax assessor/collector or the appraisal district. As time and funds permit, the frequency may be increased to bimonthly or monthly, and the mailing list may be increased.

The newsletter may be typed on an ordinary typewriter or a computer with word processing or desk-top publishing capabilities. The copies may be reproduced by a photocopying machine or professionally printed. Regardless of the methods used, a clean-looking, professional, highly accurate publication is a must!

Special Mailings -- Certain special issues may arise for which individualized, special messages are warranted. Key individuals and groups can be targeted in special mailings which address specific subjects.

Below is a partial list of water leaders and others who need to be kept in mind when distributing information about the district's information/education program:

- Board of Directors
- County Committee members
- Area producers
- Producer's Organization such as Cotton or Wheat Growers Associations
- Cotton gins and grain elevators
- Fertilizer dealers
- Implement dealers
- U.S. Senate and House of Representatives members
- Public school, college, and university educators
- FFA and Vo-Ag groups
- Agricultural lenders
- Texas Senate and House of Representative members
- Members of legislative committees and subcommittees
- Appraisal Districts
- FSA offices
- District conservationists

- County agents
- County clerks
- Chambers of Commerce
- Mayors and city councilmen
- County judges and commissioners
- City managers
- Newspapers
- Radio stations
- TV stations
- Special media, such as U.S. Water News and farm publications
- City utility departments
- Water treatment plant personnel
- Homeowners
- Water Well Drillers
- SB 1 Regional Water Planning Groups
- Other water conservation organizations

News Releases -- News releases on a wide variety of water-related topics may be mailed regularly to newspapers, radio stations, and television stations in the District service area.

Frequently, the media takes these releases and runs them intact. However, on days when the "news holes" are limited, the story may not make it into the paper, or the length may be cut considerably to fit the available space. It is important to remember that the media is not obligated to run the district's news releases.

The fast-paced world of the media revolves around deadlines. Anything that can be done to make the editor's job easier is appreciated. For example, it is easy to become "technical" when writing about water. These releases should be written so that most people can understand them. Otherwise, the editor will consider it too much work for a rewrite and the release will end up in the trash. (Most newspapers are written at the eighth grade level.)

While news releases are primarily designed for the media, they can serve a double purpose. The same copy without the "news release" head can be mailed to legislators, mayors, and other water leaders in your area. This gets even more mileage out of the message!

Since the media are so important to the success of an information program, it is advisable that a good working relationship between the media and the district is established. News personnel usually are willing to help proof read news articles for completeness and correctness of articles and news releases..

Radio Public Service Advertising Campaign -- In addition to the normal press releases, a district can provide pre-recorded 60-second Public Service Announcements (PSA) to contract and non-contract radio stations. The district can produce the PSA copy, send it to a local radio personality for recording, and then have dubs made from the original tape or a district staff person may record the PSA and deliver it to the radio station.

With contract stations, payment is made each month to insure that these messages are aired at the specified times, such as during a morning farm show or at noon. Many radio stations will negotiate to bill at 25 percent of their regular rate. In other words, the station agrees to play the PSA 3 times free for every paid airing. This provides the station with extra revenue and assures the district of placement of the air times.

Non-contract stations can be sent the same PSA to run whenever they have a chance. This helps the station meet its FCC licensing requirements for airing public service announcements.

Also, if the area is served by a morning radio talk show, quite likely the host would be glad to have you as a guest to talk about the water district. Guest appearances do not cost anything, and a large number of people can be educated or informed.

The Education Program

An education program for public schools can play an important part in achieving the long range goals of a district. It is important that young people are educated at an early age about the need for water conservation. The following outline of an education program, from kindergarten through high school, is presented as examples of some of the possibilities for water conservation education programs.

Primary and Intermediate Grades — "Major Rivers" is an outstanding program designed for fourth grade students and comes with a teacher's guide and resource material. "Water Wise Program" promotes conservation through the use of conservation kits students install with the help of their parents.

High School — Water resource packets can be distributed to the Vocational Agriculture classes in the district.

Other District Informational Projects

Presentations — Water district staff members can give presentations on a wide variety of water-related subjects. Service clubs and professional organizations are a great way to inform the community about the water district's activities.

Booths --Informative displays can be constructed for use at fairs, livestock shows, etc. Examples of topics for fair booths include Low Energy Percussion Application (LEPA), center pivot irrigation, surge irrigation, open hole closure, and home water conservation techniques.

This is a relatively inexpensive way to put the district's message in front of the public. Display panels, once constructed, are re-usable for years. Display costs can be kept down through the use of hand-cut cardboard lettering and photo enlargements. The district can assist FFA students by providing information to be used in the preparation of their fair booths.

Brochures -- In addition to a newsletter, districts may publish brochures and other informational materials for distribution to the public. These brochures may be as simple or elaborate as desired, and costs will vary accordingly.

F. TECHNICAL ASSISTANCE

Generally speaking, groundwater and its management are subjects not well understood, or entirely appreciated, by the public. The expertise, data, and technical assistance capability of a groundwater conservation district is an extremely valuable commodity. Sec.36.110 encourages districts to make information they develop available to groundwater users in the district and encourage use of the information. Some of these potential users are:

1. Irrigators -- Users of groundwater for irrigation in the district are direct benefactors of data, information, and technical assistance. This is as it should be, since they use a high percentage of the groundwater pumped in many cases. They need information they can use in planning for new wells, planning for future production from new and/or existing wells, and as an aid in making decisions regarding irrigation. Of particular interest to these users is information on more efficient water use for irrigation and agricultural techniques; past, present, and estimated future yields; saturated thicknesses; water table levels; and water quality data. Maps, reports, newsletters and field demonstrations are very effective ways of spreading this information.
2. General Public -- In many cases, the general public seeks technical assistance, particularly in cases where private wells constitute a significant part of the water supply. Tests for bacteriological contamination are of special value to homeowners who depend on private wells for household water. Potential property buyers are understandably concerned about the present and future outlook for a water supply and look to the water district for answers.
3. Lending Institutions -- Frequent requests for technical assistance come from banks, savings and loan associations, and other lending institutions. Decisions on whether to approve a loan

may depend on the long-term outlook for water, whether the borrower is an individual or a municipal corporation.

4. Others -- Requests for technical assistance can come from other agencies, including educational institutions, and groups or individuals representing a wide variety of interests (e.g., conservation groups, producer associations, legislators, etc.).

G. CONSERVATION

Viable water conservation programs can be an important part of a district's activities. In addition to helping accomplish one of the major purposes of a district, namely water conservation, such programs can greatly enhance relations with the public.

Several options are available in developing and conducting a successful conservation program. These options may be divided into target areas or techniques. A discussion of each group follows:

Conservation Target Areas

1. Residential -- Residential or household conservation programs can be accomplished by collecting various types of information readily available from many sources, including the American Water Works Association, the Groundwater Foundation, the Freshwater Society, the National Xeriscape Council, Inc. and local County Agents. Programs may focus on indoor use reduction (bathroom, kitchen, laundry, etc.) and/or outdoor reduction (landscaping, lawn maintenance, etc.). The Texas Water Development Board will work with districts, when planning a municipal conservation program.

2. Agricultural -- In most districts, programs on irrigation have the greatest impact on conservation because irrigated agriculture uses such a large volume of water. A conservation concept practiced by one irrigator can save millions of gallons of water. Typical district efforts to educate the agricultural community include programs to inform active irrigators of conservation techniques through demonstrations and services, such as soil moisture monitoring to determine the amount of irrigation water needed to bring the soil to field capacity, and mobile testing of irrigation application or pump plant efficiency. Some districts have adopted a rule incorporating the wording of Chapter 36, which defines and forbids the waste of water. An example of such a rule is included in the Appendix.

3. Industrial -- Industrial targets will vary according to the type of industries located in each individual district. An inventory of the water-consuming industries should be made, including data on actual water consumption. A survey of water conservation literature on the types of industries found in the district may yield specific suggestions and strategies for water use reductions. Working with industries may yield significant results. Successful reductions can be easily documented.

4. Municipal -- Targeting an entire municipality is similar to that of a residential program, but usually has the cooperation and active participation of the city administration, utilities department, etc., and, perhaps the local media. A program might consist of (1) reporting past

municipal use history, (2) establishing goals for the community as a whole, (3) outlining steps that the community can take to achieve the established goals, (4) promoting the effort in the media, (5) monitoring the results, and (6) reporting the results and the positive impacts to the community.

5. Other — Other conservation programs may target specific groups of individuals, such as schools, civic, social or professional organizations, high use situations, etc.

Conservation Program Techniques

1. Public Education — Any of the public education techniques may be employed as a part of a conservation program.
2. Technical Assistance — Any of the conservation programs undertaken may be promoted through the offer of technical assistance from the district as previously discussed in Chapter IV. F.
3. Voluntary Programs — These consist of targeting one or more of the areas listed above and working closely with the affected group or individuals, to provide technical assistance, information, etc.
4. Mandatory Programs — These consist of establishing rules aimed at accomplishing conservation goals and objectives. These could include rules governing well spacing or production limitations, tailwater or other wastage restrictions, etc.
5. Drought Management — Develop plans to be implemented during times of drought. These include identifying trigger conditions for plan implementation.
6. Other Programs — Water conservation may be the principal focus of many other district programs. For example, "Financing Conservation Improvements," "Well Spacing," "Research/Demonstration Projects," "Monitoring Water Quantity/Quality," and "Cooperative Programs and Activities".

H. FINANCING CONSERVATION IMPROVEMENTS

While conservation programs are desirable, they can become quite expensive. This is particularly true when the plan calls for substantial capital investments. A district may provide assistance through loan programs and/or grant programs.

1. Loan Programs -- Loan programs are typically designed to make funds available at relatively low interest rates to qualified applicants. At present, the only known source of loan monies for conservation programs is through the Texas Water Development Board's Agricultural Water Conservation Equipment Loan Program. Under this program farmers who irrigate land which lies within the boundaries of the District's service area are eligible to apply for a loan. Qualified applicants may obtain a loan to purchase water conservation equipment, such as center pivot sprinkler systems, source systems, furrow dikers, soil moisture monitoring equipment, computer software used in irrigation scheduling, laser land leveling equipment, and other equipment eligible under the district's loan guidelines. The district sets its own guidelines for determining what type of equipment for which they will loan money.

(Examples of these guidelines may be found in the Appendix).

2. Grants -- Grants are funds consigned from one agency or party to another agency or party, with no requirement for repayment. Such funds could originate from the district budget, or the district could itself apply for a grant from another agency or source for the purpose of promoting a conservation project or plan. A district could also cooperate with another agency or group to apply for a grant.

I. MONITORING WATER QUANTITY AND QUALITY

Quantity

Water quantity monitoring is extremely important and is closely related to programs in conservation and technical assistance. Water quantity measurements are used to determine the condition of the aquifer with respect to the amount of water in storage and changes in that amount over time. These changes can then be used as a basis for the district's projections of future groundwater supplies and for developing goals, plans, and programs for the district's future. Technical assistance for construction of hydrologic maps may be necessary for districts that do not have a staff engineer, hydrologist or geologist. Depth-to-water below land surface measurements, from wells throughout the district, are a necessary part of the database needed to construct hydrologic maps. The Texas Water Development Board may be of assistance in these matters.

Quality

Water quality is also an extremely important concern to most groundwater conservation districts. A district may develop an in-house program for water quality monitoring or use information from a state agency or a combination of the two. A brief discussion of these alternatives follows:

1. State Monitoring -- Several Texas state agencies have active water quality monitoring programs which can be coordinated with water districts or vice versa. Their various programs are usually tailored to the jurisdictions and needs of the particular agency. These agencies include the following:
   a. Texas Railroad Commission -- public water supplies and non-hazardous municipal solid waste disposal sites are involved and contamination related to oil production or transport of materials,
   b. Texas Natural Resource Conservation Commission -- contamination related to most other activities,
   c. Texas Water Development Board -- as part of their data collection program,
   d. Texas Department of Agriculture -- situations related to the use of agricultural chemicals (pesticides, fertilizers, etc.),
2. District Monitoring -- A district may engage in water quality monitoring as a part of its on-going program of activities. In the typical case, district personnel collect water samples and

deliver or ship them to a water quality laboratory for analysis. Some basic analysis can be done at university and commercial laboratories found throughout the state. Cost of analysis depends primarily on the parameters analyzed and the number of samples. Costs will also vary from one lab to another. A water quality sampling/analysis program can become quite expensive, and a carefully planned and executed program is necessary to minimize costs and maximize results. Some districts have equipped a laboratory to perform some analyses "in-house". Because of the expense and training requirements involved, this approach is necessarily limited to a few basic parameters (e.g., conductivity, pH, total dissolved solids, fecal coliforms, chlorides, etc.). Matching grants are available from the Texas Water Development Board to help water districts purchase some of this equipment.

3. Combined District/State -- A combined district/state program of water quality monitoring may be accomplished. In doing so, the district and the state may share costs of sampling, analysis, or both.

J. RESEARCH AND ENHANCEMENT PROJECTS

Chapter 36 sanctions the involvement of districts in areas of research and enhancement projects. Subchapter D authorizes districts to carry out research projects and to "collect information regarding the use of groundwater, water conservation and the practicality of recharging a groundwater reservoir". Such projects may be closely aligned with conservation or other programs. Technical studies may be particularly useful to newer districts that do not have an adequate database from which to plan and conduct programs. The Texas Water Development Board can be of assistance in planning and conducting technical studies. Some alternatives for supporting such programs are as follows:

1. Direct Financing -- Projects may be totally financed from the district's budget. A contract or letter of agreement between the district and the contractor, university, consultant, etc., should define the details of the agreement, including the technical and administrative provisions, dates, reporting requirements, budget, and payment schedule. Projects may be initiated from unsolicited proposals, negotiated with a "sole source" or selected from solicited proposals stemming from an RFP (request for proposal).

2. Participating Finance -- Projects may be partially funded by a district in cooperation with another agency or group. This may be an attractive alternative when the results of a study or project are also sought by another group, but neither group can afford to support the entire project. A contract or other form of agreement should be formulated in order to document the details of the arrangement.

3. Cooperative Efforts -- Instead of providing financial support, a district may contribute to a project by providing "in-kind" or contributed services. This could include contributed use of equipment, personnel, data collection, or other forms of services necessary to the project. Formal agreements may be desirable and would help to avoid misunderstandings.

4. Other Forms of Support -- Other forms of supporting research, demonstration and enhancement projects include assisting in proposal preparation, providing technical data and background information, providing letters and verbal support to proposals, providing

testimony at hearings and constantly keeping an eye out for opportunities to promote water conservation.

K. WELL CONSTRUCTION STANDARDS/INSPECTION

Legal Requirements

The Texas Department of Licensing and Regulation enforce the Water Well Drillers rules and Pump Installers rules. These rules prescribe minimum standards for construction, completion and plugging of water wells. Field inspection and reporting procedures are also covered in these rules. All water wells drilled in Texas must meet, or exceed, state construction standards. These standards address intended use, well location, casing and slab construction, completion zones, interaquifer mixing of waters, completion of wells encountering or producing undesirable water, recompletion, and well plugging and capping. The Texas Department of Licensing and Regulations (TDL&R) with advice from the Texas Water Well Drillers Council administers licensing of water well drillers in the state. Personnel of the TDL&R enforce construction standards, conduct investigations, and carry out field inspections.

Groundwater conservation districts are encouraged to adopt well construction standards equivalent to, or more stringent than, those described in TDL&R rules (Chapter 238). Well construction standards serve to prevent groundwater contamination.

L. INTERACTIONS WITH OTHER AGENCIES

There are many opportunities for a district to interact with other agencies-- local, state and federal. A good telephone indexing system is essential to fostering these relationships. To start with, copies of the Texas State Telephone Directory (available from the State Purchasing and General Services Commission, Austin, Texas) , Texas State Directory (available from Texas State Directory Inc. Austin, Texas) and the "Texas Water Industry Guide" (available from Austin Publishing, Inc., Austin, Texas)good sources.

State Agencies

A variety of state agencies exist which carry out an interactive role as facilitator and technical advisor for groundwater districts. All of these agencies are involved in groundwater protection or regulation to some degree. The Texas Natural Resource Conservation Commission and the Texas Water Development Board have primary responsibility for implementing the water laws of Texas. The Texas Natural Resource Conservation Commission performs a variety of functions, including the creation of water districts throughout the state. Interaction with districts is through the Water Utilities Division, Water Quality and Uses Division, Field Operations Division and Regional Offices. The Water Utilities Division assists in district creation, delineation of district boundaries, bond review, required annual reports and are involved in human health impacts of public water supplies, municipal solid waste disposal. Field Operations and the Regional Offices respond to contamination

complaints and field-related matters, in conjunction with the Spill Response Unit. Personnel in the Water Quality Division and in the Texas Water Development Board work with priority groundwater management area studies, delineate district boundaries, and can answer general questions concerning groundwater protection and conservation. The Texas Natural Resource Conservation Commission is the lead agency with respect to the United States Environmental Protection Agency (US EPA), which is designed to protect groundwater from contamination. Other sections within the TNRCC that regulate activities which can impact groundwater quality include the Underground Storage Tank Unit, Underground Injection Control Section, and the Hazardous and Solid Waste Division.

The Water Development Board is responsible for certification of groundwater district management plans, financial assistance programs for water projects, long-range planning for water supplies, and surface and groundwater data collection and study. It also provides grants and loans for agricultural water conservation equipment.

Several other state agencies important to groundwater protection include: Texas Railroad Commission which regulates oil, gas, mining, geothermal activities and certain transportation activities. The Department of Health regulates radioactive materials, uranium processing and radioactive waste disposal. Regulation of agricultural chemicals and practices is the responsibility of the Texas Department of Agriculture. The TDA regulates pesticide distribution and use through the Texas Agriculture Code. The Texas Department of Licensing and Regulation regulates licensing of water well drillers and pump installers in the state.

Many state agencies publish information regarding their activities. The Texas Advisory Commission on Intergovernmental Relations has produced an informative book entitled A Handbook for Board Members of Utility Districts in Texas, describing many facets of district power and function. The Groundwater Protection Committee publishes the Texas Groundwater Protection Strategy, with descriptions of each members' groundwater protection functions and responsibilities. The Appendix provides the name of each member entity and information on how to contact them.

Local Agencies

Local agencies provide other opportunities for district interactions. These will vary from one district to another but may include local governments (city, county), regional associations or councils of governments, other water districts (both surface and groundwater), river authorities, universities, and others.

Federal Agencies

Federal agencies a district is likely to become involved with include the Department of Agriculture, the Bureau of Land Management, the Bureau of Reclamation, the Army Corps of Engineers, the U. S. Fish and Wildlife Service, the Department of the Interior, the Natural Resource Conservation

Service, Farm Service Agency, and the U.S. Geological Survey. Many other federal agency interactions may develop over the course of a few years of operation.

M. OTHER PROGRAMS

The programs listed above are typical of those associated with most districts, but special issues may exist in some districts that can warrant activities or programs that have not been covered here. For such programs, the general procedures outlined in this section would most likely be appropriate. For example, rules, public education, interaction with other agencies and/or other steps may be required.

N. EXISTING DISTRICT PROGRAMS AND ACTIVITIES

Most districts have active involvement in some type of public education program. Many districts have newsletters, news releases, and public school programs and make public presentations. Some districts use the Water Wise and Energy Efficient program that targets fifth grade students. Districts regularly give technical assistance on a variety of programs, such as irrigation flow and efficiency tests and water quality tests for lending institutions, individuals, the general public, and others.

Districts conduct a wide range of conservation programs. Residential consumers may obtain water conservation information from most districts. Districts conduct agricultural demonstrations on the wise use of groundwater and improvements on irrigation practices. Municipal and industrial users can also utilize district resources to improve their water uses through leak detection and water accounting. Some districts have agricultural loan programs that help farmers purchase equipment to improve their water delivery systems.

As of 1998, forty-three groundwater conservation districts had been created and confirmed in Texas, of which thirty are active members of the Texas Alliance of Groundwater Districts. Prior to each legislative session, a survey of district activities is conducted. A summary of responses, from the 1997 TAGD survey, is presented in the following table to give an indication of the types of programs and activities currently being conducted by the member districts.

Programs and Activities of Member Districts of TAGD

District Name	Well Permitting	Well Construction Standards	Well Spacing	Production Regulations	Water Level Monitoring	Water Quality/Quantity Management Programs	Water Quality Testing and Monitoring	Data Collection and Distribution	NPS and Point Source Reg.
Barton Springs / Edwards Aquifer CD	X	X	X	X	X	X	X	X	X
Coke County UWCD	X	X	X	X	X	X	X	X	X
Dallam County UWCD	X	X	X	X	X	X	X	X	X
Edwards Aquifer Authority	X	X	X	X	X	X	X	X	X
Emerald UWCD	X	X	X		X	X	X	X	X
Evergreen UWCD	X	X	X	X	X	X	X	X	X
Glasscock UWCD	X	X	X		X	X	X	X	X
Gonzalez UWCD	X	X	X	X	X	X	X	X	
Subsidence Dist.	X			X	X	X		X	
Headwaters UWCD	X	X	X	X	X	X	X	X	X
Hickory UWCD	X	X		X	X	X	X	X	
High Plains UWCD	X		X	X	X	X	X	X	X
Hill Country UWCD	X	X	X		X	X	X	X	X
Irion County UWCD	X	X			X	X	X	X	X
Jeff Davis UWCD	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

District Name	Well Permitting	Well Construction Standards	Well Spacing	Production Regulations	Water Level Monitoring	Water Quality/Quantity Management Programs	Water Quality Testing and Monitoring	Data Collection and Distribution	NPS and Point Source Reg.
Lipan-Kickapoo WCD	X	X	X	X	X	X	X	X	X
Live Oak UWCD	X	X	X	X	X	X	X	X	N/A
Medina County UWCD	X	X	X	X	X	X	X	X	X
Mesa UWCD	X	X	X	X	X	X	X	X	X
North Plains GWCD	X	X	X	X	X	X	X	X	X
Panhandle GWCD	X	X	X	X	X	X	X	X	X
Permian Basin UWCD	X	X			X	X	X	X	
Plateau UWCD	X	X	X		X	X	X	X	X
Sandy Land UWCD	X	X	X	X	X	X	X	X	X
Santa Rita UWCD	X	X	X		X		X	X	X
South Plains UWCD	X	X	X	X	X	X	X	X	X
Springhills Water Management Dist.	X	X			X	X	X	X	X
Sterling County UWCD	X	X	X	X	X	X	X	X	X
Sutton County UWCD	X	X	X	X	X	X	X	X	X
Uvalde County UWCD	X	X	X	X	X	X	X	X	X
Totals	***28***	***26***	***23***	***19***	***28***	***27***	***27***	***28***	***23***

O. LIST OF DISTRICT TASKS

The following is a list of activities and programs a district may become involved with after several years of operation.

General Administration and Management

- District
- Management Plan
- District Rules
- District Profile
- Records Management Officer
- District Investments Officer
- Bookkeeping and Payroll
    a. General Fund and Ag Loan Account
    b. Employee Information
    c. Monthly Payroll Taxes
    d. Quarterly Reports - Internal Revenue Service and Texas Workforce Commission
    e. Prepare Annual W-2 and W-3 Forms
    e. Invest District Funds
- Water Studies
    a. Water Quality
    b. Water Quantity
- Customer Assistance
    a. Legal Descriptions, Water & Well Data
    b. Geo-hydrology
    c. Well Construction
- Control Water Waste and Irrigation Runoff
- Record Keeping
- Continuing Education
- Prepare Agendas for Board of Director's Meetings
    a. File with Secretary of State
    b. Post with County Clerks
    c. Prepare and Mail Information Packets to Board Members

d. Write Minutes of Board of Director's Meetings

- General Office Procedures

Monitor Legislative, Political, and State Agencies and Associations

a. Review TNRCC Rules/Orders and Make Related Comment

b. Review TWDB Rules/Orders and Make Related Comment

c. Monitor and Testify on Water Related Legislation and Make Related Comment as Necessary

d. Track Water Related Court Cases - i.e. Ozarka Suit

e. Track Endangered Species - i.e. Arkansas River Shiner and Monitor and Make Related Comment as Necessary

f. Monitor U.S. & State Environmental Laws

g. Attend and Participate in Water Related Conferences (TAGD, TWCA, GMDA etc.)

Education/Information/Customer Service

- Prepare and Distribute Quarterly District Newsletter (*Panhandle Water News*)
- Prepare and Distribute Press Releases to Area Newspapers, T.V. and Radio Stations
- Present School Education Programs
- Present Programs for Civic Clubs, Organizations, Groups, etc.
- Provide Water Conservation Information to Irrigators, Individuals, Governments, etc.
- Publicity and Public Relations

Regional & Drought Planning

- Data Collection
- Groundwater Modeling
- Participation in Regional Meetings
- Long Term District and Regional Planning
- Research Programs

Permitting

- Register Small Wells
- Permit Large Wells
- Verify Spacing Requirements
- Assign Well Numbers
- Driller's Well Logs

a. Review

b. Add to Database

c. File

- Refund Deposits
- Locate New Wells on Map

Ag Loan Program

- Assemble and Mail Information Packets - By Request
- Coordinate Ag Loan Information
- Review Ag Loan Applications
- File Ag Loans with County Clerk and Secretary of State, UCC Section
- Prepare and Mail Annual Statements to Borrowers
- Deposit Annual Payment
- Prepare and Mail 1098 Forms to Borrowers
- Bookkeeping - Ag Loan Account
- Invest Ag Loan Funds
- Make Annual Ag Loan Payments to T.W.D.B.
- Monitor Insurance on Sprinklers and Equipment
- Verify Sprinkler Locations & Serial Numbers

Field Work

- Perform Pump Flow Tests - By Request
- Perform Irrigation Application Efficiency Tests - By Request
- Perform Depth to Water Level Measurements - By Request
- Perform Drawdowns - By Request
- Perform Sprinkler Evaluations - In Cooperation with Texas Water Development Board
- Data Entry

Depletion Program

- Water Level Monitoring of Selected Wells
- Prepare Annual Decline Map
- I.R.S. Approval of Annual Depletion Map
- Depletion Letters to Landowners - By Request
- Water Depletion Studies

- Data Entry

Mapping and Data Collection

- Prepare Saturated Thickness Maps
- Prepare Base of Aquifer Maps
- Determine Baseline Volume
- Establish Volume Tracking System
- Well Owner Database (Data Entry)

Water Quality

- Annual Monitoring - (Water Quality Tests on Wells)

  Fluoride, Nitrate, Chloride, Dissolved Solids, Iron, pH, Sulfate, Alkalinity, Specific Conductance, Total Hardness

- Collect Water Samples & Perform Water Quality Tests - By Request
- Collect Water Samples & Perform Coliform Bacteria Tests - By Request
- Research Projects
- Data Entry/Organization
- Provide Data to Customers &TWDB
- Establish County Well Network
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Requirements of Chapter 36
of the
Water Code

Section	District - "May"	District - "Shall"
	SUBCHAPTER C. ADMINISTRATION	
36.051-Board of Directors		a) Not less than 5 members nor more than 11 members. b) A member of one political subdivision is ineligible to serve on board. This does not apply to district with population with less than 50,000 population. c) Vacancies shall be filled by appointment of the board. Must schedule election if vacancy is for more than 2 years.
36.052-Other Laws Not Applicable		a) This chapter prevails over other laws except any special law governing a specific district. b) This section prevails over inconsistent provisions of a special law that governs a specific district: 1) Sect 36.107-36.108 Management Plans 2) Sect 36.159-36.161 Management Plan Funds 3) Subchapter I Performance Review and Dissolution
36.053-Quorum		Majority of board is quorum and a majority of the entire board can transact business.
36.054-Officers	d) Board may appoint another director, general manager, or any employee as assistant or deputy secretary to assist the secretary and the person shall be entitled to certify the authenticity of any record of the district.	b) President, Vice President and Secretary elected after each election. c) Secretary responsible for seeing that all records and books of the district are properly kept and shall attest the president's signature on all documents. e) Within 30 days after any election or appointment, the district shall notify the TNRCC Executive Director of names and addresses of the directors.
36.055-Sworn Statement, Bond, and Oath of Office		a) After election, director shall make sworn statement as required for public service. b) After making sworn statement, director shall take oath of office. c) Before beginning duties, each director shall execute a bond for $10,000 which shall be approved by the board and paid for by the district. d) Sworn statement, bond, and oath shall be filed with the district. A duplicate original of the sworn statement and the oath shall also be filed with the secretary of state within 10 days after execution.

36.056-General Manager	a) The board may employ or contract with a person to perform such services as a general manager(GM). The board may delegate to the general manager full authority to manage and operate the affairs of the district subject only to the orders of the board. b) Board may delegate to the GM the authority to employ such persons as necessary and to determine the compensation to be paid all employees other than the GM.	
	c) A director can be employed as the GM in districts that cover parts of only one county.	
36.057-Management of District	e) Premium on surety bonds required of district officials and employees may be paid from district funds including the sale of bonds. f) Board may adopt by-laws to govern the affairs of the district. Board may by resolution, authorize the GM to execute the documents on behalf of the district.	a) Board responsible for management of affairs of district. District shall employ or contract with all persons public or private for the conduct of the affairs of the district. b) Board shall set the compensation and terms for consultants. c) Selection of attorneys, accountants, etc shall follow Professional Services Procurement Act procedures. d) Board shall require employees who handle finances of the district to be bonded by a surety company in the state. g) Board shall have right to purchase all materials and equipment necessary to perform the purposes of the district.
36.058-Conflicts of Interest		A director is subject to the provisions of Chap 171, Local Government Code concerning conflicts of officers of local governments.
36.059-General Elections		a) All elections shall be conducted in accordance with the Election Code. b) Directors shall be elected by the Precinct Method.
36.060-Fees of Office; Reimburse-ment	a) Director entitled to fees of office of not more than $100 per day not to exceed $6000 per year. b) Each director entitled to reimbursement of actual expenses incurred while on district business.	c) In order to receive fees and reimbursement, each director shall file with the district a verified statement showing the number of days actually spent in the service of the district and description of the duties performed.

36.061-Policies	b) The state auditor may audit the financial transactions of any district if the state auditor determines that the audit is necessary.	a) Subject to the law governing the district, the board shall adopt 1) Code of Ethics for district directors, officers, employees and persons engaged in handling investments for the district. 2) a policy relating to travel expenditures. 3) a policy relating to district investments that ensures: a) purchases and sales are initiated by authorized individuals, and b) periodic review is made of district investments to evaluate investment performance and security. 4) policies and procedures for selection, monitoring, or review and evaluation of professional services. 5) policies that ensure a better use of management information including: a) budgets b) audits or financial committee of board c) uniform reporting requirements that use "Audits of State and Local Governmental Units" as a guide on audit working papers and that uses "Governmental Accounting and Financial Reporting Standards".
36.062-Offices and Meeting Places		a) Board shall designate and maintain one or more regular offices. The offices may be located either inside of outside of the district boundaries as determined by the board. b) Board shall designate one or more places inside
		or outside the district for conducting meetings of the board.
36.063-Notice of Meetings		Notice of meetings shall be given as set forth in the Open Meetings Act.
36.064-Meetings		a) Board shall hold regular meetings at least quarterly. It may hold meetings as necessary to conduct the business of the district. b) Meetings shall be conducted and notice of meetings posted in accordance with the open meetings act.
36.065-Records		a) Board shall keep complete account of all its meetings and proceedings and preserve these records in a safe place. b) Records of each district are property of district and subject to Chap 552, Govt. Code. c) Preservation, storage, destruction, or other disposition of the records of the district is subject to the requirements of Chap 201, Local Govt.. Code.

36.066-Suits	a) District may sue and be sued in courts of this state. Courts shall take judicial notice of the creation of the district and of its boundaries. b) Any court rendering judgment for debt against the district may order the district to levy, assess, and collect taxes or assessments to pay the judgment. d) Except as provided in Subsection (e) no suit may be instituted in any court contesting: 1) the validity of the creation and boundaries of the district; 2) any bonds or other obligations issued by a district; or 3) the validity or the authorization of a contract with the US by a district. e) Matters listed in Subsection (d) may be judicially inquired at any time by the State AG. g) If district prevails in a suit, it may recover reasonable fees for attorneys, expert witnesses, and other costs incurred by the district before the court.	c) President or GM shall be agent for the district upon whom notice may be served. f) District shall not be required to give bond for appeal, injunction, or costs in any suit to which it is a party.
36.067-Contracts	b) District may purchase property from any other governmental entity by negotiated contract without advertising for bids or appraisals.	a) District shall contract, and be contracted with, in the name of the district.
36.068-Employee Benefits	a) Board may provide for and administer retirement, disability, and death compensation funds for employees. b) Board may establish a public retirement system in accordance with provisions of Govt.. Code. Board may also provide for deferred compensation plan as described by Sect 457 of IRS Code. c) Board may include hospitalization and medical benefits to its employees as compensation and change or amend the plan as it determines.	
	SUBCHAPTER D. POWERS AND DUTIES	
36.101-Rulemaking Power	a) District may make and enforce rules.	b) After notice and hearing, board shall adopt and enforce rules to implement this chapter. c) Board shall compile its rules and make them available for use and inspection at the district's principal office.

36.102- Enforcement of Rules	a) District may enforce rules by injunction, mandatory injunction or other appropriate remedy in court. b) Board may set reasonable civil penalties for breach of any rule of the district that shall not exceed the jurisdiction of a justice court. c) Penalty under this section is in addition to any other law of the state. d) If district prevails in any suit to enforce its rules, it may recover all reasonable costs of the suit.	
36.103- Improvements and Facilities	a) District may build, acquire, or obtain any property necessary to carry out its purpose and provisions of this chapter. b) District may: 1) acquire land to erect dams 2) construct dams 3) drain lakes, depressions, draws, and creeks 4) install pumps to recharge a groundwater reservoir 5) provide for the purchase, sale, and transportation of water.	
36.104- Purchase, Sale, Transportation, and Distribution of Water	a) District may purchase, sell, transport, and distribute surface water or groundwater for any purpose.	
36.105- Eminent Domain	a) District may exercise power of eminent domain. b) Power of eminent domain may not be used to condemn land for purpose of acquiring water rights. c) District exercise right of eminent domain as provided by Chap 21, Property Code. d) In condemnation proceeding, district is not required to pay in advance or give bond. e) District must bear cost of relocating any utilities or other structure as a result of exercising eminent domain.	
36.106- Surveys	a) District may make surveys of the groundwater reservoirs.	
36.107- Research	District may carry out any research projects deemed necessary by the board.	
36.1071- Management Plan		a) Following notice and hearing, district shall in coordination with surface water management entities on a regional basis, develop a comprehensive management plan which addresses the following as

36.1072-Texas Water Development Board Review and Certification of Management Plan		a) District shall not later than two years after the creation of the district or if the district required confirmation after the election confirming the district's creation, submit the management plan required under the section above to the executive administrator for review and certification. b) Within 60 days of receipt of a management plan adopted under the above section, the executive administrator shall certify a management plan if the plan is administratively complete. A plan is administratively complete when it contains the information required to be submitted under the above section. The executive administrator may determine that conditions justify waiver of the
		requirements under sect 36.1071(e)(4). c) Once a determination that a management plan is administratively complete has been made: 1) the executive administrator may not revoke the determination that a management plan is administratively complete; 2) the executive administrator may request additional information from the district if the information is necessary to clarify, modify, or supplement previously submitted material; and 3) a request for additional information does not render the management plan incomplete. d) A management plan takes effect on certification by the executive administrator or, if appealed, on certification by the TWDB. e) The board may review the plan annually and must review and readopt the plan with or without revisions at least once every five years. f) If the executive administrator does not certify the management plan, the executive administrator shall provide to the district, in writing, the reasons for the action. Not later than the 180th day after the date a district receives notice that its management plan has not been certified, the district may submit a revised management plan for review and certification. The executive administrator's decision may be appealed to the TWDB. The decision of the TWDB on whether to certify the management plan may not be appealed. The commission shall not take enforcement action against a district under Subchapter I until the later of the expiration of the 180-day period or the date the TWDB has taken final action withholding certification of a revised management plan.
36.1073-Amendment to Management Plan		Any amendment to the management plan shall be submitted to the executive administrator within 60 days following adoption of the amendment by the district's board. The executive administrator shall certify any amendment under Sect 36.1072

		applicable: 1) providing for the most efficient use of groundwater 2) controlling and preventing waste of groundwater 3) controlling and preventing subsidence 4) addressing conjunctive surface water management issues; and 5) addressing natural resource issues. b) District management plan or any amendments to plan after adoption of regional water plan for region must be consistent with regional water plan. c) TNRCC and TWDB shall provide assistance to districts to prepare management plans d) The TNRCC shall provide technical assistance to a district during its initial operational phase e) In the management plan, the district shall: 1) identify the performance standards and management objectives under which the district will operate to achieve the management goals identified under subsection (a); 2) specify in as much detail as possible the actions, procedures, performance, and avoidance that are or may be necessary to effect the plan, including specifications and proposed rules; 3) include estimates for the following: A) the existing total usable amount of groundwater in the district; B) the amount of groundwater being used within the district on an annual basis; C) the annual amount of recharge, if any, to the groundwater resources within the district and how natural or artificial recharge may be increased; and D) the projected water supply and demand for water within the district; and 4) address water supply needs in a manner that is not in conflict with the appropriate approved regional plan if a regional plan has already been approved f) District shall adopt rules necessary to implement management plan g) Board shall adopt amendments to the management plan as necessary. Amendments to the management plan shall be adopted after notice and hearing and shall otherwise comply with the requirements of this section.

36.108-Joint Planning in Management Area	b) Each board may by resolution call a joint meeting of the districts within the management area to review the management plans and accomplishments for the management area. The boards shall consider the plans individually and shall compare them to other management plans then in force in the management area. In reviewing the plans, the boards shall consider: 1) the goals of each plan and its impact throughout the management area 2) the effectiveness of the measures established by each plan for conserving, protecting, and preventing waste of the groundwater individually and generally for the management area 3) any other matters that the boards consider relevant to managing and protecting the groundwater. d) A district may file a petition with the commission requesting an inquiry if the district	a) Two or more districts located within the boundaries of the same management area shall prepare a comprehensive management plan covering the district's respective territory. On completion of the plan, each district shall forward a copy of the new revised management plan to the other districts in the management area. c) A joint meeting of the boards must be held in accordance with the Open Meetings Act. Notice must be given in accordance with the requirements for notice for a director meeting. In addition, notice shall be published in a newspaper not later than 30 days prior to the date of the scheduled meeting.

	believes that: 1) another district in the management area has failed to adopt rules 2) the groundwater in the management area is not adequately protected by the rules adopted by another district 3) the groundwater is not protected due to the failure of another district to enforce substantial compliance with its rules. e) Not later than 90 days after filing of the petition, the commission shall review the petition and either: 1) dismiss it, or 2) select a review panel as provided in subsection (f). f) Commission may appoint a review panel consisting of 5 members. Director or GM of district located outside the management area that is the subject of the petition may be appointed to the review panel. No more than two members can be appointed from any one district. Commission shall also appoint a disinterested nonvoting member who shall be the recording secretary. The recording secretary may be an employee of the commission. The recording secretary shall record and document the proceedings of the panel. g) Not later than the 120th day after appointment, the review panel shall review the petition and evidence in a public meeting. The commission may direct the meeting to be held in the management area. The panel may attempt to negotiate a settlement or resolve the dispute by any lawful means. h) In its report, the review panel shall include: 1) a summary of the evidence 2) list of findings and recommended actions and reasons for the actions 3) any other information deemed appropriate	
36.109-Collection of Information	District may collect any information the board deems necessary.	
36.110-Publication of Plans and Information	District may publish it plans and information it develops, bring them to the attention of the groundwater users, and encourage the users to adopt and use them.	
36.111-Records and Reports		District shall require records be kept and reports be made of the drilling, equipping, and completing of water wells and the production and use of the groundwater.
36.112-Drillers' Logs		District shall require that accurate drillers' logs be kept of water wells and that copies of drillers' logs and electric logs be filed with the district.

36.113-Permits for Wells	c) District may require that the following be included in the permit application:	a) District shall require permits for the drilling, equipping, or completing of wells or for substantially
	1) name and address of the applicant and the owner of the land on which well is to be drilled. 2) if applicant other than owner, documentation that applicant has authority to construct and operate well for proposed use. 3) statement of nature and purpose of the proposed use and amount of water to be used for each purpose 4) water conservation plan or declaration that applicant will comply with the district's management plan. 5) the location of each well and the estimated rate at which water will be withdrawn. 6) water well closure plan or a declaration that the applicant will comply with well plugging guidelines and report closure to the commission. 7) drought contingency plan. e) Permits may be issued subject to the rules promulgated by the district concerning drilling, equipping, completion, or alteration of wells or pumps. f) District may require that changes in the withdrawal and use of groundwater under a permit not be made without the prior approval of a permit amendment issued by the district.	altering the size of wells or well pumps. b) District shall require that an application for a permit be in writing and sworn to. d) Before granting or denying permit, district shall consider whether: 1) application conforms to the requirements of this chapter and is accompanied by appropriate fees. 2) proposed use of water unreasonably affects existing groundwater and surface water resources. 3) proposed use of water is dedicated to a beneficial use; 4) proposed use of water is consistent with the district's certified water management plan; 5) applicant has agreed to avoid waste and achieve water conservation; 6) applicant has agreed that reasonable diligence will be used to protect groundwater quality and the applicant will follow well plugging guidelines at the time of well closure.
36.1131-Elements of Permit	b) Permit may include: 1) name and address of the person to whom permit is issued. 2) location of well 3) date the permit is to expire if no well is drilled 4) statement of the purpose for which well is to be used 5) requirement that water withdrawn under the permit be put to beneficial use at all times 6) location of the use of the water from the well 7) water well closure plan or a declaration that applicant will comply with well plugging guidelines and report closure to the commission 8) conditions and restrictions, if any, placed on the rate and amount of withdrawal 9) any conservation-oriented methods of drilling and operating prescribed by the district 10) drought contingency plan prescribed by the district 11) other terms and conditions as provided by sect 36.113.	a) Permit issued shall state the terms and provisions prescribed by the district.

36.114-Permit; Application and Hearing		District shall promptly consider and pass on each application for a permit. After 20 days an applicant may petition the district court for a writ of mandamus to compel the district to act on the application or set a date for a hearing on the application. Hearing shall be held within 35 days of the date set and the district shall act on the application within 35 days after the date of the hearing.
36.115-Drilling or Altering Well Without Permit	a) No person or firm may drill a well without first obtaining a permit from the district. b) No person, firm, or corporation may alter the size of a well or well pump such that it will bring that well under the jurisdiction of the district without first obtaining a permit from the district. c) No person, firm, or corporation may operate a well without first obtaining a permit from the district. d) A violation occurs on the first day the drilling, alteration, or operation begins and continues each day thereafter until the appropriate permits are approved.	
36.116-Regulation of Spacing and Production	In order to minimize the drawdown of the water table or the reduction of artesian pressure, the district may provide for the spacing of wells and may regulate the production of wells.	

36.117-Exemptions; Exception; Limitations	a) District may exempt wells from the requirements to obtain a drilling permit, an operating permit, or any other permit required by this chapter or the district's rules. A District may not require a permit for: 1) drilling or producing from a well either drilled, completed, or equipped so it is incapable of producing more than 25,000 gallons a day 2) drilling or alteration of the size well or to restrict production of a well if the water produced or to be produced from the well is used to supply the domestic needs of 10 or fewer households and a person who is a member of each household is either the owner of the well, a person related to the owner or a member of the owner's household within the second degree by consanguinity, or an employee of the owner. 3) the drilling or alteration of the size of well or to restrict the production from the well if the water is used to provide for feeding livestock and poultry connected with farming, ranching, or dairy enterprises. 4) water wells to supply water for hydrocarbon production activities, regardless of whether those wells are producing, that are associated with any well permitted by the RRC drilled before Sept 1, 1985, or 5) jet wells used for domestic needs	b) Board shall adopt rules determining the applicability of subsect (a)(3) to facilities used primarily for feeding livestock. c) District shall not deny the owner of a tract of land, or his lessee, who has no well equipped to produce more than 25,000 gallons a day on the tract, either a permit to drill a well on his land or the privilege to produce groundwater from his land, subject to the rules of the district. d) District may not restrict the production of any well equipped to produce 25,000 gallons or less a day e) Nothing in this chapter applies to wells drill for oil, gas, sulfur, uranium, or brine, or for core tests, or for injection of gas, saltwater, or other fluid, or for any other purpose under permits from the RRC. District may not require a drilling permit for a well to supply water for drilling any wells permitted by the RRC. Any well that ceases to be used for these purposes and is then used as an ordinary water well is subject to the rules of the district. Water wells drilled after Sept 1, 1997 to supply water for hydrocarbon production activities must meet the spacing requirements of the district unless no space is available within 300 feet of the production well or the central injection station. f) Wells exempt under this section shall be equipped and maintained to conform to district rules requiring installation of casing, pipe, and fittings to prevent the escape of groundwater from one groundwater reservoir to another. g) District shall require wells exempted under this section to be registered with the district before drilling. h) Well to supply water for a subdivision of land for which a plat approval is required by law is not exempted under this section.
36.118-Open or Uncovered Wells	a) district may require the owner or lessee of land to permanently close or cap an open or uncovered well. b) open or uncovered well is an artificial	

	excavation dug or drilled for the production of water c) If owner or lessee refuses to close or cap a well, any person, firm, or corporation employed by the district may go on the property and close or cap the well. d) reasonable expenses incurred by the district in closing or capping the well constitute a lien on the land e) lien arises and attaches upon recordation in the deed records of the county where well is located an affidavit, executed by any person conversant with the facts, stating the following: 1) existence of the well; 2) legal description of the property on which the well is located; 3) approximate location of the well on the property; 4) failure or refusal of the owner or lessee, after notification, to close the well within 10 days after notification; 5) closing of the well by the district, or an authorized agent, representative, or employee of the district; 6) the expense incurred by the district in closing the well. f) Nothing in this section affects the enforcement of Subchap A, Chap 756, Health and Safety Code.	
36.119-Illegal Drilling and Operation of Well; Citizen Suit	b) An adjacent landowner on which an illegal well is located or a part that is within ½ mile of the well, may sue in a court of competent jurisdiction to restrain or enjoin the illegal drilling or operation or both. Suit may be brought with or without the joinder of the district. c) The aggrieved party may also sue for damages suffered by the operation of the well. In suit for damages, the existence of operation of a well in violation of the rules of the district is prima facie evidence of illegal drainage. d) Suit may brought in the county where the illegal well is located or in the county where all or part of the affected land is located. e) Remedies provided by this section are cumulative of other remedies available to the individual or district. f) Suit brought under this section shall be advanced for trial as expeditiously as possible. Court shall not grant a postponement or continuance, including a first motion, except for reasons considered imperative by the court.	a) Drilling a well without a permit or operating a well at a higher rate of production than the rate approved for the well is declared to be illegal, wasteful per se, and a nuisance.

36.120-Information		On request of the executive director of the TNRCC, the district shall make available information that it acquires concerning the groundwater resources within its jurisdiction. District also provide information to the commission and the TWDB concerning its plans and activities in conserving and protecting the groundwater. On request, the executive director
		and the executive administrator shall provide information they acquire concerning the groundwater resources within the district's jurisdiction.
36.121-Limitation on Rulemaking Power of Districts Over Wells in Certain Counties		Except as provided by Section 36.117, a district that is created under this chapter on or after September 1, 1991, shall exempt from regulation under this chapter a well and any water produced or to be produced by a well that is located in a county that has a population of 14,000 or less if the water is to be used solely to supply a municipality that has a population of 115,000 or less and the rights to the water produced from the well are owned by a political subdivision that is not a municipality, or by a municipality that has a population of 93,000 or less, and that purchased, owned, or held rights to the water before the date on which the district was created, regardless of the date the well is drilled or the water is produced. The district may not prohibit the political subdivision or municipality from transporting produced water inside or outside the district's boundaries.

36.122- Transfer of Groundwater Out of the District	a) A district may promulgate rules requiring a person to obtain a permit from the district for the transfer of groundwater out of the district to: 1) increase, on or after March 2, 1997, the amount of groundwater to be transferred under a continuing arrangement in effect before that date; or 2) transfer groundwater out of the district on or after March 2, 1997, under a new arrangement. b) The district may impose a reasonable fee for processing an application for a permit under this section. c)Before issuing a permit under this section, the district must give notice of the application and hold a public hearing. d) In determining whether to issue a permit under this section, the district shall consider: 1) the availability of water in the district and in the proposed receiving area during the period for which the water supply is requested; 2) the availability of feasible and practicable alternative supplies to the applicant; 3) the amount and purposes of use in the proposed receiving area for which water is needed; 4) the projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the district; and 5) the approved regional water plan and certified district management plan. e) The district may limit a permit issued under this section if conditions in Subsection (d) warrant the limitation. f) In addition to conditions provided by Section 36.1131, the permit shall specify:	I) A district shall adopt rules as necessary to implement this section.
	1) the amount of water that may be transferred out of the district; and 2) the period for which the water may be transferred. g) A district may not prohibit the export of groundwater if the purchase was in effect on or before June 1, 1997. h) This section applies only to a transfer of water that is initiated or increased after the effective date of this section.	
	SUBCHAPTER E. DISTRICT FINANCES	

36.151-Expenditures	a) A district's money may be disbursed only by check, draft, order, or other instrument. c) The board may by resolution allow disbursements to be transferred by federal reserve wire system to accounts in the name of the district.	b) Disbursements shall be signed by at least two directors, except the board may by resolution allow certain employees of the district, or a combination of employees and directors, to sign disbursements on behalf of the board.
36.152-Fiscal Year		a) The district shall be operated on the basis of a fiscal year established by the board. b) The fiscal year may not be changed during a period in which revenue bonds of the district are outstanding or more than once in a 24-month period.
36.153-Annual Audit		a) Annually, the board shall have an audit made of the financial condition of the district. b) The annual audit and other district records must be open to inspection during regular business hours at the principal office of the district.
36.154-Annual Budget	c) The annual budget may be amended on the board's approval	a) The board shall prepare and approve an annual budget. b) The budget shall contain a complete financial statement, including a statement of: 1) the outstanding obligations of the district; 2) the amount of cash on hand to the credit of each fund of the district; 3) the amount of money received by the district from all sources during the previous year; 4) the amount of money available to the district from all sources during the ensuing year; 5) the amount of the balances expected at the end of the year in which the budget is being prepared; 6) the estimated amount of revenues and balances available to cover the proposal budget; and 7) the estimated tax rate or fee revenues that will be required.
36.155-Depository		a) The board shall name one or more banks to serve as depository for the district funds. b) District funds, other than those transmitted to a bank for payment of bonds issued by the district, shall be deposited as received with the depository bank and shall remain on deposit. This subsection does not limit the power of the board to place a portion of the district's funds on time deposit or to purchase certificates of deposit. c) To the extent that funds in the depository are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of funds by the
		Public Funds Collateral Act, Chapter 2257, Government Code.

36.156-Investments	a) Funds of the district may be invested and reinvested in accordance with the provisions of the Public Funds Investment Act, Chapter 2256, Government Code. b) The board, by resolution, may provide that an authorized representative of the district may invest and reinvest the funds of the district and provide for money to be withdrawn from the appropriate accounts of the district for investments on such terms as the board considers advisable.	
36.157-Repayment of Organizational Expenses	a) A district may pay all costs and expenses necessarily incurred in the creation and organization of a district, including legal fees and other incidental expenses, and may reimburse any person for money advanced for these purposes. b) Payments may be made from money obtained from the sale of bonds first issued by the district or out of maintenance taxes or other revenues of the district.	
36.158-Grants	A district may make or accept grants, gratuities, advances, or loans in any form to or from any source approved by the board, including any governmental entity, and may enter into contracts, agreements, and covenants in connection with grants, gratuities, advances, or loans that the board considers appropriate.	
36.159-Groundwater District Management Plan Funds	The Texas Water Development Board may allocate funds from the water assistance fund to a district to conduct initial data collections under this chapter, to develop and implement a long-term management plan under Section 36.1071, and to participate in regional water plans.	

36.160-Funds	The Texas Water Development Board, the commission, the Parks and Wildlife Department, the Texas Agricultural Extension Service, and institutions of higher education may allocate funds to carry out the objectives of this chapter and Chapter 35, which include but are not limited to: 1) conducting initial and subsequent studies and surveys under Sections 36.106, 36.107, and 36.109; 2) providing appropriate education in affected areas identified in Section 35.007 relating to the problems and issues concerning water management that may arise; 3) processing priority groundwater management area evaluations under this chapter and Chapter 35; 4) providing technical and administrative assistance to newly created districts under this	
	chapter and Chapter 35; 5) covering the costs of newspaper notices required under Sections 35.009 and 36.014 and failed elections in accordance with Sections 35.014(c), 36.017(h), and 36.019; and 6) providing for assistance from the Parks and Wildlife Department to the Texas Water Development Board or a district for the purpose of assessing fish and wildlife resource habitat needs as they may apply to overall management plan goals and objectives of the district.	

36.161- Eligibility for Funding	a) The Texas Water Development Board may provide funds under Sections 36.159 and 36.160, Chapters 15, 16, and 17, and Subchapter L of this chapter to a district if the Texas Water Development Board determines that such funding will allow the district to comply or continue to comply with provisions of this chapter. b) The Texas Water Development Board may, after notice and hearing, discontinue funding described in Subsection (a) if the Texas Water Development Board finds that the district is not using the funds to comply with the provisions of this chapter. c) The Texas Water Development Board, when considering a discontinuance under Subsection (b), shall give written notice of the hearing to the district at least 20 days before the date set for the hearing. The hearing shall be conducted in accordance with Chapter 2001, Government Code, or the rules of the respective agency. General notice of the hearing shall be given in accordance with the rules of the agency. d) The Texas Water Development Board may delegate to the State Office of Administrative Hearings the responsibility to conduct a hearing under this section.	
	SUBCHAPTER F. BONDS AND NOTES	
36.171- Issuance of Bonds and Notes	a) The board may issue and sell bonds and notes in the name of the district for any lawful purpose of the district. A district may not issue bonds unless the commission determines that the project to be financed by the bonds is feasible and issues an order approving the issuance of the bonds. This section does not apply to refunding bonds. b) A district may submit to the commission a written application for investigation of feasibility. An engineer's report describing the project, including the data, profiles, maps, plans, and specifications prepared in connection with the report, must be submitted with the application. c) The executive director shall examine the application and the report and shall inspect the	

	project area. The district shall, on request, supply the executive director with additional data and information necessary for an investigation of the application, the engineer's report, and the project. d) The executive director shall prepare a written report on the project and include suggestions, if any, for changes or improvements in the project. The executive director shall retain a copy of the report and send a copy of the report to both the commission and the district. e) The commission shall consider the application, the engineer's report, the executive director's report, and any other evidence allowed by commission rule to be considered in determining the feasibility of the project. f) The commission shall determine whether the project to be financed by the bonds is feasible and issue an order either approving or disapproving, as appropriate, the issuance of the bonds. The commission shall retain a copy of the order and send a copy of the order to the district. g) Notwithstanding any provision of this code to the contrary, the commission may approve the issuance of bonds of a district without the submission of plans and specifications of the improvements to be financed with the bonds. The commission may condition the approval on any terms or conditions considered appropriate by the commission.	
36.172-Manner of Repayment of Bonds and Notes	The board may provide for the payment of principal of and interest on the bonds and notes in any one of the following manners: 1) from the levy and collection of ad valorem taxes on taxable property within the district; 2) from fees; 3) by pledging all or any part of the designated revenues from the ownership or operation of the district's works, improvements, and facilities and from the sale, transportation, and distribution of water; or 4) from any combination of these sources.	

36.173-Additional Security for Bonds and Notes	a) The bonds and notes may be additionally secured by a deed of trust or mortgage lien on part or all of the physical properties of the district and rights appurtenant to those properties, vesting in the trustee power to sell the properties for payment of the indebtedness, power to operate the properties, and all other powers necessary for the further security of the bonds and notes. b) The trust indenture, regardless of the existence of the deed trust or mortgage lien on the properties, may contain provisions established by the board for the security of the bonds and notes and the preservation of the	c) A purchaser under a sale under the deed trust or mortgage lien shall be absolute owner of the properties and rights purchased and may maintain and operate them.
	trust estate, may make provisions for amendment or modification, and may make provisions for investment of funds of the district.	
36.174-Form of Bonds or Notes	a) A district may issue its bonds or notes in various series or issues. b) Bonds or notes may mature serially or otherwise not more than 50 years from their date and shall bear interest at any rate permitted by the constitution and laws of this state. c) A district's bonds, notes, and interest coupons, if any, are investment securities under the terms of Chapter 8, Business & Commerce Code, and may be issued registrable as to principal or as to both principal and interest and may be made redeemable before maturity, at the option of the district, or may contain a mandatory redemption provision. d) A district's bonds and notes may be issued in the form, denominations, and manner and under the terms, conditions, and details, and shall be signed and executed as provided by the board in the resolution or order authorizing their issuance.	

36.175- Provisions of Bonds and Notes	a) In the orders or resolutions authorizing the issuance of bonds or notes, <including refunding bonds, the board may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund, the reserve fund, and other funds. The board may make additional covenants with respect to bonds or notes, pledged revenues, and the operation and maintenance of those works, improvements, and facilities, of which the revenue is pledged. b) The orders or resolutions of the board authorizing the issuance of bonds or notes may also prohibit the further issuance of bonds, notes, or other obligations payable from the pledged revenue or may reserve the right to issue additional bonds or notes to be secured by a pledge of and payable from the revenue on a parity with or subordinate to the lien and pledge in support of the bonds or notes being issued. c) The orders or resolutions of the board issuing bonds or notes may contain other provisions and covenants as the board may determine. d) The board may adopt and have executed any other proceeding or instruments necessary and convenient in the issuance of bonds or notes.	
36.176- Refunding Bonds	a) A district may issue bonds to refund all or any part of its outstanding bonds or notes, including matured but unpaid interest coupons. b) Refunding bonds shall mature serially or	

	otherwise not more than 50 years from their date and shall bear interest at any rate or rates permitted by the constitution and laws of the state. c) Refunding bonds may be payable from the same source as the bonds or notes being refunded or from other additional sources. d) The refunding bonds must be approved by the attorney general as in the case of other bonds or notes and shall be registered by the comptroller on the surrender and cancellation of the bonds or notes being refunded. e) The orders or resolutions authorizing the issuance of the refunding bonds may provide that they be sold and the proceeds deposited in the place or places at which the bonds or notes being refunded are payable, in which case the refunding bonds may be issued before the cancellation of the bonds or notes being refunded. If refunding bonds are issued before cancellation of the other bonds or notes, an amount sufficient to pay the principal of and interest on the bonds or notes being refunded to their maturity dates, or to their option dates if the bonds or notes have been duly called for payment prior to maturity according to their terms, shall be deposited in the place or places at which the bonds or notes being refunded are payable. The comptroller shall register the refunding bonds without the surrender and cancellation of bonds or notes being refunded. f) A refunding may be accomplished in one or in several installment deliveries. Refunding bonds and their interest coupons are investment securities under Chapter 8, Business & Commerce Code. g) In lieu of the method set forth in Subsections (a)-(f), a district may refund bonds, notes, or other obligations as provided by the general laws of the state.	
36.177-Bonds and Notes as Investments		District bonds and notes are legal and authorized investments for: 1) banks; 2) savings banks; 3) trust companies; 4) savings and loan associations; 5) insurance companies; 6) fiduciaries; 7) trustees; 8) guardians; and 9) sinking funds of cities, counties, school districts, and other political subdivisions of the state and other public funds of the state and its agencies, including the permanent school fund.

36.178-Bonds and Notes as Security for Deposits		District bonds and notes are eligible to secure deposits of public funds of the state and cities, counties, school districts, and other political subdivisions of the state.
		The bonds or notes are lawful and sufficient security for deposits to the extent of their value when accompanied by all unmatured coupons.
36.179-Tax Status of Bonds and Notes		Since a district governed by this chapter is a public entity performing an essential public function, bonds and notes issued by the district, any transaction relating to the bonds and notes, and profits made in the sale of the bonds and notes, are free from taxation by the state or by any city, county, special district, or other political subdivision of the state.
36.180-Election	a) Bonds or notes secured in whole or in part by taxes may not be issued by the district until authorized by a majority vote of the qualified voters of the district at an election called for that purpose. b) The board may order an election, and the order calling the election shall state the nature and the date of the election, the hours during which the polls will be open, the location of the polling places, the amount of bonds or notes to be authorized, and the maximum maturity of the bonds or notes.	c) At an election to authorize bonds or notes payable wholly from ad valorem taxes, the ballots must be printed to provide for voting for or against the proposition: "The issuance of (bonds or notes) and the levy of taxes for payment of the (bonds or notes)." At any election to authorize bonds or notes payable from both ad valorem taxes and revenues, the ballots must be printed to provide for voting for or against: "The issuance of (bonds or notes) and the pledge of net revenues and the levy of ad valorem taxes adequate to provide for the payment of the (bonds or notes)." d)The board shall canvass the returns and declare the results of the election. If a majority of the votes cast at the election favor the issuance of the bonds or notes, the bonds or notes may be issued by the board, but if a majority of the votes cast at the election do not favor issuance of the bonds or notes, the bonds or notes may not be issued.
36.181-Approval by Attorney General; Registration by Comptroller		a) Bonds and notes issued by a district must be submitted to the attorney general for examination. b) If the attorney general finds that the bonds or notes have been authorized in accordance with law, the attorney general shall approve them, and they shall be registered by the comptroller. c) After the approval and registration of bonds or notes, the bonds or notes are incontestable in any court or other forum, for any reason, and are valid and binding obligations in accordance with their terms for all purposes.
	SUBCHAPTER G. DISTRICT REVENUES	

36.201-Levy of Taxes	a) The board may annually levy taxes to pay the bonds issued by the district that are payable in whole or in part by taxes. b) The board may annually levy taxes to pay the maintenance and operating expenses of the district at a rate not to exceed 50 cents on each $100 of assessed valuation. c) The board may not levy a tax to pay the maintenance and operating expenses of the district under this section until the tax is approved by a majority of the electors voting at an election in the district held for that purpose.The district may: 1) hold an election for approval of the tax at the same time and in conjunction with an	
	election to authorize bonds, following the procedures applicable to a bond election; or 2) hold a separate election for approval of the tax in accordance with Subsection (d). d) An order calling a separate election for approval of a tax under this section must be issued at least 15 days before the date of the election, and the election notice must be published at least twice in a newspaper of general circulation in the district. The first publication of the notice must be at least 14 days before the date of the election.	
36.202-Board Authority	a) The board may levy taxes for the entire year in which the district is created. b) If territory is added to or annexed by the district, the board may levy taxes in the new territory for the entire year in which the territory is added or annexed.	c) The board shall levy taxes on all property in the district subject to district taxation.
36.203-Tax Rate		In setting the tax rate, the board shall take into consideration the income of the district from sources other than taxation. On determination of the amount of tax required to be levied, the board shall make the levy and certify it to the tax assessor-collector.
36.204-Tax Appraisal, Assessment and Collection	a) The Tax Code governs the appraisal, assessment, and collection of district taxes. b) The board may provide for the appointment of a tax assessor-collector for the district or may contract for the assessment and collection of taxes as provided by the Tax Code.	

36.205-Authority to Set Fees	a) A district may set fees for administrative acts of the district, such as filing applications. Fees set by a district may not unreasonably exceed the cost to the district of performing the administrative function for which the fee is charged.	b) A district shall set and collect fees for all services provided outside the boundaries of the district. c) Fees based on the amount of water to be withdrawn from a well shall not exceed: 1) one dollar per acre foot for water used for the purpose of irrigating agricultural crops; or 2) 17 cents per thousand gallons for water used for any other purpose. d) A district affected by Subsection (c)(2) that also may assess a water use fee against a specific municipality shall assess an amount not to exceed 60 percent of the total funding of the district received from water use fees assessed against that municipality and other nonexempt users in the district. This subsection shall take precedence over all prior enactments. e) Subsection (c) does not apply to the following districts: 1) the Edwards Aquifer Authority; 2) the Fort Bend Subsidence District; or 3) the Harris-Galveston Coastal Subsidence District.
36.206-District Fees	a) A temporary board may set user fees to pay for the creation and initial operation of a district, until such time as the district creation has been confirmed and a permanent board has been elected by a majority vote of the	b) The rate of fees set for crop or livestock production or other agricultural uses shall be no more than 20 percent of the rate applied to municipal uses.
	qualified voters voting in the district in an election called for those purposes.	
36.207-Use of Permit Fees Authorized by Special Law	A district may use funds obtained from permit fees collected pursuant to the special law governing the district for purpose consistent with the district's certified water management plan including, without limitation, making grants, loans, or contractual payments to achieve, facilitate, or expedite reductions in groundwater pumping or the development or distribution of alternative water supplies.	
	SUBCHAPTER H. JUDICIAL REVIEW	
36.251-Suit Against District		A person, firm, corporation, or association of persons affected by and dissatisfied with any provision or with any rule or order made by a district is entitled to file a suit against the district or its directors to challenge the validity of the law, rule, or order. The suit shall be filed in a court of competent jurisdiction in any county in which the district or any part of the district is located. The suit may only be filed after all administrative appeals to the district are final.

36.252-Suit to be Expedited		A suit brought under this subchapter shall be advanced for trial and determined as expeditiously as possible. No postponement or continuance shall be granted except for reasons considered imperative by the court.
36.253-Trial of Suit		The burden of proof is on the petitioner, and the challenged law, rule, order, or act shall be deemed prima facie valid. The review on appeal is governed by the substantial evidence rule as defined by Section 2001.174, Government Code.
36.254-Subchapter Cumulative		The provisions of this subchapter do not affect other legal or equitable remedies that may be available.
	SUBCHAPTER I. PERFORMANCE REVIEW AND DISSOLUTION	
36.301-Failure to Submit a Management Plan		If a board fails to submit a management plan or to receive certification of its management plan under Section 36.1072 or fails to submit or receive certification of an amendment to the management plan under Section 36.1073, the commission shall take appropriate action under Section 36.303.
36.302-Legislative Audit Review; Determination of Whether District is Operational		a) A district is subject to review by the state auditor under the direction of the legislative audit committee pursuant to Chapter 321, Government Code. b) The commission, the Texas Water Development Board, and the Parks and Wildlife Department shall provide technical assistance to the state auditor's office for the review. c) The state auditor shall make a determination of whether a district is actively engaged in achieving the objectives of the district's management plan based on an audit of the district's performance under the plan.
		d) The state auditor shall conduct such audits following the first anniversary of the initial certification of the plan by the Texas Water Development Board under Section 36.1072 and following the end of every five-year period thereafter. e) The state auditor shall report findings of the review to the legislative audit committee and to the commission. f) If it is determined under Subsection (c) that the district is not operational, the commission shall take appropriate action under Section 36.303.

36.303-Action by Commission		a) If Section 36.301 or 36.302(f) applies, the commission, after notice and hearing in accordance with Chapter 2001, Government Code, shall take action the commission considers appropriate, including: 1) issuing an order requiring the district to take certain actions or to refrain from taking certain actions; 2) dissolving the board in accordance with Sections 36.305 and 36.307; 3) removing the district's taxing authority; or 4) dissolving the district in accordance with Sections 36.304, 36.305, and 36.308. b) In addition to actions identified under Subsection (a), the commission may recommend to the legislature, based upon the report required by Section 35.018, actions the commission deems necessary to accomplish comprehensive management in the district.
36.304-Dissolution of District	a)The commission may dissolve a district that: 1) is not operational, as determined under Section 36.302; and 2) has no outstanding bonded indebtedness. b) A district composed of territory entirely within one county may be dissolved even if the district has outstanding indebtedness that matures after the year in which the district is dissolved, whereupon the commissioners court shall levy and collect taxes on all taxable property in the district in an amount sufficient to pay the principal of and interest on the indebtedness when due. The taxes shall be levied and collected in the same manner as county taxes.	
36.305-Notice of Hearing for Dissolution of Board or District		a) The commission shall give notice of the hearing for dissolution of a district or of a board which briefly describes the reasons for the proceeding. b) The notice shall be published once each week for two consecutive weeks before the day of hearing in a newspaper having general circulation in the county or counties in which the district is located. The first publication shall be 30 days before the day of the hearing. c)The commission shall give notice of the hearing by first class mail addressed to the directors of the district according to the last record on file with the executive director.
36.306-Investigation		The executive director shall investigate the facts and circumstances of any violations of any rule or order of the commission or any provisions of this chapter and shall prepare and file a written report with the commission and district and include any actions the executive director believes the commission should take under Section 36.303.

36.307-Order of Dissolution of Board		If the commission enters an order to dissolve the board, the commission shall notify the county commissioners court of each county which contains territory in the district and the commission shall provide that temporary directors be appointed under Section 36.016 to serve until an election for a new board can be held under Section 36.017, provided, however, that district confirmation shall not be required for continued existence of the district and shall not be an issue in the election.
36.308-Certified Copy of Order		The commission shall file a certified copy of the order of dissolution of the district in the deed records of the county or counties in which the district is located. If the district was created by a special Act of the legislature, the commission shall file a certified copy of the order of dissolution with the secretary of state.
36.309-Appeals		Appeals from any commission order shall be filed and heard in the district court of any of the counties in which the land is located.
36.310-Assets Escheat		Upon the dissolution of a district by the commission, all assets of the district shall be sold at public auction and the proceeds given to the county if it is a single-county district. If it is a multi county district, the proceeds shall be divided with the counties in proportion to the surface land area in each county served by the district.
	SUBCHAPTER J. ADDING TERRITORY TO DISTRICT	
36.321-Adding Land by Petition of Landowner	The owner of land contiguous to a district may file with the board a notarized petition requesting that the owner's land be included in the district. The petition must describe the land by legal description or by metes and bounds or by lot and block number if there is a recorded plat of the area to be included in the district.	
36.322-Assumption of Bonds		If the district has bonds, notes, or other obligations outstanding or bonds payable in whole or in part from taxation that have been voted but are unissued, the petitioner shall assume its share of the outstanding bonds, notes, or other obligations and any voted but unissued tax bonds of the district, and the property shall be assessed an ad valorem tax at the same rate as that set for the existing district to pay for outstanding bonds and for the maintenance and operation of the district.

36.323-Hearing and Determination of Petition		a) The board shall hear and consider the petition and may add to the district the land described in the petition if it is considered to be to the advantage of the petitioner and to the existing district. b)If the district has bonds payable in whole or in part from taxation that are voted but unissued at the time of the annexation, the board may issue the voted but unissued bonds even though the boundaries of the district have been altered since the authorization of the bonds.
36.324-Recording Petition		A petition that is granted which adds land to the district shall be recorded in the office of the county clerk of the county or counties in which the land is located and the county or counties in which the existing district's principal office is located.
36.325-Adding Certain Territory by Petition	a) Landowners of a defined area of territory not already in a district may file with any district a petition requesting inclusion in that district. b)The petition must be signed by: 1) a majority of the landowners in the territory; 2)at least 50 landowners if the number of landowners is more than 50; or 3) the commissioners court of the county in which the area is located if the area is identified as a priority groundwater management area or includes the entire county. The petition must describe the land by legal description or by metes and bounds or by lot and block number if there is a recorded plat of the area to be included in the district.	
36.326-Hearing on Petition		The board by order shall set the time and place of separate hearings on the petition to include the territory in the district. At least one hearing shall be held in the existing district and one hearing shall be held in the territory to be added.
36.327-Resolution to Add Territory	If the board finds after the hearing on the petition that the addition of the land would benefit the district and the territory to be added, it may add the territory to the district by resolution. The board does not have to include all the territory described in the petition if it finds that a modification or change is necessary or desirable.	

36.328-Election to Ratify Annexation of Land		a) Annexation of the territory is not final until ratified by a majority vote of the voters in the territory to be added. An election in the existing district accepting the addition of land is not required. b) The ballots for the election shall be printed to provide for voting for or against the proposition: "The inclusion of (briefly describe additional area) in the _____ District." If the district levies a property tax for payment of its maintenance and operating expenses, the proposition shall include the following language: "and the levy of a tax on property at a rate not to exceed _____ cents on each $100 of assessed valuation for payment of maintenance and
		operating expenses of the district." c) The amount of the tax included in the proposition shall be the maximum amount that the district is authorized to levy. If the district has outstanding or authorized bonded indebtedness, the proposition shall include language providing for the assumption by the additional area of a proportional share of the bonded indebtedness of the district.
36.329-Notice and Procedure of Election		The notice of the election, the manner and the time of giving the notice, the manner of holding the election, and qualifications of the voters are governed by the Election Code.
36.330-Liability of Added Territory		The added territory shall bear its pro rata share of indebtedness or taxes that may be owed, contracted, or authorized by the district to which it is added.
36.331-Annexation of Noncontiguous Territory	Land not contiguous to the existing boundaries of a district may not be added to or annexed to a district unless the land is located either within the same management area, priority groundwater management area, or a groundwater subdivision designated by the commission or its predecessors.	
	SUBCHAPTER K. CONSOLIDATION OF DISTRICTS	
36.351-Consolidation of Districts	a) Two or more districts may consolidate into one district. b) Adjacent districts may consolidate portions of either district if one district relinquishes land within that district to the jurisdiction of the other district. c) A consolidation under this subchapter occurs if the board of each involved district adopts a resolution containing the terms and conditions of the consolidation.	

36.352-Terms and Conditions of Consolidation		a) The terms and conditions for consolidation shall include: 1) adoption of a name for the district; 2) the number and apportionment of directors to serve on the board; 3) the effective date of the consolidation; 4) an agreement on finances for the consolidated district, including disposition of funds, property, and other assets of each district; 5) transfer of all permits issued in the area that is the subject of the consolidation to the consolidated district; and 6) an agreement on governing the districts during the transition period, including selection of officers. b) The terms and conditions for consolidation may include: 1) assumption by each district of the other district's bonds, notes, voted but unissued bonds, or other obligations; 2) an agreement to levy taxes to pay for bonds; 3) any other terms of conditions agreed upon by the board of each district.
36.353-Notice and Hearing on Consolidation		a) Each board shall publish notice and hold a public hearing within that district on the terms and conditions for consolidation of the districts. b) After the hearing, the board may, by resolution, approve the terms and conditions for consolidation and enter an order consolidating the districts.

36.354- Elections to Approve Consolidation		a) An election to ratify the consolidation is required unless the districts to be consolidated meet the following requirements: 1) the districts have not authorized or issued bonds and do not levy or assess taxes; or 2) the consolidation would not result in any additional taxing or bonding authority for any of the districts, and would not require any district to contribute to the debt payments of any other district. b) The board shall order an election in each district to be consolidated only after the board of each district has agreed on the terms and conditions of consolidation. The directors of each district shall order the election to be held on the same day in each district. The election shall be held and notice given in the manner provided by the Election Code. c) The ballots for the election shall be printed to provide for voting for or against the proposition: "The consolidation of (names of the districts to be consolidated) in the _____ District." If the district levies a property tax for payment of its bonded indebtedness, the proposition shall include the following language: "and the levy of a tax on property at a rate not to exceed _____ cents on each $100 of assessed valuation for payment of bonds." If the district levies a property tax for payment of its maintenance and operating expenses, the proposition shall include the following language: "and the levy of a tax on property at a rate not to exceed _____ cents on each $100 of assessed valuation for payment of maintenance and operating expenses of the district." d) A district may be consolidated only if a majority of the electors in each district vote in favor of the consolidation. If more than two districts are consolidating, failure of any one district to ratify the consolidation shall not prevent the consolidation of the other districts.
36.355- Governing Consolidated Districts		a) After two or more districts are consolidated, they become one district and are governed as one district. b) During the transition period, the officers of each district shall continue to act jointly as officers of the original districts to settle the affairs of their respective districts. c) If the consolidated district elects directors, directors for the consolidated district shall be elected in the same manner and for the same term as directors elected at a confirmation election. The directors' election shall be set for the next regular election.

36.356-Debts of Original Districts		a) After two or more districts are consolidated, the consolidated district shall protect the debts of the original districts and shall assure that the debts are not impaired. If the consolidated district has taxing authority, the debts may be paid by taxes levied on the land in the original districts as if they had not consolidated or from contributions from the consolidated district on terms stated in the consolidation agreement. b) If the consolidated district has taxing authority and assumes the bonds, notes, and other obligations of the original districts, taxes may be levied uniformly on all taxable property within the consolidated district to pay the debts.
36.357-Assessment and Collection of Taxes		If the consolidated district has taxing authority, the district shall assess and collect taxes on property on all property in the district for maintenance and operation of the district.
36.358-Voted but Unissued Bonds	If either district has voted but unissued bonds payable in whole or in part from taxation assumed by the consolidated district, the consolidated district may issue the voted but unissued bonds in the name of the consolidated district and levy a uniform tax on all taxable property in the consolidated district to pay for the bonds.	
36.359-Filing of Order With County Clerk and Executive Director		A consolidation order issued by the board shall be kept in the records of the consolidated district, recorded in the office of the county clerk in each of the counties in the consolidated district, and filed with the executive director.
	SUBCHAPTER L. GROUNDWATER DISTRICT LOAN ASSISTANCE FUND	
36.371-Groundwater District Loan Assistance Fund		a) The groundwater district loan assistance fund is created, to be funded by direct appropriation and by the Texas Water Development Board from the water assistance fund. b) Repayments of loans shall be deposited in the water assistance fund.
36.372-Financial Assistance	a) The loan fund may be used by the Texas Water Development Board to provide loans to newly confirmed districts and legislatively created districts that do not require a confirmation election to pay for their creation and initial operations. b) The Texas Water Development Board shall establish rules for the use and administration of the loan fund.	

36.373- Application for Assistance		a) In an application to the Texas Water Development Board for financial assistance from the loan fund, the applicant shall include: 1) the name of the district and its board members; 2) a citation of the law under which the district operates and was created; 3) a description of the initial operations; 4) the total start-up cost of the initial operations;
		5) the amount of state financial assistance requested; 6) the plan for repaying the total cost of the loan; and 7) any other information the Texas Water Development Board may require to perform its duties and protect the public interest. b) The Texas Water Development Board may not accept an application for a loan from the loan fund unless it is submitted in affidavit form by the applicant's board. The Texas Water Development Board shall prescribe the affidavit form in its rules. c) The rules implementing this section shall not restrict or prohibit the Texas Water Development Board from requiring additional factual material from an applicant.
36.374- Approval of Application	The Texas Water Development Board, by resolution, may approve an application if it finds that: 1) granting financial assistance to the applicant will serve the public interest; and 2) the revenue pledged by the applicant from district taxes and fees and other sources will be sufficient to meet all the obligations assumed by the applicant.	

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TITLE 2. WATER ADMINISTRATION

SUBTITLE E. GROUNDWATER MANAGEMENT

CHAPTER 35. GROUNDWATER STUDIES

§ 35.001. PURPOSE. In order to provide for the conservation, preservation, protection, recharging, and prevention of waste of the groundwater, and of groundwater reservoirs or their subdivisions, and to control subsidence caused by withdrawal of water from those groundwater reservoirs or their subdivisions, consistent with the objectives of Section 59, Article XVI, Texas Constitution, groundwater management areas may be created as provided by this chapter.

§ 35.002. DEFINITIONS.
In this chapter:

(1) "District" means any district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, that has the authority to regulate the spacing of water wells, the production from water wells, or both.

(2) "Commission" means the Texas Natural Resource Conservation Commission.

(3) "Executive director" means the executive director of the commission.

(4) "Executive administrator" means the executive administrator of the Texas Water Development Board.

(5) "Groundwater" means water percolating below the surface of the earth.

(6) "Groundwater reservoir" means a specific subsurface water-bearing reservoir having ascertainable boundaries containing groundwater.

(7) "Subdivision of a groundwater reservoir" means a definable part of a groundwater reservoir in which the groundwater supply will not be appreciably affected by withdrawing water from any other part of the reservoir, as indicated by known geological and hydrological conditions and relationships and on foreseeable economic development at the time the subdivision is designated or altered.

(8) "Subsidence" means the lowering in elevation of the land surface caused by withdrawal of groundwater.

(9) "Board" means the board of directors of a district.

(10) "Director" means a member of a board.

(11) "Management area" means an area designated and delineated by the commission as an area suitable for management of groundwater resources.

(12) "Critical area" means an area designated and delineated by the commission as an area that is experiencing or is expected to experience critical groundwater problems.

(13) "Political subdivision" means a county, municipality, or other body politic or corporate of the state, including a district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, a state agency, or a nonprofit water supply corporation created under Chapter 76, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 1434a, Vernon's Texas Civil Statutes).

§ 35.003. SURFACE WATER LAWS NOT APPLICABLE.

The laws and administrative rules relating to the use of surface water do not apply to groundwater.

§ 35.004. DESIGNATION OF MANAGEMENT AREAS.

(a) On its own motion from time to time, or on receiving a petition, the commission may designate groundwater management areas. Each management area shall be designated with the objective of providing the most suitable area for the management of the groundwater resources. To the extent feasible, the management area shall coincide with the boundaries of a groundwater reservoir or a subdivision of a groundwater reservoir. The commission also may consider other factors, including the boundaries of political subdivisions.

(b) On the request of any person interested in the petition, or on the request of the commission, the executive director shall prepare available evidence relating to the configuration of a groundwater management area. Before making the designation, the commission shall consider the evidence prepared by the executive director and other evidence submitted at the hearing.

(c) The commission may alter the boundaries of designated management areas as required by future conditions and as justified by factual data. An alteration of boundaries does not invalidate the previous creation of any district.

(d) The commission shall designate groundwater management areas using the procedures applicable to rulemaking under the Administrative Procedure Act, Subchapter B, Chapter 2001, Government Code.

§ 35.005. PETITION TO DESIGNATE A GROUNDWATER MANAGEMENT AREA.

(a) A petition may be submitted to the commission for the sole purpose of requesting that the commission designate a management area for all or part of one or more counties.

(b) A petition filed pursuant to this section must be signed by:

(1) a majority of the landowners in the proposed management area; or

(2) if there are more than 50 landowners in the proposed management area, at least 50 of those landowners.

(c) A petition filed pursuant to this section must contain the following statement: "Petitioners request that the Texas Natural Resource Conservation Commission designate a groundwater management area to include all or part of _____ County (counties). The management area shall be designated with the objective of providing the most suitable area for the management of groundwater resources of the part of the state in which a district is to be located. Petitioners understand that this petition requests only the designation of a management area, but that all or part of the land in the management area designated may later be added to an existing groundwater conservation district or become a new groundwater conservation district, as provided by Chapter 36 of the Water Code."

(d) A petition shall include a map that shows the location of the proposed management area and may include any other information desired by the petitioners concerning the proposed management area.

(e) The petitioners shall file the petition with the executive director for review in accordance

with the rules of the commission. The petitioners shall supply any additional information requested by the commission or the executive director.

(f) The commission shall act on the petition within a reasonable amount of time.

§ 35.006. NOTICE FOR DESIGNATION OF MANAGEMENT AREA.

(a) In addition to the notice required under the Administrative Procedure Act, Section 2001.023, Government Code, the petitioners shall have notice published in at least one newspaper with general circulation in the county or counties in which the proposed management area is to be located. Notice must be published not later than the 30th day before the date set for the commission to consider the designation of the management area.

(b) The notice must include:

(1) a statement of the general purpose and effect of designating the proposed management area;

(2) a map generally outlining the boundaries of the proposed management area or notice of the location at which a copy of the map may be examined or obtained; and

(3) the time and place at which the commission will consider the designation of the management area.

(c) If the commission designates a management area on its own motion, the commission shall give the same notice as required of the petitioner under this section.

§ 35.007. IDENTIFYING, DESIGNATING, AND DELINEATING PRIORITY GROUNDWATER MANAGEMENT AREAS.

(a) The executive director and the executive administrator shall meet at least once a year to identify, based on information gathered by the commission and the Texas Water Development Board, those areas of the state that are experiencing or that are expected to experience, within the immediately following 25-year period, critical groundwater problems, including shortages of surface water or groundwater, land subsidence resulting from groundwater withdrawal, and contamination of groundwater supplies.

(b) If the executive director concludes that an area of the state should be considered for designation as a priority groundwater management area, the executive director shall prepare a report to the commission.

(c) Before the executive director requests a study from the executive administrator under Subsection (d), the executive director shall provide notice to the persons listed in Section 35.009(c) of areas being considered for identification as experiencing or expected to experience critical groundwater problems and shall consider any information or studies submitted under this subsection. Not later than the 45th day after the date of the notice, a person required to receive notice under this subsection may submit to the executive director information or studies that address the potential effects on an area of being identified as experiencing or expected to experience critical groundwater problems.

(d) The executive director shall begin preparation of a priority groundwater management area report by requesting a study from the executive administrator. The study must:

(1) include an appraisal of the hydrogeology of the area and matters within the Texas

Water Development Board's planning expertise relevant to the area;

(2) assess the area's immediate, short-term, and long-term water supply and needs; and

(3) be completed and delivered to the executive director on or before the 180th day following the date of the request. If the study is not delivered within this 180-day period, the executive director may proceed with the preparation of the report.

(e) The executive director shall request a study from the executive director of the Parks and Wildlife Department for the purpose of preparing the report required by this section. The study must:

(1) evaluate the potential effects of the designation of a priority groundwater management area on an area's natural resources; and

(2) be completed and delivered to the executive director on or before the 180th day following the date of the request. If the study is not delivered within this 180-day period, the executive director may proceed with the preparation of the report.

(f) The report shall include:

(1) the recommended delineation of the boundaries of any proposed priority groundwater management area in the form of an order to be considered for adoption by the commission;

(2) the reasons and supporting information for or against designating the area as a priority groundwater management area;

(3) a recommendation regarding whether a district should be created in the priority groundwater management area or whether the priority groundwater management area should be added to an existing district;

(4) a recommendation as to actions that should be considered to conserve natural resources;

(5) an evaluation of information or studies submitted to the executive director under Subsection (c); and

(6) any other information that the executive director considers helpful to the commission.

(g) The executive director must complete the report and file it with the commission on or before the 240th day following the date on which the executive administrator was requested to produce a study. The executive director shall make the report available for public inspection by providing a copy of the report to at least one public library and the county clerk's office in each county in which the proposed priority groundwater management area is located and to all districts adjacent to the area of the proposed priority groundwater management area.

(h) To carry out this section, the executive director may make necessary studies, hold hearings, solicit and collect information, and use information already prepared by the executive director or the executive administrator for other purposes.

§ 35.008. PROCEDURES FOR DESIGNATION OF PRIORITY GROUNDWATER MANAGEMENT AREA; CONSIDERATION OF CREATION OF DISTRICT OR ADDITION OF LAND IN PRIORITY GROUNDWATER MANAGEMENT AREA TO EXISTING DISTRICT.

(a) The commission shall designate priority groundwater management areas using the procedures provided by this chapter in lieu of those provided by Subchapter B, Chapter 2001,

Government Code.

(b) The commission shall call an evidentiary hearing to consider:

(1) the designation of a priority groundwater management area;

(2) whether a district should be created over all or part of a priority groundwater management area; or

(3) whether all or part of the land in the priority groundwater management area should be added to an existing district.

(c) Evidentiary hearings shall be held at a location in one of the counties in which the priority groundwater management area is located, or proposed to be located, or in the nearest convenient location if adequate facilities are not available in those counties.

(d) At the hearing, the commission shall hear testimony and receive evidence from affected persons. The commission shall consider the executive director's report and supporting information and the testimony and evidence received at the hearing. If the commission considers further information necessary, the commission may request such information from any source.

(e) The designation of a priority groundwater management area may not be appealed nor may it be challenged under the Administrative Procedure Act, Section 2001.038, Government Code.

§ 35.009. NOTICE AND HEARING.

(a) The commission shall have notice of the hearing published in at least one newspaper with general circulation in the county or counties in which the area proposed for designation as a priority groundwater management area or the area within a priority groundwater management area being considered for district creation or for addition to an existing district is located. Notice must be published not later than the 30th day before the date set for the commission to consider the designation of the priority groundwater management area, the creation of a district in a priority groundwater management area, or the addition of land in a priority groundwater management area to an existing district.

(b) The notice must include:

(1) if applicable, a statement of the general purpose and effect of designating the proposed priority groundwater management area;

(2) if applicable, a statement of the general purpose and effect of creating a district in the priority groundwater management area;

(3) if applicable, a statement of the general purpose and effect of adding all or part of the land in the priority groundwater management area to an existing district;

(4) a map generally outlining the boundaries of the area being considered for priority groundwater management area designation or the priority groundwater management area being considered for district creation or for addition to an existing district, or notice of the location at which a copy of the map may be examined or obtained;

(5) a statement that the executive director's report concerning the priority groundwater management area or proposed area is available at the commission's main office in Austin, Texas, and at regional offices of the commission for regions which include territory within the priority groundwater management area or proposed priority groundwater management area and that the report is available for inspection during regular business hours;

(6) a description or the name of the locations in the affected area at which the

commission has provided copies of the executive director's report to be made available for public inspection;

(7) the name and address of each public library, each county clerk's office, and each district to which the commission has provided copies of the executive director's report; and

(8) the date, time, and place of the hearing.

(c) The commission shall also give written notice of the date, time, place, and purpose of the hearing to the governing body of each county, regional water planning group, adjacent groundwater district, municipality, river authority, water district, or other entity which supplies public drinking water, including each holder of a certificate of convenience and necessity issued by the commission, and of each irrigation district, located either in whole or in part in the priority groundwater management area or proposed priority groundwater management area. The notice must be given before the 30th day preceding the date set for the hearing.

§ 35.012. COMMISSION ORDER.

(a) At the conclusion of its hearing and considerations, the commission shall issue an order stating its findings and conclusions.

(b) If the commission finds that the land and other property in the priority groundwater management area would benefit from the creation of one or more districts, that there is a public need for one or more districts, and that the creation of one or more districts would further the public welfare, the commission shall issue an order stating that the creation of one or more districts is needed.

(c) Following the issuance of a commission order under Subsection (b), the landowners in the priority groundwater management area may:

(1) create one or more districts under Subchapter B, Chapter 36;

(2) have the area annexed to a district that adjoins the area; or

(3) create one or more districts through the legislative process.

(d) The commission shall identify the areas subject to the order of the commission issued under Subsection (b) that have not been incorporated into a district and shall delineate proposed boundaries of a district to include those areas. If the commission proposes the creation of one or more districts, the Texas Agricultural Extension Service shall begin an educational program within such areas with the assistance and cooperation of the Texas Water Development Board, the commission, other state agencies, and existing districts to inform the residents of the status of the area's water resources and management options including possible formation of a district, before beginning the procedures for creation of a district provided in Subchapter B, Chapter 36.

(e) If the commission fails to find that the district would be a benefit to the land and other property within the priority groundwater management area, that there is a public need for the district, or that creation of the district will further the public welfare, the commission shall issue an order stating that a district should not be created within the boundaries of the priority groundwater management area.

(f) An order of the commission issued under this section may not be appealed.

§ 35.013. ADDING PRIORITY GROUNDWATER MANAGEMENT AREA TO EXISTING DISTRICT.

(a) If land in a priority groundwater management area is located adjacent to one or more existing districts, the commission, instead of issuing an order under Section 35.012, may issue an order recommending that the priority groundwater management area be added to the existing district designated by the commission. In its order, the commission must find that the land and other property in the priority groundwater management area and the land in the existing district will benefit from the addition of the area, that there is a public need to add the priority groundwater management area to the existing district, and that the addition of the land to the existing district would further the public welfare.

(b) If the executive director recommends that the priority groundwater management area be added to an existing district or if the commission considers it possible to add the priority groundwater management area to an adjacent existing district, the commission shall give notice to the board of the existing district recommended by the executive director or considered by the commission to possibly serve the area and to any other existing districts adjacent to the priority groundwater management area.

(c) The commission shall submit a copy of the order to the board of the district to which it is recommending the priority groundwater management area be added. The board shall vote on the addition of the priority groundwater management area to the district and shall advise the commission of the outcome.

(d) If the board votes to accept the addition of the priority groundwater management area to the district, the board:

(1) may request the Texas Agricultural Extension Service, the commission, the Texas Water Development Board, and other state agencies to administer an educational program to inform the residents of the status of the area's water resources and management options including possible annexation into a district;

(2) shall call an election within the priority groundwater management area as delineated by the commission to determine if the priority groundwater management area will be added to the district; and

(3) shall designate election precincts and polling places for the elections in the order calling an election under this subsection.

(e) The board shall give notice of the election and the proposition to be voted on. The board shall publish notice of the election at least one time in one or more newspapers with general circulation within the boundaries of the priority groundwater management area. The notice must be published before the 30th day preceding the date set for the election.

(f) The ballots for the election shall be printed to provide for voting for or against the proposition: "The inclusion of _____ (briefly describe priority groundwater management area) in the _____ District." If the district has outstanding debts or taxes, the proposition shall include the following language: "and assumption by the described area of a proportional share of the debts or taxes of the district."

(g) Immediately after the election, the presiding judge of each polling place shall deliver the returns of the election to the board, and the board shall canvass the returns for the election within the priority groundwater management area and declare the results. If a majority of the voters in the priority groundwater management area voting on the proposition vote in favor of the

proposition, the board shall declare that the priority groundwater management area is added to the district. If a majority of the voters in the priority groundwater management area voting on the proposition vote against adding the priority groundwater management area to the district, the board shall declare that the priority groundwater management area is not added to the district. The board shall file a copy of the election results with the commission.

(h) If the voters approve adding the priority groundwater management area to the district, the board of the district to which the priority groundwater management area is added shall provide reasonable representation on that board compatible with the district's existing scheme of representation.

(i) If the proposition is defeated, another election to add the priority groundwater management area to an existing district may not be called before the first anniversary of the date on which the election on the proposition was held.

§ 35.014. COSTS OF ELECTIONS.

(a) The costs of an election to create a district at which a district is authorized to be created shall be paid by the district.

(b) The costs of an election to add a priority groundwater management area to an existing district at which the voters approve adding the priority groundwater management area to the district shall be paid by the existing district.

(c) The costs of an election to create a district or add a priority groundwater management area to an existing district at which the proposition fails shall be paid by the commission.

§ 35.015. STATE ASSISTANCE.

A political subdivision located in an area delineated as a priority groundwater management area, and in which qualified voters approve the creation of a district or annexation into an existing district, shall be given consideration to receive financial assistance from the state under Chapter 17 for funds to be used in addressing issues identified in the priority groundwater management area report in the manner provided by Sections 17.124 and 17.125.

§ 35.017. STATE-OWNED LAND.

If state-owned land or a portion of state-owned land is located in a priority groundwater management area, the state agency that has management and control over that land under the constitution or by statute may elect by written agreement with the commission and the district to include the state-owned land in the district. The agreement shall be entered into as provided by the Texas Intergovernmental Cooperation Act, Chapter 741, Government Code, and may include provisions for the payment by the state agency of reasonable fees to the district. If the state does not elect to enter into the agreement to include the state-owned land in the district, the state agency must establish a groundwater management plan that will conserve, protect, and prevent the waste of groundwater on that state-owned land.

§ 35.018. REPORTS.

(a) No later than January 31 of each odd-numbered year, the commission in conjunction with the Texas Water Development Board shall prepare and deliver to the governor, the lieutenant

governor, and the speaker of the house of representatives a comprehensive report concerning activities during the preceding two years relating to the designation of priority groundwater management areas by the commission and the creation and operation of districts.

(b) The report must include:

(1) the names and locations of all priority groundwater management areas and districts created or attempted to be created on or after November 5, 1985, the effective date of Chapter 133 (H.B. No. 2), Acts of the 69th Legislature, Regular Session, 1985;

(2) the authority under which each priority groundwater management area and district was proposed for creation;

(3) a detailed analysis of each election held to confirm the creation of a district, including analysis of election results, possible reasons for the success or failure to confirm the creation of a district, and the possibility for future voter approval of districts in areas in which attempts to create districts failed;

(4) a detailed analysis of the activities of each district created, including those districts which are implementing management plans certified under Section 36.1072;

(5) a report on audits performed on districts under Section 36.302 and remedial actions taken under Section 36.303;

(6) recommendations for changes in this chapter and Chapter 36 that will facilitate the creation of priority groundwater management areas and the creation and operation of districts;

(7) a report on educational efforts in newly designated priority groundwater management areas; and

(8) any other information and recommendations that the commission considers relevant.

(c) (1) If voters fail to create a groundwater district in a priority groundwater management area or if voters fail to add the priority groundwater management area to an existing groundwater district, the report shall include recommendations for the future management of the priority groundwater management area. The recommendations may include but are not limited to the following:

(A) creation of a groundwater district by the legislature;

(B) annexation of a priority groundwater management area into an existing district by the legislature; or

(C) management of the priority groundwater management area by the nearest regional office of the commission. The commission may be authorized to:

(i) adopt spacing and annual per acre pumping restrictions;

(ii) issue well permits in accordance with Sections 36.113 and 36.1131;

(iii) prevent waste and protect the quality of groundwater in accordance with Sections 36.001(8)(A)-(G);

(iv) levy administrative penalties for violations; and

(v) collect fees in accordance with Sections 36.206(a) and (b).

(2) If the commission is required by the legislature to manage the priority groundwater management area, a new election may not be called for three years from the date of the last election.

§ 35.019. WATER AVAILABILITY.

(a) The commissioners court of a county in a priority groundwater management area may adopt water availability requirements in an area where platting is required if the court determines that the requirements are necessary to prevent current or projected water use in the county from exceeding the safe sustainable yield of the county's water supply.

(b) The commissioners court of a county in a priority groundwater management area may:

(1) require a person seeking approval of a plat required by Subchapter A, Chapter 232, Local Government Code, to show:

(A) compliance with the water availability requirements adopted by the court under this section; and

(B) that an adequate supply of water of sufficient quantity and quality is available to supply the number of lots proposed for the platted area;

(2) adopt standards or formulas to determine whether an adequate water supply exists for the platted area; and

(3) adopt procedures for submitting the information necessary to determine whether an adequate water supply exists for the platted area.

(c) The water availability requirements established by a commissioners court under this section may require that:

(1) a person seeking approval of a plat or attempting to sell a lot in a subdivision:

(A) notify a purchaser of a lot in the subdivision if an approved water supply for the subdivision does not exist; or

(B) if the person attempts to build a water supply system to serve one or more lots within the subdivision:

(i) comply with federal, state, and local law; and

(ii) establish an entity to construct and operate the system; or

(2) a planned or operating water supply system serving one or more lots within a subdivision be built and operated in compliance with federal, state, and local laws and rules related to public drinking water.

CHAPTER 36. GROUNDWATER CONSERVATION DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

§ 36.001. DEFINITIONS.

In this chapter:

(1) "District" means any district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, that has the authority to regulate the spacing of water wells, the production from water wells, or both.

(2) "Commission" means the Texas Natural Resource Conservation Commission.

(3) "Executive director" means the executive director of the commission.

(4) "Executive administrator" means the executive administrator of the Texas Water Development Board.

(5) "Groundwater" means water percolating below the surface of the earth

(6) "Groundwater reservoir" means a specific subsurface water-bearing reservoir having ascertainable boundaries containing groundwater.

(7) "Subdivision of a groundwater reservoir" means a definable part of a groundwater reservoir in which the groundwater supply will not be appreciably affected by withdrawing water from any other part of the reservoir, as indicated by known geological and hydrological conditions and relationships and on foreseeable economic development at the time the subdivision is designated or altered.

(8) "Waste" means any one or more of the following:

(A) withdrawal of groundwater from a groundwater reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes;

(B) the flowing or producing of wells from a groundwater reservoir if the water produced is not used for a beneficial purpose;

(C) escape of groundwater from a groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater;

(D) pollution or harmful alteration of groundwater in a groundwater reservoir by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground;

(E) willfully or negligently causing, suffering, or allowing groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well unless such discharge is authorized by permit, rule, or order issued by the commission under Chapter 26;

(F) groundwater pumped for irrigation that escapes as irrigation tailwater onto land other than that of the owner of the well unless permission has been granted by the occupant of the land receiving the discharge; or

(G) for water produced from an artesian well, "waste" has the meaning assigned by Section 11.205.

(9) "Use for a beneficial purpose" means use for:

(A) agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, recreational, or pleasure purposes;

(B) exploring for, producing, handling, or treating oil, gas, sulphur, or other minerals; or

(C) any other purpose that is useful and beneficial to the user.
(10) "Subsidence" means the lowering in elevation of the land surface caused by withdrawal of groundwater.
(11) "Board" means the board of directors of a district.
(12) "Director" means a member of a board.
(13) "Management area" means an area designated and delineated by the commission under Chapter 35 as an area suitable for management of groundwater resources.
(14) "Priority groundwater management area" means an area designated and delineated by the commission under Chapter 35 as an area experiencing or expected to experience critical groundwater problems.
(15) "Political subdivision" means a county, municipality, or other body politic or corporate of the state, including a district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, a state agency, or a nonprofit water supply corporation created under Chapter 76, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 1434a, Vernon's Texas Civil Statutes).
(16) "Loan fund" means the groundwater district loan assistance fund created under Section 36.371.
(17) "Applicant" means a newly confirmed district applying for a loan from the loan fund.

§ 36.0015. PURPOSE.
In order to provide for the conservation, preservation, protection, recharging, and prevention of waste of groundwater, and of groundwater reservoirs or their subdivisions, and to control subsidence caused by withdrawal of water from those groundwater reservoirs or their subdivisions, consistent with the objectives of Section 59, Article XVI, Texas Constitution, groundwater conservation districts may be created as provided by this chapter. Groundwater conservation districts created as provided by this chapter are the state's preferred method of groundwater management.

§ 36.002. OWNERSHIP OF GROUNDWATER.
The ownership and rights of the owners of the land and their lessees and assigns in groundwater are hereby recognized, and nothing in this code shall be construed as depriving or divesting the owners or their lessees and assigns of the ownership or rights, subject to rules promulgated by a district.

(Sections 36.003-36.010 reserved for expansion)

SUBCHAPTER B. CREATION OF DISTRICT

§ 36.011. METHOD OF CREATING DISTRICT.

(a) A groundwater conservation district may be created under and subject to the authority, conditions, and restrictions of Section 59, Article XVI, Texas Constitution.

(b) The commission has exclusive jurisdiction over the delineation of management areas and the creation of districts.

§ 36.012. COMPOSITION OF DISTRICT.

(a) A district may include all or part of one or more counties, cities, districts, or other political subdivisions.

(b) A district may not include territory located in more than one county except on a majority vote of the voters residing within the territory in each county sought to be included in the district at an election called for that purpose.

(c) The boundaries of a district must be coterminous with or inside the boundaries of a management area or a priority groundwater management area.

(d) A district may consist of separate bodies of land separated by land not included in the district.

(e) A majority of the voters in a segregated area must approve the creation of the district before that area may be included in the district.

§ 36.013. PETITION TO CREATE DISTRICT.

(a) A petition requesting creation of a district must be filed with the executive director for review and submission to the commission.

(b) The petition filed pursuant to this section must be signed by:

(1) a majority of the landowners within the proposed district, as indicated by the county tax rolls; or

(2) if there are more than 50 landowners in the proposed district, at least 50 of those landowners.

(c) The petition must include:

(1) the name of the proposed district;

(2) the area and boundaries of the proposed district, including a map generally outlining the boundaries of the proposed district;

(3) the purpose or purposes of the district;

(4) a statement of the general nature of any projects proposed to be undertaken by the district, the necessity and feasibility of the work, and the estimated costs of those projects according to the persons filing the projects if the projects are to be funded by the sale of bonds or notes; and

(5) any additional terms or conditions that restrict the powers of the district from those provided in this chapter.

(d) If a part of the proposed district is not included within either a management area or a priority groundwater management area, the petition to create a district may also contain a request to create a management area. A request to create a management area must comply with the requirements for a petition in Section 35.005, and may be acted on by the commission separately from the petition to create the district.

§ 36.014. NOTICE AND HEARING ON DISTRICT CREATION.

(a) The notice of hearing on a petition must include a statement of the nature and purpose of the proposed district and the date, time, and place of hearing.

(b) The notice must be posted on the bulletin board used for posting legal notices in each county in which all or part of the proposed district is to be located.

(c) Notice of the hearing shall be published in a newspaper with general circulation in the county or counties in which the proposed district is to be located. Notice must be published not later than the 30th day before the date of the hearing.

(d) If the petition contains a request to create a management area in all or part of the proposed district, the notice must also be given in accordance with the requirements in Section 35.006 for the designation of management areas.

§ 36.015. FINDINGS.

(a) If the commission finds that a district is feasible and practicable, that it would be a benefit to the land in the district, and that it would be a public benefit or utility, the commission shall issue an order containing these findings granting the petition.

(b) If the commission finds that a district is not feasible and practicable, that it would not be a benefit to the land in the district, that it would not be a public benefit or utility, or that it is not needed, the commission by order shall deny the petition.

(c) The commission may adjust the boundaries of the proposed district to exclude any land that would not be benefited by inclusion in the district and is not necessary to the district for proper regulation of the groundwater reservoir.

(d) If the commission grants the petition to create the district, it shall direct in its order creating the district that an election be called by the temporary directors to confirm the creation of the district and to elect permanent directors.

(e) The refusal to grant a petition to create a district does not invalidate or affect the designation of any management area requested in the same petition.

(f) The commission shall act on the petition within a reasonable amount of time.

§ 36.0151. CREATION OF DISTRICT FOR PRIORITY GROUNDWATER MANAGEMENT AREA.

(a) If the commission proposes that a district be created under Section 35.012(d), it shall in its order creating the district provide that temporary directors be appointed under Section 36.016 and that an election be called by the temporary directors to confirm the creation of the district and to elect permanent directors.

(b) The commission shall notify the county commissioners court of each county with territory in the district of the district's creation as soon as practicable after issuing the order creating the district.

§ 36.016. APPOINTMENT OF TEMPORARY DIRECTORS.

(a) If the commission grants a petition to create a district under Section 36.015 or after the commission dissolves a district's board under Section 36.303, it shall appoint five temporary directors.

(b) If the commission creates a district under Section 36.0151, the county commissioners court or courts of the county or counties that contain the area of the district shall, within 90 days after receiving notification by the commission under Section 36.0151(b), appoint five temporary directors, or more if the district contains the territory of more than five counties, for the district's board using the method provided by Section 36.0161. A county commissioners court shall not make any appointments after the expiration of the 90-day period. If fewer than five temporary directors have been appointed at the expiration of the period, the commission shall appoint additional directors so that the board has at least five members

(c) Temporary directors appointed under this section shall serve until the initial directors are elected and have qualified for office or until the voters fail to approve the creation of the district.

(d) If an appointee of the commission or of a county commissioners court fails to qualify or if a vacancy occurs in the office of temporary director, the commission or the county commissioners court, as appropriate, shall appoint an individual to fill the vacancy.

(e) As soon as all temporary directors have qualified, the directors shall meet, take the oath of office, and elect a chairman and vice chairman from among their membership. The chairman shall preside at all meetings of the board and, in the chairman's absence, the vice chairman shall preside.

§ 36.0161. METHOD FOR APPOINTING TEMPORARY DIRECTORS FOR DISTRICT IN PRIORITY GROUNDWATER MANAGEMENT AREA.

(a) If a district in a priority groundwater management area is:

(1) contained within one county, the county commissioners court of that county shall appoint five temporary directors for the district;

(2) contained within two counties, the county commissioners court of each county shall appoint at least one temporary director, with the appointments of the three remaining directors to be apportioned as provided by Subsection (b);

(3) contained within three counties, the county commissioners court of each county shall appoint at least one temporary director, with the appointments of the two remaining directors to be apportioned as provided by Subsection (b);

(4) contained within four counties, the county commissioners court of each county shall appoint at least one temporary director, with the appointment of the remaining director to be apportioned as provided by Subsection (b); or

(5) contained within five or more counties, the county commissioners court of each county shall appoint one temporary director.

(b) (1) In this subsection, "estimated groundwater use" means the estimate of groundwater use in acre-feet developed by the commission under Subsection (c) for the area of a county that is within the district.

(2) The apportionment of appointments under Subsection (a) shall be made by the commission so as to reflect, as closely as possible, the proportion each county's estimated groundwater use bears to the sum of the estimated groundwater use for the district as determined under Subsection (c). The commission shall by rule determine the method it will use to implement this subdivision.

(c) If a district for which temporary directors are to be appointed is contained within two, three,

or four counties, the commission shall develop an estimate of annual groundwater use in acre-feet for each county area within the district.

§ 36.017. CONFIRMATION AND DIRECTORS' ELECTION.

(a) Not later than the 60th day after the date all temporary directors have been appointed and have qualified, the temporary directors shall meet and order an election to be held within the boundaries of the proposed district to approve the creation of the district and to elect permanent directors.

(b) In the order calling the election, the temporary directors shall designate election precincts and polling places for the election. In designating the polling places, the temporary directors shall consider the needs of all voters for conveniently located polling places.

(c) The temporary directors shall publish notice of the election at least one time in at least one newspaper with general circulation within the boundaries of the proposed district. The notice must be published before the 30th day preceding the date of the election.

(d) The ballot for the election must be printed to provide for voting for or against the proposition: "The creation of the _____ Groundwater Conservation District." If the district levies a maintenance tax for payment of its expenses, the proposition shall include the following language: "and the levy of a maintenance tax at a rate not to exceed _____ cents for each $100 of assessed valuation."

(e) Immediately after the election, the presiding judge of each polling place shall deliver the returns of the election to the temporary board, and the board shall canvass the returns and declare the result. The board shall file a copy of the election result with the commission.

(f) If a majority of the votes cast at the election favor the creation of the district, the temporary board shall declare the district created and shall enter the result in its minutes.

(g) If a majority of the votes cast at the election are against the creation of the district, the temporary board shall declare the district defeated and shall enter the result in its minutes.

(h) If the majority of the votes cast at the election are against the creation of the district, the district shall have no further authority, except that any debts incurred shall be paid and the organization of the district shall be maintained until all the debts are paid.

§ 36.018. INCLUSION OF MUNICIPALITY.

(a) If part of the territory to be included in a district is located in a municipality, a separate voting district may not be established in the municipality for the purpose of determining whether the municipality as a separate area is to be included in the district.

(b) If for any other reason the territory in a municipality is established as a separate voting district, the failure by the voters in the municipal territory to confirm the creation of the district or the annexation of territory to a district does not prevent the territory in the municipality from being included in the district.

§ 36.019. CONFIRMATION ELECTION IN DISTRICT INCLUDING LAND IN MORE THAN ONE COUNTY.

A district, the major portion of which is located in one county, may not be organized to include land

in another county unless the election held in the other county to confirm and ratify the creation of the district is approved by a majority of the voters of the other county voting in an election called for that purpose.

§ 36.020. BOND AND TAX PROPOSAL.

(a) At an election to create a district, the temporary directors may include a proposition for the issuance of bonds or notes, the levy of taxes to retire all or part of the bonds or notes, and the levy of a maintenance tax. The maintenance tax rate may not exceed 50 cents on each $100 of assessed valuation.

(b) The board shall include in any bond and tax proposition the maximum amount of bonds or notes to be issued and their maximum maturity date.

§ 36.021. NOTIFICATION OF COUNTY CLERK.

Within 30 days following the creation of a district or any amendment to the boundaries of a district, the board of directors shall file with the county clerk of each county in which all or part of the district is located a certified copy of the description of the boundaries of the district. Each county clerk shall record the certified copy of the boundaries in the property records of that county.

(Sections 36.022-36.050 reserved for expansion)

SUBCHAPTER C. ADMINISTRATION

§ 36.051. BOARD OF DIRECTORS.

(a) The governing body of a district is the board of directors, which shall consist of not fewer than five and not more than 11 directors elected for four-year terms. The number of directors may be changed as determined by the board when territory is annexed by the district.

(b) A member of a governing body of another political subdivision is ineligible for appointment or election as a director. A director is disqualified and vacates the office of director if the director is appointed or elected as a member of the governing body of another political subdivision. This subsection does not apply to any district with a population less than 50,000.

(c) Vacancies in the office of director shall be filled by appointment of the board. If the vacant office is not scheduled for election for longer than two years at the time of the appointment, the board shall order an election for the unexpired term to be held as part of the next regularly scheduled director's election. The appointed director's term shall end on qualification of the director elected at that election.

§ .36.052. OTHER LAWS NOT APPLICABLE.

(a) Other laws governing the administration or operations of districts created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, shall not apply to any district governed by this chapter. This chapter prevails over any other law in conflict or inconsistent with this chapter, except any special law governing a specific district shall prevail over this chapter.

(b) Notwithstanding Subsection (a), the following provisions prevail over a conflicting or inconsistent provision of a special law that governs a specific district:

(1) Sections 36.107-36.108;

(2) Sections 36.159-36.161; and

(3) Subchapter I.

§ 36.053. QUORUM.

A majority of the membership of the board constitutes a quorum for any meeting, and a concurrence of a majority of the entire membership of the board is sufficient for transacting any business of the district.

§ 36.054. OFFICERS.

(a) After a district is created and the directors have qualified, the board shall meet, elect a president, vice president, secretary, and any other officers or assistant officers as the board may deem necessary and begin the discharge of its duties.

(b) After each directors' election, the board shall meet and elect officers.

(c) The president is the chief executive officer of the district, presides at all meetings of the board, and shall execute all documents on behalf of the district. The vice president shall act as president in case of the absence or disability of the president. The secretary is responsible for seeing that all records and books of the district are properly kept and shall attest the president's signature on all documents.

(d) The board may appoint another director, the general manager, or any employee as assistant or deputy secretary to assist the secretary, and any such person shall be entitled to certify as to the authenticity of any record of the district, including but not limited to all proceedings relating to bonds, contracts, or indebtedness of the district.

(e) After any election or appointment of a director, a district shall notify the executive director within 30 days after the date of the election or appointment of the name and mailing address of the director chosen and the date that director's term of office expires. The executive director shall provide forms to the district for such purpose.

§ 36.055. SWORN STATEMENT, BOND, AND OATH OF OFFICE.

(a) As soon as practicable after a director is elected or appointed, that director shall make the sworn statement prescribed by the constitution for public office.

(b) As soon as practicable after a director has made the sworn statement, and before beginning to perform the duties of office, that director shall take the oath of office prescribed by the constitution for public officers.

(c) Before beginning to perform the duties of office, each director shall execute a bond for $10,000 payable to the district and conditioned on the faithful performance of that director's duties. All bonds of the directors shall be approved by the board and paid for by the district.

(d) The sworn statement, bond, and oath shall be filed with the district and retained in its records. A duplicate original of the sworn statement and the oath shall also be filed with the secretary of state within 10 days after their execution and need not be filed before the new director begins to perform the duties of office.

§ 36.056. GENERAL MANAGER.

(a) The board may employ or contract with a person to perform such services as general manager for the district as the board may from time to time specify. The board may delegate to the general manager full authority to manage and operate the affairs of the district subject only to orders of the board.

(b) The board may delegate to the general manager the authority to employ all persons necessary for the proper handling of the business and operation of the district and to determine the compensation to be paid all employees other than the general manager.

(c) Except in a district that is composed of the territory of more than one county, a director may be employed as general manager of the district. The compensation of a general manager who also serves as a director shall be established by the other directors.

§ 36.057. MANAGEMENT OF DISTRICT.

(a) The board shall be responsible for the management of all the affairs of the district. The district shall employ or contract with all persons, firms, partnerships, corporations, or other entities, public or private, deemed necessary by the board for the conduct of the affairs of the district, including, but not limited to, engineers, attorneys, financial advisors, operators, bookkeepers, tax assessors and collectors, auditors, and administrative staff.

(b) The board shall set the compensation and terms for consultants.

(c) In selecting attorneys, engineers, auditors, financial advisors, or other professional

consultants, the district shall follow the procedures provided in the Professional Services Procurement Act, Subchapter A, Chapter 2254, Government Code.

(d) The board shall require an officer, employee, or consultant who collects, pays, or handles any funds of the district to furnish good and sufficient bond, payable to the district, in an amount determined by the board to be sufficient to safeguard the district. The bond shall be conditioned on the faithful performance of that person's duties and on accounting for all funds and property of the district. Such bond shall be signed or endorsed by a surety company authorized to do business in the state.

(e) The board may pay the premium on surety bonds required of officials, employees, or consultants of the district out of any available funds of the district, including proceeds from the sale of bonds.

(f) The board may adopt bylaws to govern the affairs of the district to perform its purposes. The board may, by resolution, authorize its general manager or other employee to execute documents on behalf of the district.

(g) The board shall also have the right to purchase all materials, supplies, equipment, vehicles, and machinery needed by the district to perform its purposes.

§ 36.058. CONFLICTS OF INTEREST.

A director of a district is subject to the provisions of Chapter 171, Local Government Code, relating to the regulation of conflicts of officers of local governments.

§ 36.059. GENERAL ELECTIONS.

(a) All elections shall be generally conducted in accordance with the Election Code except as otherwise provided for by this chapter. Write-in candidacies for any district office shall be governed by Subchapter C, Chapter 146, Election Code.

(b) The directors of the district shall be elected according to the precinct method as defined by Chapter 12, page 1105, Special Laws, Acts of the 46th Legislature, Regular Session, 1939. To be qualified to be elected as a director, a person must be a registered voter in the precinct that the person represents. If any part of a municipal corporation is a part of one precinct, then no part of the municipal corporation shall be included in another precinct, except that a municipal corporation having a population of more than 200,000 may be divided between two or more precincts. In a multicounty district, not more than two of the five precincts may include the same municipal corporation or part of the same municipal corporation.

§ 36.060. FEES OF OFFICE; REIMBURSEMENT.

(a) A director is entitled to receive fees of office of not more than $100 a day for each day the director actually spends performing the duties of a director. The fees of office may not exceed $6,000 a year.

(b) Each director is also entitled to receive reimbursement of actual expenses reasonably and necessarily incurred while engaging in activities on behalf of the district.

(c) In order to receive fees of office and to receive reimbursement for expenses, each director shall file with the district a verified statement showing the number of days actually spent in the service of the district and a general description of the duties performed for each day of service.

§ 36.061. POLICIES.

(a) Subject to the law governing the district, the board shall adopt the following in writing

(1) a code of ethics for district directors, officers, employees, and persons who are engaged in handling investments for the district;

(2) a policy relating to travel expenditures;

(3) a policy relating to district investments that ensures that:

(A) purchases and sales of investments are initiated by authorized individuals, conform to investment objectives and regulations, and are properly documented and approved; and

(B) periodic review is made of district investments to evaluate investment performance and security;

(4) policies and procedures for selection, monitoring, or review and evaluation of professional services;

(5) policies that ensure a better use of management information, including:

(A) budgets for use in planning and controlling cost;

(B) an audit or finance committee of the board; and

(C) uniform reporting requirements that use "Audits of State and Local Governmental Units" as a guide on audit working papers and that uses "Governmental Accounting and Financial Reporting Standards."

(b) The state auditor may audit the financial transactions of any district if the state auditor determines that the audit is necessary.

§ 36.062. OFFICES AND MEETING PLACES.

(a) The board shall designate from time to time and maintain one or more regular offices for conducting the business of the district and maintaining the records of the district. Such offices may be located either inside or outside the district's boundaries as determined in the discretion of the board.

(b) The board shall designate one or more places inside or outside the district for conducting the meetings of the board.

§ 36.063. NOTICE OF MEETINGS.

Notice of meetings of the board shall be given as set forth in the Open Meetings Act, Chapter 551, Government Code. Neither failure to provide notice of a regular meeting nor an insubstantial defect in notice of any meeting shall affect the validity of any action taken at the meeting.

§ 36.064. MEETINGS.

(a) The board shall hold regular meetings at least quarterly. It may hold meetings at other times as required for the business of the district.

(b) Meetings shall be conducted and notice of meetings shall be posted in accordance with the Open Meetings Act, Chapter 551, Government Code. A meeting of a committee of the board, or a committee composed of representatives of more than one board, where less than a quorum of any one board is present is not subject to the provisions of the Open Meetings Act, Chapter 551, Government Code.

§ 36.065. RECORDS.

(a) The board shall keep a complete account of all its meetings and proceedings and shall preserve its minutes, contracts, records, notices, accounts, receipts, and other records in a safe place.

(b) The records of each district are the property of the district and are subject to Chapter 552, Government Code.

(c) The preservation, storage, destruction, or other disposition of the records of each district is subject to the requirements of Chapter 201, Local Government Code, and rules adopted thereunder.

§ 36.066. SUITS.

(a) A district may sue and be sued in the courts of this state in the name of the district by and through its board. All courts shall take judicial notice of the creation of the district and of its boundaries.

(b) Any court in the state rendering judgment for debt against a district may order the board to levy, assess, and collect taxes or assessments to pay the judgment.

(c) The president or the general manager of any district shall be the agent of the district on whom process, notice, or demand required or permitted by law to be served upon a district may be served.

(d) Except as provided in Subsection (e), no suit may be instituted in any court of this state contesting:

(1) the validity of the creation and boundaries of a district;

(2) any bonds or other obligations issued by a district; or

(3) the validity or the authorization of a contract with the United States by a district.

(e) The matters listed in Subsection (d) may be judicially inquired into at any time and determined in any suit brought by the State of Texas through the attorney general. The action shall be brought on good cause shown, except where otherwise provided by other provisions of this code or by the Texas Constitution. It is specifically provided, however, that no such proceeding shall affect the validity of or security for any bonds or other obligations theretofore issued by a district if such bonds or other obligations have been approved by the attorney general.

(f) A district shall not be required to give bond for appeal, injunction, or costs in any suit to which it is a party and shall not be required to deposit more than the amount of any award in any eminent domain proceeding.

(g) If the district prevails in any suit other than a suit in which it voluntarily intervenes, it may, in the same action, recover reasonable fees for attorneys, expert witnesses, and other costs incurred by the district before the court. The amount of the attorney's fees shall be fixed by the court.

§ 36.067. CONTRACTS.

(a) A district shall contract, and be contracted with, in the name of the district.

(b) A district may purchase property from any other governmental entity by negotiated contract without the necessity of securing appraisals or advertising for bids.

§ 36.068. EMPLOYEE BENEFITS.

(a) The board may provide for and administer retirement, disability, and death compensation funds for the employees of the district.

(b) The board may establish a public retirement system in accordance with the provisions of Chapter 810, Government Code. The board may also provide for a deferred compensation plan described by Section 457 of the Internal Revenue Code of 1986 (26 U.S.C. Section 457).

(c) The board may include hospitalization and medical benefits to its employees as part of the compensation paid to the officers and employees and may adopt any plan, rule, or regulation in connection with it and amend or change the plan, rule, or regulation as it may determine.

(Sections 36.069-36.100 reserved for expansion)

SUBCHAPTER D. POWERS AND DUTIES

§ 36.101. RULEMAKING POWER.

(a) A district may make and enforce rules to provide for conserving, preserving, protecting, and recharging of the groundwater or of a groundwater reservoir or its subdivisions in order to control subsidence or prevent waste of groundwater and to carry out the powers and duties provided by this chapter.

(b) After notice and hearing, the board shall adopt and enforce rules to implement this chapter, including rules governing procedure before the board. Notice in this section shall include publication of the agenda of the hearing in one or more newspapers of general circulation in the county or counties in which the district is located.

(c) The board shall compile its rules and make them available for use and inspection at the district's principal office.

§ 36.102. ENFORCEMENT OF RULES.

(a) A district may enforce this chapter and its rules by injunction, mandatory injunction, or other appropriate remedy in a court of competent jurisdiction.

(b) The board may set reasonable civil penalties for breach of any rule of the district that shall not exceed the jurisdiction of a justice court as provided by Section 27.031, Government Code.

(c) A penalty under this section is in addition to any other penalty provided by the law of this state and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the district's principal office or meeting place is located.

(d) If the district prevails in any suit to enforce its rules, it may, in the same action, recover reasonable fees for attorneys, expert witnesses, and other costs incurred by the district before the court. The amount of the attorney's fees shall be fixed by the court.

§ 36.103. IMPROVEMENTS AND FACILITIES.

(a) A district may build, acquire, or obtain by any lawful means any property necessary for the district to carry out its purpose and the provisions of this chapter.

(b) A district may:

(1) acquire land to erect dams or to drain lakes, draws, and depressions;

(2) construct dams;

(3) drain lakes, depressions, draws, and creeks;

(4) install pumps and other equipment necessary to recharge a groundwater reservoir or its subdivision; and

(5) provide necessary facilities for the purchase, sale, transportation, and distribution of water.

§ 36.104. PURCHASE, SALE, TRANSPORTATION, AND DISTRIBUTION OF WATER.

A district may purchase, sell, transport, and distribute surface water or groundwater for any purpose.

§ 36.105. EMINENT DOMAIN.

(a) A district may exercise the power of eminent domain to acquire by condemnation a fee simple

or other interest in property if that property interest is necessary to the exercise of the authority conferred by this chapter.

(b) The power of eminent domain authorized in this section may not be used for the condemnation of land for the purpose of acquiring rights to groundwater, surface water or water rights.

(c) The district must exercise the power of eminent domain in the manner provided by Chapter 21, Property Code, but the district is not required to deposit a bond as provided by Section 21.021(a), Property Code.

(d) In a condemnation proceeding brought by a district, the district is not required to pay in advance or give bond or other security for costs in the trial court, to give bond for the issuance of a temporary restraining order or a temporary injunction, or to give bond for costs or supersedeas on an appeal or writ of error.

(e) In exercising the power of eminent domain, if the district requires relocating, raising, lowering, rerouting, changing the grade, or altering the construction of any railroad, highway, pipeline, or electric transmission or distribution, telegraph, or telephone lines, conduits, poles, or facilities, the district must bear the actual cost of relocating, raising, lowering, rerouting, changing the grade, or altering the construction to provide comparable replacement without enhancement of facilities after deducting the net salvage value derived from the old facility.

§ 36.106. SURVEYS.

A district may make surveys of the groundwater reservoir or subdivision and surveys of the facilities for development, production, transportation, distribution, and use of the water, in order to determine the quantity of water available for production and use and to determine the improvements, development, and recharging needed by a reservoir or its subdivision.

§ 36.107. RESEARCH

A district may carry out any research projects deemed necessary by the board.

§ 36.1071. MANAGEMENT PLAN.

(a) Following notice and hearing, the district shall, in coordination with surface water management entities on a regional basis, develop a comprehensive management plan which addresses the following management goals, as applicable:

(1) providing the most efficient use of groundwater;

(2) controlling and preventing waste of groundwater;

(3) controlling and preventing subsidence;

(4) addressing conjunctive surface water management issues; and

(5) addressing natural resource issues.

(b) A district management plan, or any amendments to a district management plan, adopted after the Texas Water Development Board approval of a regional water plan for the region in which the district is located shall be consistent with the regional water plan.

(c) The commission and the Texas Water Development Board shall provide technical assistance to a district in the development of the management plan required under Subsection (a) which may include, if requested by the district, a preliminary review and comment on the plan prior to final

approval by the board. If such review and comment by the commission is requested, the commission shall provide comment not later than 30 days from the date the request is received.

(d) The commission shall provide technical assistance to a district during its initial operational phase.

(e) In the management plan described under Subsection (a), the district shall:

(1) identify the performance standards and management objectives under which the district will operate to achieve the management goals identified under Subsection (a);

(2) specify, in as much detail as possible, the actions, procedures, performance, and avoidance that are or may be necessary to effect the plan, including specifications and proposed rules;

(3) include estimates of the following:

(A) the existing total usable amount of groundwater in the district;

(B) the amount of groundwater being used within the district on an annual basis;

(C) the annual amount of recharge, if any, to the groundwater resources within the district and how natural or artificial recharge may be increased; and

(D) the projected water supply and demand for water within the district; and

(4) address water supply needs in a manner that is not in conflict with the appropriate approved regional water plan if a regional water plan has been approved under Section 16.053.

(f) The district shall adopt rules necessary to implement the management plan.

(g) The board shall adopt amendments to the management plan as necessary. Amendments to the management plan shall be adopted after notice and hearing and shall otherwise comply with the requirements of this section.

§36.1072. TEXAS WATER DEVELOPMENT BOARD REVIEW AND CERTIFICATION OF MANAGEMENT PLAN.

(a) A district shall, not later than two years after the creation of the district or, if the district required confirmation, after the election confirming the district's creation, submit the management plan required under Section 36.1071 to the executive administrator for review and certification.

(b) Within 60 days of receipt of a management plan adopted under Section 36.1071, the executive administrator shall certify a management plan if the plan is administratively complete. A management plan is administratively complete when it contains the information required to be submitted under Section 36.1071. The executive administrator may determine that conditions justify waiver of the requirements under Section 36.1071(e)(4).

(c) Once a determination that a management plan is administratively complete has been made:

(1) the executive administrator may not revoke the determination that a management plan is administratively complete;

(2) the executive administrator may request additional information from the district if the information is necessary to clarify, modify, or supplement previously submitted material; and

(3) a request for additional information does not render the management plan incomplete.

(d) A management plan takes effect on certification by the executive administrator or, if appealed, on certification by the Texas Water Development Board.

(e) The board may review the plan annually and must review and readopt the plan with or without revisions at least once every five years.

(f) If the executive administrator does not certify the management plan, the executive

administrator shall provide to the district, in writing, the reasons for the action. Not later than the 180th day after the date a district receives notice that its management plan has not been certified, the district may submit a revised management plan for review and certification. The executive administrator's decision may be appealed to the Texas Water Development Board. The decision of the Texas Water Development Board on whether to certify the management plan may not be appealed. The commission shall not take enforcement action against a district under Subchapter I until the later of the expiration of the 180-day period or the date the Texas Water Development Board has taken final action withholding certification of a revised management plan.

§ 36.1073. AMENDMENT TO MANAGEMENT PLAN.

Any amendment to the management plan shall be submitted to the executive administrator within 60 days following adoption of the amendment by the district's board. The executive administrator shall review and certify any amendment which substantially affects the management plan in accordance with the procedures established under Section 36.1072.

§ 36.108. JOINT PLANNING IN MANAGEMENT AREA.

(a) If two or more districts are located within the boundaries of the same management area, each district shall prepare a comprehensive management plan as required by Section 36.1071 covering that district's respective territory. On completion of the plan, each district shall forward a copy of the new revised management plan to the other districts in the management area.

(b) The board of directors of each district in the management area may, by resolution, call a joint meeting with the boards of directors of the other districts in the management area to review the management plans and accomplishments for the management area. The boards shall meet to consider the plans individually and shall compare them to other management plans then in force in the management area. In reviewing the management plans, the boards shall consider:

(1) the goals of each management plan and its impact on planning throughout the management area;

(2) the effectiveness of the measures established by each management plan for conserving and protecting groundwater and preventing waste, and the effectiveness of these measures in the management area generally; and

(3) any other matters that the boards consider relevant to the protection and conservation of groundwater and the prevention of waste in the management area.

(c) A joint meeting of the boards of directors must be held in accordance with the Open Meetings Act, Chapter 551, Government Code. Notice of the meeting shall be given in accordance with the requirements for notice of district board of directors meetings under that Act. In addition, notice of the meeting shall be published not later than the 30th day before the date of the scheduled meeting in a newspaper with general circulation in each county in the management area.

(d) A district in the management area may file a petition with the commission requesting

an inquiry if the petitioner district believes that:

(1) another district in the management area has failed to adopt rules;

(2) the groundwater in the management area is not adequately protected by the rules adopted by another district; or

(3) the groundwater in the management area is not adequately protected due to the failure of another district to enforce substantial compliance with its rules.

(e) Not later than the 90th day after the date the petition is filed, the commission shall review the petition and either:

(1) dismiss it if it finds that the evidence is not adequate to show that any of the conditions alleged in the petition exist; or

(2) select a review panel as provided in Subsection (f).

(f) The commission may appoint a review panel consisting of a chairman and four other members. A director or general manager of a district located outside the management area that is the subject of the petition may be appointed to the review panel. The commission may not appoint more than two members of the review panel from any one district. The commission also shall appoint a disinterested person to serve as a nonvoting recording secretary for the review panel. The recording secretary may be an employee of the commission. The recording secretary shall record and document the proceedings of the panel.

(g) Not later than the 120th day after appointment, the review panel shall review the petition and any evidence relevant to the petition and, in a public meeting, prepare a report to the commission. The commission may direct the review panel to conduct public hearings at a location in the management area to take evidence on the petition. The review panel may attempt to negotiate a settlement or resolve the dispute by any lawful means.

(h) In its report, the review panel shall include:

(1) a summary of all evidence taken in any hearing on the petition;

(2) a list of findings and recommended actions appropriate for the commission to take and the reasons it finds those actions appropriate; and

(3) any other information the panel considers appropriate.

§ 36.109. COLLECTION OF INFORMATION.

A district may collect any information the board deems necessary, including information regarding the use of groundwater, water conservation, and the practicability of recharging a groundwater reservoir.

§ 36.110. PUBLICATION OF PLANS AND INFORMATION.

A district may publish its plans and the information it develops, bring them to the attention of the users of groundwater in the district, and encourage the users to adopt and use them.

§ 36.111. RECORDS AND REPORTS.

The district shall require that records be kept and reports be made of the drilling, equipping, and completing of water wells and of the production and use of groundwater.

§ 36.112. DRILLERS' LOGS.

A district shall require that accurate drillers' logs be kept of water wells and that copies of drillers' logs and electric logs be filed with the district.

§ 36.113. PERMITS FOR WELLS.

(a) A district shall require permits for the drilling, equipping, or completing of wells or for substantially altering the size of wells or well pumps.

(b) A district shall require that an application for a permit be in writing and sworn to.

(c) A district may require that the following be included in the permit application:

(1) the name and mailing address of the applicant and the owner of the land on which the well will be located;

(2) if the applicant is other than the owner of the property, documentation establishing the applicable authority to construct and operate a well for the proposed use;

(3) a statement of the nature and purpose of the proposed use and the amount of water to be used for each purpose;

(4) a water conservation plan or a declaration that the applicant will comply with the district's management plan;

(5) the location of each well and the estimated rate at which water will be withdrawn;

(6) a water well closure plan or a declaration that the applicant will comply with well plugging guidelines and report closure to the commission; and

(7) a drought contingency plan.

(d) Before granting or denying a permit, the district shall consider whether:

(1) the application conforms to the requirements prescribed by this chapter and is accompanied by the prescribed fees;

(2) the proposed use of water unreasonably affects existing groundwater and surface water resources;

(3) the proposed use of water is dedicated to any beneficial use;

(4) the proposed use of water is consistent with the district's certified water management plan;

(5) the applicant has agreed to avoid waste and achieve water conservation; and

(6) the applicant has agreed that reasonable diligence will be used to protect groundwater quality and that the applicant will follow well plugging guidelines at the time of well closure.

(e) Permits may be issued subject to the rules promulgated by the district and subject to terms and provisions with reference to the drilling, equipping, completion, or alteration of wells or pumps that may be necessary to prevent waste and achieve water conservation, minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, lessen interference between wells, or control and prevent subsidence.

(f) A district may require that changes in the withdrawal and use of groundwater under a permit not be made without the prior approval of a permit amendment issued by the district.

§ 36.1131. ELEMENTS OF PERMIT.

(a) A permit issued by the district to the applicant under Section 36.113 shall state the

terms and provisions prescribed by the district.

(b) The permit may include:

(1) the name and address of the person to whom the permit is issued;

(2) the location of the well;

(3) the date the permit is to expire if no well is drilled;

(4) a statement of the purpose for which the well is to be used;

(5) a requirement that the water withdrawn under the permit be put to beneficial use at all times;

(6) the location of the use of the water from the well;

(7) a water well closure plan or a declaration that the applicant will comply with well plugging guidelines and report closure to the commission;

(8) the conditions and restrictions, if any, placed on the rate and amount of withdrawal;

(9) any conservation-oriented methods of drilling and operating prescribed by the district;

(10) a drought contingency plan prescribed by the district; and

(11) other terms and conditions as provided by Section 36.113.

§ 36.114. PERMIT: APPLICATION AND HEARING.

The district shall promptly consider and pass on each application for a permit. If, within 20 days after the date it is submitted, an application has not been passed on or set for a hearing on a specific date, the applicant may petition the district court of the county where the land is located for a writ of mandamus to compel the district to act on the application or set a date for a hearing on the application. A hearing shall be held within 35 days after the setting of the date and the district shall act on the application within 35 days after the date of the hearing.

§ 36.115. DRILLING OR ALTERING WELL WITHOUT PERMIT.

(a) No person, firm, or corporation may drill a well without first obtaining a permit from the district.

(b) No person, firm, or corporation may alter the size of a well or well pump such that it would bring that well under the jurisdiction of the district without first obtaining a permit from the district.

(c) No person, firm, or corporation may operate a well without first obtaining a permit from the district.

(d) A violation occurs on the first day the drilling, alteration, or operation begins and continues each day thereafter until the appropriate permits are approved.

§ 36.116. REGULATION OF SPACING AND PRODUCTION.

In order to minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, to control subsidence, or to prevent waste, a district may provide for the spacing of water wells and may regulate the production of wells.

§ 36.117. EXEMPTIONS; Exception; Limitations.

(a) A district may exempt wells from the requirements to obtain a drilling permit, an operating permit, or any other permit required by this chapter or the district's rules. A district may not require a permit for:

(1) drilling or producing from a well either drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day;

(2) the drilling or alteration of the size of a well or to restrict the production of a well if the water produced or to be produced from the well is used or to be used to supply the domestic needs of 10 or fewer households and a person who is a member of each household is either the owner of the well, a person related to the owner or a member of the owner's household within the second degree by consanguinity, or an employee of the owner;

(3) the drilling or alteration of the size of a well or to restrict the production from the well if the water produced or to be produced from the well is used or to be used to provide water for feeding livestock and poultry connected with farming, ranching, or dairy enterprises;

(4) water wells to supply water for hydrocarbon production activities, regardless of whether those wells are producing, that are associated with any well permitted by the Railroad Commission of Texas drilled before September 1, 1985; or

(5) jet wells used for domestic needs.

(b) The board shall adopt rules determining the applicability of Subsection (a)(3) to facilities used primarily for feeding livestock.

(c) The district shall not deny the owner of a tract of land, or his lessee, who has no well equipped to produce more than 25,000 gallons a day on the tract, either a permit to drill a well on his land or the privilege to produce groundwater from his land, subject to the rules of the district.

(d) A district may not restrict the production of any well equipped to produce 25,000 gallons or less a day.

(e) Nothing in this chapter applies to wells drilled for oil, gas, sulphur, uranium, or brine, or for core tests, or for injection of gas, saltwater, or other fluid, or for any other purpose, under permits issued by the Railroad Commission of Texas. A district may not require a drilling permit for a well to supply water for drilling any wells permitted by the Railroad Commission of Texas. Any well that ceases to be used for these purposes and is then used as an ordinary water well is subject to the rules of the district. Water wells drilled after September 1, 1997, to supply water for hydrocarbon production activities must meet the spacing requirements of the district unless no space is available within 300 feet of the production well or the central injection station.

(f) Water wells exempted under this section shall be equipped and maintained so as to conform to the district's rules requiring installation of casing, pipe, and fittings to prevent the escape of groundwater from a groundwater reservoir to any reservoir not containing groundwater and to prevent the pollution or harmful alteration of the character of the water in any groundwater reservoir.

(g) A district shall require water wells exempted under this section to be registered with the district before drilling. All exempt water wells shall be equipped and maintained so as to conform to the district's rules requiring installation of casing, pipe, and fittings to prevent the escape of groundwater from a groundwater reservoir to any reservoir not containing

groundwater and to prevent the pollution or harmful alteration of the character of the water in any groundwater reservoir.

(h) A well to supply water for a subdivision of land for which a plat approval is required by law is not exempted under this section.

§ 36.118. OPEN OR UNCOVERED WELLS.

(a) A district may require the owner or lessee of land on which an open or uncovered well is located to keep the well permanently closed or capped with a covering capable of sustaining weight of at least 400 pounds, except when the well is in actual use.

(b) As used in this section, "open or uncovered well" means an artificial excavation dug or drilled for the purpose of exploring for or producing water from the groundwater reservoir and is not capped or covered as required by this chapter.

(c) If the owner or lessee fails or refuses to close or cap the well in compliance with this chapter in accordance with district rules, any person, firm, or corporation employed by the district may go on the land and close or cap the well safely and securely.

(d) Reasonable expenses incurred by the district in closing or capping a well constitute a lien on the land on which the well is located.

(e) The lien arises and attaches upon recordation in the deed records of the county where the well is located an affidavit, executed by any person conversant with the facts, stating the following:

(1) the existence of the well;

(2) the legal description of the property on which the well is located;

(3) the approximate location of the well on the property;

(4) the failure or refusal of the owner or lessee, after notification, to close the well within 10 days after the notification;

(5) the closing of the well by the district, or by an authorized agent, representative, or employee of the district; and

(6) the expense incurred by the district in closing the well.

(f) Nothing in this section affects the enforcement of Subchapter A, Chapter 756, Health and Safety Code.

§ 36.119. ILLEGAL DRILLING AND OPERATION OF WELL; CITIZEN SUIT.

(a) Drilling a well without a required permit or operating a well at a higher rate of production than the rate approved for the well is declared to be illegal, wasteful per se, and a nuisance.

(b) A person who has an estate in land adjacent to the land on which the well is located, or a part that lies within one-half mile of the well, may sue in a court of competent jurisdiction to restrain or enjoin the illegal drilling or operation, or both. The suit may be brought with or without the joinder of the district.

(c) The aggrieved party may also sue for damages for injuries suffered by reason of the illegal operation and for other relief to which they may be entitled. In a suit for damages, the existence or operation of a well in violation of the rules of the district is prima

facie evidence of illegal drainage.

(d) The suit may be brought in the county where the illegal well is located or in the county where all or part of the affected land is located.

(e) The remedies provided by this section are cumulative of other remedies available to the individual or the district.

(f) A suit brought under this section shall be advanced for trial and determined as expeditiously as possible. The court shall not grant a postponement or continuance, including a first motion, except for reasons considered imperative by the court.

§ 36.120. INFORMATION.

On request of the executive director or the executive administrator, the district shall make available information that it acquires concerning the groundwater resources within its jurisdiction. The district shall also provide information to the commission and Texas Water Development Board concerning its plans and activities in conserving and protecting groundwater resources. On request of a district, the executive director and the executive administrator shall provide information they acquire concerning the groundwater resources within the district's jurisdiction.

§ 36.121. LIMITATION ON RULEMAKING POWER OF DISTRICTS OVER WELLS IN CERTAIN COUNTIES.

Except as provided by Section 36.117, a district that is created under this chapter on or after September 1, 1991, shall exempt from regulation under this chapter a well and any water produced or to be produced by a well that is located in a county that has a population of 14,000 or less if the water is to be used solely to supply a municipality that has a population of 115,000 or less and the rights to the water produced from the well are owned by a political subdivision that is not a municipality, or by a municipality that has a population of 93,000 or less, and that purchased, owned, or held rights to the water before the date on which the district was created, regardless of the date the well is drilled or the water is produced. The district may not prohibit the political subdivision or municipality from transporting produced water inside or outside the district's boundaries.

§ 36.122. TRANSFER OF GROUNDWATER OUT OF DISTRICT.

(a) A district may promulgate rules requiring a person to obtain a permit from the district for the transfer of groundwater out of the district to:

(1) increase, on or after March 2, 1997, the amount of groundwater to be transferred under a continuing arrangement in effect before that date; or

(2) transfer groundwater out of the district on or after March 2, 1997, under a new arrangement.

(b) The district may impose a reasonable fee for processing an application for a permit under this section.

(c) Before issuing a permit under this section, the district must give notice of the application and hold a public hearing.

(d) In determining whether to issue a permit under this section, the district shall consider:

(1) the availability of water in the district and in the proposed receiving area during the period for which the water supply is requested;

(2) the availability of feasible and practicable alternative supplies to the applicant;

(3) the amount and purposes of use in the proposed receiving area for which water is needed;

(4) the projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the district; and

(5) the approved regional water plan and certified district management plan.

(e) The district may limit a permit issued under this section if conditions in Subsection (d) warrant the limitation.

(f) In addition to conditions provided by Section 36.1131, the permit shall specify:

(1) the amount of water that may be transferred out of the district; and

(2) the period for which the water may be transferred.

(g) A district may not prohibit the export of groundwater if the purchase was in effect on or before June 1, 1997.

(h) This section applies only to a transfer of water that is initiated or increased after the effective date of this section.

(i) A district shall adopt rules as necessary to implement this section.

(Sections 36.122-36.150 reserved for expansion)

SUBCHAPTER E. DISTRICT FINANCES

§ 36.151. EXPENDITURES.

(a) A district's money may be disbursed only by check, draft, order, or other instrument.

(b) Disbursements shall be signed by at least two directors, except the board may by resolution allow certain employees of the district, or a combination of employees and directors, to sign disbursements on behalf of the board.

(c) The board may by resolution allow disbursements to be transferred by federal reserve wire system to accounts in the name of the district.

§ 36.152. FISCAL YEAR.

(a) The district shall be operated on the basis of a fiscal year established by the board.

(b) The fiscal year may not be changed during a period in which revenue bonds of the district are outstanding or more than once in a 24-month period.

§ 36.153. ANNUAL AUDIT.

(a) Annually, the board shall have an audit made of the financial condition of the district.

(b) The annual audit and other district records must be open to inspection during regular business hours at the principal office of the district.

§ 36.154. ANNUAL BUDGET.

(a) The board shall prepare and approve an annual budget.

(b) The budget shall contain a complete financial statement, including a statement of:

(1) the outstanding obligations of the district;

(2) the amount of cash on hand to the credit of each fund of the district;

(3) the amount of money received by the district from all sources during the previous year;

(4) the amount of money available to the district from all sources during the ensuing year;

(5) the amount of the balances expected at the end of the year in which the budget is being prepared;

(6) the estimated amount of revenues and balances available to cover the proposal budget; and

(7) the estimated tax rate or fee revenues that will be required.

(c) The annual budget may be amended on the board's approval.

§ 36.155. DEPOSITORY.

(a) The board shall name one or more banks to serve as depository for the district funds.

(b) District funds, other than those transmitted to a bank for payment of bonds issued by the district, shall be deposited as received with the depository bank and shall remain on deposit. This subsection does not limit the power of the board to place a portion of the district's funds on time deposit or to purchase certificates of deposit.

(c) To the extent that funds in the depository are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of funds by the Public Funds Collateral Act, Chapter 2257, Government Code.

§ 36.156. INVESTMENTS.

(a) Funds of the district may be invested and reinvested in accordance with the provisions of the Public Funds Investment Act, Chapter 2256, Government Code.

(b) The board, by resolution, may provide that an authorized representative of the district may invest and reinvest the funds of the district and provide for money to be withdrawn from the appropriate accounts of the district for investments on such terms as the board considers advisable.

§ 36.157. REPAYMENT OF ORGANIZATIONAL EXPENSES.

(a) A district may pay all costs and expenses necessarily incurred in the creation and organization of a district, including legal fees and other incidental expenses, and may reimburse any person for money advanced for these purposes.

(b) Payments may be made from money obtained from the sale of bonds first issued by the district or out of maintenance taxes or other revenues of the district.

§ 36.158. GRANTS.

A district may make or accept grants, gratuities, advances, or loans in any form to or from any source approved by the board, including any governmental entity, and may enter into contracts, agreements, and covenants in connection with grants, gratuities, advances, or loans that the board considers appropriate.

§ 36.159. GROUNDWATER DISTRICT MANAGEMENT PLAN FUNDS.

The Texas Water Development Board may allocate funds from the water assistance fund to a district to conduct initial data collections under this chapter, to develop and implement a long-term management plan under Section 36.1071, and to participate in regional water plans.

§ 36.160. FUNDS.

The Texas Water Development Board, the commission, the Parks and Wildlife Department, the Texas Agricultural Extension Service, and institutions of higher education may allocate funds to carry out the objectives of this chapter and Chapter 35, which include but are not limited to:

(1) conducting initial and subsequent studies and surveys under Sections 36.106, 36.107, and 36.109;

(2) providing appropriate education in affected areas identified in Section 35.007 relating to the problems and issues concerning water management that may arise;

(3) processing priority groundwater management area evaluations under this chapter and Chapter 35;

(4) providing technical and administrative assistance to newly created districts under this chapter and Chapter 35;

(5) covering the costs of newspaper notices required under Sections 35.009 and 36.014 and failed elections in accordance with Sections 35.014(c), 36.017(h), and 36.019; and

(6) providing for assistance from the Parks and Wildlife Department to the Texas Water Development Board or a district for the purpose of assessing fish and wildlife resource habitat needs as they may apply to overall management plan goals and objectives of the district.

§ 36.161. ELIGIBILITY FOR FUNDING.

(a) The Texas Water Development Board may provide funds under Sections 36.159 and 36.160, Chapters 15, 16, and 17, and Subchapter L of this chapter to a district if the Texas Water Development Board determines that such funding will allow the district to comply or continue to comply with provisions of this chapter.

(b) The Texas Water Development Board may, after notice and hearing, discontinue funding described in Subsection (a) if the Texas Water Development Board finds that the district is not using the funds to comply with the provisions of this chapter.

(c) The Texas Water Development Board, when considering a discontinuance under Subsection (b), shall give written notice of the hearing to the district at least 20 days before the date set for the hearing. The hearing shall be conducted in accordance with Chapter 2001, Government Code, or the rules of the respective agency. General notice of the hearing shall be given in accordance with the rules of the agency.

(d) The Texas Water Development Board may delegate to the State Office of Administrative Hearings the responsibility to conduct a hearing under this section.

(Sections 36.159-36.170 reserved for expansion)

SUBCHAPTER F. BONDS AND NOTES

§ 36.171. ISSUANCE OF BONDS AND NOTES.

(a) The board may issue and sell bonds and notes in the name of the district for any lawful purpose of the district. A district may not issue bonds unless the commission determines that the project to be financed by the bonds is feasible and issues an order approving the issuance of the bonds. This section does not apply to refunding bonds.

(b) A district may submit to the commission a written application for investigation of feasibility. An engineer's report describing the project, including the data, profiles, maps, plans, and specifications prepared in connection with the report, must be submitted with the application.

(c) The executive director shall examine the application and the report and shall inspect the project area. The district shall, on request, supply the executive director with additional data and information necessary for an investigation of the application, the engineer's report, and the project.

(d) The executive director shall prepare a written report on the project and include suggestions, if any, for changes or improvements in the project. The executive director shall retain a copy of the report and send a copy of the report to both the commission and the district.

(e) The commission shall consider the application, the engineer's report, the executive director's report, and any other evidence allowed by commission rule to be considered in determining the feasibility of the project.

(f) The commission shall determine whether the project to be financed by the bonds is feasible and issue an order either approving or disapproving, as appropriate, the issuance of the bonds. The commission shall retain a copy of the order and send a copy of the order to the district.

(g) Notwithstanding any provision of this code to the contrary, the commission may approve the issuance of bonds of a district without the submission of plans and specifications of the improvements to be financed with the bonds. The commission may condition the approval on any terms or conditions considered appropriate by the commission.

§ 36.172. MANNER OF REPAYMENT OF BONDS AND NOTES.

The board may provide for the payment of principal of and interest on the bonds and notes in any one of the following manners:

(1) from the levy and collection of ad valorem taxes on taxable property within the district;

(2) from fees;

(3) by pledging all or any part of the designated revenues from the ownership or operation of the district's works, improvements, and facilities and from the sale, transportation, and distribution of water; or

(4) from any combination of these sources.

§ 36.173. ADDITIONAL SECURITY FOR BONDS AND NOTES.

(a) The bonds and notes may be additionally secured by a deed of trust or mortgage lien on part or all of the physical properties of the district and rights appurtenant to those properties, vesting in the trustee power to sell the properties for payment of the indebtedness, power to operate the properties, and all other powers necessary for the further security of the bonds and notes.

(b) The trust indenture, regardless of the existence of the deed trust or mortgage lien on the properties, may contain provisions established by the board for the security of the bonds and notes and the preservation of the trust estate, may make provisions for amendment or modification, and may make provisions for investment of funds of the district.

(c) A purchaser under a sale under the deed trust or mortgage lien shall be absolute owner of the properties and rights purchased and may maintain and operate them.

§ 36.174. FORM OF BONDS OR NOTES.

(a) A district may issue its bonds or notes in various series or issues.

(b) Bonds or notes may mature serially or otherwise not more than 50 years from their date and shall bear interest at any rate permitted by the constitution and laws of this state.

(c) A district's bonds, notes, and interest coupons, if any, are investment securities under the terms of Chapter 8, Business & Commerce Code, and may be issued registrable as to principal or as to both principal and interest and may be made redeemable before maturity, at the option of the district, or may contain a mandatory redemption provision.

(d) A district's bonds and notes may be issued in the form, denominations, and manner and under the terms, conditions, and details, and shall be signed and executed as provided by the board in the resolution or order authorizing their issuance.

§ 36.175. PROVISIONS OF BONDS AND NOTES.

(a) In the orders or resolutions authorizing the issuance of bonds or notes, <including refunding bonds, the board may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund, the reserve fund, and other funds. The board may make additional covenants with respect to bonds or notes, pledged revenues, and the operation and maintenance of those works, improvements, and facilities, of which the revenue is pledged.

(b) The orders or resolutions of the board authorizing the issuance of bonds or notes may also prohibit the further issuance of bonds, notes, or other obligations payable from the pledged revenue or may reserve the right to issue additional bonds or notes to be secured by a pledge of and payable from the revenue on a parity with or subordinate to the lien and pledge in support of the bonds or notes being issued.

(c) The orders or resolutions of the board issuing bonds or notes may contain other provisions and covenants as the board may determine.

(d) The board may adopt and have executed any other proceeding or instruments necessary and convenient in the issuance of bonds or notes.

§ 36.176. REFUNDING BONDS.

(a) A district may issue bonds to refund all or any part of its outstanding bonds or notes, including matured but unpaid interest coupons.

(b) Refunding bonds shall mature serially or otherwise not more than 50 years from their date and shall bear interest at any rate or rates permitted by the constitution and laws of the state.

(c) Refunding bonds may be payable from the same source as the bonds or notes being refunded or from other additional sources.

(d) The refunding bonds must be approved by the attorney general as in the case of other bonds or notes and shall be registered by the comptroller on the surrender and cancellation of the bonds or notes being refunded.

(e) The orders or resolutions authorizing the issuance of the refunding bonds may provide that they be sold and the proceeds deposited in the place or places at which the bonds or notes being refunded are payable, in which case the refunding bonds may be issued before the cancellation of the bonds or notes being refunded. If refunding bonds are issued before cancellation of the other bonds or notes, an amount sufficient to pay the principal of and interest on the bonds or notes being refunded to their maturity dates, or to their option dates if the bonds or notes have been duly called for payment prior to maturity according to their terms, shall be deposited in the place or places at which the bonds or notes being refunded are payable. The comptroller shall register the refunding bonds without the surrender and cancellation of bonds or notes being refunded.

(f) A refunding may be accomplished in one or in several installment deliveries. Refunding bonds and their interest coupons are investment securities under Chapter 8, Business & Commerce Code.

(g) In lieu of the method set forth in Subsections (a)-(f), a district may refund bonds, notes, or other obligations as provided by the general laws of the state.

§ 36.177. BONDS AND NOTES AS INVESTMENTS.

District bonds and notes are legal and authorized investments for:

(1) banks;
(2) savings banks;
(3) trust companies;
(4) savings and loan associations;
(5) insurance companies;
(6) fiduciaries;
(7) trustees;
(8) guardians; and
(9) sinking funds of cities, counties, school districts, and other political subdivisions of the state and other public funds of the state and its agencies, including the permanent school fund.

§ 36.178. BONDS AND NOTES AS SECURITY FOR DEPOSITS

District bonds and notes are eligible to secure deposits of public funds of the state and cities,

counties, school districts, and other political subdivisions of the state. The bonds or notes are lawful and sufficient security for deposits to the extent of their value when accompanied by all unmatured coupons.

§ 36.179. TAX STATUS OF BONDS AND NOTES.

Since a district governed by this chapter is a public entity performing an essential public function, bonds and notes issued by the district, any transaction relating to the bonds and notes, and profits made in the sale of the bonds and notes, are free from taxation by the state or by any city, county, special district, or other political subdivision of the state.

§ 36.180. ELECTION.

(a) Bonds or notes secured in whole or in part by taxes may not be issued by the district until authorized by a majority vote of the qualified voters of the district at an election called for that purpose.

(b) The board may order an election, and the order calling the election shall state the nature and the date of the election, the hours during which the polls will be open, the location of the polling places, the amount of bonds or notes to be authorized, and the maximum maturity of the bonds or notes.

(c) At an election to authorize bonds or notes payable wholly from ad valorem taxes, the ballots must be printed to provide for voting for or against the proposition: "The issuance of (bonds or notes) and the levy of taxes for payment of the (bonds or notes)." At any election to authorize bonds or notes payable from both ad valorem taxes and revenues, the ballots must be printed to provide for voting for or against: "The issuance of (bonds or notes) and the pledge of net revenues and the levy of ad valorem taxes adequate to provide for the payment of the (bonds or notes)."

(d) The board shall canvass the returns and declare the results of the election. If a majority of the votes cast at the election favor the issuance of the bonds or notes, the bonds or notes may be issued by the board, but if a majority of the votes cast at the election do not favor issuance of the bonds or notes, the bonds or notes may not be issued.

§ 36.181. APPROVAL BY ATTORNEY GENERAL; REGISTRATION BY COMPTROLLER.

(a) Bonds and notes issued by a district must be submitted to the attorney general for examination.

(b) If the attorney general finds that the bonds or notes have been authorized in accordance with law, the attorney general shall approve them, and they shall be registered by the comptroller.

(c) After the approval and registration of bonds or notes, the bonds or notes are incontestable in any court or other forum, for any reason, and are valid and binding obligations in accordance with their terms for all purposes.

(Sections 36.182-36.200 reserved for expansion)

SUBCHAPTER G. DISTRICT REVENUES

§ 36.201. LEVY OF TAXES.

(a) The board may annually levy taxes to pay the bonds issued by the district that are payable in whole or in part by taxes.

(b) The board may annually levy taxes to pay the maintenance and operating expenses of the district at a rate not to exceed 50 cents on each $100 of assessed valuation.

(c) The board may not levy a tax to pay the maintenance and operating expenses of the district under this section until the tax is approved by a majority of the electors voting at an election in the district held for that purpose. The district may:

(1) hold an election for approval of the tax at the same time and in conjunction with an election to authorize bonds, following the procedures applicable to a bond election; or

(2) hold a separate election for approval of the tax in accordance with Subsection (d).

(d) An order calling a separate election for approval of a tax under this section must be issued at least 15 days before the date of the election, and the election notice must be published at least twice in a newspaper of general circulation in the district. The first publication of the notice must be at least 14 days before the date of the election.

§ 36.202. BOARD AUTHORITY.

(a) The board may levy taxes for the entire year in which the district is created.

(b) If territory is added to or annexed by the district, the board may levy taxes in the new territory for the entire year in which the territory is added or annexed.

(c) The board shall levy taxes on all property in the district subject to district taxation.

§ 36.203. TAX RATE.

In setting the tax rate, the board shall take into consideration the income of the district from sources other than taxation. On determination of the amount of tax required to be levied, the board shall make the levy and certify it to the tax assessor-collector.

§ 36.204. TAX APPRAISAL, ASSESSMENT AND COLLECTION.

(a) The Tax Code governs the appraisal, assessment, and collection of district taxes.

(b) The board may provide for the appointment of a tax assessor-collector for the district or may contract for the assessment and collection of taxes as provided by the Tax Code.

§ 36.205. AUTHORITY TO SET FEES.

(a) A district may set fees for administrative acts of the district, such as filing applications. Fees set by a district may not unreasonably exceed the cost to the district of performing the administrative function for which the fee is charged.

(b) A district shall set and collect fees for all services provided outside the boundaries of the district.

(c) Fees based on the amount of water to be withdrawn from a well shall not exceed:

(1) one dollar per acre foot for water used for the purpose of irrigating agricultural crops; or

(2) 17 cents per thousand gallons for water used for any other purpose.

(d) A district affected by Subsection (c)(2) that also may assess a water use fee against a specific municipality shall assess an amount not to exceed 60 percent of the total funding of the district received from water use fees assessed against that municipality and other nonexempt users in the district. This subsection shall take precedence over all prior enactments.

(e) Subsection (c) does not apply to the following districts:

(1) the Edwards Aquifer Authority;

(2) the Fort Bend Subsidence District; or

(3) the Harris-Galveston Coastal Subsidence District.

§36.206. DISTRICT FEES.

(a) A temporary board may set user fees to pay for the creation and initial operation of a district, until such time as the district creation has been confirmed and a permanent board has been elected by a majority vote of the qualified voters voting in the district in an election called for those purposes.

(b) The rate of fees set for crop or livestock production or other agricultural uses shall be no more than 20 percent of the rate applied to municipal uses.

§36.207. USE OF PERMIT FEES AUTHORIZED BY SPECIAL LAW.

A district may use funds obtained from permit fees collected pursuant to the special law governing the district for any purpose consistent with the district's certified water management plan including, without limitation, making grants, loans, or contractual payments to achieve, facilitate, or expedite reductions in groundwater pumping or the development or distribution of alternative water supplies.

SUBCHAPTER H. JUDICIAL REVIEW

§ 36.251. SUIT AGAINST DISTRICT.

A person, firm, corporation, or association of persons affected by and dissatisfied with any provision or with any rule or order made by a district is entitled to file a suit against the district or its directors to challenge the validity of the law, rule, or order. The suit shall be filed in a court of competent jurisdiction in any county in which the district or any part of the district is located. The suit may only be filed after all administrative appeals to the district are final.

§ 36.252. SUIT TO BE EXPEDITED.

A suit brought under this subchapter shall be advanced for trial and determined as expeditiously as possible. No postponement or continuance shall be granted except for reasons considered imperative by the court.

§ 36.253. TRIAL OF SUIT.

The burden of proof is on the petitioner, and the challenged law, rule, order, or act shall be deemed prima facie valid. The review on appeal is governed by the substantial evidence rule as defined by Section 2001.174, Government Code.

§ 36.254. SUBCHAPTER CUMULATIVE.

The provisions of this subchapter do not affect other legal or equitable remedies that may be available.

(Sections 36.255-36.300 reserved for expansion)

SUBCHAPTER I. PERFORMANCE REVIEW AND DISSOLUTION

§ 36.301. FAILURE TO SUBMIT A MANAGEMENT PLAN.

If a board fails to submit a management plan or to receive certification of its management plan under Section 36.1072 or fails to submit or receive certification of an amendment to the management plan under Section 36.1073, the commission shall take appropriate action under Section 36.303.

§ 36.302. LEGISLATIVE AUDIT REVIEW; DETERMINATION OF WHETHER DISTRICT IS OPERATIONAL.

(a) A district is subject to review by the state auditor under the direction of the legislative audit committee pursuant to Chapter 321, Government Code.

(b) The commission, the Texas Water Development Board, and the Parks and Wildlife Department shall provide technical assistance to the state auditor's office for the review.

(c) The state auditor shall make a determination of whether a district is actively engaged in achieving the objectives of the district's management plan based on an audit of the district's performance under the plan.

(d) The state auditor shall conduct such audits following the first anniversary of the initial certification of the plan by the Texas Water Development Board under Section 36.1072 and following the end of every five-year period thereafter.

(e) The state auditor shall report findings of the review to the legislative audit committee and to the commission.

(f) If it is determined under Subsection (c) that the district is not operational, the commission shall take appropriate action under Section 36.303.

§ 36.303. ACTION BY COMMISSION.

(a) If Section 36.301 or 36.302(f) applies, the commission, after notice and hearing in accordance with Chapter 2001, Government Code, shall take action the commission considers appropriate, including:

(1) issuing an order requiring the district to take certain actions or to refrain from taking certain actions;

(2) dissolving the board in accordance with Sections 36.305 and 36.307;

(3) removing the district's taxing authority; or

(4) dissolving the district in accordance with Sections 36.304, 36.305, and 36.308.

(b) In addition to actions identified under Subsection (a), the commission may recommend to the legislature, based upon the report required by Section 35.018, actions the commission deems necessary to accomplish comprehensive management in the district.

§ 36.304. DISSOLUTION OF DISTRICT.

(a) The commission may dissolve a district that:

(1) is not operational, as determined under Section 36.302; and

(2) has no outstanding bonded indebtedness.

(b) A district composed of territory entirely within one county may be dissolved even if

the district has outstanding indebtedness that matures after the year in which the district is dissolved, whereupon the commissioners court shall levy and collect taxes on all taxable property in the district in an amount sufficient to pay the principal of and interest on the indebtedness when due. The taxes shall be levied and collected in the same manner as county taxes.

§ 36.305. NOTICE OF HEARING FOR DISSOLUTION OF BOARD OR DISTRICT.

(a) The commission shall give notice of the hearing for dissolution of a district or of a board which briefly describes the reasons for the proceeding.

(b) The notice shall be published once each week for two consecutive weeks before the day of hearing in a newspaper having general circulation in the county or counties in which the district is located. The first publication shall be 30 days before the day of the hearing.

(c) The commission shall give notice of the hearing by first class mail addressed to the directors of the district according to the last record on file with the executive director.

§ 36.306. INVESTIGATION.

The executive director shall investigate the facts and circumstances of any violations of any rule or order of the commission or any provisions of this chapter and shall prepare and file a written report with the commission and district and include any actions the executive director believes the commission should take under Section 36.303.

§ 36.307. ORDER OF DISSOLUTION OF BOARD.

If the commission enters an order to dissolve the board, the commission shall notify the county commissioners court of each county which contains territory in the district and the commission shall provide that temporary directors be appointed under Section 36.016 to serve until an election for a new board can be held under Section 36.017, provided, however, that district confirmation shall not be required for continued existence of the district and shall not be an issue in the election.

§ 36.308. CERTIFIED COPY OF ORDER.

The commission shall file a certified copy of the order of dissolution of the district in the deed records of the county or counties in which the district is located. If the district was created by a special Act of the legislature, the commission shall file a certified copy of the order of dissolution with the secretary of state.

§ 36.309. APPEALS.

Appeals from any commission order shall be filed and heard in the district court of any of the counties in which the land is located.

§ 36.310. ASSETS ESCHEAT.

Upon the dissolution of a district by the commission, all assets of the district shall be sold at public auction and the proceeds given to the county if it is a single-county district. If it is a multicounty district, the proceeds shall be divided with the counties in proportion to the

surface land area in each county served by the district.

(Sections 36.308-36.320 reserved for expansion)

SUBCHAPTER J. ADDING TERRITORY TO DISTRICT

§ 36.321. ADDING LAND BY PETITION OF LANDOWNER.

The owner of land contiguous to a district may file with the board a notarized petition requesting that the owner's land be included in the district. The petition must describe the land by legal description or by metes and bounds or by lot and block number if there is a recorded plat of the area to be included in the district.

§ 36.322. ASSUMPTION OF BONDS.

If the district has bonds, notes, or other obligations outstanding or bonds payable in whole or in part from taxation that have been voted but are unissued, the petitioner shall assume its share of the outstanding bonds, notes, or other obligations and any voted but unissued tax bonds of the district, and the property shall be assessed an ad valorem tax at the same rate as that set for the existing district to pay for outstanding bonds and for the maintenance and operation of the district.

§ 36.323. HEARING AND DETERMINATION OF PETITION.

(a) The board shall hear and consider the petition and may add to the district the land described in the petition if it is considered to be to the advantage of the petitioner and to the existing district.

(b) If the district has bonds payable in whole or in part from taxation that are voted but unissued at the time of the annexation, the board may issue the voted but unissued bonds even though the boundaries of the district have been altered since the authorization of the bonds.

§ 36.324. RECORDING PETITION.

A petition that is granted which adds land to the district shall be recorded in the office of the county clerk of the county or counties in which the land is located and the county or counties in which the existing district's principal office is located.

§ 36.325. ADDING CERTAIN TERRITORY BY PETITION.

(a) Landowners of a defined area of territory not already in a district may file with any district a petition requesting inclusion in that district.

(b) The petition must be signed by:

(1) a majority of the landowners in the territory;

(2) at least 50 landowners if the number of landowners is more than 50; or

(3) the commissioners court of the county in which the area is located if the area is identified as a priority groundwater management area or includes the entire county. The petition must describe the land by legal description or by metes and bounds or by lot and block number if there is a recorded plat of the area to be included in the district.

§ 36.326. HEARING ON PETITION.

The board by order shall set the time and place of separate hearings on the petition to include the territory in the district. At least one hearing shall be held in the existing district and one

hearing shall be held in the territory to be added.

§ 36.327. RESOLUTION TO ADD TERRITORY.
If the board finds after the hearing on the petition that the addition of the land would benefit the district and the territory to be added, it may add the territory to the district by resolution. The board does not have to include all the territory described in the petition if it finds that a modification or change is necessary or desirable.

§ 36.328. ELECTION TO RATIFY ANNEXATION OF LAND.
(a) Annexation of the territory is not final until ratified by a majority vote of the voters in the territory to be added. An election in the existing district accepting the addition of land is not required.

(b) The ballots for the election shall be printed to provide for voting for or against the proposition: "The inclusion of (briefly describe additional area) in the _____ District." If the district levies a property tax for payment of its maintenance and operating expenses, the proposition shall include the following language: "and the levy of a tax on property at a rate not to exceed _____ cents on each $100 of assessed valuation for payment of maintenance and operating expenses of the district."

(c) The amount of the tax included in the proposition shall be the maximum amount that the district is authorized to levy. If the district has outstanding or authorized bonded indebtedness, the proposition shall include language providing for the assumption by the additional area of a proportional share of the bonded indebtedness of the district.

§ 36.329. NOTICE AND PROCEDURE OF ELECTION.
The notice of the election, the manner and the time of giving the notice, the manner of holding the election, and qualifications of the voters are governed by the Election Code.

§ 36.330. LIABILITY OF ADDED TERRITORY.
The added territory shall bear its pro rata share of indebtedness or taxes that may be owed, contracted, or authorized by the district to which it is added.

§ 36.331. ANNEXATION OF NONCONTIGUOUS TERRITORY.
Land not contiguous to the existing boundaries of a district may not be added to or annexed to a district unless the land is located either within the same management area, priority groundwater management area, or a groundwater subdivision designated by the commission or its predecessors.

(Sections 36.332-36.350 reserved for expansion)

SUBCHAPTER K. CONSOLIDATION OF DISTRICTS

§ 36.351. CONSOLIDATION OF DISTRICTS.

(a) Two or more districts may consolidate into one district.

(b) Adjacent districts may consolidate portions of either district if one district relinquishes land within that district to the jurisdiction of the other district.

(c) A consolidation under this subchapter occurs if the board of each involved district adopts a resolution containing the terms and conditions of the consolidation.

§ 36.352. TERMS AND CONDITIONS OF CONSOLIDATION.

(a) The terms and conditions for consolidation shall include:

(1) adoption of a name for the district;

(2) the number and apportionment of directors to serve on the board;

(3) the effective date of the consolidation;

(4) an agreement on finances for the consolidated district, including disposition of funds, property, and other assets of each district;

(5) transfer of all permits issued in the area that is the subject of the consolidation to the consolidated district; and

(6) an agreement on governing the districts during the transition period, including selection of officers.

(b) The terms and conditions for consolidation may include:

(1) assumption by each district of the other district's bonds, notes, voted but unissued bonds, or other obligations;

(2) an agreement to levy taxes to pay for bonds;

(3) any other terms of conditions agreed upon by the board of each district.

§ 36.353. NOTICE AND HEARING ON CONSOLIDATION.

(a) Each board shall publish notice and hold a public hearing within that district on the terms and conditions for consolidation of the districts.

(b) After the hearing, the board may, by resolution, approve the terms and conditions for consolidation and enter an order consolidating the districts.

§ 36.354. ELECTIONS TO APPROVE CONSOLIDATION.

(a) An election to ratify the consolidation is required unless the districts to be consolidated meet the following requirements:

(1) the districts have not authorized or issued bonds and do not levy or assess taxes; or

(2) the consolidation would not result in any additional taxing or bonding authority for any of the districts, and would not require any district to contribute to the debt payments of any other district.

(b) The board shall order an election in each district to be consolidated only after the board of each district has agreed on the terms and conditions of consolidation. The directors of each district shall order the election to be held on the same day in each district. The election

shall be held and notice given in the manner provided by the Election Code.

(c) The ballots for the election shall be printed to provide for voting for or against the proposition: "The consolidation of (names of the districts to be consolidated) in the _____ District." If the district levies a property tax for payment of its bonded indebtedness, the proposition shall include the following language: "and the levy of a tax on property at a rate not to exceed _____ cents on each $100 of assessed valuation for payment of bonds." If the district levies a property tax for payment of its maintenance and operating expenses, the proposition shall include the following language: "and the levy of a tax on property at a rate not to exceed _____ cents on each $100 of assessed valuation for payment of maintenance and operating expenses of the district."

(d) A district may be consolidated only if a majority of the electors in each district vote in favor of the consolidation. If more than two districts are consolidating, failure of any one district to ratify the consolidation shall not prevent the consolidation of the other districts.

§ 36.355. GOVERNING CONSOLIDATED DISTRICTS.

(a) After two or more districts are consolidated, they become one district and are governed as one district.

(b) During the transition period, the officers of each district shall continue to act jointly as officers of the original districts to settle the affairs of their respective districts.

(c) If the consolidated district elects directors, directors for the consolidated district shall be elected in the same manner and for the same term as directors elected at a confirmation election. The directors' election shall be set for the next regular election.

§ 36.356. DEBTS OF ORIGINAL DISTRICTS.

(a) After two or more districts are consolidated, the consolidated district shall protect the debts of the original districts and shall assure that the debts are not impaired. If the consolidated district has taxing authority, the debts may be paid by taxes levied on the land in the original districts as if they had not consolidated or from contributions from the consolidated district on terms stated in the consolidation agreement.

(b) If the consolidated district has taxing authority and assumes the bonds, notes, and other obligations of the original districts, taxes may be levied uniformly on all taxable property within the consolidated district to pay the debts.

§ 36.357. ASSESSMENT AND COLLECTION OF TAXES.

If the consolidated district has taxing authority, the district shall assess and collect taxes on property on all property in the district for maintenance and operation of the district.

§ 36.358. VOTED BUT UNISSUED BONDS.

If either district has voted but unissued bonds payable in whole or in part from taxation assumed by the consolidated district, the consolidated district may issue the voted but unissued bonds in the name of the consolidated district and levy a uniform tax on all taxable property in the consolidated district to pay for the bonds.

§ 36.359. FILING OF ORDER WITH COUNTY CLERK AND EXECUTIVE DIRECTOR.

A consolidation order issued by the board shall be kept in the records of the consolidated district, recorded in the office of the county clerk in each of the counties in the consolidated district, and filed with the executive director.

SUBCHAPTER L. GROUNDWATER DISTRICT LOAN ASSISTANCE FUND

§ 36.371. GROUNDWATER DISTRICT LOAN ASSISTANCE FUND.

(a) The groundwater district loan assistance fund is created, to be funded by direct appropriation and by the Texas Water Development Board from the water assistance fund.

(b) Repayments of loans shall be deposited in the water assistance fund.

§ 36.372. FINANCIAL ASSISTANCE.

(a) The loan fund may be used by the Texas Water Development Board to provide loans to newly confirmed districts and legislatively created districts that do not require a confirmation election to pay for their creation and initial operations.

(b) The Texas Water Development Board shall establish rules for the use and administration of the loan fund.

§ 36.373. APPLICATION FOR ASSISTANCE.

(a) In an application to the Texas Water Development Board for financial assistance from the loan fund, the applicant shall include:

(1) the name of the district and its board members;

(2) a citation of the law under which the district operates and was created;

(3) a description of the initial operations;

(4) the total start-up cost of the initial operations;

(5) the amount of state financial assistance requested;

(6) the plan for repaying the total cost of the loan; and

(7) any other information the Texas Water Development Board may require to perform its duties and protect the public interest.

(b) The Texas Water Development Board may not accept an application for a loan from the loan fund unless it is submitted in affidavit form by the applicant's board. The Texas Water Development Board shall prescribe the affidavit form in its rules.

(c) The rules implementing this section shall not restrict or prohibit the Texas Water Development Board from requiring additional factual material from an applicant.

§ 36.374. APPROVAL OF APPLICATION.

The Texas Water Development Board, by resolution, may approve an application if it finds that:

(1) granting financial assistance to the applicant will serve the public interest; and

(2) the revenue pledged by the applicant from district taxes and fees and other sources will be sufficient to meet all the obligations assumed by the applicant.

TEXAS

WATER WELL DRILLERS

AND

PUMP INSTALLERS

ADMINISTRATIVE RULES
UNDER

TEXAS DEPARTMENT OF
LICENSING AND REGULATION

AND

TEXAS WATER CODE

CHAPTER 32
AND
CHAPTER 33

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Administrative Rules of the
Texas Department of Licensing and Regulation
16 Texas Administrative Code, Chapter 76
Effective January 3, 1999

76.01. Purpose of Rules.
To provide procedural and substantive requirements for the licensing, complaint procedures, continuing education, and technical standards for well drillers and pump installers, and to ensure the quality of the State's ground water for the safety and welfare of the public under the Texas Water Code, Chapters 32 and 33.

76.10. Definitions.
The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:
(1) Abandoned well - A well that has not been used for six consecutive months. A well is considered to be in use in the following cases:
- (A) a non-deteriorated well which contains the casing, pump, and pump column in good condition; or
- (B) a non-deteriorated well which has been capped.

(2) Annular space - The space between the casing and borehole wall.

(3) Atmospheric barrier - A section of cement placed from two feet below land surface to the land surface when using granular sodium bentonite as a casing sealant or plugging sealant in lieu of cement.

(4) Bentonite - A sodium hydrous aluminum silicate clay mineral (montmorillonite) commercially available in powdered, granular, or pellet form which is mixed with potable water and used for a variety of purposes including the stabilization of borehole walls during drilling, the control of potential or existing high fluid pressures encountered during drilling below a water table, and to provide a seal in the annular space between the well casing and borehole wall.

(5) Bentonite grout - A fluid mixture of sodium bentonite and potable water mixed at manufacturers' specifications to a slurry consistency which can be pumped through a pipe directly into the annular space between the casing and the borehole wall. Its primary function is to seal the borehole in order to prevent the subsurface migration or communication of fluids.

(6) Capped well - A well that is closed or capped with a covering capable of preventing surface pollutants from entering the well and sustaining weight of at least 400 pounds and constructed in such a way that the covering cannot be easily removed by hand.

(7) Casing - A watertight pipe which is installed in an excavated or drilled hole, temporarily or

permanently, to maintain the hole sidewalls against caving, advance the borehole, and in conjunction with cementing and/or bentonite grouting, to confine the ground waters to their respective zones of origin, and to prevent surface contaminant infiltration.

(A0 Plastic casing - National Sanitation Foundation (NSF-WC) or American Society of Testing Material (ASTM) F-480 minimum SDR 26 approved water well casing.

(B) Steel Casing - ASTM A-53 Grade B or better and have a minimum weight and thickness of American National Standards Institute (ANSI) schedule 10.

(C) Monitoring wells may use other materials, such as fluoropolymer (Teflon), glass-fiber-reinforced epoxy, or various stainless steel alloys.

(8) Commission - The Texas Commission of Licensing and Regulation.

(9) Cement - A neat portland or construction cement mixture of not more than seven gallons of water per 94-pound sack of dry cement, or a cement slurry which cement along with bentonite, gypsum or other additives.

(10) Chemigation - A process whereby pesticides, fertilizers or other chemicals, or effluents from animal wastes is added to irrigation water applied to land or crop, or both, through an irrigation distribution system.

(11) Complainant - A person who has filed a complaint with the Texas Department of Licensing and Regulation (Department) against any party subject to the jurisdiction of the Department. The Department may be the complainant.

(12) Completed monitoring well - A monitoring well which allows water from a single water-producing zone to enter the well bore, but isolates the single water-producing zone from the surface and from all other water-bearing zones by proper casing and/or cementing procedures. The single water-producing zone shall not include more than one continuous water-producing unit unless a qualified geologist or a groundwater hydrologist has determined that all the units screened or sampled by the well are interconnected naturally.

(13) Completed to produce undesirable water - A completed well which is designed to extract water from a zone which contains undesirable water.

(14) Completed water well - A water well which has sealed off access of undesirable water to the well bore by proper casing and/or cementing procedures.

(15) Constituents - Elements, ions, compounds, or substances which may cause the degradation of the soil or ground water.

(16) Dry litter poultry facility - Fully enclosed poultry operation where wood shavings or similar material is used as litter.

(17) Easy access - Access is not obstructed by other equipment and the fitting can be removed and replaced with a minimum of tools without risk of breakage of the attachment parts.

(18) Edwards aquifer - That portion of an arcuate belt of porous, water bearing, predominantly carbonate rocks known as the Edwards and Associated Limestones in the Balcones Fault Zone trending from west to east to northeast in Kinney, Uvalde, Medina, Bexar, Hays, Travis, and Williamson Counties; and composed of the Salmon Peak Limestone, McKnight Formation, West Nueces Formation, Devil's River Limestone, Person Formation, Kainer Formation, Edwards Formation and Georgetown Formation. The permeable aquifer units generally overlie the less-permeable Glen Rose Formation to the south, overlie the less-permeable Comanche Peak and Walnut formations north of the Colorado River, and underlie the less-permeable Del Rio Clay regionally.

(19) Environmental soil boring - An artificial excavation constructed to measure or monitor the quality and quantity or movement of substances, elements, chemicals, or fluids beneath the surface of the ground. The term shall not include any well which is used in conjunction with the production of oil, gas, or any other minerals.

(20) Flapper - The clapper, closing, or checking device within the body of the check valve.

(21) Foreign substance - Constituents that includes recirculated tailwater and open-ditch water when a pump discharge pipe is submerged in the ditch.

(22) Freshwater - Water whose bacteriological, physical, and chemical properties are such that it is suitable and feasible for beneficial use.

(23) Granular sodium bentonite - Sized, coarse ground, untreated, sodium based bentonite (montmorillonite) which has the specific characteristic of swelling in freshwater.

(24) Groundwater conservation district - Any district or authority created under Article III, Section 52, or Article XVI, Section 59 of the Texas Constitution or under the provisions of Chapters 35 and 36 of the Texas Water Code that has the authority to regulate the spacing or production of water wells.

(25) Irrigation distribution system - A device or combination of devices having a hose, pipe, or other conduit which connects directly to any water well or reservoir connected to the well, through which water or a mixture of water and chemicals is drawn and applied to land. The term does not include any hand held hose sprayer or other similar device which is constructed so that an interruption in water flow automatically prevents any backflow to the water source.

(26) Monitoring well - An artificial excavation constructed to measure or monitor the quality and/or quantity or movement of substances, elements, chemicals, or fluids beneath the surface of the ground. Included within this definition are environmental soil borings, piezometer wells, observation wells,

and recovery wells. The term shall not include any well which is used in conjunction with the production of oil, gas, coal, lignite, or other minerals.

(27) Mud - A relatively homogenous; viscous fluid produced by the suspension of clay-size particles in water.

(28) Piezometer - A device so constructed and sealed as to measure hydraulic head at a point in the subsurface.

(29) Piezometer well - A well of a temporary nature constructed to monitor well standards for the purpose of measuring water levels or used for the installation of piezometer resulting in the determination of locations and depths of permanent monitor wells.

(30) Plugging - An absolute sealing of the well bore.

(31) Pollution - The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water that renders the water harmful, detrimental, or injurious to humans, animals, vegetation, or property, or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any or reasonable purpose.

S(32) Public water system - A system supplying water to a number of connections or individuals, as defined by current rules and regulations of the Texas Natural Resource Conservation Commission 30 TAC Chapter 290.

(33) Recharge zone - Generally, that area where the stratigraphic units constituting the Edward Aquifer crop out, including the outcrops of other geologic formations in proximity to the Edwards Aquifer, where caves, sinkholes, faults, fractures, or other permeable features would create a potential for recharge of surface waters into the Edwards Aquifer. The recharge zone is identified as that area designated as such in official maps in the appropriate regional office of the Texas National Resource Conservation Commission.

(34) Recovery well - A well constructed for the purpose of recovering undesirable groundwater for treatment or removal of contamination.

(35) Sanitary well seal - A water tight device to maintain a junction between the casing and the pump column.

(36) Undesirable water - Water that is injurious to human health and the environment or water that can cause pollution to land or other waters.

(37) Water or waters in the state - Groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state, and all other bodies of surface water, natural or

artificial, inland or coastal, fresh or salt, navigable or nonnavigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.

(38) Well - A water well, injection well, dewatering well, monitoring well, piezometer well, observation well, or recovery well.

(39) State well report (Well Log) - A log recorded on forms prescribed by the Department, at the time of drilling showing the depth, thickness, character of the different strata penetrated, location of water-bearing strata, depth, size, and character of casing installed, together with any other data or information required by the Executive Director.

76.200. Licensing Requirements-General.
It shall be unlawful for any person to act as, or to offer to perform services as a driller or pump installer without first obtaining a license pursuant to the Texas Water Code Chapters 32 and 33 and these rules.

76.201. Requirements for Issuance of a License.
(a) An application, accompanied by the required examination fee, must be submitted by each person desiring to obtain a water well driller's or pump installer's license.

(b) Within 90 days after approval, each applicant must pass an examination.

(c) Upon passing the examination, an applicant must submit the required license fee to the Department.

(d) A licensee, not licensed to perform all types of well drilling and pump installation, may apply for designation for additional types of well drilling or pump installation. Applications for additional designations shall be accompanied by the appropriate application fee and shall contain all information required by these rules for an initial license. Upon examination of the applicant's qualifications, the Executive Director, with advice of the Water Well Driller Advisory Council, shall deny or grant additional grades of licensure.

(1) An applicant who has demonstrated competency in water well drilling shall be deemed qualified for licensing for Dewatering, Injection , and Monitoring drilling which are regulated under these rules.

(2) An applicant who has demonstrated competency in all types of pump installation shall be deemed qualified for a master pump installer's license.

76.202. Applications for Licenses and Renewals.
(a) Application shall be made on forms provided by the Department.

(b) Application shall include:

(1) a sworn letter of reference from a licensed water well driller or pump installer, as

applicable, who has at least two years licensed experience in water well drilling/pump installing;

(2) letters of reference from two water well drilling or pump installer customers, as applicable, who are not related within the second degree of consanguinity to the applicant (i.e., may not be the applicant's spouse, or related to the applicant or applicant's spouse, as a child, grandchild, parent, sister, brother, or grandparent);

(3) the applicant's sworn statement that he has drilled water wells or installed pumps under the supervision of a driller or pump installer licensed under the Texas Water Code, Chapters 32 and 33 for two years or that he has other comparable water well drilling or pump installing experience; and

(4) the applicant's sworn statement that he has read and will adhere to the requirements of the Texas Water Code, Chapters 32 and 33 and these rules.

(c) The application must be received by the Department at least 28 days before a Council meeting in order to be scheduled for consideration at the next meeting.

(1) The Department will send written notice to the applicant informing the applicant that the application is administratively complete and accepted for filing, or that the application is deficient in specific areas and the applicant has 30 days to submit additional information to correct the deficiency (ies).

(2) If the required information is not forthcoming from the applicant within 30 days of the date of mailing of the deficiency notice, the Department shall return the incomplete application to the applicant.

(3) If the applicant disagrees that the application is deficient, the applicant may file a motion for reconsideration of the Department's action.

(d) A license issued by the Department will expire annually from the date of issuance.

(e) Intentionally misstating or misrepresenting a fact on an application, renewal application, state well report, plugging report, or with any other information or evidence furnished to the Department in connection with official Departmental matters shall be grounds for assessing penalties and/or sanctions.

76.203. Examinations.

(a) Examinations shall be designed to determine if the applicant possesses the requisite knowledge of pump installation techniques, well drilling, completion, and plugging methods and techniques, and of groundwater formations to ensure that the licensee will not present a serious risk of pollution of a groundwater source.

(b) Examinations shall be offered on a regular basis at a time and place designated by the Executive Director.

(c) Additional examinations shall be offered if more than ten applicants petition the Executive Director in writing.

(d) An applicant may only take the examination twice within any 12-month period.

(e) Each time an applicant applies to retake the Department's examination, an applicant must submit the examination fee.

76.204. License Renewal.
(a) On or before the expiration date of the license, the licensee shall pay an annual renewal fee to the Department and submit an application for renewal.

(b) To renew a license, the licensee is required to show proof of four hours of continuing education.

(c) If a person's license is expired 90 days or less, the person may renew the license by paying the Department the required renewal fee and a late fee equal to one-half the examination fee.

(d) If a person's license is expired for more than 90 days but less than two years, the person may be eligible for a license reissuance by paying all renewal fees and a late fee that is equal to the examination fee.

(e) If a person's license has been expired for two years or more, the person may not renew the license, but may apply for a new license.

76.205. Registration for Driller or Pump Installer Apprenticeship.
(a) A person who wishes to undertake a Department approved apprentice program under the supervision of a licensed driller or a licensed pump installer who has been licensed for a minimum of two years, must submit a registration form to the department and provide proof that the licensed driller or pump installer has agreed to accept the responsibility of supervising the training. A driller or pump installer may not supervise more than three apprentices at any one time.

(b) A registered pump installer apprentice shall represent his supervising pump installer during operations at the well site.

(c) The Department, with advice of the Council, shall review driller and pump installer apprentice registration forms.

(d) A registered pump installer apprentice may not perform, or offer to perform, any services associated with procedures employed in the placement an d preparation for operation of equipment and material used to obtain water from a water well. A pump installer apprentice's registration may be revoked for engaging in prohibited activities.

(e) Registration forms shall include:
(1) the name, business address, and permanent mailing address of the apprentice in training;
(2) the name, business address, and license number of the licensed driller or pump installer

who will supervise the training;

(3) a brief description of the training program;

(4) the effective commencement and termination date of the training program;

(5) a statement by the licensed driller or pump installer accepting financial responsibility for the activities of the apprentice associated with the training program or undertaken on behalf of the licensed driller or pump installer; and

(6) the signatures of the apprentice and the licensed driller or pump installer and the sworn statement of both that the information provided is true and correct.

(f) If the application conforms to the rules and the apprentice program meets Department requirements, the Department will notify the apprentice and the supervising driller or pump installer that the apprentice has been accepted as a registered driller or pump installer apprentice and that the registration form shall remain in the Department's files for the stated duration of the apprentice period.

(g) If the application and apprentice program do not conform to the rules and the registration is not approved, the apprentice and the licensed pump installer shall be notified by the Department.

76.206. Responsibilities of the Apprentice.

(a) A registered driller apprentice shall:

(1) represent his supervising driller during operations at the well site;

(2) co-sign state well reports with the supervising driller; and

(3) perform services associated with drilling, deepening, or altering a water well under the direct supervision of the supervising driller.

(b) A registered driller apprentice may not perform, or offer to perform, any services associated with drilling, deepening, or altering a water well except under the direct supervision of a licensed driller and/or according to the supervising driller's express directions. A driller apprentice's registration may be revoked for engaging in prohibited activities.

(c) Upon completion of a training program of at least one year, an apprentice may apply to obtain a water well driller's or pump installer's license or renew the status as an apprentice. The supervising driller, pump installer, or apprentice may terminate the training program by written notice to the Department. A reason for termination is not required. Upon receipt of the notice, the Department shall terminate the apprentice's status as a registered apprentice.

(d) The licensed driller or licensed pump installer shall be present at the well site at all times during all operations or may be represented by a registered apprentice capable of immediate communication with the licensed driller or pump installer at all times, provided that the licensed driller is less than one hour from the well site and visits the well site at least once each day of operation to direct the manner in which the operations are conducted.

(e) The supervising licensed driller or licensed pump installer is responsible for compliance with the

Texas Water Code, Chapters 32 and 33 (relating to Water Well Drillers and Water Well Pump Installers) and Department rules.

76.220. Continuing Education.

(a) Competence in the performance of services by a licensee requires that the licensee's knowledge and skill encompass the current knowledge of drilling, completion, pump installation, and plugging techniques, and of the occurrence and availability of groundwater, to the extent that the performance of services by the driller or pump installer will not create a risk of polluting waters. Therefore, licensees must maintain proficiency in the field of water well drilling and pump installation.

(b) A licensed driller or licensed pump installer is required to have four (4) hours of continuing education annually by a provider that is approved by the Department. This section is effective beginning with the 1999 renewal period.

76.300. Exemptions.

The following are not required to obtain a license under Chapters 32 and 33 of the Texas Water Code, however, must comply with standards set forth in §§76.701, 76.702, 76.1000, 76.1001, 76.1003 and 76.1004 of this chapter:

(1) any person who drills, bores, cores, or constructs a water well on his property for his own use.

(2) any person who assists in the construction of a water well under the direct supervision of a licensed water well driller and is not primarily responsible for the drilling operation;

(3) pursuant to 30 TAC, Chapter 334, Subchapter I: Underground Storage Tank Contractor Registration and Installer Licensing, any person who possesses a Class A or Class B Underground Storage Tank (UST) Installers' license who drills observation wells within the backfill of the original excavation for UST's, including associated piping and pipe trenches (tank plumbing and piping), to a depth of no more than two feet below the tank bottom. However, if the total depth exceeds 20 feet below ground surface, a licensed driller is required to drill the well;

(4) any person who drills environmental hand auger soil borings no more than 10 feet in depth;

(5) any person who installs or repairs water well pumps and equipment on his own property, or on property that he has leased or rented, for his own use;

(6) any person who assists in the procedure of pump installation under the direct supervision of a licensed installer and who is not primarily responsible for the installation;

(7) any person who is a ranch or farm employee whose general duties include installing or repairing a water well pump or equipment on his employer's property for his employer's use, but who is not employed or in the business of installation or repair of water pumps or equipment; or,

(8) any registered water well driller apprentice or pump installer apprentice.

(9) Pump manufacturers and sellers of new and used pumps and/or pump equipment including pump distributors and pump dealers who do not install pumps and/or pump equipment.

76.600. Responsibilities of the Department - Certification by the Executive Director.
(a) The Department, with advice of the Council, shall review and pass upon each applicant's qualifications.

(b) In assessing an applicant's qualifications, the Department and the Council shall examine the letters of reference submitted, the applicant's experience and competence in water well drilling or pump installing, and any other relevant information which may be presented including, but not limited to, compliance history.

(c) An applicant, at the discretion of the Department, may not be certified for up to one-year following the revocation of the applicant's license or a finding that the applicant operated without a license.

(d) After assessing the qualifications of an applicant, the Department, with advice of the Council, shall determine the type(s) of well drilling or pump installation, the applicant is competent to perform. Types of drilling include water well, monitoring well, injection well, and dewatering well. Types of pump installation include: windmills, hand pumps, and pump jacks; fractional to five horsepower; submersible five horsepower and over; and line-shaft turbine pumps.

(e) The Executive Director may waive any applicant requirements stated herein.

76.601. Responsibilities of the Department - General.
The Department may initiate field inspections and investigations of well drilling, capping, plugging, or completion operations.

76.602. Responsibilities of the Department - Undesirable water.
(a) The Department shall determine whether undesirable water or constituents have been encountered. If undesirable water or constituents are encountered, the Department shall determine whether the person having the well drilled, deepened, or altered intends to have the well plugged or completed within 30 days;

(b) Where a person having a well drilled, deepened, or altered does not intend to have the well plugged or completed as required by Department rules, or where he or she does not have the well plugged or completed within the prescribed time period, the Department shall direct that the person having the well drilled, deepened, or altered appear at a hearing and show cause why the well should not be plugged or completed.

76.650. Advisory Council.
(a) Officers of the Council shall be elected at the first meeting of each fiscal year.

(b) All notices of regular or special meetings of the Council shall be directed to the residence of the members of the Council as they are recorded on the official records of the Council and Department.
(1) The chairman shall preside at all Council meetings and shall not vote except to break a tie

vote.

(2) In the absence of the chairman or vice chairman of the Council, the members present shall choose one member to act as chairman.

(3) The permanent or temporary chairman may appoint any member of the Council present to act for any other officer of the Council who is not present.

(c) The Executive Director appoints Council members.

76.700. Responsibilities of the Licensee - State Well Reports.

Every well driller who drills, deepens, or alters a well, within this state shall cause to be made and kept, a legible and accurate State Well Report on forms supplied by the Department. Each copy of a State Well Report, other than a Department copy, shall include the name, mailing address, and telephone number of the Department.

(1) Every well driller shall deliver or transmit by certified mail, the original of the State Well Report to the Department, and shall deliver or send by first-class mail a photocopy to the local groundwater conservation district, if applicable, and a copy to the owner or person for whom the well was drilled, within 60 days from the completion or cessation of drilling, deepening, or otherwise altering a well.

(2) The person that plugs a well described in subsection (a), (b), or (d) of §76.702 of this title (relating to Responsibilities of the Licensee and Landowner - Well Drilling, Completion, Capping and Plugging) shall, within 30 days after plugging is complete, submit a Plugging Report to the Department on forms supplied by the Department and mail a copy of the report to the local groundwater conservation district if applicable.

76.701. Responsibilities of the Licensee - Reporting Undesirable Water or Constituents.

Each well driller shall inform, within 24 hours, the landowner or person having a well drilled, deepened, or otherwise altered or their agent when undesirable water or constituents have been knowingly encountered. The well driller shall submit, within 30 days of encountering undesirable water or constituents to the Department, the local groundwater conservation district if required by the local authority, and the landowner or person having the well drilled, deepened, or altered, on forms supplied by the Department, a statement signed by the well driller indicating that the landowner or person having the well drilled, deepened, or altered, has been informed that undesirable water or constituents have been encountered.

76.702. Responsibilities of the Licensee and Landowner - Well Drilling, Completion, Capping and Plugging.

(a) All well drillers and persons having a well drilled, deepened, or altered shall adhere to the provisions of this chapter prescribing the location of wells and proper drilling, completion, capping, and plugging.

(1) Where a landowner, or person having the well drilled, deepened, or altered, denies a licensed well driller access to the well to complete the well to established standards and thereby precludes the driller from performing his or her duties under the Texas Water Code, Chapters 32 and 33 and this title, the well driller shall file with the Department a statement to that effect

within five days of the denial. The landowner or person authorizing the well work must complete the well to established standards within ten days of notification by the Department.

(2) It is the responsibility of the landowner or person having the well drilled, deepened, or otherwise altered, to cap or have capped, under standards set forth in §76.1004 of this title (relating to Technical Requirements - Standards for Capping and Plugging of Wells and Plugging Wells that Penetrate Undesirable Water or Constituent Zones), any well which is open at the surface.

(1) It is the responsibility of the landowner or person having the well drilled, deepened, or otherwise altered to plug or have plugged a well which is abandoned under standards set forth in §76.1004 of this title (relating to Technical Requirements - Standards for Capping and Plugging of Wells and Plugging Wells that Penetrate Undesirable Water or Constituent Zones)

(b) It shall be the responsibility of each licensed well driller to inform a landowner or person having a well drilled, deepened, or altered that the well must be plugged by the landowner, a licensed driller, or a licensed pump installer if it is abandoned.

(c) It is the responsibility of the licensed well driller or landowner to see that when undesirable water or constituents is knowingly encountered, the well is plugged or is converted into a monitoring well under the standards set forth in §76.1004 of this title (relating to Technical Requirements - Standards for Capping and Plugging of Wells and Plugging Wells that Penetrate Undesirable Water or Constituent Zones). For class V injection wells which encounter undesirable water or constituents, the driller must comply with applicable requirements of the Texas Natural Resource Conservation Commission rules under 30 TAC, Chapter 331.

(d) It shall be the responsibility of the driller of a newly drilled well or the pump installer responsibility of a newly drilled well to place a cover over the boring or casing of any well that is to be left unattended with the pump removed.

(e) A licensed well driller is responsible for assuring that when undesirable water or constituents is knowingly encountered, the well is plugged or completed forthwith pursuant to the following:

(1) Where a person or landowner having the well drilled, deepened, or altered denies a licensed driller access to a well which requires plugging or completion or otherwise precludes the driller from plugging or completing a well which has encountered undesirable water or constituents, the driller shall, within 48 hours, file a signed statement to that effect with the Department and provide a copy of the statement to the local groundwater conservation district. The statement shall indicate that:

(A) The driller, or person under his or her supervision, encountered undesirable water or constituents while drilling the well;

(B) The driller has informed the person having the well drilled, deepened, or otherwise altered that undesirable water or constituents were encountered and that the well must be plugged or completed pursuant tothe Texas Water Code §32.017;

(C) The person or landowner having the well drilled, deepened, or altered has denied the

driller access to the well

(D) The reason, if known, for which access has been denied and,

(E) if known, whether the person having the well drilled, deepened, or otherwise altered intends to have the well plugged or completed.

(2) For class V wells which encounter undesirable water or constituents, the driller must comply with applicable requirements of the Texas Natural Resource Conservation Commission rules under 30 TAC, Chapter 33.

(f) Each licensed well driller shall ensure that all wells are plugged, repaired, or properly completed pursuant to this Chapter and Texas Water Code §32.017 (relating to Plugging of Water Wells). Each pump installer shall install or repair pumps pursuant to this title and Texas Water Code §33.014 (relating to Completion, Repair, and Plugging of Water Wells).

(g) A licensed driller or licensed pump installer shall notify the Department, the local underground water conservation district if required by the local authority, and the landowner or person having a well drilled or pump installed when he encounters water injurious to vegetation, land, or other water, and inform the landowner that the well must be plugged, repaired, or properly completed in order to avoid injury or pollution.

(h) A licensed driller or licensed pump installer who knows of an abandoned or deteriorated well, as defined by Texas Water Code §32.017 (relating to Plugging of Water Wells) and §33.014 (relating to Completion, Repair, and Plugging of Water Wells), and §76.1005 (a) (relating to Technical Requirements- Standards for Water Wells drilled before June 1, 1983) shall notify the landowner or person possessing the well that the well must be plugged or capped in order to avoid injury or pollution.

76.703. Responsibilities of the Licensee - Standards of Completion for Public Water System Wells.

A licensed water well driller shall complete a well supplying a public water system in accordance with plans approved by the Texas Natural Resource Conservation Commission under 30 TAC, Chapter 290 (relating to Water Hygiene).

(1) The licensed water well driller shall, to the best of his or her abilities, ascertain whether a well which is to be drilled, deepened, or altered is intended for use as part of a public water system and shall comply with all applicable rules and regulations of the Texas National Resource Conservation Commission under 30 TAC, Chapter 290 and any other local or regional regulations.

(2) The licensed water well driller shall inform the Department of the well's intended use, by submitting a State Well Report.

(3) The person or landowner having the well drilled, deepened, or altered is responsible for ensuring that a well intended for use as a part of a public water system meets the current rules and regulations of the Texas National Resource Conservation Commission under 30 TAC, Chapter 290 and any other local or regional regulations.

76.704. Responsibilities of the Licensee -Marking Vehicles and Equipment.
Licensee shall mark their water well rigs and pump installer vehicles used by them or their employees in the water well drilling or pump installer business with legible and plainly visible identification numbers.

(1) The identification number to be used on rigs and vehicles shall be the licensee's license number.

(2) License numbers shall be printed, upon each side of every water well rig or pump installer vehicle, not less than two inches high and in a color sufficiently different from the color of the vehicle or equipment so that the license number shall be plainly visual.

(3) A licensee shall have 30 days from the date a license is issued to see that all water well rigs or pump installer vehicles used by him or his employees are marked as provided in paragraphs (1) and (2) of this section.

76.705. Responsibilities of the Licensee - Representations.
(a) No licensee shall offer to perform services unless such services can be competently performed.

(b) A licensee shall accurately and truthfully represent to a prospective client his qualifications and the capabilities of his equipment to perform the services to be rendered.

(c) A licensee shall neither perform nor offer to perform services for which he is not qualified by experience or knowledge in any of the technical fields involved.

(d) A licensee shall not enter into a partnership or any agreement with a person, not legally qualified to perform the services to be rendered, and who has control over the licensee's equipment and/or independent judgment as related to construction, alteration, or plugging of a water well or installation of pumps or equipment in a water well.

(e) A licensee shall not make false, misleading, or deceptive representations.

(f) A licensee shall make known to prospective clients, all adverse, or suspicions of adverse conditions concerning the quantity or quality of groundwater in the area. If there is any uncertainty regarding the quality of water in any water well, the licensee shall recommend that the client have the suspected water analyzed.

76.706. Responsibilities of the Licensee - Unauthorized Practice.
(a) A licensee shall inform the Department of any unauthorized well drilling or pump installation practice of which the licensee has knowledge.

(b) A licensee shall not aid or abet an unlicensed person to unlawfully drill or offer to drill water wells or install pump equipment.

(c) A licensee shall, upon request of the Department, furnish any information the licensee possesses

concerning any alleged violation of the Texas Water Code, Chapters 32 and 33 (relating to Water Well Drillers or Water Well Pump Installers) or this title.

(d) A licensee shall have the following information on all proposals and invoices given to consumers: Regulated by The Texas Department of Licensing and Regulation, P.O. Box 12157, Austin Texas 78711, 1-800-803-9202, 512-463-7880.

76.707. Responsibilities of the Licensee - Adherence to Statutes and Codes.
A licensee shall comply with Texas Revised Civil Statutes Annotated, Article 9100 (Vernon 1991), 16 TAC, Chapter 60 (Vernon 1998), the Texas Water Code, Chapters 32 and 33, and this Chapter in connection with all water well drilling or pump installation services rendered.

76.800. Fees.
(a) Exam Fees.
(1) Driller and Installer application exam fees are $125 per exam.
(2) Re-exam fee is $100 for each exam.

(b) License Fees.
(1) Driller's license is $125.
(2) Installer's license is $125.
(3) A combination Driller and Installer license is $175.
(4) Apprentice registration is $50.

(c) License Renewal Fees.
(1) Driller's renewal license is $125.
(2) Installer's renewal license is $125.
(3) A combination Driller and Installer license is $175.
(4) Apprentice renewal registration is $50.

(d) Lost, revised, or duplicate license $25.

(e) Variance request fee is $100.

76.900. Disciplinary Actions.
(a) The Executive Director may assess an administrative penalty, reprimand a licensee, suspend or revoke a license, and the Texas Commission of Licensing and Regulation may assess administrative penalties or take any appropriate action described in 16 TAC, Chapter 60 (Vernon 1998), Texas Revised Civil Statutes Annotated, Article 9100 (Vernon 1991), or the Texas Water Code, Chapters 32 and 33 (Vernon 1997) (relating to Water Well Drillers and Pump Installers) for violations of the statutes or Department rules.

(b) If a person violates the Texas Water Code, Chapters 32 and 33 (Vernon 1997), or a rule or order, of the Executive Director or Commission relating to the Code, proceedings may be instituted to

impose administrative sanctions and/or recommend administrative penalties in accordance with the Code or Texas Revised Civil Statutes Annotated, Article 9100 (Vernon 1991) and 16 TAC, Chapter 60 (Vernon 1998) of this title (relating to the Texas Department of Licensing and Regulation).

76.910. Disciplinary Actions - Disposition of Application.
The Department shall mail notice to each applicant as to the disposition of their application within 10 days of the final decision. An applicant who disagrees with the Department's final decision may request a hearing.

76.1000. Technical Requirements - Locations and Standards of Completion for Wells.
(a) Wells shall be completed in accordance with the following specifications and in compliance with the local groundwater conservation district or incorporated city ordinances:

(1) The annular space to a minimum of ten feet shall be three inches larger in diameter than the casing and filled from ground level to a depth of not less than ten feet below the land surface or well head with cement slurry, bentonite grout, or eight feet solid column of granular sodium bentonite topped with a two foot cement atmospheric barrier, except in the case of monitoring, dewatering, piezometer, and recovery wells when the water to be monitored, recovered, or dewatered is located at a more shallow depth. In that situation, the cement slurry or bentonite column shall only extend down to the level immediately above the monitoring, recovery, or dewatering level. Unless the well is drilled within the Edwards Aquifer, the distances given for separation of wells from sources of potential contamination in §76.1000(b)(2) may be decreased to a minimum of 50 feet provided the well is cemented with positive displacement technique to a minimum of 100 feet to surface or the well is tremie pressured filled to the depth of 100 feet to the surface provided the annular space is three inches larger than the casing. For wells less than 100 feet deep, the cement slurry, bentonite grout, or bentonite column shall be placed to the top of the producing layer. In areas of shallow, unconfined groundwater aquifers, the cement slurry, bentonite grout, or bentonite column need not be placed below the static water level. In areas of shallow, confined groundwater aquifers having artesian head, the cement slurry, bentonite grout, or bentonite column need not be placed below the top of the water-bearing strata. Wells which are subject to completion standards of the Texas Natural Resource Conservation Commission under 30 TAC, Chapter 331 for class V injection wells are exempt from §76.1000. Technical Requirements - Locations and Standards of Completion for Wells

(2) A well is cemented with positive displacement technique to a minimum of 100 feet to surface or the well is tremie pressured filled to the depth of 100 feet to the surface provided the annular space is three inches larger than the casing may encroach up to five feet of the property line. For wells less than 100 feet deep, the cement slurry, bentonite grout, or bentonite column shall be placed to the top of the producing layer. In areas of shallow, unconfined groundwater aquifers, the cement slurry, bentonite grout, or bentonite column need not be placed below the static water level. In areas of shallow, confined groundwater aquifers having artesian head, the cement slurry, bentonite grout, or bentonite column need not be placed below the top of the water-bearing strata.

(b) Water wells located within public water supply system sanitary easements must be constructed to public well standards 30 TAC, Chapter 290.

(1) A well shall be located a minimum horizontal distance of 50 feet from any water-tight sewage and liquid-waste collection facility, except in the case of monitoring, dewatering, piezometer, and recovery wells which may be located where necessity dictates.

(2) Except as noted in §76.1000(a)(1)(2), a well shall be located a minimum horizontal distance of 150 feet from any concentrated sources of potential contamination such as, but not limited to, existing or proposed livestock or poultry yards, cemeteries, pesticide mixing/loading facilities, and privies, except in the case of monitoring, dewatering, piezometer, and recovery wells which may be located where necessity dictates. A well shall be located a minimum horizontal distance of 100 ft. from an existing or proposed septic system absorption field, septic systems spray area, a dry litter poultry facility and 50 feet from any property line provided the well is located at the minimum horizontal distance from the sources of potential contamination.

(3) A well shall be located at a site not generally subject to flooding; provided, however, that if a well must be placed in a flood prone area, it shall be completed with a watertight sanitary well seal, so as to maintain a junction between the casing & pump column, and a steel sleeve extending a minimum of 36 inches above ground level and 24 inches below the ground surface.

(4) The following are exceptions to the property line distance requirement where:

(A) groundwater district rules are in place regulating the spacing of wells;

(B) platted or deed restriction subdivision spacing of wells and on-site sewage systems are part of planning; or

(C) public wastewater treatment is provided and utilized by the landowner.

(c) In all wells where plastic casing is used, except when a steel or polyvinyl chloride (PVC) sleeve or pitless adapter, as described in paragraph (3) of this section, is used, a concrete slab or sealing block shall be placed above the cement slurry around the well at the ground surface.

(1) The slab or block shall extend laterally at least two feet from the well in all directions and have a minimum thickness of four inches and should be separated from the well casing by a plastic or mastic coating or sleeve to prevent bonding of the slab to the casing.

(2) The surface of the slab shall be sloped to drain away from the well.

(3) The top of the casing shall extend a minimum of 12 inches above the land surface except in the case of monitoring wells when it is impractical or unreasonable to extend the casing above the ground. Monitoring wells shall be placed in a waterproof vault the rim of which extends two inches above the ground surface and a sloping cement slurry shall be placed 18 inches around and two feet below the base of the vault between the casing and the wall of the borehole so as to prevent surface pollutants from entering the monitoring well. The well casing shall have a locking cap that will prevent pollutants from entering the well. The annular space of the monitoring well shall be sealed with an impervious bentonite or similar material from the top of the interval to be tested to the cement slurry below the vault of the monitoring well.

(4) The well casing of a temporary monitoring well shall have a locking cap and the annular space

shall be sealed 0 to 1 foot below ground level with an impervious bentonite or similar material; after 48 hours, the well must be completed or plugged in accordance with §76.1000 (relating to Technical Requirements - Locations and Standards of Completion for Wells) and §76.1004 (relating to Technical Requirements - Standards for Capping and Plugging of Wells and Plugging Wells that Penetrate Undesirable Water or Constituent Zones)

(5) The annular space of a closed loop injection well used to circulate water or other fluids shall be backfilled to the total depth with impervious bentonite or similar material, closed loop injection well where there is no water or only one zone of water is encountered you may use sand, gravel or drill cuttings to back fill up to 30 feet from the surface. The top 30 feet shall be filled with impervious bentonite or similar materials and meets the standards pursuant to Texas Natural Resource Conservation Commission 30 TAC, Chapter 331.

(d) In wells where a steel or PVC sleeve is used:

(1) The steel sleeve shall be a minimum of 3/16 inches in thickness and/or the plastic sleeve shall be a minimum of Schedule 80 sun resistant and 24 inches in length, and shall extend 12 inches into the cement, except when steel casing or a pitless adapter as described in paragraph (2) of this section is used. The casing shall extend a minimum of 12 inches above the land surface, and the steel/plastic sleeve shall be two inches larger in diameter than the plastic casing being used; or

(2) A slab or block as described in §76.1000(c)(1)(2) of this section is required above the cement slurry except when a pitless adapter is used. Pitless adapters may be used in such wells provided that:

(A) the adapter is welded to the casing or fitted with another suitably effective seal

(B) the annular space between the borehole and the casing is filled with cement to a depth not less than 20 feet below the adapter connection; and

(C) in lieu of cement, the annular space may be filled with a solid column of granular sodium bentonite to a depth of not less than 20 feet below the adapter connection.

(e) All wells, especially those that are gravel packed, shall be completed so that aquifers or zones containing waters that differ in chemical quality are not allowed to commingle through the borehole-casing annulus or the gravel pack and cause quality degradation of any aquifer or zone.

(f) The well casing shall be capped or completed in a manner that will prevent pollutants from entering the well.

(g) Each licensed well driller drilling, deepening, or altering a well shall keep any drilling fluids, tailings, cuttings, or spoils contained in such a manner so as to prevent spillage onto adjacent property not under the jurisdiction or control of the well owner without the adjacent property owners written consent.

(h) Each licensed well driller drilling, deepening, or altering a well shall prevent the spillage of any drilling fluids, tailings, cuttings, or spoils into any body of surface water.

(i) Unless waived by written request from the landowner, a new, repaired, or reconditioned well or pump installation or repair on a well used to supply water for human consumption shall be properly disinfected. The well shall be properly disinfected with chlorine or other appropriate disinfecting agent under the circumstances. A disinfecting solution with a minimum concentration of 50 milligrams per liter (mg/l) (same as parts per million), shall be placed in the well as required by the American Water Works Association (AWWA), pursuant to ANST/AWWA C654-87 and the United States Environmental Protection Agency (EPA).

(j) Unless waived in writing by the landowner, after performing an installation or repair, the licensed installer shall disinfect the well by:

(1) treating the water in the well casing to provide an average disinfectant residual to the entire volume of water in the well casing of 50 mg/l. This may be accomplished by the addition of calcium hypochlorite tablets or sodium hypochlorite solution in the prescribed amounts;

(2) circulating, to the extent possible, the disinfected water in the well casing and pump column; and

(3) pumping the well to remove disinfected water for a minimum of 15 minutes

(4) If calcium hypochlorite (granules or tablets) is used, it is suggested that the installer dribble the tablets of approximately five-gram (g) size down the casing vent and wait at least 30 minutes for the tablets to fall through the water and dissolve. If sodium hypochlorite (liquid solution) is used, care should be taken that the solution reaches all parts of the well. It is suggested that a tube be used to pipe the solution through the well-casing vent so that it reaches the bottom of the well. The tube may then be withdrawn as the sodium hypochlorite solution is pumped through the tube. After the disinfectant has been applied, the installer should surge the well at least three times to improve the mixing and to induce contact of disinfected water with the adjacent aquifer. The installer should then allow the disinfected water to rest in the casing for at least twelve hours, but for not more than twenty-four hours. Where possible, the installer should pump the well for a minimum of 15 minutes after completing the disinfection procedures set forth above until a zero disinfectant residual is obtained. In wells where bacteriological contamination is suspected, the installer should inform the well or property owner that bacteriological testing may be necessary or desirable.

76.1001. Technical Requirements - Standards of Completion for Water Wells Encountering Undesirable Water or Constituents.

If a water well driller knowingly encounters undesirable water or constituents and the well is not plugged or made into a completed monitoring well, the licensed well driller shall see that the well drilled, deepened, or altered is forthwith completed in accordance with the following:

(1) When undesirable water or constituents are encountered in a water well, the undesirable water or constituents shall be sealed off and confined to the zone(s) of origin.

(2) When undesirable water or constituents are encountered in a zone overlying fresh water, the driller shall case the water well from an adequate depth below the undesirable water or constituent zone to the land surface to ensure the protection of water quality.

(3) The annular space between the casing and the wall of the borehole shall be pressured grouted

with cement or bentonite grout, an adequate depth below the undesirable water or constituent zone to the land surface to ensure the protection of groundwater. Bentonite grout may not be used if a water zone contains chloride water above 1,500 parts per million (milligrams per liter) or if hydrocarbons are present.

(4) When undesirable water or constituents are encountered in a zone underlying a fresh water zone, the part of the wellbore opposite the undesirable water or constituent zone shall be filled with pressured cement or bentonite grout to a height that will prevent the entrance of the undesirable water or constituents into the water well. Bentonite grout may not be used if a water zone contains chloride water above 1,500 parts per million (milligrams per liter) or if hydrocarbons are present.

(5) For class V injection wells which encounter undesirable water or constituents, the driller must comply with applicable requirements of the Texas Natural Resource Conservation Commission under 30 TAC, Chapter 331.

76.1002. Technical Requirements - Standards for Wells Producing Undesirable Water or Constituents.

(a) Wells completed to produce undesirable water or constituents shall be cased to prevent the mixing of water or constituent zones.

(b) The annular space between the casing and the wall of the borehole shall be pressured grouted with cement or bentonite grout to the land surface. Bentonite grout may not be used if a water zone contains chloride water above 1,500 parts per million (milligrams per liter) or if hydrocarbons are present.

(c) Wells producing undesirable water or constituents shall be completed in such a manner that will not allow undesirable fluids to flow onto the land surface except when the Department's authorization is obtained by the landowner or the person(s) having the well drilled.

76.1003. Technical Requirements - Re-completions.

The landowner shall have the continuing responsibility of insuring that a well does not allow the commingling of undesirable water or constituents with fresh water through the wellbore to other porous strata.

(1) If a well is allowing the commingling of undesirable water or constituents and fresh water or the unwanted loss of water, and the casing in the well cannot be removed and the well re-completed in accordance with the applicable rules, the casing in the well shall be perforated and squeeze cemented in a manner that will prevent the commingling or loss of water. If such a well has no casing then the well shall be cased and cemented, or plugged in a manner that will prevent such commingling or loss of water.

(2) The Executive Director may direct the landowner to take proper steps to prevent the commingling of undesirable water or constituents and fresh water, or the unwanted loss of water.

76.1004. Technical Requirements - Standards for Capping and Plugging of Wells and Plugging Wells that Penetrate Undesirable Water or Constituent Zones.

(a) If a well is abandoned or deteriorating, all removable casing shall be removed from the well and the entire well pressure filled via a tremie pipe with cement from bottom up to the land surface.

(b) In lieu of the procedure in subsection (a) of this section, the well shall be pressure filled via a tremie tube with bentonite grout of a minimum 9.1 pounds per gallon weight followed by a cement plug extending from land surface to a depth of not less than two feet, or if the well to be plugged has 100 feet or less of standing water the entire well may be filled with a solid column of 3/8 inch or larger granular sodium bentonite hydrated at frequent intervals while strictly adhering to the manufacturers recommended rate and method of application. If a bentonite grout is used, the entire well from not less than two feet below land surface may be filled with the bentonite grout. The top two feet above any bentonite grout or granular sodium bentonite shall be filled with cement as an atmospheric barrier.

(c) Undesirable water or constituents, or the fresh water zone(s) shall be isolated with cement plugs and the remainder of the wellbore filled with bentonite grout of a minimum 9.1 weight followed by a cement plug extending from land surface to a depth of not less than two feet.

(d) Drillers may petition the Department, in writing, for a variance from the methods stated in subsection (a) of this section. The variance should state in detail, an alternative method proposed and all conditions applicable to the well that would make the alternative method preferable to those methods stated in subsection (a) and (b) of this section.

(e) A non-deteriorated well which contains casing in good condition and is beneficial to the landowner can be capped with a covering capable of preventing surface pollutants from entering the well and sustaining weight of at least 400 pounds and constructed in such a way that the covering cannot be easily removed by hand.

76.1005. Technical Requirements - Standards for Water Wells (drilled before June 1, 1983).

(a) Wells drilled prior to June 1, 1983, unless abandoned, shall be grand fathered from this chapter without further modification unless the well is found to be a threat to public health and safety or to water quality. The following will be considered a threat to public health and safety or to groundwater quality:

(1) Annular space around the well casing is open at or near the land surface;
(2) An unprotected opening into the well casing that is above ground level
(3) Top of well casing below known flood level and not appropriately sealed;
(4) Deteriorated well casing allowing commingling of aquifers or zones of water of different quality.

(b) If the annular space around the well casing is not adequately sealed as set forth in this section, it shall be the responsibility of each licensed driller or licensed pump installer to inform the landowner

that the well is considered to be a deteriorated well and must be recompleted when repairs are made to the pump or well in accordance with this chapter, and the following specifications:

(1) The well casing shall be excavated to a minimum depth of four feet and the annular space shall be filled from ground level to a depth of not less than four feet below the land surface with cement. In areas of shallow, unconfined groundwater aquifers, the cement need not be placed below the static water level. In areas of shallow, confined groundwater aquifers having artesian head, the cement need not be placed below the top of the water bearing strata.A cement slab or sealing block shall be placed above the cement around the well at the ground surface except when a pitless adapter as described in §76.1000(d)(2) of this title (relating to Technical Requirements - Locations and Standards of Completion for Wells) or a steel or plastic sleeve as described in §76.1000(d)(1) of this title is used.

(A) The slab or block shall extend laterally at least two feet from the well in all directions and have a minimum thickness of four inches

(B) The surface of the slab shall be sloped to drain away from the well.

(C) The top of the casing shall extend a minimum of 12 inches above ground level or 36 inches above known flood prone areas and unprotected openings into the well casing that is above ground shall be sealed water tight.

(2) If deteriorated well casing is allowing commingling of aquifers or zones of water of different quality and causing degradation of any water including groundwater, the well shall be plugged according to §76.1004 of this title (relating to Technical Requirements - Standards for Capping and Plugging of Wells and Plugging Wells that Penetrate Undesirable Water or Constituent Zones) or repaired. Procedures for repairs shall be submitted to the Department for approval prior to implementation.

(c) If a licensed well driller or pump installer finds any of the procedures described by this section to be inapplicable, unworkable, or inadequate, alternative procedures may be employed provided that the proposed alternative procedures will prevent injury and pollution and that the procedures shall be submitted to the Department for approval prior to their implementation, except for class V injection wells pursuant to 30 TAC, Chapter 331.

(d) Well covers shall be capable of supporting a minimum of 400 pounds and constructed in such a way that they cannot be easily removed by hand.

(e) This section shall not apply to a public water supply system well.

76.1006. Technical Requirements - Water Distribution and Delivery Systems.

(a) The licensee shall inform the land owner and well owner that the land owner and well owner are responsible for complying with the rules and regulations under the standards set forth in this chapter.

(b) A buried discharge line between the pump discharge and the pressure tank or pressure system in any installation, including a deep well turbine or a submersible pump, shall not be under negative pressure at any time. With the exception of jet pumps, a check valve or an air gap shall be installed

in a water line between the well casing and the pressure tank. Either a check valve or an air gap, as applicable, shall be required on all irrigation well pumps whenever a pump is installed or repaired. All wells shall have either a check valve, or an air gap as applicable.

(c) Wells shall be vented with watertight joints except as provided by subsection (b) of this section.
(1) Watertight joints, where applicable pursuant to the provisions of this rule, shall terminate at least two feet above the regional flood level or one foot above the established ground surface or the floor of a pump room or well room, whichever is higher
(2) The casing vent shall be screened and point downward.
(3) Vents may be offset provided they meet the provisions of this rule.
(4) Toxic or flammable gases, if present, shall be vented from the well. The vent shall extend to the outside atmosphere above the roof level at a point where the gases will not produce a hazard.

76.1007. Technical Requirements - Chemical Injection, Chemigation, and Foreign Substance Systems.

(a) All irrigation distribution systems or water distribution systems into which any type of chemical (except disinfecting agents) or other foreign substances will be injected into the water pumped from water wells shall be equipped with an in-line, automatic quick-closing check valve capable of preventing pollution of the ground water. The required equipment shall be installed on all systems whenever a pump is installed or repaired or at the time of a chemical injection, Chemigation or foreign substance unit is added to a water delivery system or not later than January 1, 2000, if the well has a chemical injection, Chemigation, or foreign substance unit in the delivery system. The type of check valve installed shall meet the following specifications:

(b) The body of the check valve shall be constructed of cast iron, stainless steel, cast aluminum, cast steel, or of a material and design that provides a sturdy integrity to the unit and is resistant to the foreign substance being injected. All materials shall be corrosion resistant or coated to prevent corrosion. The valve working pressure rating shall exceed the highest pressure to which the valve will be subjected.

(c) The check valve shall contain a suitable automatic, quick-closing and tight-sealing mechanism designed to close at the moment water ceases to flow in the downstream or output direction. The device shall, by a mechanical force greater than the weight of the closing device, provide drip-tight closure against reverse flow. Hydraulic back pressure from the system does not satisfy this requirement.

(d) The check valve construction should allow for easy access for internal and external inspection and maintenance. All internal parts shall be corrosion resistant. All moving parts shall be designed to operate without binding, distortion, or misalignment.

(e) The check valve shall be installed in accordance with the manufacturer's specifications and maintained in a working condition during all times in which any fertilizer, pesticide, chemical, animal

waste, or other foreign substance is injected into the water system. The check valve shall be installed between the pump discharge and the point of chemical injection or foreign substance injection.

(f) A vacuum-relief device shall be installed between the pump discharge and the check valve in such a position and in such a manner that insects, animals, floodwater, or other pollutants cannot enter the well through the vacuum-relief device. The vacuum-relief device may be mounted on the inspection port as long as it does not interfere with the inspection of other anti-pollution devices.

(g) An automatic low pressure drain shall also be installed between the pump discharge and the check valve in such a position and in such a manner that any fluid which may seep toward the well around the flapper will automatically flow out of the pump discharge pipe. The drain must discharge away from rather than flow into the water supply. The drain must not collect on the ground surface or seep into the soil around the well casing.

(1) The drain shall be at least three-quarter inch in diameter and shall be located on the bottom of the horizontal pipe between the pump discharge and the check valve.
(2) The drain must be flush with the inside surface of the bottom of the pipe unless special provisions, such as a dam made downstream of the drain, forces seepage to flow into the drain.
(3) The outside opening of the drain shall be at least two inches above the grade.

(h) An easily-accessible inspection port shall be located between the pump discharge and the check valve, and situated so the automatic low pressure drain can be observed through the port and the flapper can be physically manipulated.

(1) The port shall allow for visual inspection to determine if leakage occurs past the flapper, seal, seat, and/or any other components of the checking device.
(2) The port shall have a minimum four-inch diameter orifice or viewing area. For irrigation distribution systems with pipe lines too small to install a four-inch diameter inspection port, the check valve and other anti-pollution devices shall be mounted with quick disconnects, flange fittings, dresser couplings, or other fittings that allow for easy removal of these devices.

(i) Any check valve not fully meeting the specifications set forth in this section may on request to the Executive Director be considered for a variance.

76.1008. Technical Requirements - Pump Installation.

(a) During any repair or installation of a water well pump, the licensed installer shall make a reasonable effort to maintain the integrity of ground water and to prevent contamination by elevating the pump column and fittings, or by other means suitable under the circumstances.

(b) This section shall include every type of connection device, including but not limited to, flange connections, hose-clamp connections, and other flexible couplings. Except as provided by this chapter, a pump shall be constructed so that no unprotected openings into the interior of the pump or well casing exist.

(1) A hand pump, hand pump head, stand, or similar device shall have a spout, directed downward.
(2) A power driven pump shall be attached to the casing or approved suction or discharge line by a closed connection. For the purposes of this section a closed connection is defined to be a sealed connection.

(c) The provisions of this section relating to the requirement of closed connections shall not apply to the following types of pumps and pumping equipment:
(1) sucker rod pumps and windmills; and
(2) hand pumps.

(d) A new, repaired, or reconditioned well, or pump installation or repair on a well used to supply water for human consumption shall be properly disinfected. The landowner may waive the disinfection process by submitting a written request to the driller or pump installer.

76.1009. Technical Requirements - Alternative Standards.
(a) If the party having the well drilled, deepened or altered, the licensed well driller, or the party, landowner or person drilling or plugging the well, finds any of the procedures prescribed by §76.1004 Technical Requirements - Standards for Capping and Plugging of Wells and Plugging Wells that Penetrate Undesirable Water or Constituent Zones and §76.1000 of this title (relating to Technical Requirements - Standards for Capping and Plugging of Wells and Plugging Wells that Penetrate Undesirable Water or Constituent Zones) inapplicable, unworkable, or inadequate, combinations of the prescribed procedures or alternative procedures may be employed, provided that the proposed alternative procedures will prevent injury and pollution.

(b) Proposals to use combinations of prescribed procedures or alternative procedures shall be considered application for a variance and must be submitted to the Department for approval prior to their implementation.

(c) This section shall not apply to a public water system well.

Water Code

CHAPTER 32. WATER WELL DRILLERS

Sec. 32.001. Definitions.
In this chapter:

(1) "Council" means the Texas water well drillers advisory council.

(2) "Department" means the Texas Department of Licensing and Regulation.

(3) "Deteriorated well" means a well that, because of its condition, will cause, or is likely to cause, pollution of any water in this state, including groundwater.

(4) "Dewatering well" means an artificial excavation constructed to produce groundwater to lower the water table or potentiometric surface. The term does not include a dewatering well that is used to produce or to facilitate the production of minerals under a state regulatory program.

(5) "Dewatering well driller" means a person, including an owner, an operator, a contractor, or a drilling supervisor, who drills, bores, cores, or constructs a dewatering well. The term does not include a person who drills, bores, cores, or constructs a dewatering well under the direct supervision of a licensed dewatering well driller and who is not primarily responsible for the drilling operation.

(6) "Driller" means a water well driller, injection well driller, dewatering well driller, or monitoring well driller.

(7) "Executive director" means the executive director of the department.

(8) "Injection well" includes:

(A) an air-conditioning return flow well used to return water that has been used for heating or cooling in a heat pump to the aquifer that supplied the water;

(B) a cooling water return flow well used to inject water that has been used for cooling;

(C) a drainage well used to drain surface fluid into a subsurface formation;

(D) a recharge well used to replenish water in an aquifer;

(E) a saltwater intrusion barrier well used to inject water into a freshwater aquifer to prevent the intrusion of salt water into fresh water;

(F) a sand backfill well used to inject a mixture of water and sand, mill tailings, or other solids into subsurface mines;

(G) a subsidence control well used to inject fluids into a non-oil-producing or non-gas-producing zone to reduce or eliminate subsidence associated with the overdraft of fresh water; and

(H) a closed system geothermal well used to circulate water, other fluids, or gases through the earth as a heat source or heat sink.

(9) "Injection well driller" means a person, including an owner, an operator, a contractor, or a drilling supervisor, who drills, bores, cores, or constructs an injection well. The term does not include a person who drills, bores, cores, or constructs an injection well under the direct supervision of a licensed injection well driller and who is not primarily responsible for the drilling operation.

(10) "Licensed driller" means a person who holds a license issued by the state under this chapter.

(11) "Monitoring well" means an artificial excavation constructed to measure or monitor the quantity or movement of substances below the surface of the ground. The term does not include any monitoring well used in conjunction with the production of oil, gas, or other minerals.

(12) "Monitoring well driller" means a person, including an owner, an operator, a contractor, or a drilling supervisor, who drills, bores, cores, or constructs a monitoring well.

(13) "Person" means an individual, firm, partnership, association, corporation, or any other private legal entity.

(14) "Pollution" means a change to the physical, thermal, chemical, or biological quality of water in a way that makes the water harmful to humans, animals, vegetation, or property or that impairs the public enjoyment of the water for a reasonable purpose.

(15) "Water well" means any artificial excavation constructed for the purpose of exploring for or producing groundwater. The term does not include:

(A) a test or blast hole in quarries or mines or a well or excavation constructed to explore for or produce oil, gas, or other minerals unless the holes are also used to produce groundwater; or

(B) an injection water source well regulated under Section 91.101, Natural Resources Code.

(16) "Water well driller" means a person, including an owner, an operator, a contractor, or a drilling supervisor, who drills, bores, cores, or constructs a water well in this state. The term does not include a person who drills, bores, cores, or constructs a water well on his own property for his own use or a person who assists in the construction of a water well under the direct supervision of a licensed driller and is not primarily responsible for the drilling operations.

(17) "Well" means a water well, injection well, dewatering well, or monitoring well.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.071, eff. Sept. 1, 1992. Amended by Acts 1995, 74th Leg., ch. 857, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1077, Sec. 1, eff. Sept. 1, 1997.

Sec. 32.002. License Required.

(a) A person may not act as or offer to perform services as a driller unless the person holds a license issued by the department under this chapter and under rules adopted under this chapter.

(b) An application for a license must contain:

(1) the applicant's name;

(2) the applicant's business address;

(3) the applicant's permanent mailing address; and

(4) any other relevant information required by the department.

(c) At the time of application, each applicant shall pay to the department a nonrefundable examination fee.

(d) A person qualifying for a license shall pay to the department the license fee set by the department.

(e) Except as provided by Section 32.003, a license issued under this chapter expires August 31 of each year. On or before that day, each licensee shall pay an annual fee to the department to renew the license. The department shall notify each licensee in writing of the licensee's impending license expiration not later than August 1 of each year. If a person's license has been expired for 90 days or less, the person may renew the license by paying to the department the required renewal fee and a late fee equal to one-half of the examination fee for the license. If a person's license has been expired for more than 90 days but less than two years, the person may renew the license by paying to the department all unpaid renewal fees and a late fee that is equal to the examination fee for the license. If a person's license has been expired for two years or more, the person may not renew the license. The person may obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license.

(f) The department shall maintain a current register of licensees.

(g) A license is not transferable or assignable.

(h) The department shall issue a duplicate license to replace a lost or destroyed license on proper application and payment of a fee.

(i) The department by rule shall set the fees imposed by this chapter in amounts that are reasonable and necessary to cover the costs of administering this chapter.

(j) An applicant must have been a resident of this state at least 90 days before applying for a license under this chapter.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.071, eff. Sept. 1, 1992. Amended by Acts 1995, 74th Leg., ch. 857, Sec. 2, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1077, Sec. 2, eff. Sept.

1, 1997.

Sec. 32.003. Staggered Renewal of Licenses.
The department by rule may adopt a system under which licenses expire on various dates during the year. For the year in which the license expiration date is changed, license renewal fees payable on August 31 shall be prorated. On renewal of the license on the new expiration date, the total license renewal fee is payable.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.071, eff. Sept. 1, 1992. Amended by Acts 1995, 74th Leg., ch. 857, Sec. 3, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1077, Sec. 3, eff. Sept. 1, 1997.

Sec. 32.004. Persons Licensed in Other States.
The department may adopt rules allowing waiver of a license requirement for an applicant with a valid license from another state having license requirements substantially equivalent to those of this state.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.071, eff. Sept. 1, 1992. Amended by Acts 1995, 74th Leg., ch. 857, Sec. 3, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1077, Sec. 3, eff. Sept. 1, 1997.

Sec. 32.005. Reporting of Well Logs.
(a) Every licensed driller drilling, deepening, or otherwise altering a water well in this state shall make and keep a legible and accurate well log in accordance with department rule on forms prescribed by the department. Not later than the 60th day after the completion or cessation of drilling, deepening, or otherwise altering the well, the licensed driller shall deliver or transmit by certified mail a copy of the well log to the department, the Texas Natural Resource Conservation Commission, and the owner of the well or the person for whom the well was drilled.

(b) The well log shall be recorded at the time of drilling and must show the depth, thickness, and character of the strata penetrated, the location of water-bearing strata, the depth, size, and character of casing installed, and any other information required by department rule.

(c) The department shall hold the contents of the well log confidential and not a matter of public record if it receives, by certified mail, a written request to do so from the owner or the person for whom the well was drilled.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.071, eff. Sept. 1, 1992. Amended by Acts 1997, 75th Leg., ch. 1077, Sec. 3, eff. Sept. 1, 1997.

Sec. 32.006. Water Well Drillers Advisory Council.
(a) The Texas water well drillers advisory council is composed of nine members appointed by the department. Appointments to the council shall be made without regard to the race, creed, sex, religion, or national origin of the appointees.

(b) Six members of the council shall be licensed drillers who are residents of this state, experienced in the well drilling business, and conversant in well drilling and completion and plugging methods and techniques. One driller shall be selected from the state at large and one of each of the remaining five drillers shall be selected from the following geographic areas of the state:

(1) Gulf Coast area;
(2) Trans-Pecos area;
(3) Central Texas area;
(4) Northeast Texas area; and
(5) Panhandle-South Plains area.

(c) Only one driller member may be employed by or own an interest in the same company, firm, or business association engaged in any phase of the well drilling business.

(d) Three members must be representatives of the public. A person is not eligible for appointment as a public member if the person or the person's spouse:

(1) is licensed by an occupational regulatory agency in the field of well drilling; or
(2) is employed by, participates in the management of, or has, other than as a consumer, a financial interest in a business entity or other organization related to the field of well drilling.

(e) A council member or an employee of the department connected with the administration of this chapter may not be an officer, employee, or paid consultant of a trade association in the well drilling industry and may not be related within the second degree by affinity or consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the well drilling industry.

(f) A person who, because of the person's activities on behalf of a trade or professional association in the well drilling industry, is required to register as a lobbyist under Chapter 305, Government Code, may not serve as a member of the council.

(g) It is a ground for removal from the council if a member:

(1) does not have at the time of appointment the qualifications required by Subsection (b), (c), or (d) of this section for appointment to the council;
(2) does not maintain during service on the council the qualifications required by Subsection (b), (c), or (d) of this section for appointment to the council;
(3) violates a prohibition prescribed by Subsection (e) or (f) of this section; or
(4) fails to attend at least one-half of the regularly scheduled meetings held each year, excluding meetings held when the person was not a council member.

(h) A member of the council serves a six-year term, with the term expiring September 15.

(i) A member of the council is entitled to a per diem as set by legislative appropriation for each day that the member engages in the business of the council. A member may receive compensation for travel expenses, including expenses for meals and lodging. A member is entitled to compensation for

transportation expenses as prescribed by the General Appropriations Act.

(j) The council shall hold meetings at the call of the chairman. Meetings shall be conducted in compliance with Chapter 551, Government Code.

(k) A majority of the council constitutes a quorum for conducting business.

(l) The council shall elect a chairman by a majority vote at the first meeting each year.

(m) The council shall:

(1) advise the department on the contents of the licensing examination; and

(2) assist the department in the evaluation of continuing education programs.

(n) The council may:

(1) recommend standards for continuing education programs, including standards relating to the:
   (A) qualifications of program providers and instructors; and
   (B) level of program fees;

(2) recommend topics to be covered in a continuing education course;

(3) propose rules for adoption by the department relating to the regulation of drillers registered under this chapter; and

(4) hear consumer complaints and make recommendations to the department as to their disposition.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.071, eff. Sept. 1, 1992. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(82), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 857, Sec. 4, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1077, Sec. 4, eff. Sept. 1, 1997.

Sec. 32.007. Examinations.

(a) The department, with the advice of the council, shall prepare licensing examinations, pass on the qualifications of license applicants, and issue licenses to those who qualify.

(b) The department shall design written examinations in a manner that disqualifies a person lacking in the necessary knowledge of drilling, of completion and plugging methods and techniques, and of groundwater formations to the extent that the performance by the person of services as a driller would create a serious risk of polluting fresh water. The department may prescribe additional requirements for the examination of monitoring well drillers and may prescribe additional requirements relating to water conservation for the examination of dewatering well drillers. An applicant may elect to have the examination given orally.

(c) The department shall offer examinations at least once a year. The department shall offer the examinations more frequently if more than 10 persons petition for an additional examination.

(d) The department shall administer the examination so that a person grading the examination does not know whose paper is being graded.

(e) Not later than the 30th day after the date a licensing examination is administered under this chapter, the department shall notify each examinee of the results of the examination.

(f) The department shall maintain files of examination papers. A person, at any time within six months of the date that the person is notified of the results of an examination, is entitled to inspect the person's examination paper during normal business hours at the department's offices for the purpose of challenging the propriety of the questions, the method of grading, and the accuracy of grading. If requested in writing by a person who fails the licensing examination, the department shall furnish the person with an analysis of the person's performance on the examination.

(g) A person who fails an examination may, on payment of the examination fee, apply for a subsequent examination.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.071, eff. Sept. 1, 1992. Amended by Acts 1995, 74th Leg., ch. 857, Sec. 5, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1077, Sec. 5, eff. Sept. 1, 1997.

Sec. 32.008. Continuing Education.
The department, with the participation of the council, may recognize, prepare, or offer continuing education programs for licensees. Participation in continuing education programs is voluntary unless the council determines that the department should require participation.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.071, eff. Sept. 1, 1992. Amended by Acts 1997, 75th Leg., ch. 1077, Sec. 6, eff. Sept. 1, 1997.

Sec. 32.009. Rules and Regulations.
(a) The department, with advice and comment from the Texas Natural Resource Conservation Commission, shall adopt rules as necessary to enforce this chapter, including rules governing applications for a license, qualifications of applicants, standards of conduct for licensed drillers including marking of well drilling rigs and equipment, and rules governing procedure and practice before the department.

(b) The department may enforce by injunction or other appropriate remedy in courts of competent jurisdiction any rule, decisions, determinations, or orders adopted or entered by it that do not conflict with a statute. The attorney general shall represent the department on request.

(c) The department shall adopt rules in accordance with Chapter 2001, Government Code.

(d) Notwithstanding Subsection (a), the department may not adopt rules under this chapter:
(1) regulating the installation or repair of well pumps and equipment by a person who owns

or is in control of property or the person's employee or a person not hired or compensated acting on the person's behalf on the property the person owns or controls for the person's own use; or

(2) requiring a person who owns or is in control of property or possesses a well to complete, repair, or retrofit the well to any standard other than a standard in effect at the time the well was originally completed unless the well is found to be a threat to public health and safety or to water quality.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.071, eff. Sept. 1, 1992. Amended by Acts 1993, 73rd Leg., ch. 678, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 857, Sec. 6, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1077, Sec. 6, eff. Sept. 1, 1997.

Sec. 32.010. Revocation of Licenses.

(a) The department may, after notice and hearing, revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a licensee for a violation of this chapter or a rule adopted under this chapter.

(b) Repealed by Acts 1997, 75th Leg., ch. 1072, Sec. 60(a)(6), eff. Sept. 1, 1997.

(c) The department, before revoking a license, placing a licensee on probation, or reprimanding a licensee, shall notify the licensee in writing of the alleged violation and provide the licensee with an opportunity for a hearing. The notice shall be given not later than the 10th day before the date set for the hearing. The notice shall be made by registered mail to the last known business address of the licensee. The licensee, each person complaining against the licensee, and any other witness whose testimony is relied on to substantiate the charges made may be present at the hearing. The licensee may present relevant oral or written evidence.

(d) Each decision and order in a disciplinary hearing rendered by the department must be made in writing and must set forth briefly the findings of fact and the department's conclusions. Parties to the proceedings shall be notified of the decision or order not later than the 30th day after the conclusion of the hearing.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.071, eff. Sept. 1, 1992. Amended by Acts 1997, 75th Leg., ch. 1072, Sec. 60(a)(6), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1077, Sec. 7, eff. Sept. 1, 1997.

Sec. 32.011. Administrative Penalty.

(a) If a person fails to comply with a provision of this chapter or a rule adopted by the department under this chapter, the person may be assessed, in addition to other penalties, an administrative penalty set by the department in an amount not to exceed $2,500 for each violation.

(b) In determining the amount of the penalty, the department shall consider the person's history of

previous violations and the seriousness of the failure to comply.

(c) Repealed by Acts 1997, 75th Leg., ch. 1072, Sec. 60(a)(6), eff. Sept. 1, 1997.

(d) If a public hearing is held, the department shall make findings of fact and issue a written decision as to the occurrence of the violation and, when appropriate, an order that a penalty be paid.

(e) If the person charged with a violation does not appear for the hearing, the department may assess a penalty and issue an order that the penalty be paid after the department has determined that a violation occurred.

(f) Not later than the 30th day after the date on which an order is issued, the department shall inform a person ordered to pay a penalty under this section of the amount of the penalty.

(g) Not later than the 30th day after the date the order becomes final under Subchapter F, Chapter 2001, Government Code, the person charged with the penalty shall:

(1) pay the penalty in full;

(2) forward the amount to the department for placement in an escrow account pending judicial review of the matter; or

(3) post with the department a supersedeas bond for the amount of the penalty until judicial review is final.

(h) Repealed by Acts 1997, 75th Leg., ch. 1072, Sec. 60(a)(6), eff. Sept. 1, 1997.

(i) If a court determines that a violation has not occurred or that the amount of the penalty should be reduced or not assessed, the department shall remit the appropriate amount to the person with interest or execute release of the bond.

(j) An administrative penalty owed under this section may be recovered in a civil action brought by the attorney general at the request of the department.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.071, eff. Sept. 1, 1992. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(59), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1072, Sec. 60(a)(6), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1077, Sec. 8, eff. Sept. 1, 1997.

Sec. 32.012. Appeal of Department Action.

(a) A person affected by a ruling, order, decision, or other act of the department may appeal by filing a petition in a district court in Travis County.

(b) A petition must be filed not later than the 30th day after the date of the department's action or, in the case of a ruling, order, or decision, not later than the 30th day after its effective date.

(c) Service of citation on the department shall be accomplished not later than the 30th day after the date the petition was filed. Citation may be served on the executive director.

(d) The plaintiff must pursue the action with reasonable diligence.

(e) The substantial evidence rule applies in the judicial review of any department action, ruling, order, or decision. An administrative or executive action taken before the filing of the suit continues in force and effect until the rights of the parties are determined by the court.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.071, eff. Sept. 1, 1992. Amended by Acts 1997, 75th Leg., ch. 1072, Sec. 60(a)(6), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1077, Sec. 9, eff. Sept. 1, 1997.

Sec. 32.013. Complaints.
(a) The department shall prepare information of consumer interest describing the procedures by which consumer complaints under this chapter are filed with and resolved by it. The department shall make the information available to the public and appropriate state agencies.

(b) If a written complaint under this chapter is filed with the department relating to a licensee, the department, at least quarterly, shall notify the parties to the complaint of the status of the complaint until final disposition unless the notice would jeopardize an undercover investigation. The department shall maintain a file about each complaint filed against a licensee.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.071, eff. Sept. 1, 1992. Amended by Acts 1997, 75th Leg., ch. 1077, Sec. 9, eff. Sept. 1, 1997.

Sec. 32.014. Disposition of Revenues.
(a) The financial transactions of the department in connection with the administration of this chapter are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

Text of subsec. (b) as amended by Acts 1997, 75th Leg., ch. 333, Sec. 30

(b) All money collected by the commission under this chapter shall be deposited to the credit of the commission occupational licensing account and may be used only to administer this chapter. The commission shall allocate not more than 20 percent of the money collected under this chapter to cover administrative costs of the commission.

Text of subsec. (b) as amended by Acts 1997, 75th Leg., ch. 1077, Sec. 9

(b) All money collected by the department under this chapter shall be deposited to the credit of the water well drillers fund account in the general revenue fund and may be used only to administer this chapter. The department shall allocate not more than 20 percent of the money in the account to cover administrative costs of the department.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.071, eff. Sept. 1, 1992. Amended by Acts 1995, 74th Leg., ch. 857, Sec. 7, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 333, Sec. 30, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1077, Sec. 9, eff. Sept. 1, 1997.

Sec. 32.015. Civil Penalty.
A person who fails to comply with this chapter or a rule adopted by the department under this chapter is subject to a civil penalty of not less than $200 or more than $1,000 for each day of noncompliance or each act of noncompliance as determined by the court. The department may also seek injunctive relief for a violation of this chapter. The action may be brought by the department in any court of competent jurisdiction in Travis County or the county in which the offending activity occurred or in which the person resides. At the request of the executive director, the attorney general shall bring an action in the name of the state for injunctive relief, to recover the civil penalty, or for both the injunctive relief and civil penalty, as authorized by this section. A party to an action may appeal from a final judgment as in other civil cases. The obtaining of a license under this chapter by a person does not relieve the person from liability under law.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.071, eff. Sept. 1, 1992. Amended by Acts 1997, 75th Leg., ch. 1077, Sec. 9, eff. Sept. 1, 1997.

Sec. 32.016. Marking Rigs With Identification Number.
A driller shall legibly mark all rigs used by the driller or the driller's employees in the well drilling business with the license number that appears on the driller's license. The department shall adopt rules specifying the method and manner for marking the rigs.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.071, eff. Sept. 1, 1992. Amended by Acts 1997, 75th Leg., ch. 1077, Sec. 9, eff. Sept. 1, 1997.

Sec. 32.017. Plugging of Water Wells.
(a) A licensed driller shall complete a well under standards and procedures adopted by the department.

(b) A licensed driller shall notify the department and the landowner or person having a well drilled when the driller encounters water injurious to vegetation, land, or other water, and the well must be plugged, repaired, or properly completed in order to avoid injury or pollution. The driller shall assure that the well is plugged, repaired, or properly completed under standards and procedures adopted by the department.

(c) Not later than the 180th day after the date on which a landowner or other person who possesses an abandoned or deteriorated well learns of its condition, the landowner or other person who possesses an abandoned or deteriorated well shall have the well plugged or capped under standards and procedures adopted by the department. A licensed driller who knows of an abandoned or deteriorated well shall notify the landowner or person possessing the well that the well must be plugged or capped in order to avoid injury or pollution.

(d) In this section, a well is considered to be abandoned if the well is not in use. A well is considered to be in use in the following cases:

(1) A nondeteriorated well which contains the casing, pump, and pump column in good condition;

(2) A nondeteriorated well which has been capped;

(3) the water from the well has been put to an authorized beneficial use, as defined in this code, unless subject to Subdivision (5) of this subsection;

(4) it is used in the normal course and scope and with the intensity and frequency of other similar users in the general community; or

(5) the owner is participating in the Conservation Reserve Program authorized by Sections 1231 through 1236 of the Food Security Act of 1985 (16 U.S.C. Sections 3831-3836) or any other similar governmental program.

(e) A licensed driller, licensed pump installer, or well owner who plugs an abandoned or deteriorated well shall submit a plugging report to the executive director not later than the 30th day after the date the well is plugged. The department shall furnish plugging report forms on request.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.071, eff. Sept. 1, 1992. Amended by Acts 1995, 74th Leg., ch. 857, Sec. 8, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1077, Sec. 10, eff. Sept. 1, 1997.

Sec. 32.018. Construction.

This chapter does not affect the ownership or the rights of owners of the land in underground water.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.071, eff. Sept. 1, 1992.

Sec. 32.019. Transfer of Functions.

If the functions of the department necessary to the proper implementation of its duties under this chapter are transferred to another agency, the powers and duties given in this chapter to the department shall be transferred to the other agency.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.071, eff. Sept. 1, 1992. Amended by Acts 1997, 75th Leg., ch. 1077, Sec. 11, eff. Sept. 1, 1997

Water Code

CHAPTER 33. WATER WELL PUMP INSTALLERS

Sec. 33.001. Definitions.
In this chapter:
(1) "Council" means the Texas water well drillers advisory council.

(2) "Department" means the Texas Department of Licensing and Regulation.

(3) "Executive director" means the executive director of the department.

(4) "Installer" means a person who installs or repairs well pumps and equipment. The term does not include a person who installs or repairs well pumps and equipment on the person's own property for the person's own use or a person who assists in the procedure of pump installation under the direct supervision of a licensed installer and is not primarily responsible for the installation.

(5) "Licensed installer" means a person who holds a license issued under this chapter.

(6) "Person" means an individual, firm, partnership, association, corporation, or any other private legal entity.

(7) "Pollution" means a change to the physical, thermal, chemical, or biological quality of water in a way that makes the water harmful to humans, animals, vegetation, or property or that impairs the public enjoyment of water for a reasonable purpose.

(8) "Pump installation" means the procedures employed in the placement and preparation for operation of equipment and materials used to obtain water from a well, including construction involved in making the well and establishing seals and safeguards as necessary to protect the water from contamination and including repairs to an existing pump.

(9) "Well" means a water well, injection well, dewatering well, or monitoring well as those terms are defined by Section 32.001. The term does not include an injection water source well regulated under Section 91.101, Natural Resources Code.

(10) "Well pumps and equipment" means equipment and materials used to obtain water from a well, including the seals and safeguards necessary to protect the water from contamination.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.072, eff. Sept. 1, 1992. Amended by Acts 1995, 74th Leg., ch. 855, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1077, Sec. 12, eff. Sept. 1, 1997.

Sec. 33.002. License Required.

(a) A person may not act as or offer to perform the services of an installer unless the person holds a license issued by the department under rules adopted under this chapter.

(b) An application for a license must contain:

(1) the applicant's name;

(2) the applicant's business address;

(3) the applicant's permanent mailing address; and

(4) any other information required by the department.

(c) At the time of application, an applicant shall pay to the department a nonrefundable examination fee. A person qualifying for a license shall pay to the department the license fee set by the department.

(d) Except as provided by Section 33.003, a license issued under this chapter expires on August 31 of each year. On or before that day, each licensee shall pay an annual fee to the department to renew the license. The department shall notify each licensee in writing of the impending license expiration not later than August 1 of each year. If a person's license has been expired for 90 days or less, the person may renew the license by paying to the department the required renewal fee and a late fee that is equal to one-half of the examination fee for the license. If a person's license has been expired for more than 90 days but less than two years, the person may renew the license by paying to the department all unpaid renewal fees and a late fee that is equal to the examination fee for the license. If a person's license has been expired two years or more, the person may not renew the license. The person may obtain a new license by submitting to reexamination and complying with the requirements for obtaining an original license.

(e) The department shall maintain a current register of licensees.

(f) A license is not transferable or assignable.

(g) The department shall issue a duplicate license to replace a lost or destroyed license on proper application and payment of a fee.

(h) The department by rule shall set the fees imposed under this chapter in amounts that are reasonable and necessary to cover the costs of administering this chapter.

(i) An applicant must be a resident of this state for at least 90 days before being eligible to apply for a license as an installer under this chapter.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.072, eff. Sept. 1, 1992. Amended by Acts 1995, 74th Leg., ch. 855, Sec. 2, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1077, Sec. 13, eff. Sept. 1, 1997.

Sec. 33.003. Staggered Renewal of Licenses.
The department by rule may adopt a system under which licenses expire on various dates during the year. For the year in which the license expiration date is changed, license renewal fees payable on August 31 shall be prorated. On renewal of the license on the new expiration date, the total license renewal fee is payable.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.072, eff. Sept. 1, 1992. Amended by Acts 1995, 74th Leg., ch. 855, Sec. 3, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1077, Sec. 14, eff. Sept. 1, 1997.

Sec. 33.004. Persons Licensed in Other States.
The department may adopt rules allowing waiver of a license requirement for an applicant with a valid license from another state that has license requirements substantially equivalent to those of this state.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.072, eff. Sept. 1, 1992. Amended by Acts 1995, 74th Leg., ch. 855, Sec. 3, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1077, Sec. 14, eff. Sept. 1, 1997.

Sec. 33.005. Examinations.
(a) The department, with the advice of the council, shall prepare licensing examinations, pass on the qualifications of license applicants, and issue licenses to those who qualify.

(b) The department shall design written examinations in such a manner as to disqualify a person lacking the knowledge of pump installation to the extent that the performance by the person of pump installation would create a serious risk of polluting fresh water.

(c) The department shall offer examinations prepared by it at least once a month and more frequently if more than 10 persons petition it for an additional examination. The examination shall be administered so that a person grading the examination does not know whose paper is being graded. The department shall maintain files of examination papers.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.072, eff. Sept. 1, 1992. Amended by Acts 1995, 74th Leg., ch. 855, Sec. 4, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1077, Sec. 14, eff. Sept. 1, 1997.

Sec. 33.006. Continuing Education.
The department, with the participation of the council, may recognize, prepare, or offer continuing education programs for licensees. Participation in continuing education programs is voluntary unless the council determines that the department should require participation.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.072, eff. Sept. 1, 1992. Amended by Acts 1997, 75th Leg., ch. 1077, Sec. 14, eff. Sept. 1, 1997.

Sec. 33.007. Rules.
(a) The department shall adopt rules as necessary to enforce this chapter.

(b) The department may enforce by injunction or other appropriate remedy in courts of competent jurisdiction any rule, decisions, determinations, or orders adopted or entered by it that do not conflict with a statute. The attorney general shall represent the department on request.

(c) The department shall adopt rules in accordance with Chapter 2001, Government Code.

(d) Notwithstanding Subsection (a), the department may not adopt rules under this chapter:

(1) regulating the installation or repair of well pumps and equipment by a person who owns or is in control of property or the person's employee or a person not hired or compensated acting on the person's behalf on the property the person owns or controls for the person's own use; or

(2) requiring a person who owns or is in control of property or possesses a well to complete, repair, or retrofit the well to any standard other than a standard in effect at the time the well was originally completed unless the well is found to be a threat to public health and safety or to water quality.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.072, eff. Sept. 1, 1992. Amended by Acts 1993, 73rd Leg., ch. 678, Sec. 2, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 855, Sec. 5, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1077, Sec. 14, eff. Sept. 1, 1997.

Sec. 33.008. Revocation of Licenses.
(a) The department may revoke a license, place a licensee on probation, or reprimand a licensee for a violation of this chapter or a rule adopted under this chapter.

(b) The department, before revoking a license, placing a licensee on probation, or reprimanding a licensee, shall notify the licensee in writing of the alleged violation and provide the licensee with an opportunity for a hearing. The notice shall be given not later than the 10th day before the date set for the hearing. The notice shall be made by registered mail to the last known business address of the licensee. The licensee, each person complaining against the licensee, and any other witness whose testimony is relied on to substantiate the charges made may be present at the hearing. The licensee may present relevant oral or written evidence.

(c) Each decision and order in a disciplinary hearing rendered by the department must be made in writing and must set forth briefly the findings of fact and the department's conclusions. Parties to the proceedings shall be notified of the decision or order not later than the 30th day after the conclusion of the hearing.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.072, eff. Sept. 1, 1992. Amended by Acts 1997, 75th Leg., ch. 1077, Sec. 14, eff. Sept. 1, 1997.

Sec. 33.009. Administrative Penalty.
(a) If a person fails to comply with a provision of this chapter or a rule adopted by the department under this chapter, the person may be assessed, in addition to other penalties, an administrative penalty set by the department in an amount not to exceed $2,500 for each violation.

(b) In determining the amount of the penalty, the department shall consider the person's history of previous violations and the seriousness of the failure to comply.

(c) An administrative penalty may be assessed under this section only after the person charged with a violation has been given an opportunity for a public hearing.

(d) If a public hearing is held, the department shall make findings of fact and issue a written decision as to the occurrence of the violation and, when appropriate, an order that a penalty be paid.

(e) If the person charged with a violation does not appear for the hearing, the department may assess a penalty and issue an order that the penalty be paid after the department has determined that a violation occurred.

(f) Not later than the 30th day after the date on which an order is issued, the department shall inform a person ordered to pay a penalty under this section of the amount of the penalty.

(g) Not later than the 30th day after the date the order becomes final under Subchapter F, Chapter 2001, Government Code, the person charged with the penalty shall:

(1) pay the penalty in full;
(2) forward the amount to the department for placement in an escrow account pending judicial review of the matter; or
(3) post with the department a supersedeas bond for the amount of the penalty until judicial review is final.

(h) Failure to comply with Subsection (g) of this section is a waiver of the right to contest the order.

(i) If a court determines that a violation has not occurred or that the amount of the penalty should be reduced or not assessed, the department shall remit the appropriate amount to the person with interest or execute release of the bond.

(j) An administrative penalty owed under this section may be recovered in a civil action brought by the attorney general at the request of the department.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.072, eff. Sept. 1, 1992. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(59), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1077, Sec. 15, eff. Sept. 1, 1997.

Sec. 33.010. Appeal of Department Action.
(a) A person affected by a ruling, order, decision, or other act of the department may appeal by filing a petition in a district court in Travis County.

(b) A petition must be filed not later than the 30th day after the date of the department's action or, in the case of a ruling, order, or decision, not later than the 30th day after its effective date.

(c) Service of citation on the department shall be accomplished not later than the 30th day after the date the petition was filed. Citation may be served on the executive director.

(d) The plaintiff must pursue the action with reasonable diligence.

(e) The substantial evidence rule applies in the judicial review of any department action, ruling, order, or decision. An administrative or executive action taken before the filing of the suit continues in force and effect until the rights of the parties are determined by the court.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.072, eff. Sept. 1, 1992. Amended by Acts 1997, 75th Leg., ch. 1077, Sec. 16, eff. Sept. 1, 1997.

Sec. 33.011. Complaints.
(a) The department shall prepare information of consumer interest describing the procedures by which consumer complaints under this chapter are filed with and resolved by it. The department shall make the information available to the public and appropriate state agencies. The council may hear consumer complaints and make recommendations to the department as to their disposition.

(b) If a written complaint under this chapter is filed with the department relating to a licensee, the department, at least quarterly, shall notify the parties to the complaint of the status of the complaint until final disposition unless the notice would jeopardize an undercover investigation. The department shall maintain a file about each complaint filed against a licensee.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.072, eff. Sept. 1, 1992. Amended by Acts 1997, 75th Leg., ch. 1077, Sec. 16, eff. Sept. 1, 1997.

Sec. 33.012. Disposition of Revenues.
(a) The financial transactions of the department in connection with the administration of this chapter are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

Text of subsec. (b) as amended by Acts 1997, 75th Leg., ch. 333, Sec. 31

(b) All money collected by the commission under this chapter shall be deposited to the credit of the commission occupational licensing account.

Text of subsec. (b) as amended by Acts 1997, 75th Leg., ch. 1077, Sec. 16

(b) All money collected by the department under this chapter shall be deposited to the credit of the water well drillers fund account in the general revenue fund and may be used only to administer this chapter. The department shall allocate not more than 20 percent of the money in the account to cover administrative costs of the department.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.072, eff. Sept. 1, 1992. Amended by Acts 1997, 75th Leg., ch. 333, Sec. 31, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1077, Sec. 16, eff. Sept. 1, 1997.

Sec. 33.013. Civil Penalty.
A person who fails to comply with this chapter or a rule adopted by the department under this chapter is subject to a civil penalty of not less than $200 or more than $1,000 for each day of noncompliance or each act of noncompliance as determined by the court. The department may also seek injunctive relief for a violation of this chapter. The action may be brought by the department in any court of competent jurisdiction in Travis County in which the offending activity occurred or in which the person resides. At the request of the executive director, the attorney general shall bring an action in the name of the state for injunctive relief, to recover the civil penalty, or for both the injunctive relief and civil penalty, as authorized by this section. A party to an action may appeal from a final judgment as in other civil cases. The obtaining of a license under this chapter by a person does not relieve the person from liability under law.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.072, eff. Sept. 1, 1992. Amended by Acts 1997, 75th Leg., ch. 1077, Sec. 16, eff. Sept. 1, 1997.

Sec. 33.014. Completion, Repair, and Plugging of Water Wells.
(a) Each installer licensed under this chapter shall install or repair pumps under standards and procedures adopted by the department with the advice of the council.

(b) Each licensed installer shall notify the department and the landowner or person having a pump installed or repaired when the installer encounters water injurious to vegetation, land, or other water, and the installer shall repair or properly complete the well in order to avoid injury or pollution. The installer shall ensure that the well is repaired or properly completed under standards and procedures adopted by the department.

(c) A licensed installer who knows of an abandoned or deteriorated well as those terms are defined by Section 32.017 of this code shall notify the landowner or person possessing the well that the well must be plugged or capped in order to avoid injury or pollution.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.072, eff. Sept. 1, 1992. Amended by Acts 1997, 75th Leg., ch. 1077, Sec. 17, eff. Sept. 1, 1997.

Sec. 33.015. Transfer of Functions.
If the functions of the department necessary to the proper implementation of its duties under this

chapter are transferred to any other agency, the powers and duties given to the department in this chapter shall be transferred to the other agency.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.072, eff. Sept. 1, 1992. Amended by Acts 1997, 75th Leg., ch. 1077, Sec. 18, eff. Sept. 1, 1997

CHAPTER 356

GROUNDWATER MANAGEMENT PLAN CERTIFICATION

Authority: The provisions of this Chapter 356 issued under the Texas Water Code, §6.101 and §36.1072.

§356.1. Scope of Chapter.
This chapter shall govern the board's procedures for reviewing and certifying management plans.

§356.2. Definitions of Terms.
The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Words defined in Texas Water Code, Chapter 36 and not defined here shall ave the meanings provided in Chapter 36.

Amount of groundwater being used - The quantity of groundwater withdrawn or flowing from an aquifer naturally or artificially on an annual basis.

Approved regional water plan - A water plan developed pursuant to Texas Water Code, §16.053 and which has been approved by the board.

Artificial recharge - Increased recharge accomplished by the modification of the land surface, streams, or lakes to increase seepage or infiltration rates or by the direct injection of water into the subsurface through wells.

Board - Texas Water Development Board.

Conjunctive surface water management issues - Issues relating to the active use of both surface water and groundwater to achieve increased water supply or enhanced water quality.

District - Any district or authority created under Texas Constitution, Article III, §52 or Article XVI, §59 that has the authority to regulate the spacing of water wells, the production from water wells, or both.

Estimates - Reasonable calculations using best available data and methodologies specified in the management plan such that the
quantifications can be tracked over time.

Executive administrator - The executive administrator of the board.

Management goals - The qualitative and quantitative ends toward which a district directs its efforts.

Management objectives - Specific, quantifiable, and time-based statements of desired future accomplishments or outcomes, each linked to a management goal, which set the individual priority for district strategies.

Management plan - The groundwater management plan required pursuant to Texas Water Code, §36.1071.

Most efficient use of groundwater - Those practices, techniques and technologies that the district determines will provide the least consumption of groundwater balanced with the benefits of using groundwater.

Performance standards - Indicators or measures, each of which is linked to a management objective, used to evaluate effectiveness and efficiency of district activities by quantifying the results of actions and the impact of the results of activities.

Projected water supply - The usable amount of groundwater available per annum under the district's management plan and the quantity of surface water available per annum during the period covered by the management plan.

Projected water demand - The quantity of water needed per annum for beneficial use during the period covered by the management plan.

Recharge - The addition of water from precipitation or runoff by seepage or infiltration to an aquifer from the land surface, streams, or lakes directly into a formation or indirectly by way of leakage from another formation.

Regional water plan - Regional water plan developed by a regional water planning group in each regional water planning area as provided by Texas Water Code, §16.053.

Surface water management entities - Entities granted authority to store, take, divert, or supply surface water either directly or by contract under Texas Water Code, Chapter 11, for use within the boundaries of a district.

Usable amount of groundwater - The quantity of groundwater of acceptable quality that is contained within the portion of an aquifer covered by a district's management plan and which is economically retrievable for beneficial use.

§356.3. Required Management Plan.
As required by Texas Water Code, §36.1071 and §36.1072, a district shall submit to the executive administrator a management plan that meets the requirements of §356.5 of this title (relating to Required Content of Management Plan). The management plan shall be submitted by existing districts not later than September 1, 1998. For districts created after or which require a

confirmation election after September 1, 1997, the management plan shall be submitted not later than two years after the creation of the district or, if the district requires confirmation, not later than two years after the election confirming the district.

§356.4. Consistency with Regional Water Plans.
Management plans must be consistent with the approved regional water plan for each region in which any part of the district is located.

§356.5. Required Content of Management Plan.

(a) The executive administrator shall not certify a management plan unless the plan uses a planning period of at least ten years and contains the following:

(1) management goals, as applicable:

(A) providing the most efficient use of groundwater;

(B) controlling and preventing waste of groundwater;

(C) controlling and preventing subsidence;

(D) addressing conjunctive surface water management issues; and

(E) addressing natural resource issues;

(2) performance standards and management objectives that the district will use to achieve the management goals in paragraph (1) of this subsection;

(3) specifically detailed actions, procedures, performance, and avoidance, including specifications and proposed rules, necessary to effectuate the management plan; and

(4) estimates of:

(A) the existing total usable amount of groundwater in the district;

(B) the amount of groundwater being used within the district on an annual basis;

(C) the annual amount of recharge to the groundwater resources within the district and possible methods for increasing the natural or artificial recharge; and

(D) the projected water supply and demand within the district.

(5) details of how the district will manage groundwater supplies in the district, including a methodology by which a district will track its progress on an annual basis in achieving its management goals.

(b) In addition to the requirements of subsection (a) of this section, the management plan shall address water supply needs in a manner that does not conflict with an approved regional water plan covering any area within the boundaries of the district.

(c) The requirement of subsection (b) of this section may be waived if the executive administrator determines that conditions justify such waiver. Waiver will only be granted upon the written request of the district accompanied by evidence acceptable to the executive administrator in form and substance of conditions justifying such waiver.

§356.6. Plan Submittal.

(a) A district requesting review and certification of its management plan shall submit to the executive administrator the following:

(1) a certified copy of the adopted management plan;
(2) a certified copy of the district's resolution adopting the plan;
(3) evidence that the plan was adopted after notice and hearing;
(4) evidence that the district coordinated in the development of its management plan with surface water management entities; and
(5) evidence of consistency with and any conflict between the proposed management plan and an approved regional water management plan for each region in which any part of the district is located.

(b) The plan or revised plan under §356.7 of this title (relating to Certification) shall be considered submitted to the board when it is received in the Austin offices of the board.

§356.7. Certification.

Within 60 days of receipt of a management plan, the executive administrator shall certify the plan if it complies with the requirements of §356.5 of this title (relating to Required Content of Management Plan) or shall deny certification of the plan if it does not comply with such requirements. Within five days of making a certification determination, the executive administrator shall notify the district in writing of the determination. If certification is denied, the executive administrator shall include written reasons for the denial with the notice of denial. If the executive administrator denies certification, the district may submit a revised management plan for review and certification within 180 days from receipt of notice that the executive administrator has denied certification. The review and certification of a revised management plan must comply with all the requirements of this chapter pertaining to the review and certification of originally submitted management plans.

§356.8. Appeal of Denied Certification.

(a) If the executive administrator denies certification of a management plan or a revised management plan, the district submitting the plan may appeal the denial to the board by notifying the executive administrator in writing of its intent to appeal, not later than 60 days after receipt of the executive administrator's written notice of denial. Not later than 30 days after filing its notice of intent to appeal, a district shall submit to the executive administrator in writing points of appeal addressing each of the executive administrator's reasons for denial of certification. The written points of appeal shall not exceed 50 pages (double spaced, single sided, 8.5" x 11"). The board shall hear the appeal at the first regularly scheduled meeting of the board to occur after the expiration of 30 days from the receipt of the district's written points of appeal. Written notice of appeal and written points of appeal shall be considered to be received by the executive administrator when received in the Austin offices of the Board. The executive administrator may file a written response to the district's points of appeal.

(b) The district shall designate one or more representatives to present the appeal to the board. The district's representatives shall have not more than 20 minutes total to orally present the district's points of appeal to the board at the appropriate time during the meeting set to consider the appeal. After the district presents points the executive administrator or the executive administrator's designee may present an oral response not to exceed 20 minutes in length. The board may extend the presentation time limits. At the close of the executive administrator's response, the district's representative shall be allowed up to five minutes of rebuttal. At the close of rebuttal the board may discuss the matter and direct the executive administrator to either certify or withhold certification of the management plan. The board's decision shall be the final action on certification of the management plan and may not be appealed.

§356.9. Approval of Amendments.

A district shall submit all amendments to the management plan to the board within 60 days of adoption. Within 60 days of receipt of amendments to the management plan, the executive administrator either shall notify the district that the amendments do not substantially affect the management plan, or shall provide the district with written notification of certification or denial of certification of the plan as amended. The requirements of this chapter apply to any amendment to a district's management plan that substantially affects the management plan.

APPENDIX B

Groundwater District Rules and Management Plan

1. **Rules of Texas Country Groundwater Conservation District**
2. **Rule - Open or uncovered Wells**
3. **Rule - Waste or Pollution**
4. **Texas Country Groundwater Conservation District Management Plan**
5. **West Texas Regional Groundwater Alliance Cooperative Agreement**

RULES
OF
TEXAS COUNTRY GROUNDWATER CONSERVATION DISTRICT

ADOPTED:

EFFECTIVE:

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The rules of the Texas Country Groundwater Conservation District were published on the _____. The original rules were amended and hereby republished on _____.

In accordance with Section 59 of Article XVI of the Texas Constitution and [**legal citation to Act or TNRCC order creating District**] and Chapter 36 of the Texas Water Code, the following rules are hereby ratified and adopted as the rules of this District by its Board. Each rule as worded herein has been in effect since the date of passage and as may be hereafter amended.

The rules, regulations, and modes of procedure herein contained are and have been adopted to simplify procedures, avoid delays, and facilitate the administration of the water laws of the State and the rules of this District. To the end that these objectives are attained, these rules will be so construed.

These rules may be used as guides in the exercise of discretion, where discretion is vested. However, under no circumstances and in no particular case may these rules be construed as a limitation or restriction upon the exercise of powers, duties, and jurisdiction conferred by law. These rules will not limit or restrict the amount and accuracy of data or information that may be required for the proper administration of the law.

TEXAS COUNTRY
GROUNDWATER CONSERVATION DISTRICT
DISTRICT RULES

SECTION 1. DEFINITIONS AND CONCEPTS

RULE 1.1 DEFINITIONS OF TERMS:

In the administration of its duties, the Texas Country Groundwater Conservation District follows the definitions of terms set forth in The District Act, Chapter 36 of the Texas Water Code, and other definitions as follow:

"Acre-foot" means the amount of water necessary to cover one acre of land one foot deep, or about 325,000 gallons of water.

"Agricultural crop" means food or fiber commodities grown for resale or commercial purposes that provide food, clothing, or animal feed.

"Board" means the Board of Directors of the District.

"De-watering well" means a well used to remove water from a construction site or excavation, or to relieve hydrostatic uplift on permanent structures.

"District" means the Texas Country Groundwater Conservation District.

"District Act" means [**legal citation to Act or TNRCC order creating District**] and the non-conflicting provisions of Chapter 36, Water Code.

"District office" means the office of the District as established by resolution of the Board.

"Drilling Permit" means a permit for a water well issued or to be issued by the District allowing a water well to be drilled.

"Groundwater" means water located beneath the earth's surface within the District but does not include water produced with oil in the production of oil and gas.

"Hearing body" means the Board, any committee of the Board, or a Hearing Examiner at any hearing held under the authority of the District Act.

"Hearing Examiner" means a person appointed by the Board of Directors to conduct a hearing or other proceeding.

"Injection well" includes:

An air conditioning return flow well used to return water used for heating or cooling in a heat pump to the aquifer that supplied the water;
A cooling water return flow well used to inject water previously used for cooling;
A drainage well used to drain surface fluid into a subsurface formation;
A recharge well used to replenish the water in an aquifer;
A saltwater intrusion barrier well used to inject water into a freshwater aquifer to prevent the intrusion of salt water into the freshwater;
A sand backfill well used to inject a mixture of water and sand, mill tailings, or other solids into subsurface mines;
A subsidence control well used to inject fluids into a non-oil or gas producing zone to reduce or eliminate subsidence associated with the overdraft of fresh water; or
A closed system geothermal well used to circulate water, other fluids, or gases through the earth as a heat source or heat sink.

"Landowner" means the person who bears ownership of the land surface.

"Leachate well" means a well used to remove contamination from soil or groundwater.

"Monitoring well" means a well installed to measure some property of the groundwater or aquifer it penetrates, and does not produce more than 5,000 gallons of groundwater per year.

"New well application" means an application for a permit for a water well that has not yet been drilled.

"Open meeting law" means Chapter 551, Texas Government Code.

"Operating Permit" means a permit issued by the District for a water well, allowing groundwater to be withdrawn from a water well for a designated period.

"Public Information Act" means Chapter 552, Texas Government Code.

"Person" includes corporation, individual, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.

"Presiding officer" means the President, Vice-President, Secretary, or other Board member presiding at any hearing or other proceeding or a Hearing Examiner conducting any hearing or other proceeding.

"Rules" means the rules of the District compiled in this document and as may be

supplemented or amended from time to time.

"Section" means the number section of a survey or block as shown in "Texas Country Farm Plats," 1996 Edition, (Smith Publishing Co.).

"Texas Rule of Civil Procedure" and "Texas Rules of Civil Evidence" mean the civil procedure and evidence rules as amended and in effect at the time of the action or proceeding. Except as modified by the rules of the District, the rights, duties, and responsibilities of the presiding officer acting under the Texas Rules of Civil Procedure or the Texas Rules of Evidence are the same as a court acting under those rules.

"Waste" means Chapter 36.001 (8) Definitions and Section 13 herein.

"Water meter" means a water flow measuring device that can accurately record the amount of groundwater produced during a measured time.

"Well" means any facility, device, or method used to withdraw groundwater from the groundwater supply within the District.

"Well owner" or "well operator" means the person who owns the land upon which a well is located or is to be located or the person who operates a well or a water distribution system supplied by a well.

"Well system" means a well *or* group of wells tied to the same distribution system.

"Withdraw" means extracting groundwater by pumping or by another method.

"Windmill" means a wind-driven or hand-driven device that uses a piston pump to remove groundwater.

RULE 1.2 PURPOSE OF RULES:

These rules are adopted to achieve the provisions of the District Act and accomplish its purposes.

RULE 1.3 USE AND EFFECT OF RULES:

The District uses these rules as guides in the exercise of the powers conferred by law and in the accomplishment of the purposes of the District Act. They may not be construed as a limitation or restriction on the exercise of any discretion nor be construed to deprive the District or Board of the exercise of any powers, duties or jurisdiction conferred by law, nor be construed to limit or restrict the amount and character of data or information that may be required to be collected for the proper administration of the District Act.

RULE 1.4 AMENDING OF RULES:

The Board may, following notice and hearing, amend these rules or adopt new rules

from time to time.

RULE 1.5 HEADINGS AND CAPTIONS:

The section and other headings and captions contained in these rules are for reference purposes only. They do not affect the meaning or interpretation of these rules in any way.

RULE 1.6 CONSTRUCTION:

A reference to a title, chapter or section without further identification is a reference to a title, chapter or section of the Water Code. Construction of words and phrases are governed by the Code Construction Act, Subchapter B, Chapter 311, Government Code.

RULE 1.7 METHODS OF SERVICE UNDER THE RULES:

Except as otherwise expressly provided in these rules, any notice or documents required by these rules to be served or delivered may be delivered to the recipient, or the recipient's authorized representative, in person, by agent, by courier receipted delivery, by certified mail sent to the recipient's last known address, or by telephonic document transfer to the recipient's current telecopier number. Service by mail is complete upon deposit in a post office or other official depository of the United States Postal Service. Service by telephonic document transfer is complete upon transfer, except that any transfer occurring after 5:00 p.m. will be deemed complete on the following business day. If service or delivery is by mail, and the recipient has the right, or is required, to do some act within a prescribed time after service, three days will be added to the prescribed period. Where service by one of more methods has been attempted and failed, the service is complete upon notice publication in a general circulated newspaper in **[name of the county or counties where the district is located]** County.

RULE 1.8 SEVERABILITY:

If any one or more of the provisions contained in these rules are for any reason held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability may not affect any other rules or provisions of these rules, and these rules must be construed as if such invalid, illegal or unenforceable rules or provision had never been contained in these rules.

SECTION 2. BOARD

RULE 2.1 PURPOSE OF BOARD:

The Board was created to determine policy and regulate the withdrawal of groundwater within the boundaries of the District for conserving, preserving, protecting and recharging the groundwater within the District, and to exercise its rights, powers, and duties in a way that will effectively and expeditiously accomplish the purposes of the District Act.

The Board's responsibilities include, but are not limited to, the adoption and enforcement of reasonable rules and other orders.

RULE 2.2 BOARD STRUCTURE, OFFICERS:

The Board consists of the members elected and qualified as required by the District Act. The Board will elect one of its members to serve as President, to preside over Board meetings and proceedings; one to serve as Vice President to preside in the absence of the President; and one to serve as Secretary to keep a true and complete account of all meetings and proceedings of the Board. The Board may elect officers annually, but must elect officers at the first meeting following the November elections of each even numbered year. Members and officers serve until their successors are elected or appointed and sworn in accordance with the District Act and these rules.

RULE 2.3 MEETINGS:

The Board will hold a regular meeting once each quarter as the Board may establish from time to time by resolution. At the request of the President, or by written request of at least three members, the Board may hold special meetings. All Board meetings will be held according to the Texas Open Meetings Law.

RULE 2.4 COMMITTEES:

The President may establish committees for formulation of policy recommendations to the Board, and appoint the chair and membership of the committees. Committee members serve at the pleasure of the President.

RULE 2.5 EX PARTE COMMUNICATIONS:

Board members may not communicate, directly or indirectly, about any issue of fact or law in any contested case before the board, with any agency, person, party or their representatives, except on notice and opportunity for all parties to participate. A Board member may communicate ex parte with other members of the Board. This rule does not apply to a Board member who abstains from voting on any matter in which ex parte communications have occurred.

SECTION 3. DISTRICT STAFF

RULE 3.1 GENERAL MANAGER:

The Board may employ a person to manage the District, and title this person general manager. The general manager will have no power, duty, or responsibility other than gathering information and performing Water District functions as determined by the Board. The Board will determine the salary and review the position of general manager each year at the beginning of the third quarter of every fiscal year. The general manager, with approval of the Board, may employ all persons necessary for the proper handling of business and

operation of the District and their salaries will be set by the Board.

SECTION 4. DISTRICT

RULE 4.1 MINUTES AND RECORDS OF THE DISTRICT:

All documents, reports, records, and minutes of the District are available for public inspection and copying following the Texas Open Records Act. Upon written application of any person, the District will furnish copies of its public records. A copying charge pursuant to policies established by the District. A list of the charges for copies will be furnished by the District.

RULE 4.2 CERTIFIED COPIES:

Requests for certified copies must be in writing. Certified copies will be made under the direction of the Board of Directors. A certification charge and copying charge may be assessed, pursuant to policies established by the Board of directors.

SECTION 5. SPACING REQUIREMENTS

RULE 5.1 REQUIRED SPACING:

A new well may not be drilled within 50 feet from the property line of any adjoining landowner.

RULE 5.2 EXCEPTIONS TO SPACING REQUIREMENTS:

1. If the applicant presents waivers signed by the adjoining landowner(s) stating that they have no objection to the proposed location of the well site, the spacing requirements will not apply to the new proposed well location.

2. Providing an applicant can show, by clear and convincing evidence, good cause why a new well should be allowed to be drilled closer than the required spacing of 50 feet, the issue of spacing requirements will be considered during the contested case process. If the board chooses to grant a permit to drill a well that does not meet the spacing requirements, the Board must limit the production of the well to ensure no injury is done to adjoining landowners or the aquifer.

3. The Board may, if good cause is shown by clear and convincing evidence, enter special orders or add special permit conditions increasing or decreasing spacing requirements.

SECTION 6. PRODUCTION LIMITATIONS

RULE 6.1 MAXIMUM ALLOWABLE PRODUCTION:

1. A well or well system may only be permitted to be drilled and equipped for the production of a cumulative total of 10 gallons per minute (g.p.m.) per contiguous acre owned or operated.

2. In no event may a well or well system be operated such that the total annual production exceeds 2 acre feet of water per acre owned or operated within the same Section.

3. An exception to the production limitations will be considered only ten days after written notice is given by the applicant to all adjacent landowners and all other landowners within one-half mile of the well site. Following proof of written notice, the Board shall call a public hearing to take evidence and testimony on the proposed exception, after which they may grant or deny the request for the exception. If all the land owners required to receive notification by this rule waive their right to object to the exception, the exception shall be granted.

SECTION 7. OTHER DISTRICT ACTIONS AND DUTIES

RULE 7.1 DISTRICT MANAGEMENT PLAN:

The District Management Plan specifies the acts, procedures, performance and avoidance necessary to prevent waste, the reduction of artesian pressure, or the draw-down of the water table. The District shall use the Rules of the District to implement the Management Plan. The Board will review the plan at least every fifth year. If the Board considers a new plan necessary or desirable, based on evidence presented at hearing, a new plan will be adopted. A plan, once adopted, remains in effect until the adoption of a new plan.

SECTION 8. TRANSFER OF GROUNDWATER OUT OF THE DISTRICT:

RULE 8.1 PERMIT REQUIRED:

Groundwater produced from within the District may not be transported outside the District's boundaries unless the Board has issued the well owner a transport permit.

RULE 8.2 APPLICABILITY:

A groundwater transport permit is not required for transportation of groundwater that is part of a manufactured product, or the groundwater is to be used on property that straddles the district boundary line.

RULE 8.3 APPLICATION:

An application for a transportation permit must be filed in the District office and must include the following information:

a) The name and mailing address of the applicant;

b) A statement of the nature and purpose of the proposed use and the amount of

water to be used for each purpose;

c) A water-conservation plan;

d) The location of the well(s) and rates of withdrawal;

e) Proof of notification of all landowners adjacent to the property where the well or wells are located and all well owners within one-half mile of any of the proposed production wells.

RULE 8.4 HEARING AND PERMIT ISSUANCE:

a) Applications for transportation permits are subject to the hearing procedures provided by these rules.

b) In determining whether to issue a permit to transfer groundwater out of the District, the Board shall consider:

1) availability of water in the District and in the proposed receiving area;

2) availability of feasible and practicable alternative supplies to the applicant;

3) the amount and purposes of use for which water is needed in the proposed receiving area;

4) the projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District;

5) the indirect costs and economic and social impacts associated with the proposed transfer of water from the District;

6) the approved regional and state water plan, and the certified District management plan;

7) other facts and considerations considered necessary by the District's Board for protection of the public health and welfare and conservation and management of natural resources in the District.

SECTION 9. DEPOSITS FOR WELL DRILLING PERMITS

RULE 9.1 DEPOSITS:

Each application for a permit to drill a well must be accompanied by a **$50.00** deposit which will be accepted and deposited by the District staff. The deposit will be returned to the applicant by the District if: (1) the application is denied; (2) if the application is granted, upon the receipt of correctly completed driller's log of the well; or (3) if the permit location is abandoned without having been drilled or results in a dry hole, upon return and surrender of the permit marked "abandoned" by the applicant.

In the event that neither the driller's log of the well nor the permit marked "abandoned" is returned to the District office within eight (8) months after application date of the permit, the deposit becomes the property of the District.

SECTION 10. PERMITS

RULE 10.1 REGISTRATION OF NEW WELLS:

a) It is a violation of these rules for a well owner, well operator, or water well driller to drill any well without the well registration/application for water well permit form being filed with the District.

b) All new wells, except leachate wells, monitoring wells, and de-watering wells, must be registered by the well owner, well operator, or water well driller prior to being drilled. The District staff will review the registration and make a preliminary determination on whether the well meets the exclusions or exemptions provided in Rule 10.5. Providing the preliminary determination is ruled the well is excluded or exempt, the registrant may begin drilling immediately upon receiving the approved registration.

RULE 10.2 GENERAL PERMITTING POLICIES AND PROCEDURES:

a) **Drilling Permit Requirement**: The well owner, well operator, or any other person acting on behalf of the well owner, must file a completed well registration/application for a water well permit before a well may be drilled. Providing the application for a drilling permit meets all the guidelines of these rules, the applicant may thereupon proceed at his own risk to drill such well. This application for a drilling permit shall not, however, be officially granted until the opportunity for a due process public hearing has been satisfied and the Board has approved the permit.

b) **Operating Permit Requirement**: Within 14 days after a well is drilled, the well owner or well operator must file a completed operating permit application prior to operating the well. The operating permit must be approved by the Board of Directors and remain permitted until an operating permit is no longer required for the well/well system.

c) **Permit Applications**: Each original application for a water well drilling permit, operating permit, and permit renewal requires a separate application. Application forms will be provided by the District and furnished to the applicant upon request.

d) **Notice of Permit Hearing**: Once the District has received a completed original application for a water well drilling permit, operating permit, or an operating permit renewal, the general manager, with Board orders will issue written notice indicating a date and time for a hearing on the application in accordance with these rules. The District may schedule as many applications at one hearing as deemed necessary.

e) **Decision and Issuance of Permit**: In deciding whether or not to issue a permit, and in setting the terms of the permit, the Board must consider the District Rules.

f) **Drilling Permits**: Unless specified otherwise by the Board or these rules, permits are effective for a term ending 120 calendar days after the date the permit was applied for.

g) **Operating Permits**: Unless specified otherwise by the Board or these rules, operating permits are effective until revoked. The permit term will be shown on the permit. Operating permits may be renewed by the Board following application and hearing.

h) **Permit Provisions**: The permit will contain the standard provisions listed in Rules 10.3. The permit may also contain provisions relating to the means and methods of transportation of water produced within the district.

i) **Aggregation of Withdrawal**: In issuing an operating permit, the authorized withdrawal for a given well may be aggregated with the authorized withdrawal from other permitted wells designated by the District. District Rule 5 & 6, will be considered in determining whether or not to allow aggregation of withdrawal. For the purpose of categorizing wells by the amount of groundwater production, where wells are permitted with an aggregate withdrawal, the total authorized withdrawal will be assigned to the wells in aggregate, rather than allocating to each well its pro rata share of production. This will allow a well owner, with a number of water wells which supply a single well system, to apply for an operating permit for the well system; consequently, will not be required to apply for a separate operating permit for each individual well. This provision will allow a well owner to apply for an operating permit for each individual well, in the event a number of wells from more than a single numbered Section, may be used to supplying a very large single well system.

j) **Effect of Acceptance of Permit**: Acceptance of the permit by the person to whom it is issued constitutes acknowledgment of and agreement to comply with all of the terms, provisions, conditions, limitations, and restrictions.

RULE 10.3 OPERATING PERMIT PROVISIONS:

All permits are granted subject to these rules, orders of the Board, and the laws of the State of Texas. In addition to any special provisions or other requirements incorporated into the permit, each permit issued must contain the following standard permit provisions:

This permit is granted in accordance with the provisions of the Rules of the District, and acceptance of this permit constitutes an acknowledgment and agreement that the permittee will comply with the Rules of the District.

1. This permit confers only the right to operate the permit under the provisions of Rule 6.1, and its terms may be modified or amended pursuant to the provisions of that Rule. To protect the permit holder from the illegal use of a new landowner, within 10 days after the date of sale, the operating permit holder must notify the District in writing the name of the new owner. Any person who becomes the owner of a currently permitted well must, within 20 calendar days from the date of the change in ownership, file an application for a permit amendment to effect a transfer of the permit.

2. The operation of the well for the authorized withdrawal must be conducted in a non-wasteful manner.

3. Withdrawals from all non-exempt wells must be measured or estimated by the owner or operator using a device or method that is within plus or minus 10% of accuracy. Measured or estimated water use shall be reported to the District annually in January.

4. The well site must be accessible to District representatives for inspection, and the permittee agrees to cooperate fully in any reasonable inspection of the well and well site by the District representatives.

5. The application pursuant to which this permit has been issued is incorporated in this permit, and this permit is granted on the basis of and contingent upon the accuracy of the information supplied in that application. A finding that false information has been supplied is grounds for immediate revocation of the permit.

6. Violation of this permit's terms, conditions, requirements, or special provisions, including pumping amounts in excess of authorized withdrawal, is punishable by civil penalties as provided by the District Rule 15.3.

RULE 10.4 OPERATING PERMIT LIMITATIONS:

a) **Maximum Authorized Withdrawal**: It is a violation of these rules to pump any amount of water over the authorized permit.

b) **Operating Permit Required**: It is violation of these rules to pump a well without an operating permit application being filed with the District awaiting approval by the Board of Directors.

RULE 10.5 EXCLUSIONS AND EXEMPTIONS:

The permit requirements in Section 10 do not apply to:

a) wells drilled or equipped such that it is incapable of producing more than 25,000 gallons of groundwater per day;

b) wells used to supply the domestic needs of 10 or fewer households if each of the households is for the well owner, a person related to the well owner within the second degree of consanguinity, or an employee of the well owner;

c) wells for watering or feeding livestock and poultry in connection with farming, ranching or dairy enterprises;

d) wells used to supply water for hydrocarbon production activities associated with any oil or gas well permitted by the Railroad Commission of Texas drilled before 1985; or

e) jet wells for domestic needs.

SECTION 11. REWORKING AND REPLACING A WELL

RULE 11.1 PROCEDURES:

a) An existing well may be reworked, re-drilled, or re-equipped in a manner that will not change the existing well status.

b) A permit must be applied for and the board will consider approving the permit, if a party wishes to increase the rate of production of an existing well to the point of increasing the size of the column pipe and g.p.m. rate by reworking, re-equipping, or re-drilling such well.

c) A permit must be applied for and granted by the board if a party wishes to replace an existing well with a replacement well.

d) A replacement well, in order to be considered such, must be drilled within ten (10) yards (30 feet) of the existing well and shall not be drilled nearer the property line provided the original well was "grandfathered" inside the spacing requirements of Rule 5.1.

e) In the event the application meets spacing (Rule 5) and production (Rule 6) requirements, the board may grant such application without further notice.

SECTION 12. WELL LOCATION AND COMPLETION

RULE 12.1 RESPONSIBILITY:

After an application for a well permit has been granted, the well, if drilled, must be drilled within ten (10) yards (30 feet) of the location specified in the permit, and not elsewhere. If the well should be commenced or drilled at a different location, the drilling or operation of such well may be enjoined by the Board pursuant to Chapter 36, Texas Water Code. As described in the Texas Water Well Drillers' Rules, all well drillers and persons having a well drilled, deepened, or otherwise altered shall adhere to the provisions of the rule prescribing the location of wells and proper completion.

RULE 12.2 LOCATION OF DOMESTIC, INDUSTRIAL, INJECTION, AND IRRIGATION WELLS:

a) A well must be located a minimum horizontal distance of **50 feet** from any water-tight sewage facility and liquid-waste collection facility.

b) A well must be located a minimum horizontal distance of **150 feet** from any contamination, such as existing or proposed livestock or poultry yards, privies, and septic

system absorption fields.

c) A well must be located at a site not generally subject to flooding; provided, however, that if a well must be placed in a flood prone area, it must be completed with a watertight sanitary well seal and steel casing extending a minimum of **24 inches** above the known flood level.

d) No well may be located within five-hundred (500) feet of a sewage treatment plant, solid waste disposal site, or land irrigated by sewage plant effluent, or within three-hundred (300) feet of a sewage wet well, sewage pumping station, or a drainage ditch that contains industrial waste discharges or wastes from sewage treatment systems.

RULE 12.3 STANDARDS OF COMPLETION FOR DOMESTIC, INDUSTRIAL, INJECTION, AND IRRIGATION WELLS:

Water well drillers must indicate the method of completion performed on the Well Report (TNRCC-0199) Section 10 Surface Completion. Domestic, industrial, injection, and irrigation wells must be completed in accordance with the following specifications and in compliance with local county or incorporated city ordinances:

a) The annular space between the borehole and the casing shall be filled from the ground level to a depth of <u>not less</u> than **10 feet** below the land surface or well head with cement slurry.

b) All wells shall have a concrete slab or sealing block above the cement slurry around the well at the ground surface.

c) The slab or block shall extend at least **two (2) feet** from the well in all directions and have a minimum thickness of **four inches** and shall be separated from the well casing by a plastic or mastic coating or sleeve to prevent bonding of the slab to the casing.

d) The surface of the slab shall be sloped to drain away from the well.

In all wells:

The casing shall extend a minimum of one foot above the original ground surface; and

A slab or block as described in Paragraph (2)(a) is required above the cement slurry except when a pitless adapter is used. Pitless adapters may be used in such wells provided that:

Pitless adapter is welded to the casing or fitted with another suitably effective seal; and

The annular space between the borehole and the casing is filled with cement to a depth not less than **15 feet** below the adapter connection.

f) All wells, especially those that are gravel packed, shall be completed so that aquifers or zones containing waters that are known to differ significantly in chemical quality are not allowed to commingle through the borehole-casing annulus or the gravel pack and cause quality degradation of any aquifer or zone.

g) The well casing shall be capped or completed in a manner that will prevent pollutants from entering the well.

RULE 12.4 RE-COMPLETIONS:

a) The landowner shall have the continuing responsibility of insuring that a well does not allow commingling of undesirable water and fresh water or the unwanted loss of water through the wellbore to other porous strata.

b) If a well is allowing the commingling of undesirable water and fresh water or the unwanted loss of water, and the casing in the well cannot be removed and the well re-completed within the applicable rules, the casing in the well shall be perforated and cemented in a manner that will prevent the commingling or loss of water. If such a well has no casing, then the well shall be cased and cemented, or plugged in a manner that will prevent such commingling or loss of water.

c) The Board of Directors may direct the landowner to take steps to prevent the commingling of undesirable water and fresh water, or the unwanted loss of water.

SECTION 13. WASTE AND BENEFICIAL USE

RULE 13.1 WASTE MEANS ANY ONE OR MORE OF THE FOLLOWING:

a) Withdrawal of groundwater from a groundwater reservoir at a rate in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic or stock watering purposes;

b) The flowing or producing of wells from an groundwater reservoir if the water produced is not used for a beneficial purpose;

c) Escape of groundwater from a groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater;

d) pollution or harmful alteration of groundwater in a groundwater reservoir by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground;

e) Willfully or negligently causing, suffering, or allowing groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or ditch, or onto any land other than that of the owner of the well unless such

discharge is authorized by permit, rule, or order issued by the commission under Chapter 26;

f) Groundwater pumped for irrigation that escapes as irrigation tailwater onto land other than that of the owner of the well unless permission has been granted by the occupant of the land receiving the discharge;

g) For water produced from an artesian well, waste has the meaning assigned by Section 11.205 Texas Water Code.

RULE 13.2 WASTE PREVENTION:

a) Underground Water shall not be produced within, or used within or without the District, in such a manner as to constitute waste as defined in Rule 1, Section (v) hereof.

b) No person shall pollute or harmfully alter the character of the underground water reservoir of the District by means of salt water of other deleterious matter admitted from some other stratum or strata from the surface of the ground.

c) No person shall commit waste as that term is defined in Section 13.

RULE 13.3 USE FOR A BENEFICIAL PURPOSE:

a) agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, recreational, or pleasure purposes;

b) exploring for, producing, handling, or treating oil, gas, sulphur, or other minerals; or

c) any other purpose that is useful and beneficial to the user.

SECTION 14. HEARINGS

RULE 14.1 TYPES OF HEARINGS:

The District conducts two general types of hearings: hearings involving permit matters, in which the rights, duties, or privileges of a party are determined after an opportunity for an adjudicative hearing, and rulemaking hearings involving matters of general applicability that implement, interpret, or prescribe the law or District policy, or that describe the procedure or practice requirements of the District. Any matter designated for hearing before the Board may be referred by the Board for hearing before a Hearing Examiner.

a) **Permit Hearings**:

1) **Permit Applications, Amendments and Revocations**: The District will hold hearings on water well drilling permits, operating permits, permit renewals or amendments and permit revocations or suspensions. Hearings involving permit matters may be scheduled before a Hearing Examiner.

2) **Hearings on Motions for Rehearing**: Motions for Rehearing will be heard by the Board pursuant to Rule 14.8(b).

b) **Rule-making Hearings**:

1) **District Management Plan**: At its discretion, the Board may hold a hearing to consider adoption of a new District Management plan.

2) **Other Matters**: A public hearing may be held on any matter within the jurisdiction of the Board ,if the Board deems a hearing to be in the public interest, or necessary to effectively carry out the duties and responsibilities of the District.

RULE 14.2 NOTICE AND SCHEDULING OF HEARINGS:

The General Manager, as instructed by the Board, is responsible for giving notice of all hearings in the following manner:

a) Notice will be given to each person who requests copies of hearing notices pursuant to the procedures set forth in subsection (b), and any other person the Board of Directors deem appropriate. The date of delivery or mailing of notice may not be less than ten calendar days before the date set for the hearing.

Notice of hearing will be published at least once in a newspaper of general circulation in the District. The date of publication may not be less than ten calendar days before the date set for the hearing.

A copy of the notice will be posted at the county courthouse in the place where notices are usually posted. The date of posting may not be less than ten calendar days before the date of the hearing.

In addition to the notices required above, when a hearing involves an operating permit matter, notice of the date, time, and location of the hearing will be given to the applicant at least ten calendar days before the day of the hearing.

In addition to the notice required above, when a hearing involves designation of a Production Limitation Management Area, a copy of the notice must be provided to each landowner, well owner, well operator and known groundwater right holder in the proposed management area.

b) Any person having an interest in the subject matter of a hearing or hearings may receive written notice of such hearing or hearings by submitting a request in writing. The request must identify with as much specificity as possible the hearing or hearings for which written notice is requested. The request remains valid for a period of one year from the date of the request, after which time a new request must be submitted. Failure to provide written notice under this section does not invalidate any action taken by the Board.

c) Hearings may be scheduled during the District's regular business hours, Monday through Friday of each week, except District holidays. All permit hearings will be held at the District Office. However, the Board may from time to time change or schedule additional dates, times, and places for permit hearings by resolution adopted at a regular Board meeting. The General Manager is instructed by the Board to schedule hearings involving permit matters at such dates, times, and places set forth above for permit hearings. Other hearings will be scheduled at the dates, times and locations set at a regular Board meeting.

RULE 14.3 GENERAL PROCEDURES:

a) **Authority of Presiding Officer**: The presiding officer may conduct the hearing or other proceeding in the manner the presiding officer deems most appropriate for the particular proceeding. The presiding officer has the authority to:

1) set hearing dates, other than the initial hearing date for permit matters set by the General Manager in accordance with Rule 14.2(c);
2) convene the hearing at the time and place specified in the notice for public hearing;
3) establish the jurisdiction of the District concerning the subject matter under consideration;
4) rule on motions and on the admissibility of evidence and amendments to pleadings;
5) designate and align parties and establish the order for presentation of evidence;
6) administer oaths to all persons presenting testimony;
7) examine witnesses;
8) issue subpoenas when required to compel the attendance of witnesses or the production of papers and documents;
9) require the taking of depositions and compel other forms of discovery under these rules;
10) ensure that information and testimony are introduced as conveniently and expeditiously as possible, without prejudicing the rights of any party to the proceeding;
11) conduct public hearings in an orderly manner in accordance with these rules;
12) recess any hearing from time to time and place to place;
13) reopen the record of a hearing for additional evidence when necessary to make the record more complete; and
14) exercise any other appropriate powers necessary or convenient to effectively carry out the responsibilities of presiding officer.

b) **Hearing Registration Forms**: Each individual attending a hearing or other proceeding of the District must submit a form providing the following information: name; address; whether the person plans to testify; and any other information relevant to the hearing or other proceeding.

c) **Appearance; Representative Capacity**: Any interested person may appear in person or may be represented by counsel, engineer, or other representative provided the representative is fully authorized to speak and act for the principal. Such person or representative may present evidence, exhibits, or testimony, or make an oral presentation in accordance with the procedures applicable to the particular proceeding. Any partner may appear on behalf of the partnership. A duly authorized officer or agent of a public or private corporation, political subdivision, governmental agency, municipality, association, firm, or other entity may appear for the entity. A fiduciary may appear for a ward, trust, or estate. A person appearing in a representative capacity may be required to prove proper authority.

d) **Alignment of Parties; Number of Representatives Heard**: Participants in a proceeding may be aligned according to the nature of the proceeding and their relationship to it. The presiding officer may require the participants of an aligned class to select one or more persons to represent them in the proceeding or on any particular matter or ruling and may limit the number of representatives heard, but must allow at least one representative of an aligned class to be heard in the proceeding or on any particular matter or ruling.

e) **Appearance by Applicant or Movant**: The applicant, movant or party requesting the hearing or other proceeding or a representative should be present at the hearing or other proceeding. Failure to so appear may be grounds for withholding consideration of a matter and dismissal without prejudice or may require the rescheduling or continuance of the hearing or other proceeding if the presiding officer deems it necessary in order to fully develop the record.

f) **Reporting**: Hearings and other proceedings will be recorded on audio cassette tape or, at the discretion of the presiding officer, may be recorded by a certified shorthand reporter. The District does not prepare transcripts of hearings or other proceedings recorded on audio cassette tape on District equipment for the public, but the District will arrange access to the recording. Subject to availability of space, any party may, at their own expense, arrange for a reporter to report the hearing or other proceeding or for recording of the hearing or other proceeding. The cost of reporting or transcribing a permit hearing may be assessed in accordance with Rule 14.5(b). If a proceeding other than a permit hearing is recorded by a reporter, and a copy of the transcript of testimony is ordered by any person, the testimony will be transcribed and the original transcript filed with the papers of the proceeding at the expense of the person requesting the transcript of testimony. Copies of the transcript of testimony of any hearing or other proceeding thus reported may be purchased from the reporter.

g) **Continuance**: The presiding officer may continue hearings or other proceedings from time to time and from place to place without the necessity of publishing, serving, mailing or otherwise issuing a new notice. If a hearing or other proceeding is continued and a time and place (other than the District Office) for the hearing or other proceeding to reconvene are not publicly announced at the hearing or other proceeding by the presiding officer before it is recessed, a notice of any further setting of the hearing or

other proceeding will be delivered at a reasonable time to all parties, persons who have requested notice of the hearing pursuant to Rule 14.2(b), and any other person the presiding officer deems appropriate, but it is not necessary to post at the county courthouses or publish a newspaper notice of the new setting.

h) **Filing of Documents; Time Limit**: Applications, motions, exceptions, communications, requests, briefs or other papers and documents required to be filed under these rules or by law must be received in hand at the District's Office within the time limit, if any, set by these rules or by the presiding officer for filing. Mailing within the time period is insufficient if the submissions are not actually received by the District within the time limit.

i) **Computing Time**: In computing any period of time specified by these rules, by a presiding officer, by Board orders, or by law, the day of the act, event, or default after which the designated period of time begins to run is not included, but the last day of the period computed is included, unless the last day is a Saturday, Sunday or legal holiday as determined by the Board, in which case the period runs until the end of the next day which is neither a Saturday, Sunday nor a legal holiday.

j) **Affidavit**: Whenever the making of an affidavit by a party to a hearing or other proceeding is necessary, it may be made by the party or the party's representative or counsel. This rule does not dispense with the necessity of an affidavit being made by a party when expressly required by statute.

k) **Broadening the Issues**: No person will be allowed to appear in any hearing or other proceeding that in the opinion of the presiding officer is for the sole purpose of unduly broadening the issues to be considered in the hearing or other proceeding.

l) **Conduct and Decorum**: Every person, party, representative, witness, and other participant in a proceeding must conform to ethical standards of conduct and must exhibit courtesy and respect for all other participants. No person may engage in any activity during a proceeding that interferes with the orderly conduct of District business. If in the judgment of the presiding officer, a person is acting in violation of this provision, the presiding officer will first warn the person to refrain from engaging in such conduct. Upon further violation by the same person, the presiding officer may exclude that person from the proceeding for such time and under such conditions as the presiding officer deems necessary.

RULE 14.4 UNCONTESTED PERMIT HEARINGS PROCEDURES:

a) **Written Notice of Intent to Contest**: Any person who intends to contest a permit application must provide written notice of that intent to the District office located at 212 North Avenue G, P. O. Box 497, Lamesa, TX 79331-0497 at least five calendar days prior to the date of the hearing. If the Board of Directors intend to contest a permit application, the Board of Directors must provide the applicant written notice of that intent at least five calendar days prior to the date of the hearing. If no notice of intent to contest is

received five calendar days prior to the hearing, the general manager as instructed by the Board of Directors, will cancel the hearing and the board will consider the permit at the next regular board meeting.

b) **Informal Hearings**: Permit hearings may be conducted informally when, in the judgment of the Hearing Examiner, the conduct of a proceeding under informal procedures will save time or cost to the parties, lead to a negotiated or agreed settlement of facts or issues in controversy, and not prejudice the rights of any party.

c) **Agreement of Parties**: If, during an informal proceeding, all parties reach a negotiated or agreed settlement which, in the judgment of the Hearing Examiner, settles the facts or issues in controversy, the proceeding will be considered an uncontested case and the Hearing Examiner will summarize the evidence, make findings of fact and conclusions of law based on the existing record and any other evidence submitted by the parties at the hearing.

d) **Decision to Proceed as Uncontested or Contested Case**: If the parties do not reach a negotiated or agreed settlement of the facts and issues in controversy or if any party contests a staff recommendation, and the Hearing Examiner determines these issues will require extensive discovery proceedings, the Hearing Examiner will declare the case to be contested and convene a preheating conference as set forth in Rule 14.5. The Hearing Examiner may also recommend issuance of a temporary permit for a period not to exceed 4 months, with any special provisions the Hearing Examiner deems necessary, for the purpose of completing the contested case process. Any case not declared a contested case under this provision is an uncontested case and the Hearing Examiner will summarize the evidence, make findings of fact and conclusions of law, and make appropriate recommendations to the Board.

RULE 14.5 CONTESTED PERMIT HEARINGS PROCEDURES:

a) **Preheating Conference**: A preheating conference may be held to consider any matter which may expedite the hearing or otherwise facilitate the hearing process.

1) **Matters Considered**: Matters which may be considered at a preheating conference include, but are not limited to, (1) the designation of parties; (2) the formulation and simplification of issues; (3) the necessity or desirability of amending applications or other pleadings; (4) the possibility of making admissions or stipulations; (5) the scheduling of discovery; (6) the identification of and specification of the number of witnesses; (7) the filing and exchange of prepared testimony and exhibits; and (8) the procedure at the hearing.

2) **Notice**: A preheating conference may be held at a date, time, and place stated in a separate notice given in accordance with Rule 14.2, or at the date, time, and place for hearing stated in the notice of public hearing, and may be continued from time to time

and place to place, at the discretion of the Hearing Examiner.

3) **Conference Action**: Action taken at a preheating conference may be reduced to writing and made a part of the record or may be stated on the record at the close of the conference.

b) **Assessing Reporting and Transcription Costs**: Upon the timely request of any party, or at the discretion of the Hearing Examiner, the Hearing Examiner may assess reporting and transcription costs to one or more of the parties. The Hearing Examiner must consider the following factors in assessing reporting and transcription costs:

1. the party who requested the transcript;
2. the financial ability of the party to pay the costs;
3. the extent to which the party participated in the hearing;
4. the relative benefits to the various parties of having a transcript;
5. the budgetary constraints of a governmental entity participating in the proceeding;
6. any other factor that is relevant to a just and reasonable assessment of costs.

In any proceeding where the assessment of reporting or transcription costs is an issue, the Hearing Examiner must provide the parties an opportunity to present evidence and argument on the issue. A recommendation regarding the assessment of costs must be included in the Hearing Examiner's report to the Board.

c) **Designation of Parties**: Parties to a hearing will be designated on the first day of hearing or at such other time as the Hearing Examiner determines. The Board of Directors and any person specifically named in a matter are automatically designated parties. Persons other than the automatic parties must, in order to be admitted as a party, appear at the proceeding in person or by representative and seek to be designated. After parties are designated, no other person may be admitted as a party unless, in the judgment of the Hearing Examiner, there exists good cause and the hearing will not be unreasonably delayed.

d) **Rights of Designated Parties**: Subject to the direction and orders of the Hearing Examiner, parties have the right to conduct discovery, present a direct case, cross-examine witnesses, make oral and written arguments, obtain copies of all documents filed in the proceeding, receive copies of all notices issued by the District concerning the proceeding, and otherwise fully participate in the proceeding.

e) **Persons Not Designated Parties**: At the discretion of the Hearing Examiner, persons not designated as parties to a proceeding may submit comments or statements, orally or in writing. Comments or statements submitted by non-parties may be included in the record, but may not be considered by the Hearing Examiner as evidence.

f) **Furnishing Copies of Pleadings**: After parties have been designated, a copy

of every pleading, request, motion, or reply filed in the proceeding must be provided by the author to every other party or the party's representative. A certification of this fact must accompany the original instrument when filed with the District. Failure to provide copies may be grounds for withholding consideration of the pleading or the matters set forth therein.

g) **Interpreters for Deaf Parties and Witnesses**: If a party or subpoenaed witness in a contested case is deaf, the District must provide an interpreter whose qualifications are approved by the State Commission for the Deaf and Hearing Impaired to interpret the proceedings for that person. "Deaf person" means a person who has a hearing impairment, whether or not the person also has a speech impairment, that inhibits the person's comprehension of the proceedings or communication with others.

h) **Agreements to be in Writing**: No agreement between parties or their representatives affecting any pending matter will be considered by the Hearing Examiner unless it is in writing, signed, and filed as part of the record, or unless it is announced at the hearing and entered as record.

i) **Discovery**: Discovery will be conducted upon such terms and conditions, and at such times and places, as directed by the Hearing Examiner. Unless specifically modified by these rules or by order of the Hearing Examiner, discovery will be governed by, and subject to the limitations set forth in, the Texas Rules of Civil Procedure. In addition to the forms of discovery authorized under the Texas Rules of Civil Procedure, the parties may exchange informal requests for information, either by agreement or by order of the Hearing Examiner.

j) **Discovery Sanctions**: If the Hearing Examiner finds a party is abusing the discovery process in seeking, responding to, or resisting discovery, the Hearing Examiner may:

1) suspend processing of the application for a permit if the applicant is the offending party;

2) disallow any further discovery of any kind or a particular kind by the offending party;

3) rule that particular facts be regarded as established against the offending party for the purposes of the proceeding, in accordance with the claim of the party obtaining the discovery ruling;

4) limit the offending party's participation in the proceeding;

5) disallow the offending party's presentation of evidence on issues that were the subject of the discovery request; and

6) recommend to the Board that the hearing be dismissed with or without prejudice.

k) **Ex Parte Communications**: The Hearing Examiner may not communicate, directly or indirectly, in connection with any issue of fact or law with any agency, person, party, or their representatives, except on notice and opportunity for all parties to participate.

This provision does not prevent communications with staff not directly involved in the hearing to utilize the special skills and knowledge of the agency in evaluating the evidence.

l) **Compelling Testimony; Swearing Witnesses and Subpoena Power**: The Hearing Examiner may compel the testimony of any person which is necessary, helpful, or appropriate to the hearing. The Hearing Examiner will administer the oath in a manner calculated to impress the witness with the importance and solemnity of the promise to adhere to the truth. The Hearing Examiner may issue subpoenas to compel the testimony of any person and the production of books, papers, documents, or tangible things, in the manner provided in the Texas Rules of Civil Procedure.

m) **Evidence**: Except as modified by these rules, the Texas Rules of Civil Evidence govern the admissibility and introduction of evidence; however, evidence not admissible under the Texas Rules of Civil Evidence may be admitted if it is of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs. In addition, evidence may be stipulated by agreement of all parties.

n) **Written Testimony**: When a proceeding will be expedited and the interest of the parties will not be prejudiced substantially, testimony may be received in written form. The written testimony of a witness, either in narrative or question and answer form, may be admitted into evidence upon the witness being sworn and identifying the testimony as a true and accurate record of what the testimony would be if given orally. The witness will be subject to clarifying questions and to cross-examination, and the prepared testimony will be subject to objection.

o) **Requirements for Exhibits**: Exhibits of a documentary character must be sized to not unduly encumber the files and records of the District. All exhibits must be numbered and, except for maps and drawings, may not exceed 8-1/2 by 11 inches in size.

p) **Abstracts of Documents**: When documents are numerous, the Hearing Examiner may receive in evidence only those which are representative and may require the abstracting of relevant data from the documents and the presentation of the abstracts in the form of an exhibit. Parties have the right to examine the documents from which the abstracts are made.

q) **Introduction and Copies of Exhibits**: Each exhibit offered must be tendered for identification and placed in the record. Copies must be furnished to the Hearing Examiner and to each of the parties, unless the Hearing Examiner rules otherwise.

r) **Excluding Exhibits**: In the event an exhibit has been identified, objected to, and excluded, it may be withdrawn by the offering party. If withdrawn, the exhibit will be returned and the offering party waives all objections to the exclusion of the exhibit. If not withdrawn, the exhibit will be included in the record for the purpose of preserving the objection to excluding the exhibit.

s) **Official Notice**: The Hearing Examiner may take official notice of all facts judicially cognizable. In addition, official notice may be taken of generally recognized facts within the area of the District's specialized knowledge.

t) **Documents in District Files**: Extrinsic evidence of authenticity is not required as a condition precedent to admissibility of documents maintained in the files and records of the District.

u) **Oral Argument**: At the discretion of the Hearing Examiner, oral arguments may be heard at the conclusion of the presentation of evidence. Reasonable time limits may be prescribed. The Hearing Examiner may require or accept written briefs in lieu of, or in addition to, oral arguments. When the matter is presented to the Board for final decision, further oral arguments may be heard by the Board.

RULE 14.6 CONCLUSION OF THE HEARING; REPORT:

a) **Closing the Record; Final Report**: At the conclusion of the presentation of evidence and any oral argument, the Hearing Examiner may either close the record or keep it open and allow the submission of additional evidence, exhibits, briefs, or proposed findings and conclusions from one or more of the parties. No additional evidence, exhibits, briefs, or proposed findings and conclusions may be filed unless permitted or requested by the Hearing Examiner. After the record is closed, the Hearing Examiner will prepare a report to the Board. The report must include a summary of the evidence, together with the Hearing Examiner's findings and conclusions and recommendations for action. Upon completion and issuance of the Hearing Examiner's report, a copy must be submitted to the Board and delivered to each party to the proceeding. In a contested case, delivery to the parties must be by certified mail.

b) **Exceptions to the Hearing Examiner's Report; Reopening the Record**: Prior to Board action any party in a contested case may file written exceptions to the Hearing Examiner's report, and any party in an uncontested case may request an opportunity to make an oral presentation of exceptions to the Board. Upon review of the report and exceptions, the Hearing Examiner may reopen the record for the purpose of developing additional evidence, or may deny the exceptions and submit the report and exceptions to the Board. The Board may, at any time and in any case, remand the matter to the Hearing Examiner for further proceedings.

c) **Time for Board Action on Certain Permit Matters**: In the case of hearings involving new permit applications, original applications for existing wells, or applications for permit renewals or amendments, the Hearing Examiner's report should be submitted, and the Board should act, within 60 calendar days after the close of the hearing record.

RULE 14.7 RULEMAKING HEARINGS PROCEDURES:

a) **General Procedures**: The presiding officer will conduct the rulemaking hearing in the manner the presiding officer deems most appropriate to obtain all relevant information pertaining to the subject of the hearing as conveniently, inexpensively, and expeditiously as possible. The presiding officer may follow the guidelines of "Parliamentary Procedure at a Glance," New Edition, O. Garfield Jones, 1971 revised edition, or as amended.

b) **Submission of Documents**: Any interested person may submit written statements, protests or comments, briefs, affidavits, exhibits, technical reports, or other documents relating to the subject of the hearing. Such documents must be submitted no later than the time of the hearing, as stated in the notice of hearing given in accordance with Rule 14.2; provided, however, that the presiding officer may grant additional time for the submission of documents.

c) **Oral Presentations**: Any person desiring to testify on the subject of the hearing must so indicate on the registration form provided at the hearing. The presiding officer establishes the order of testimony and may limit the number of times a person may speak, the time period for oral presentations, and the time period for raising questions. In addition, the presiding officer may limit or exclude cumulative, irrelevant, or unduly repetitious presentations.

d) **Conclusion of the Hearing; Closing the Record; Hearing Examiner's Report**: At the conclusion of the testimony, and after the receipt of all documents, the presiding officer may either close the record, or keep it open to allow the submission of additional information. If the presiding officer is a Hearing Examiner, the Hearing Examiner must, after the record is closed, prepare a report to the Board. The report must include a summary of the subject of the hearing and the public comments received, together with the Hearing Examiner's recommendations for action. Upon completion and issuance of the Hearing Examiner's report, a copy must be submitted to the Board. Any interested person who so requests in writing will be notified when the report is completed, and furnished a copy of the report.

e) **Exceptions to the Hearing Examiner's Report; Reopening the Record**: Any interested person may make exceptions to the Hearing Examiner's report, and the Board may reopen the record, in the manner prescribed in Rule 14.6(b).

RULE 14.8 FINAL DECISION; APPEAL:

a) **Board Action**: After the record is closed and the matter is submitted to the Board, the Board may then take the matter under advisement, continue it from day to day, reopen or rest the matter, refuse the action sought or grant the same in whole or part, or take any other appropriate action. The Board action takes effect at the conclusion of the meeting and is not affected by a motion for rehearing.

b) **Requests for Rehearing**: Any decision of the Board on a matter may be appealed by requesting a rehearing before the Board within 20 calendar days of the Board's decision. Such a rehearing request must be filed at the District Office in writing and must state clear and concise grounds for the request. Such a rehearing request is mandatory with respect to any decision or action of the Board before any appeal may be brought. The Board's decision is final if no request for rehearing is made within the specified time, or upon the Board's denial of the request for rehearing, or upon rendering a decision after rehearing. If the rehearing request is granted by the Board, the date of the rehearing will be within 45 calendar days thereafter, unless otherwise agreed to by the parties to the proceeding. The failure of the Board to grant or deny the request for rehearing within 90 calendar days of submission will be deemed to be a denial of the request.

SECTION 15. INVESTIGATIONS AND ENFORCEMENT

RULE 15.1 NOTICE AND ACCESS TO PROPERTY:

Board Members and District agents and employees are entitled to access to all property within the District to carry out technical and other investigations necessary to the implementation of the District Rules. Prior to entering upon property for the purpose of conducting an investigation, the person seeking access must give notice in writing or in person or by telephone to the owner, lessee, or operator, agent, or employee of the well owner or lessee, as determined by information contained in the application or other information on file with the District. Notice is not required if prior permission is granted to enter without notice. Inhibiting or prohibiting access to any Board Member or District agents or employees who are attempting to conduct an investigation under the District Rules constitutes a violation and subjects the person who is inhibiting or prohibiting access, as well as any other person who authorizes or allows such action, to the penalties set forth in the Texas Water Code Chapter 36.102.

RULE 15.2 CONDUCT OF INVESTIGATION:

Investigations or inspections that require entrance upon property must be conducted at reasonable times, and must be consistent with the establishment's rules and regulations concerning safety, internal security, and fire protection. The persons conducting such investigations must identify themselves and present credentials upon request of the owner, lessee, operator, or person in charge of the well.

RULE 15.3 RULE ENFORCEMENT:

If it appears that a person has violated, is violating, or is threatening to violate any provision of the District Rules the Board of Directors may institute and conduct a suit in the name of the District for enforcement of rules through the provisions of Chapter 36.102 Texas Water Code.

RULE 15.4 SEALING OF WELLS:

Following due-process, the District may, upon orders from the judge of the courts,

seal wells that are prohibited from withdrawing groundwater within the District by the District Rules to ensure that a well is not operated in violation of the District Rules. A well may be sealed when: (1) no application has been made for a permit to drill a new water well which is not excluded or exempted; or (2) no application has been made for an operating permit to withdraw groundwater from an existing well that is not excluded or exempted from the requirement that a permit be obtained in order to lawfully withdraw groundwater; or (3) the Board has denied, canceled or revoked a drilling permit or an operating permit.

The well may be sealed by physical means, and tagged to indicate that the well has been sealed by the District, and other appropriate action may be taken as necessary to preclude operation of the well or to identify unauthorized operation of the well.

Tampering with, altering, damaging, or removing the seal of a sealed well, or in any other way violating the integrity of the seal, or pumping of groundwater from a well that has been sealed constitutes a violation of these rules and subjects the person performing that action, as well as any well owner or primary operator who authorizes or allows that action, to such penalties as provided by the District Rules.

Rule ___ Covering of Wells

Every owner or operator of any land within the District, upon which is located any open or uncovered well is, and shall be, required to close or cap the same permanently or temporarily as set forth below and in accordance with Chapter 36, Texas Water Code and subsequent changes thereto.

A. The District may require the owner or lessee of land on which an open or uncovered well is located to keep the well permanently closed or capped with a covering capable of sustaining weight of at least 400 pounds, except when the well is in actual use.

B. As used in this section, "open or uncovered well" means an artificial excavation that is dug or drilled for the purpose of exploring for or producing water from the underground water reservoir and is not capped or covered as required.

C. If the owner or lessee fails or refuses to close or cap the well in compliance with this Rule within 10 days after being requested to do so in writing by an officer, agent, or employee of the District; any person, firm, or corporation employed by the District may go on the land and close or cap the well safely and securely.

D. Reasonable expenses incurred by the District in closing or capping a well constitute a lien on the land on which the well is located.

E. The lien is perfected by filing in the deed records of the county where the well is located an affidavit, executed by any person conversant with the facts, stating the following:

1. the existence of the well;
2. the legal description of the property on which the well is located;
3. the approximate location of the well on the property;
4. the failure or refusal of the owner or lessee, after notification, to close the well within 10 days after the notification;
5. the closing of the well by the District, or by an authorized agent, representative, or employee of the District; and
6. the expense incurred by the District in closing the well.

Nothing in this Rule affects the enforcement of Subchapter A, Chapter 756, Health and Safety Code.

Rule ___ Waste or Pollution

A. Water shall not be produced or used within the District in such a manner or under such conditions as to constitute waste as defined by Rule 1 hereof. **Water shall not be produced from an abandoned or deteriorated well.**

B. Any person producing or using underground water shall use every possible precaution, in accordance with the most approved methods, to stop and prevent waste of such water.

C. A well identified as an abandoned or deteriorated well, or a borehole, must be plugged, capped or re-completed in accordance with the requirements of the District and any statewide law, agency or political subdivision having jurisdiction including, but not limited to, the Texas Water Well Drillers Act, and the Texas Natural Resources Conservation Commission.

Definition of Waste in Rule 1

"Waste" as used herein shall have the same meaning as defined by Chapter 36 of the Texas Water Code as now or hereafter amended as follows:

"Waste means any one or more of the following:

1. Withdrawal of groundwater from a groundwater reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes;
2. The flowing or producing of wells from a groundwater reservoir if the water produced is not used for a beneficial purpose;
3. Escape of groundwater from a groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater;
4. Pollution or harmful alteration of groundwater in a groundwater reservoir by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground;
5. Willfully or negligently causing, suffering, or allowing groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well unless such discharge is authorized by permit, rule, or order issued by the Commission under Chapter 26;
6. Groundwater pumped for irrigation that escapes as irrigation tailwater onto land other than that of the owner of the well unless permission has been granted by the occupant of the land receiving the discharge;
7. For water produced from an artesian well, "waste" has the meaning assigned by Section 11.205."

TEXAS COUNTRY GROUNDWATER

CONSERVATION DISTRICT

MANAGEMENT PLAN

ADOPTED - JUNE 23, 1998

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- Projected Water Supplies of Texas County ..... -3-
- Groundwater Use in Texas County ..... -3-
- Projected Demands for Water in Texas County ..... -4-
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GOALS, MANAGEMENT OBJECTIVES and PERFORMANCE STANDARDS .... -5-

SB-1 MANAGEMENT GOALS DETERMINED NOT-APPLICABLE ..... -9-

DISTRICT MISSION

The Texas Country Groundwater Conservation District will strive to develop, promote, and implement water conservation, augmentation, and management strategies to protect water resources for the benefit of the citizens, economy, and environment of the district.

STATEMENT OF GUIDING PRINCIPLES

The district recognizes that the groundwater resources of the region are of vital importance. The preservation of this most valuable resource can be managed in a prudent and cost effective manner through education and cooperation. The greatest threat to prevent the district from achieving the stated mission is inappropriate management, based on a lack of understanding of local conditions. A basic understanding of the aquifers and their hydrogeologic properties, as well as a quantification of resources are the foundation from which to build prudent planning measures. This management document is intended as a tool to focus the thoughts and actions of those given the responsibility for the execution of district activities.

General Description

The District was created by the citizens of Texas County through election, October 13, 1961. The current board of directors are Carolyn Brittin-Chairperson, Tommy Knowles, and Bill Mullican. The District General Manager is Steve Densmore. Texas Country Groundwater Conservation District (TC GCD) has the same areal extent as that of Texas County, Texas. The County has a vibrant economy dominated by the agricultural community. The agricultural income is derived primarily from beef cattle production, wheat, oats, barley, with some sheep and goat ranching. Recreational hunting leases and production of petroleum also contribute to the income of the county.

Location and Extent

Texas County, having an areal extent of 945 square miles, is located deep in the heart of the State of Texas. The county is bounded on the east by Louisiana County, on the north by Oklahoma County, on the west by New Mexico County, and on the south by Mexico County. Big City, which is centrally located in the county, is the county seat. Small City, the only other municipality in the county, is located in the southeast portion of the county.

Topography and Drainage

Texas County is located in the Orange Section of the Central Lowland Province. Topographically, the county consists of rolling plains heavily dissected by Crucifix River drainage. The altitude of the land surface ranges from 792 to 1398 feet above mean sea level.

Texas County lies within the drainage system of the Crucifix River basin. The Crucifix River enters the county in the northwest and traverses through the middle of the county and exits through the southeast corner. The river has been damned 3 miles northwest of Big City to form Big City Lake.

Groundwater Resources of Texas County

The Indian aquifer is the primary source of groundwater in Texas County. The Indian aquifer yields groundwater from sands and sandstones of the Two Hills Formation of the Crucifix group of Cretaceous age. In outcrop areas of the Two Hills Formation, large capacity irrigation wells producing from the unconfined portion of the Indian aquifer are used to meet the needs of the agricultural community. Downdip from the outcrop area, in the artesian portion of the aquifer, groundwater production is used to meet the needs of public water supply, domestic, and livestock, and oil and gas secondary recovery (water flood) operations. Primary sources of water in the Indian aquifer include the infiltration of precipitation on the outcrops and infiltration of surface water from unlined earthen ponds, lakes, and streams on or crossing Twin Hills outcrops. The Indian aquifer primarily exists under water-table conditions along the outcrop and under artesian conditions downdip, where confining beds of limestone, shale, and clay bound the water-bearing units. Movement of groundwater is primarily down gradient, from high to low elevations, and at right angles to the potentiometric surface contours, which denote the configuration of the water table. Groundwater movement is also to the east and locally, away from groundwater highs and towards the surface drainage system or groundwater lows that have developed as a result of production in large well fields.

The Little Indian aquifer is composed of Recent alluvium of Quaternary age and is a minor source of ground water used primarily in Texas County for livestock purposes. Alluvial deposits are found in the floodplain of the major tributaries of streams, which make up the surface drainage system in the county. Ground water in the alluvium is generally a calcium-bicarbonate water, very hard, normally of neutral pH, and of greatly varying levels of total dissolved-solids. Due to the combination of naturally occurring, poor quality water in many areas and the contamination by various activities occurring in the oil and gas industry, the overall quality of groundwater obtained from the Little Indian aquifer is poor for domestic purposes.

Currently the District is using the Texas Water Development Board=s Groundwater Availabilities Estimation Process, which uses available datasets to generate digital descriptions of the aquifers. The datasets describe saturated thickness, and yield, which the product describes as water in storage. When combined with recharge and production values, these estimates can be used by the District to derive goals for future estimates of available groundwater and necessary production limits. It is estimated that annual recharge to the Indian aquifer is 85,000 acre-feet per year. Currently, the aquifer rejects 65,000 acre-feet per year of recharge annually yielding an effective recharge rate of 20,000 acre-feet per year. The estimated recoverable volume of water in storage from the artesian portion of the Indian aquifer is 1 million acre-feet. The outcrop (water table) portion of the aquifer contains 3 million acre-feet of recoverable water in storage. Currently there is an estimated 200 acre-feet per year of recharge and 20,000 acre-feet of recoverable water in storage for the Little Indian

aquifer. The District believes that the Little Indian aquifer estimates need to be improved before realistic production limits can prudently be determined.

Surface Water Resources of Texas County

The only surface impoundment used to supply water other than for livestock consumption, is Big City Lake. The average annual supply from this impoundment is 40,000 acre-feet, however, the calculated annual firm yield is 36,000 acre-feet. The siltation rate has been determined to be 300 acre-feet per year. Therefore, for planning calculations it will be assumed to supply an average of 36,000 acre-feet per year but during drought conditions, the supply would be 31,000 acre-feet by the year 2050. The owner and operator of Big City Lake and all reaches of the Crucifix River within Texas County is the Crucifix River Authority.

Projected Water Supplies of Texas County

Regardless, of published projected needs for Texas County, the District has determined that groundwater supplies of the county will not exceed an amount that results in the recoverable volume of water in storage in the Indian aquifer to be less than 50% of today=s value on January 1, 2050. Based upon the values derived from the availabilities estimation process, the calculated maximum annual rate of production from the Indian aquifer is 60,000 acre-feet. Although, data has yet to be determined to judiciously describe the Little Indian aquifer, the goal to maintain 50 percent of current recoverable volume in storage to the year 2050 is applicable.

Groundwater Use in Texas County

During the past five years, groundwater usage in the County has varied from a high of 81,280 acre feet to a low of 56,280 acre feet. Annual usage for the past five years is as follows:

1996	81,280 acre feet per year
1995	75,280 acre feet per year
1994	60,000 acre feet per year
1993	59,000 acre feet per year
1992	56,280 acre feet per year

Projected Demands for Water in Texas County

The TWDB published projected groundwater needs in their planning document WATER for Texas Today and Tomorrow@, 1997. This management planning document is based upon the estimates contained in that document and will be used until alternatives are generated. The TWDB has projected that the total water demands for Texas County will be 97,200 acre-feet per year. This estimate is based on projections of the following breakdown and population statistics. Big City will have a demand of 36,000 acre-feet per year by the year 2050. The projected population for Big City in 2050 is 200,000. The projected demands and population for Little City are 720 acre-feet per year and 4,000 respectively for 2050. Projected agricultural demands from the Indian aquifer is estimated to be 60,000 acre-feet per year.
Projected mining demands are 200 acre-feet per year, domestic and stock demands are 280 acre-feet per year for 2050.

Potential Demand and Supply Issues and Solutions

Based on all calculations and projections it is obvious that issues will arise when demands exceeding supplies. The District will use all regulatory statutes available to encourage Little City to develop either additional surface water supplies or purchase ground water rights. The District anticipates that Big City will also have problems meeting needs during periods of drought. If Big City purchases emergency groundwater rights from the agricultural sector, it will be required to replenish the aquifer with the volume removed. Restitution to the aquifer will be conducted through a District approved aquifer recharge program.

GOALS, MANAGEMENT OBJECTIVES and PERFORMANCE STANDARDS

1.0 Implement a system to improve the basic understanding of groundwater conditions in the District.

1.1 Annually measure 90 percent of the wells in the optimal water-level monitoring network in the Indian aquifer by December 30, 2000. Measure 50 percent of the wells in the optimal water-level monitoring network for the Little Indian aquifer by December 30, 2002.

1.1a - Establish an optimal water-level monitoring network for wells in the Indian aquifer by January 30, 1998. Establish an optimal water-level monitoring network for wells in the Little Indian aquifer by January 30, 1999.

1.1b - Report number of wells monitored annually in each of the networks beginning January 1, 2000.

1.2 Annually measure 80 percent of the wells in the optimal water-quality monitoring network in the Indian aquifer by December 30, 2000. Measure 20 percent of the wells in the optimal water-quality monitoring network for the Little Indian aquifer by December 30, 2002.

1.2a - Establish an optimal water-quality monitoring network for wells in the Indian aquifer by January 30, 1998. Establish an optional water-quality monitoring network for wells in the Little Indian aquifer by January 30, 1999.

1.2b - Report number of wells monitored annually in each of the networks beginning January 1, 2000.

1.3 Enter monitoring data into the district=s database within 45 days of receipt.

1.3a - Provide quarterly report to Board on average number of days to enter data into database beginning January 1, 1999.

1.4 Provide to the Board a report describing the District=s monitoring program and any modifications implemented or recommended for implementation by January 30, 2003 and every year thereafter.

1.5 Evaluate methods for estimating current annual aquifer recharge, discharge, movement and storage values by January 1, 1999.

1.5a - Report annually to the Board on any new methods for estimating aquifer characterization.

1.5b - Review TWDB estimates and projections and provide written comments to the TWDB and the Board within 30 days of publication.
1.5c - Publish updated aquifer characterizations in the District newsletter.

1.5d - Incorporate updated characterizations into District=s management plan once every 5 years.

1.6 Submit two (2) grant proposals seeking funds for necessary system upgrades of the monitoring network or development of estimates of aquifer characteristics by December 31, 2001.

1.7 Disseminate educational information regarding the hydro geologic cycle and status of aquifers annually through one article per issue of district newsletter, two field days/open house and as needed responses to public inquiries by January 1, 1999.

1.7a - Report to the Board annually the number of reports on the results of data collection activities in district newsletter.

1.7b - Keep an annual accounting of District responses to public inquiries. Report number of responses to public inquiries annually to the Board (December 30, 1999).

1.8 Determine acceptable rate of change in the Little Indian aquifer conditions that would allow adequate quantities of useable quality water in the year 2050 to be available.

1.8a - Utilize the Ground-water Availabilities Estimation Process@ to calculate maximum allowable annual depletion of recoverable volume of groundwater in storage.

2.0 Implement management strategies that will protect and enhance the quantity of useable quality water by encouraging the most efficient use by December 30, 1999.

2.1 Disseminate educational information regarding the current conservation practices for efficient use of water resources.

2.1a - Publish articles in District newsletter pertaining to the economic benefits of implementing improved water use efficiency practices. (Minimum two per year).

2.1b - Conduct District demonstration of conservation practices applicable to District. (Minimum two per year).

2.1c - Compile appropriate water conservation literature into a handout packet made available to District patrons and educational institutions. (Minimum two per year, updated as necessary).

2.1d B Report to the Board the number of water conservation literature packets distributed (annually beginning December 30, 1999).

2.2 Encourage and support research that promotes improved water use efficiencies in the agricultural, municipal, domestic and/or industrial sectors.

2.2a B Report to the Board the number of grant proposals submitted annually seeking funds for beneficial studies.

2.3 Set goals and standards for implementation of more efficient practices by January 1, 2001.

2.3a - Report on effectiveness of standards and timelyness of goals to the Board annually after January 1, 2001.

2.3b - Conduct survey of existing water use practices annually after January 1, 1999.

2.4 Determine definitions of aquifer conditions to be used as triggers mechanisms to implement emergency drought management plans by January 1, 1999.

2.4a - Adopt definitions by April 30, 1999.

2.4b - Review definitions and modify every five years.

2.5 Increase alternative funds at a rate equal to or greater than 10 percent over the previous year=s value to provide for financial assistance to encourage the most efficient use of the District=s water resources.

2.5a - Establish an alternative fund account by January 1, 1999.

2.5b - Number of dollar deposited annually into the alternative fund.

3.0 Implement management strategies that will protect and enhance the quantity of useable quality water by controlling and preventing waste.

3.1 Identify wasteful* practices within the District.

3.1a - Conduct survey of existing water use practices annually after January 1, 1999.

3.1b - Evaluate water use practices and determine minimum water need for beneficial use by category by January 1, 1999.

3.1c - Annually obtain and review copies of the Active and Inactive Complaints Tracking System Logs from the Railroad Commission of Texas.

3.1d - Conduct an inventory of abandoned and existing salt-water disposal pits, salt-water disposal wells and secondary recovery operations by January 1, 2002.

3.1e - Locate inventoried sites and complaint sites on District base map by June 1, 2002.

3.2 Write and adopt rules to regulate wasteful practices by June 1, 2001.

3.3 Initiate a District wide program to identify the location of all abandoned* wells by January 1, 1999.

3.3a - Report unplugged abandoned oil and gas wells to the Railroad Commission of Texas within thirty (30) days of discovery.

3.3b - Report unplugged abandoned water wells to the well owners and Board within thirty (30) days of discovery.

3.4 Develop and adopt guidelines, setting forth the period of time allowed, for abandoned well owners to insure voluntary compliance with Texas Water Code well plugging requirements. Set up an abandoned well plugging fund to allow for enforced plugging. Adopt necessary resolutions to allow for enforced plugging of wells belonging to non-compliant owners and to seek the recovery through civil action of such funds as expended during the enforcement by January 1, 1999.

4.0 Implement management strategies that will protect and enhance the quantity of useable quality water through cooperative resolution of conjunctive surface water management issues.

4.1 Coordinate emergency response/drought contingency planning with surface-water entities.

4.1a - Inform surface-water users and suppliers of potential groundwater resources that may be available during emergency need situations by January 1, 2000.

4.1b - Provide documented input for the development of the Regional Drought Management Response Plan by January 1, 1999.

4.2 Evaluate existing historical data and data derived from new monitoring programs to enhance understanding of aquifer/surface-water relationships.

4.2a - Compile existing historical data from all available sources into a database by January 1, 2000.

4.2b - Publish updated understandings in the District newsletter as needed.

4.3 Evaluate the impact of surface-water usage on groundwater resources within the District as needed.

4.3a - Provide comments regarding surface-water rights requests for 100 percent of those requests effecting the groundwater resources of the district.

4.3b - Coordinate with surface-water entities on conjunctive use issues in regards to regional planning efforts by January 1, 1999 and every five years after.

5.0 Implement and enforce a system of rules to meet the goals of regulating the production of groundwater within the District to insure that the citizens of the District will have adequate water for the future by January 1, 2000.

5.1 Determine District attainment status of maximum allowable depletion of recoverable volume of water in storage rate goals by aquifer on an annual basis.

5.2 Implement a system whereby, if the District determines non-attainment of District goals for a period of two years during any five year time frame, for an aquifer, the District shall adopt more stringent groundwater production regulations within 90 days of the determination that implementation trigger criteria has been met.

6.0 Implement and enforce a system of rules for the drilling, completing and equipping of a water well by December 1, 1999.

7.0 Implement and enforce a water well registration program for all water wells and springs by December 1, 2000.

8.0 Implement a tax incentive program for individuals who propose and employ a District approved aquifer recharge enhancement program.

9.0 The District shall treat all citizens of the District with equality.

10.0 District tracking of progress towards achievement of management goals.

10.1 District Manager will prepare and present an annual report to the Board of Directors on District performance in regards to achieving management goals and objectives.

SB-1 MANAGEMENT GOALS DETERMINED NOT-APPLICABLE

1.0 Control and prevention of subsidence.

The rigid geologic framework of the region precludes significant subsidence from occurring.

2.0 Cooperative resolution of natural resource management issues.

The District has no documented occurrences of endangered or threatened species dependent upon groundwater resources.

* Summary definitions.
Optimal- Shall be derived from the minimum number of observations determined by spatial, temporal, and District resource constraints to adequately describe the aquifer system and responses to external influences.

Waste - as defined by Chapter 36 of Texas Water Code means any one or more of the following:

1. Withdrawal of groundwater from a groundwater reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes;

2. The flowing or producing of wells from a groundwater reservoir if the water produced is not used for a beneficial purpose;

3. Escape of groundwater from a groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater;

4. Pollution or harmful alteration of groundwater in a groundwater reservoir by salt water or by other deleterious matter admitted from another stratum or from the surface of the ground;

5. Willfully or negligently causing, suffering, or allowing groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well unless such discharge is authorized by permit, rule, or order issued by the Commission under Chapter 26 of the Texas Water Code;

6. Groundwater pumped for irrigation that escapes as irrigation tailwater onto land other than that of the owner of the well unless permission has been granted by the occupant of the land receiving the discharge; or

7. For water produced from an artesian well waste@ has the meaning assigned by Section 11.205 of the Texas Water Code.

Abandoned Well - shall mean a well or borehole the condition of which is causing, or is likely to cause, pollution of groundwater in the District and includes a well which is or is not in use or which contains no pumping equipment (open or uncovered well). A well or borehole which is not in compliance with applicable law, including the Rules and Regulations of the District, the Texas Water Well Driller=s Act, Texas Natural Resource Conservation Commission, or any other state or federal agency or political subdivision having jurisdiction, if presumed to be an abandoned or deteriorated well.

District- the Texas Country Groundwater Conservation District.

Board- the Board of Directors of the Texas Country Groundwater Conservation District.

West Texas Regional Groundwater Alliance

Cooperative Agreement

(Original Agreement - 1988)

STATE OF TEXAS
COUNTIES OF: COKE, CONCHO, CROCKETT, GLASSCOCK, IRION, KIMBLE, MASON, MENARD, MCCULLOCH, REAGAN, SAN SABA, SCHLEICHER, STERLING, SUTTON, and TOM GREEN

This agreement is made and entered into by and between the members of the West Texas Regional Groundwater Alliance which is comprised of the following underground water conservation districts:

1) Coke County Underground Water Conservation District with offices in Robert Lee, Texas
2) Emerald Underground Water Conservation District with offices in Ozona, Texas
3) Glasscock County Underground Water Conservation District with offices in Garden City, Texas
4) Hickory Underground Water Conservation District #1 with offices in Brady, Texas
5) Irion County Water Conservation District with offices in Mertzon, Texas
6) Lipan-Kickapoo Water Conservation District with offices in Vancourt, Texas
7) Plateau Underground Water Conservation and Supply District with offices in Eldorado, Texas
8) Santa Rita Underground Water Conservation District with offices in Big Lake, Texas
9) Sterling County Underground Water Conservation District with offices in Sterling City, Texas
10) Sutton County Underground Water Conservation District with offices in Sonora, Texas.

WHEREAS, the water conservation districts are political subdivisions of the State of Texas, created under Section 59, Article XVI of the Texas Constitution; and

WHEREAS, the districts operate under authority conferred on them by Acts of the State Legislature and Chapter 35 and 36 of the Texas Water Code, as amended; and

WHEREAS, the purpose of these districts is to provide for the conservation, preservation, protection, recharging, and prevention of waste of the ground water, and to minimize as far as practicable the draw down of the water table or the reduction of artesian pressure; and

WHEREAS, the districts have a common objective of helping to bring about conservation, preservation, and the efficient, beneficial and wise use of water and related resources within their respective jurisdictions; and

WHEREAS, there is a need for the coordination of activities between the groundwater districts to provide for the maximum beneficial use of local tax dollars within the districts.

NOW THEREFORE, in consideration of the premises and the mutual agreements herein, the parties hereto agree:

1. To provide for the continuity of district rules within this region, the districts agree to include the following rules:

   a. A rule providing for the permitting of water wells.
   b. A rule providing for the prevention of waste of the ground water as defined in Chapter 36, as amended, of the Water Code.
   c. A rule providing that water well driller's logs be made and filed with each respective groundwater district office.
   d. A rule providing for the capping or plugging of abandoned water wells.
   e. A rule providing that records be kept of the drilling, equipping, and completion of water wells and the production and use of groundwater.

ACCEPTED:

_____ _____

Coke County UWCD, Board President Date

_____ _____

Emerald UWCD, Board President Date

_____ _____

Glasscock County UWCD, Board President Date

_____ _____

Hickory UWCD #1, Board President Date

_____ _____

Irion County WCD, Board President Date

_____ _____

Lipan-Kickapoo WCD, Board President Date

_____ _____

Plateau UWC & SD, Board President Date

_____ _____

Santa Rita UWCD, Board President Date

_____ _____

Sterling County UWCD, Board President Date

_____ _____

Sutton County UWCD, Board President Date

2. To further provide for program continuity, each district within the region will:

   a. Adopt a management plan.
   b. Collect information deemed necessary by each district.
   c. Monitor water quality on an individually predetermined schedule.
   d. Investigate any aquifer pollution and attempt to locate the source of the pollution.
   e. Notify all appropriate agencies of the pollution problem and attempt to remedy the problem.
   f. Monitor water levels of selected wells within each district on an individually predetermined schedule.
   g. Provide for an ongoing inventory of all water wells within each respective district.
   h. Provide for all forms of public education programs such as: newsletters, seminars, news articles, and field days emphasizing voluntary water conservation measures.

By adoption of this cooperative agreement, all previous cooperative agreements between the groundwater districts are hereby rescinded.

This agreement shall be effective on the date when approved by each Board of Directors of the Alliance and shall remain in effect for an indefinite period of time. Each member district of the Alliance may terminate its participation in this agreement by giving all other parties to this agreement a 90-day notice in writing.

IN WITNESS WHEREOF, the parties of the Alliance hereto cause this agreement to be duly executed this 1st day of June, 1997.

Accepted:

(Signature Page Attached)

APPENDIX C

Groundwater District Forms

1. **Application for Water Well Permit**
2. **Application For Water Well Registration**
3. **Well Completion Report and Driller's Log**
4. **Permit to Produce Water**
5. **Application for High-Impact Production Permit**
6. **Application for Exception to Rules of District**
7. **Deposit & Fee Schedule for Wells & Test-Hole Permits**
8. **Exception to Spacing Rules**
9. **Effective Tax Rate Notice**
10. **Bacteria Analysis Form**
11. **Fee Schedule for out of District Services**

Form No. 98-IWP-01

FOR DISTRICT USE ONLY

WELL NO. _____
DATE OF APPLICATION _____
DATE CERTIFIED _____
DATE OFFICIALLY APPROVED _____
SIZE OF PUMP _____ MAXIMUM YIELD _____ GPM
( ) LOCATED ON MAP

Panhandle Ground Water Conservation District No. 3

Application for Water Well Permit

I, _____ _____
(Name of Applicant) (Phone Number)

_____
(Address) (City, State, Zip)

hereby make application to PANHANDLE GROUND WATER CONSERVATION DISTRICT NO. 3 for a permit to drill the hereinafter described water well at the location indicated:

1. Proposed Size _____INCHES Maximum Yield _____GPM 2. Proposed Use _____

3. NW1/4, NE1/4, SW1/4, SE1/4 of Sec. _____ Blk. _____Survey_____
(Circle the one that applies)

4. County _____ Latitude _____ Longitude _____

5. This well to be located: _____ miles N or S and _____ miles E or W of the town of _____
(Circle the ones that apply. Directions should be in directions shown only.)

6. Driller _____ Drilling to start about _____, 19_____

Please Make Sure Your Measurements Are Correct---They Will Be Checked for Accuracy

Location of Proposed Well as submitted by applicant is _____ measured yards from (N S) and _____ measured yards from (E W) property line, or section line. (Circle direction that applies.)

Number the three adjacent wells, and/or applications, on the plate on the back of this permit as 1, 2, and 3, to correspond with the following:

Well 1 _____ measured yards from the proposed well.

Owned by _____

Address _____

Well 2 _____ measured yards from the proposed well.

Owned by _____

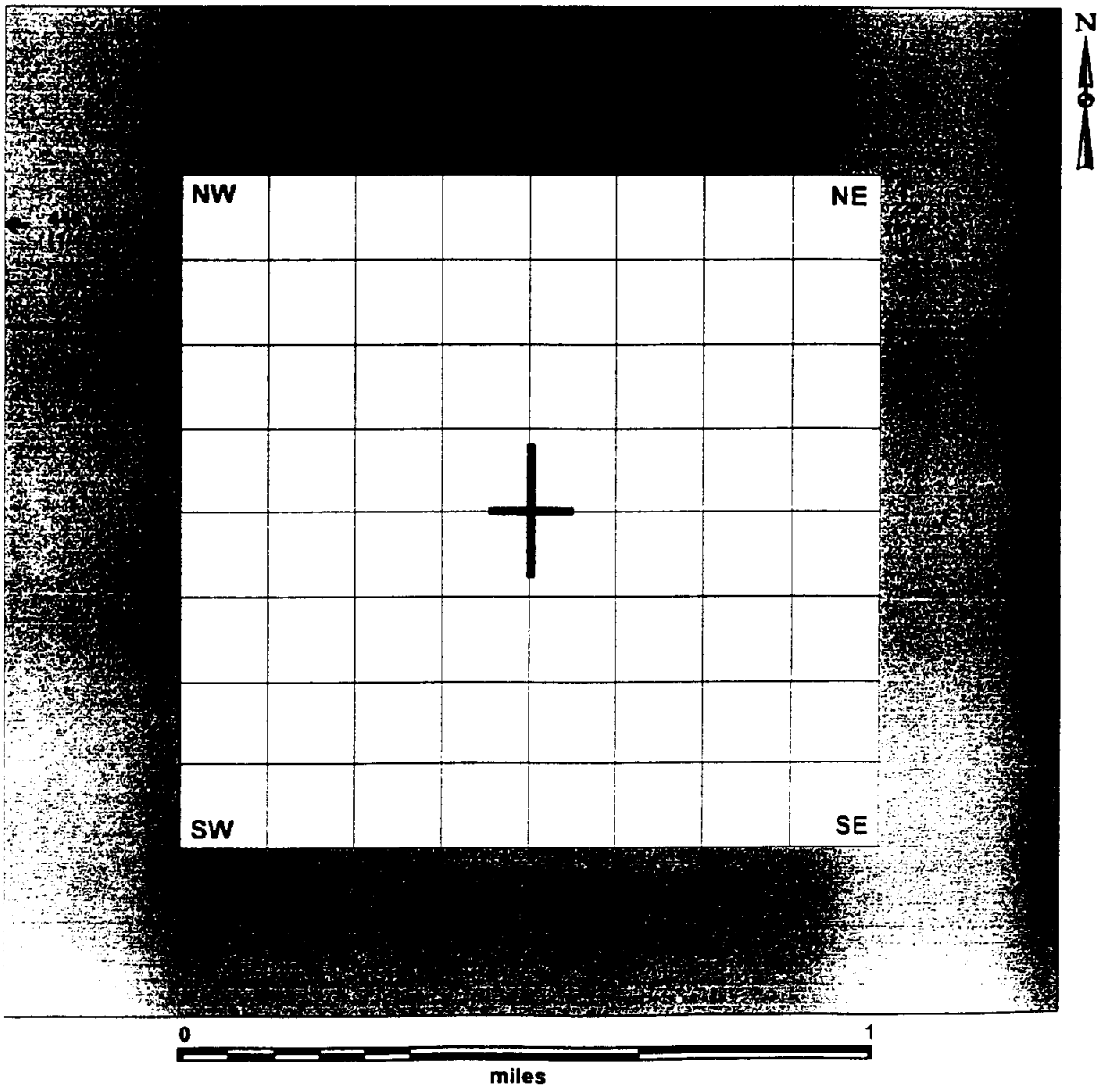
Address _____

Well 3 _____ measured yards from the proposed well.

Owned by _____

Address _____

MARK DOT INSIDE CIRCLE ⊙ <u>WITHIN GRID</u> FOR PROPOSED WELL LOCATION. (Grid square **indicates 1 section,** or square mile.) **MARK X showing 3 closest wells and/or applications**



I agree that this well will be drilled within ten (10) yards of the location specified and not elsewhere, and that I will furnish the Board of Directors the completed driller's log immediately upon completion of this well and prior to the production of water. I hereby certify that I have read the foregoing statements and, to the best of my knowledge and belief, all data therein contained are true and correct and complies with all District Rules.

This notice given by:

_____

Signature (Owner or Agent) Title

This permit approved subject to the rules for spacing from existing wells and/or prior permits.

Permit good for 120 days only from date of approval.

1. _____ Board Member

2. _____ Board Member

3. _____ Board Member

4. _____ Board Member

5. _____ Board Member

I, hereby, certify that this application has been verified and is in compliance with the Rules of the District.

_____ _____

District Manager Date

Form No. 98-DOM-01

FOR DISTRICT USE ONLY

WELL NUMBER_____
APPLICATION DATE_____
RECEIVED BY_____
COMPLETION DATE_____

Panhandle Ground Water Conservation District No. 3
Application For Water Well Registration

1. Well Owner_____

   Address_____

   Phone_____

2. Well Location:_____County_____

   NW1/4 NE1/4 SW1/4 SE1/4 Section_____Block_____Survey_____
   (Circle One that Applies)

   _____ miles N S and _____ miles E W of the town of _____

   _____ measured yards from N or S, (property) or (section) line, and

   _____ measured yards from E or W, (property) or (section) line
   (Circle all that apply)

   Latitude_____ Longitude_____ (if known)

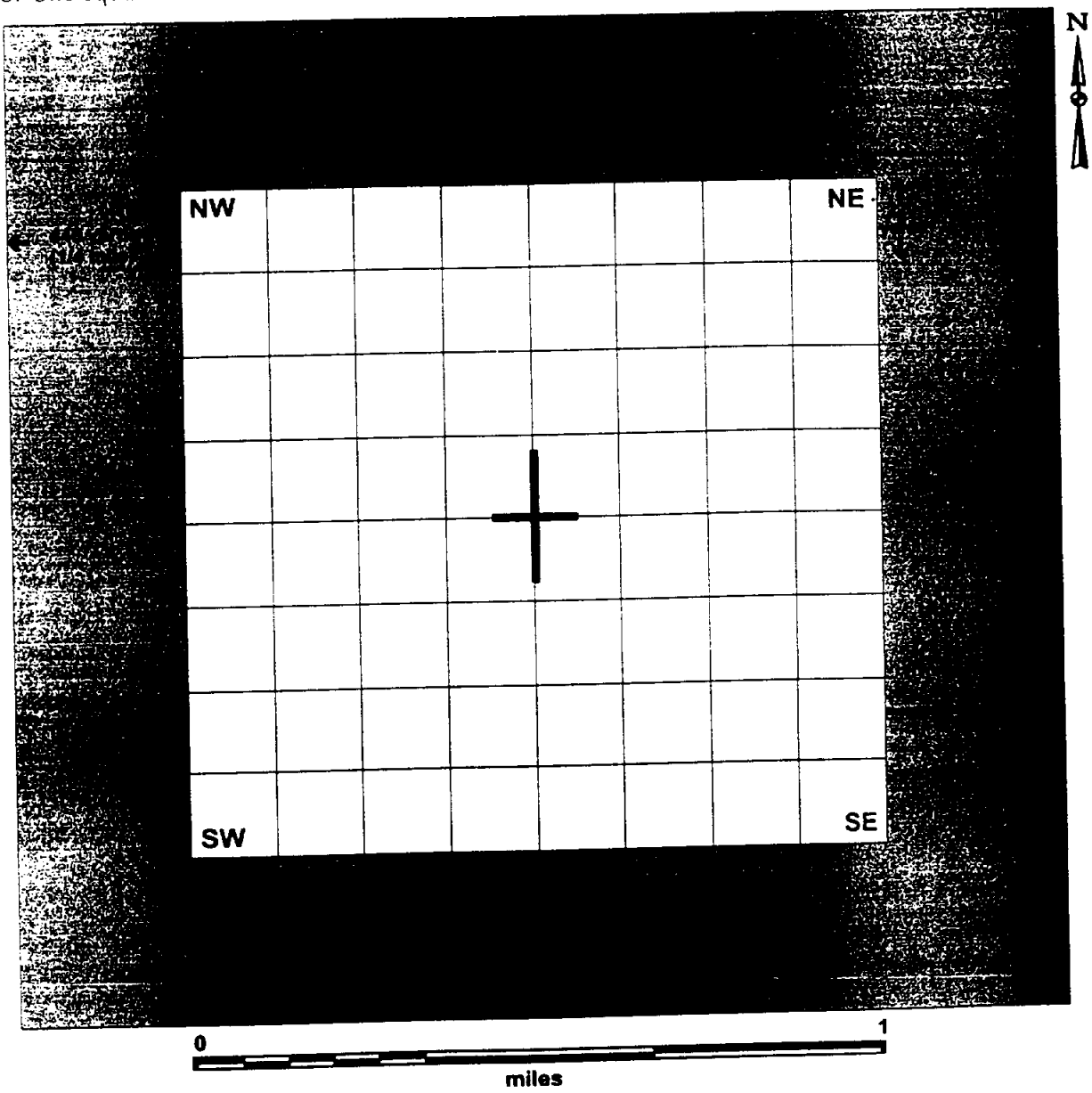
3. Well Description:

   Anticipated Drill Date_____ Driller_____

   Casing Size_____ Pump Size_____

4. Well Use: Domestic Stock Watering Other_____

5. Locate well by marking dot inside a circle ⊙ within the grid to show proposed well location. Grid represents one section or one square mile.



I agree that this well will be drilled within ten (10) yards of the location specified and not elsewhere, and that I will furnish the Board o Directors the completed well log immediately upon completion of this well and prior to the production of water. I hereby certify that I hav read the foregoing statements, and that all data therein contained are true and correct to the best of my knowledge and belief. This notice given by:

_____ _____
(Signature of Owner or Agent) Title

I, hereby, certify that this application has been verified and is in compliance with the Rules of the District

_____ _____
District Manager Date

Form No. 98-LW-01

Panhandle Ground Water Conservation District No. 3

FOR DISTRICT USE ONLY

STATE WELL NUMBER_____

___

DISTRICT NO._____

DATE RECEIVED_____

___

SIZE OF PUMP_____ MAXIMUM YIELD_____ GPM

Well Completion Report and Driller's Log Of Well

INSTRUCTIONS: Fill in all blanks. If not applicable, mark accordingly.

1. Well Owner_____

Address_____

2. Location of Well: ____miles N,____miles S,____miles E,____miles W of the town of_____

County_____, Latitude_____

Longitude_____(If known)

NW1/4, NE1/4, SW1/4, SE1/4 Section_____Block_____Survey_____
(Circle one that applies)

Measured location of well is: _____ yards from N or S, (property) or (section) line, and
(Circle ones that apply)

_____ yards from E or W, (property) or (section) line.

DRILLER'S LOG OF WELL

Method of Drilling:_____

FROM FEET	TO FEET	DESCRIPTION OF FORMATION MATERIAL	FROM FEET	TO FEET	DESCRIPTION OF FORMATION MATERIAL

I certify that this well was drilled by me (or under my supervision), and that each and all of the statements herein are true to the best of my knowledge and belief.

Driller_____ Date Drilled_____

Address_____

Form No. 98-LW-01

DESCRIPTION OF WELL

3. Well: Type _____

4. Casing: Type_____, Diameter_____in., Total Length _____ft.

Perforations: from_____ft. to_____ft., Size_____in., Number per foot_____

5. Pump: Type_____, Bowls Size_____, Number of Stages_____

Column Size_____in., Total length_____ft., Suction pipe Size_____in. Length_____ft.

Power Unit: Type_____. Horsepower_____

6. Depth to Water Level_____ft., Flow Rate (GPM) _____, Pumping Level_____ft.

Signature_____
Owner or Agent Title Address

Final Completion of Well -- Date_____, 19_____

_____
District Manager

Permit No. R–99–101

PERMIT TO PRODUCE WATER

PANHANDLE GROUND WATER CONSERVATION DISTRICT NO. 3

P.O. Box 637 White Deer, Texas 79097
Phone 806-883-2501 Fax 806-883-2162

Permit issued to: City of Anytown
Mailing address: P.O. Box 1971 Anytown, TX 79105-1971
Telephone number: 806 / 378-3035
Date application filed: December 23, 1998
Date permit granted: ?? 1999
Term of permit: ?? years

Actual or anticipated number, location, pump size and production capacity of the wells:
This permit is expressly granted on the condition that the number, location, pump size and production capacity of the wells used to implement this permit meet the spacing requirements contained in the District Rules at the time of production. Actual well locations, pump sizes, and anticipated production capacity will be shown on the applications for individual well permits, to be submitted prior to the commencement of drilling operations.

Destination of produced water:
Within the city limits of the cities of Anytown and Canyon located in Potter and Randall Counties..

Use or purpose of produced water:
Municipal and industrial consumption by each city.

Maximum quantity of water to be produced annually:
The maximum amount for each contiguous tract: Tract 1 (Jones/Smith. Brown, White, Doe): 33,977 acre feet per year: Tract 2 (J. Doe): 2554 acre feet per year; Tract 3 (Black): 6026 acre feet per year;

Tract 4 (Green, Smith, Johnson,): 28,640 acre feet per year.

Commencement of construction and completion of well or production facilities:
It is understood that construction is not to commence within a period of 25 years, however well drilling permits must be obtained from the District prior to drilling and must meet District requirements at that time.

Other conditions of permit:
1. Prior to the actual commencement of pumping from the well field, the permittee shall establish a network of monitoring wells at sites to be agreed to by District. Permittee shall provide the District with information from these wells quarterly, except for the initial water level information which shall be provided prior to actual commencement of pumping.

2. Permittee may drill a production well no closer than one-half mile from the perimeter boundary of the well field within the District. Permittee shall furnish the District annual water level measurements for each producing well.

3. The District shall be furnished copies of any results of chemical analysis taken from the well field and any reports of water quality or hydrologic conditions regarding the well field.

4. Permittee shall provide a water conservation and drought management plan to the District prior to the actual commencement of pumping from the well field, and shall comply with such plans.

5. Permittee shall maintain and recognize existing contractual commitments to neighboring landowners or water rights holders related to alternative water supplies, in the event that the wells of the neighboring landowners or water rights holders should go dry.

6. By agreement, this permit is issued pursuant to the District's rules adopted March 18, 1998.

This permit is issued subject to the rules of the District and to the continuing right of the District to supervise and regulate the depletion of the aquifer within the District's boundaries.

Permit holder agrees to be bound by the terms, conditions, and provisions contained herein and such agreement is a condition precedent to the granting of this permit. All such terms, conditions, and provisions shall likewise be binding on any person to whom this permit is

transferred.

The issuance of this permit does not grant to the permittee the right to use private property or public property for the production or conveyance of water. Neither does this permit authorize the invasion of any personal rights nor any violation of federal, state, or local laws or any regulations.

All other matters requested in the application, which are not specifically granted by this amendment, are denied.

District makes no representations and shall have no responsibility with respect to the availability or quality of water authorized to be produced under this permit.

City of Anytown	Panhandle Ground Water Conservation District
Signed:_____	Signed:_____
Title: City Manager	Title: General Manager
Date:_____	Date:_____

APPLICATION FOR HIGH-IMPACT PRODUCTION PERMIT

Application No: _____ Hearing Set For: _____
Date Submitted: _____ Date Permit Granted: _____
Date Completed: _____ Date Permit Denied: _____

1. Applicant Data Individual _____ Company _____

A. Name _____ Title _____
B. Mailing Address
Residence _____
_____
Office _____
C. Telephone No. Residence _____ Office _____

2. Quantity and Term Requested
A. State the amount of water to be produced: _____
B. Actual or anticipated time of commencement and completion of project. _____
_____
C. Term of requested permit: _____
_____

3. Location Information
A. Location of Production Well(s)
Attachment A: Attach a complete legal description of the actual or anticipated location of the well or wells from which the water is to be produced. State the county or counties. If there is more than one well, each well should be identified by a unique number.

B. Location and nature of Ultimate Use of produced water
Attachment B: Give complete description of the property where the produced water is to be used. State the county or counties.
Attachment C: Attach a map having a scale that sufficiently depicts the following:
(a) The actual or anticipated location of the existing or proposed production well(s).
(b) The actual or anticipated location of the existing or proposed water application or transporting facilities.
(c) The location of the proposed or increased use or uses. Show the exact boundaries of property.
(d) The location of the master meter, or like facility, at a location agreed upon by the District.

4. Completion Information

For each well identified in Section 3A, and also any exploratory or test drilling, provide the following information, to the extent known and available at the time of application:

(1) Land surface elevation, mean sea level: _____

(2) Identify the geologic formation(s) from which water will be produced:

a. Depth in feet to top confining layer: _____

b. Depth in feet to bottom confining layer: _____

(3) Total depth of well (feet): _____

(4) Bore diameter (inches): _____

(5) Depth of casing (feet): _____

(6) Inside diameter of casing (inches): _____

(7) Water lever (from land surface): _____

(8) Actual or anticipated pump size: _____

(9) Pump depth (from land surface to bottom of pump): _____

(10) Actual or anticipated well production in gallons per minute: _____

(11) Attach a copy of the well log if available. Attachment D

5. Effects on Quantity and Quality of Groundwater

A. Identify the effect of the production of water on the surrounding wells. Show the location of these wells on the map described in Section 3B (b).

(1) State the yield of wells in the surrounding area producing water from the same formation. _____

_____

_____

(2) State the water level and date measured, in well producing from the same formation identified in (1) above. _____

_____

(3) Estimate the change in water levels in the wells identified in (1) above as a result of the proposed production of water. _____

_____

(4) Estimate the effect on the yield of the wells identified in (1) above. _____

_____

(5) Describe the anticipated effects of the water production from the respective aquifer on the total water supply. _____

_____

_____

_____

_____

B. Identify any anticipated change in quality of water in surrounding wells. Enclose a chemical analysis that includes the quantity of minerals found in water samples taken from each of the 3 closest wells. _____

_____

_____

6. Identify any other presently owned source of water which is technically feasible and economically reasonable, that could be used for the stated purposes. _____

_____

_____

Reason this water is not being used. _____

_____

7. Identify any other fresh, non-water liquids which is technically feasible and economically reasonable that could be substituted for fresh groundwater. _____

_____

_____

Reason this liquid is not being used. _____

_____

_____

8. Attach information showing what water conservation and water reuse measures that the permittee has adopted and any water conservation goals permittee has established, and what measures and time frames are necessary to achieve the permittee's established water conservation goals which will be used in the proposed production of water. Attachment E

9. If the water is to be sold to others, attach a description of the permittee's service area, delivery and distribution system, permittee's drought or emergency management plan, and information on each customer's water demands, including population and customer data, water use data, water supply system data, water conservation measures and goals, and means for implementation and enforcement. Attachment F

I, the undersigned applicant, certify that the information provided herein is, to the best of my knowledge, true and correct.

Signed: _____ Date _____

_____ Title: _____

(printed name)

Application for Exception to the Rules of the District

I respectfully request the Board of Directors of the North Plains Ground Water Conservation District No. Two to grant an exception to:
Rule No. _____

I am making this request for myself and/or the following entity:

Name: _____
Address: _____
City_____, State_____ Zip code _____

Entity: _____
Address: _____
City_____, State_____ Zip code _____

I am filing this application for exception to the Rules of the District in accordance with Rule 18 - Exception to District Rules and Final Orders of the Board. The information included with this Application is true and correct to the best of my knowledge. I have read, understand and agree to the requirements of Rule 18. I also understand that I have other rights contained within the Rules of the District and laws of the State of Texas.

Signed:

_____ _____
Signature Date

Please make additional copies of this form if necessary.
Use a separate Application form for each Rule for which an Exception is requested.
Use a separate Application form for each individual or entity if more than one is making the request.
Contact the District office at 806-935-6401 if you have any question in regard to the Application.

DEPOSITS AND FEE SCHEDULE
FOR WELL AND TEST-HOLE PERMITS
Adopted by Board
September 12, 1995

Administrative Fees

Test Hole Permit	$25.00
Well Permit	$25.00

Deposits

Test Hole Permit	$250.00
Well Permit	$250.00

If a test hole permit is taken out and all District Rules are complied with there will be no administrative fee for the first well permit, the test hole permit deposit will be transferred to the first well permit. The second well permit will require a deposit but no administrative fee.

Test hole permits are valid for thirty (30) Days. Extension of time may be requested by applicant. Test hole permit deposits may be refunded if an application for a Well Permit is not made. See NPWD Rule 5, B. for extension of time and refund procedure.

Well Permits are valid for one-hundred-twenty (120) days. Extension of time may be requested by applicant. See NPWD Rule 14 for this procedure.

EXTENSIONS ARE NOT AUTOMATIC!! Test Hole Permits and Well Permits are considered **EXPIRED** on the expiration date unless requests for extensions have been timely and properly filed with the District. Well Permit extensions are reviewed by the County Committee, therefore, requests should be made as timely as possible.

Refund Policy:

100% ($250) of the Well Permit Deposit will be refunded if:

1. The Application for Well Permit is denied, or
2. Log of well is returned within thirty (30) days of date well is drilled, or
2. Permit is canceled, by the applicant, before expiration date, or
3. If after one hundred twenty (120) days or two hundred forty (240) days (if application is extended) from date of application, the applicant responds to a letter requesting information about the well, and the response is received by the District within fourteen (14) days from date of letter. A site visit will be made to the location indicated on the permit, sometime during this phase, to determine if a well is in existence at the location.

80% ($200.00) of the Well Permit Deposit will be refunded if:

1. The applicant or well driller (if know) responds to a second letter mailed to both the

applicant and the well driller requesting a log of the well (if a well is in existence after the site visit), or

2. The applicant responds to a second letter requesting cancellation of the permit (if no well is in existence after the site visit).

60% ($150.00) of the Well Permit Deposit will be refunded if:

It is determined there is a well at the location and the well log is returned to the District within thirty (30) days after date the third written notice is sent.

None ($0.00) of the Well Permit Deposit will be refunded if:

The District has not been officially notified of cancellation or received a well log within one (1) year of the date the permit application is filed.

Form No. 96-ESR-01

Exemption to Spacing Rules

Panhandle Ground Water Conservation District

I,_____ of _____,
Name of Land Owner / Water Rights Owner — Town

_____, owner of _____ of Section_____,
State — 1/4, All, etc.

Block_____, Survey_____, in _____ County, Texas, hereby

consent and hereby give permission to _____
Name of adjacent Land Owner / Water Rights Owner

to drill _____ water well(s) for the purpose of _____
number — Irrigation, Municipal, etc.

with _____ inch pump(s) on _____ of Section _____,
Size — 1/4(NE, NW, SE, SW)

Block_____, Survey_____, in _____ County,

Texas, and located less than _____ yards from my_____
Direction (North, South, East, West)

property line.

It shall be considered fraud upon the District and upon adjacent landowners for any person to willfully give erroneous information stating that he or she is the owner of the above described property.

_____
Signature of Land Owner / Water Rights Owner

_____
Address

_____
Town, State, Zip

Before me, a notary public, on this _____ day of _____, 19____A.D. personally

appeared _____ and acknowledged to me that _____

_____ signed the above for the specific purpose contained therein.

_____
Notary Public in and for said

_____ County, State of _____.

1998
Property Tax Rates
in
North Plains Ground Water
Conservation District No. Two

This notice concerns **1998** property tax rates for **North Plains Ground Water Conservation District No. Two.** It presents information about three tax rates. Last year's tax rate is the actual rate the taxing unit used to determine property taxes last year. This year's *effective* tax rate would impose the same total taxes as last year if you compare properties taxed in both years. This year's *rollback* tax rate is the highest tax rate the taxing unit can set before tax payers can start tax rollback procedures. In each case these rates are found by dividing the total amount of taxes by the tax base (the total value of taxable property) with adjustments as required by state law. The rates are given per $100 of property value.

Last year's tax rate:		
	Last year's operating taxes	$ 556,907.14
	Last year's debt taxes	$ 0
	Last year's total taxes	$ 556,907.14
	Last year's tax base	$ 3,146,368,019.00
	Last year's total tax rate	$ 0.1077 / $100
This year's effective tax rate:		
	Last year's adjusted taxes (after subtracting taxes on lost property)	$ 556,917.05
-:-	This year's adjusted tax base (after subtracting value of new property)	$ 3,169,083,309.00
=	This year's effective tax rate	$ 0.01757 / $100
This year's rollback tax rate:		
	Last year's adjusted operating taxes (after subtracting taxes on lost property and adjusting for transferred function)	$ 556,907.14
-:-	This year's adjusted tax base	$ 3,169,083,309.00
=	This year's effective operating rate	$ 0.01757 / $100
X	1.08 = this year's maximum operating rate	$ 0.01897 / $100
+	This year's debt rate	$ 0
=	This year's rollback rate	$ 0.01898 / $100

NORTH PLAINS GROUND WATER CONSERVATION DISTRICT NO. TWO

P.O. BOX 795, DUMAS, TEXAS 79029-0795 (806)-935-6401

Bacteria Analysis

County: _____

Geographical Location: _____

Water System Ownership:

Name, _____ Address, _____

City, _____ State, _____ Zip, _____

Send Report To: (fill out if different than above.)

Name, _____ Address, _____

City, _____ State, _____ Zip, _____

Water for analysis is: Raw Treated

Source of Water: Groundwater Surface Blend Other

Point of Collection: _____

Number of samples collected for this system: _____ Number of this Sample: _____

Date and Time of Collection: _____19____, _____:_____AM. PM.

Collected By: _____

Type of system: Public Private

Water use: Domestic Municipal Industrial
Agricultural Irrigation Livestock
Other_____

ANALYSIS RESULTS

Beginning Date and Time of Analysis: _____19__, _____:_____AM. PM.

Presumptive Test

Positive _____ Negative _____

Ending Date and Time of Analysis: _____19__, _____:_____AM. PM.

Confirming Test

Positive _____ Negative _____

Ending Date and Time of Analysis: _____19__, _____:_____AM. PM.

Coliform Bacteria: Not Found Coliform Bacteria Found

Lab Conducting Analysis: NPWD Dumas NPWD Spearman

Date of Report: _____19____

Employee Filing Report: _____Date of Report:_____19____

NPWD Dumas
P. O. Box 795, Dumas, Texas 79029
806-935-6401

NPWD Spearman
P. O. Box 351, Spearman, Texas 79081
806-659-3165

Fees for District Services Provided Outside District

FLOW {GPM} / PUMPING LEVEL {draw down} / STATIC LEVEL

Minimum Charge 2 hour minimum	$ 75.00
Per Hour after minimum {8a.m.-5p.m. Mon. - Fri.}	$ 25.00
Per Hour after minimum {After 5p.m. & Weekends}	$ 35.00
Mileage current IRS rate from the District office performing the work.	

PUMP PLANT EFFICIENCY

Minimum Charge 2 hour minimum	$125.00
Per Hour after minimum {8a.m.-5p.m. Mon. - Fri.}	$ 35.00
Per Hour after minimum {After 5p.m. & Weekends}	$ 45.00
Mileage 10¢ above IRS rate from the District office performing the work.	

WELL LOGGING

Minimum Charge 2 hour minimum	$125.00
Per Hour after minimum {8a.m.-5p.m. Mon. - Fri.}	$ 35.00
Per Hour after minimum {After 5p.m. & Weekends}	$ 45.00
Mileage 10¢ above IRS rate from the District office performing the work.	

WATER QUALITY ANALYSIS

Standard Mineral Analysis {analysis District normally runs}	$125.00
Coliform Bacteria	$ 50.00
Special Analysis {Depending on analysis}	Per Quote
Mileage current IRS rate from the District office collecting the sample plus $20.00 Per Hr.	

APPENDIX D

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2. **Application for Employment**
3. **Letter Requesting Drug Test**
4. **Disclosure Statement**
5. **Notification of Code of Ethics**
6. **Annual & Sick Leave Verification Form**
7. **Hourly Time Sheet**

Texas

Country

Groundwater

Conservation District

DIRECTOR AND EMPLOYEE POLICY

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Texas Country Groundwater
Conservation District
DIRECTOR AND EMPLOYEE POLICY

INTRODUCTION

This District Director and Employee Policy document will acquaint you with some of the District policies affecting your employment. Since it is impossible to anticipate every situation that may arise, this document will highlight, in general, District policies, practices, and benefits. Other District policies and practices may not appear in this document. If you are not sure about a written or unwritten policy of the District, have questions about any portion of this document, or need further information, please ask the General Manager or a District Director.

We recognize that our needs may change from time to time and that new governmental regulations may take effect. Therefore, we reserve the right to amend, rescind, or modify any of the District policies, practices, or benefits at any time, with or without prior notice. However, the at-will nature of your employment relationship is not subject to change, except by a written agreement specifying that employment, signed by you and the General Manager and approved by the Board.

We wish to apply District policies consistently and without discrimination so that all similarly situated employees receive uniform treatment. A situation may arise which requires us to deviate from our normal operating procedure. While we attempt to minimize these situations, we must reserve the right to consider each case separately and make any appropriate exceptions we feel necessary.

This document has been created without bias toward the employee, any group of employees, or the employer. It is the District's policy that the employment relationship between the District and its employees is at will, and can be terminated with or without cause at any time, at the option of either the employee or the District. The provisions of this document or any other documents (such as benefit statements or confidentiality agreements) are not intended to create any contractual obligation that conflicts in any way with this at will policy.

If any provision of this document is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall continue in full force and effect without being impaired or invalidated in any way. If any policy in this handbook conflicts with state or federal law, the law controls, and the policy or portion of the policy that conflicts with the law will be considered inapplicable to the employees, to the extent it conflicts with the law.

This document applies to all new and existing officials and or employees of the District. This document applies to full-time, part-time, temporary, and trainee employees, except where otherwise stated. This document supersedes all previous District policies, practices, and benefits, both written and unwritten.

You have been provided with your own personal copy of the District Director and Employee Policy document. As soon as possible, please take the time to read this document. This policy document requires that you provide written acknowledgment to the District stating that you have read the policy document and agree to comply with the provisions included. After that time, refer to the document whenever you have questions about District policies, practices, or benefits. These policies are effective immediately and you are expected to know and comply with them accordingly. Upon termination or resignation of employment, you will be asked to return this document to the District.

Within 5 days of the first day of employment or the first day that an elected official is seated on the Board, the District official shall be provided a written copy of this document and any appendices. The District official shall sign and date the document where indicated and shall include a statement that he/she has read the document and agrees to comply with its provisions. The District official shall be provided one copy of the signed document and another copy shall be kept on file in the offices of the District.

Employee Name,
If there is any part, article, section or subsection of this document that you as an official of the District do not understand or have a question about in regard to meaning or implementation, you should immediately contact the General Manager for an explanation prior to signing that part of this document or the "NOTIFICATION OF THE "Texas Country Groundwater Conservation District DIRECTOR AND EMPLOYEE POLICY".

I have read and understand the Introduction.

_____ _____

Employee Name **Date**

DEFINITIONS

Unless the context requires otherwise, the following terms and phrases used in this document shall mean the following:

- The term "District" means the Texas Country Groundwater Conservation District.
- The term "employer" means the Texas Country Groundwater Conservation District.
- The term "Board" means the Board of Directors of the Texas Country Groundwater Conservation District.
- The term "official or officials" means the directors, officers and employees of the District.
- The term "Director or Directors" means a person or persons elected to the Board of Directors of the District.
- The term "employee or employees" means a person or persons employed by the District. The various types of employees of the District are defined as follows:
- "Full-time employee" is an employee who is regularly scheduled to work between thirty (30) and forty (40) hours in a workweek and may be classified as an "exempt or nonexempt" employee. Full-time status is not a guarantee of any number of work hours in any workweek. In all cases, work hours are dictated by the current prevailing business conditions and employer discretion.
- "Exempt employee" is a full-time employee who is generally excluded from coverage under the minimum wage and overtime rules of the Fair Labor Standards Act.
- "Nonexempt employee" is a full-time employee who is generally covered under the minimum wage and overtime rules of the Fair Labor Standards Act.
- "Part-time employee" is an employee who is regularly scheduled to work fewer than thirty (30) hours in a workweek. Part-time status is not a guarantee of any number of work hours in any workweek. In all cases, work hours are dictated by the current prevailing business conditions and employer discretion.
- •"Temporary employee" is an employee who is hired as an interim replacement or to temporarily supplement the work force or to help complete a specific project.
- "Trainee" is a full-time employee who has not completed the specified orientation and training period.
- "Intern" is an employee who performs services for personal or professional training and benefit

and is generally employed for a specific duration or until the completion of pre-specified goals.

- The term "Manager or General Manager" means the employee of the District who is in charge of the administrative affairs of the District.

- The term "Assistant Manager" means the employee of the District appointed by the General Manager to provide assistance to the General Manager and carry out certain duties in the absence of the General Manager.

- The term " Financial Secretary" means the employee of the District working under the supervision of the Manager to maintain the financial records of the District.

- The term "officer" means a person designated by the Board to act in an official capacity at the discretion of the Board.

ARTICLE I
CODE OF ETHICS

PURPOSE

This code of ethics is adopted for the following purposes:

- **A.** To assure compliance with The Texas Water Code and other state and federal laws affecting the operations of the District,
- **B.** To encourage high ethical standards of officials engaged in the operation of the District, and
- **C.** To establish guidelines of conduct for those officials.

It is the goal of the District that officials shall conduct themselves in a manner consistent with sound ethical and business practices; that the public interest shall always be considered in conducting District business; that impropriety or the appearance of impropriety shall be avoided to ensure and maintain public confidence in the District; and that the Board shall control and manage the affairs of the District lawfully, fairly, impartially, and without discrimination, and in accordance with the stated purposes of the District.

CONFLICTS OF INTEREST

- **A.** Each official shall comply with Chapter 171 of the Local Government Code to the extent applicable. That Chapter prohibits a member of the governing Board of the District from participating in a vote or decision or from acting as a surety on any matter involving a business entity in which that official has substantial interest, if it is reasonably foreseeable that the action or decision would have a special economic effect on the business entity.
- **B.** In cases of conflicts of interest, officials shall disclose such conflicts and shall file with the District an affidavit stating the nature and extent of the conflict of interest. Thereafter, that official shall abstain from participation in the matter as provided by law.
- **C.** The definition of "substantial interest", the procedures for disclosure, and penalties for non-compliance are stated in Chapter 171 of the Local Government Code and are incorporated by reference into this code of ethics. A suggested form to be used for disclosure of a substantial interest is included in the Appendix.

STANDARDS OF CONDUCT

Each District official shall comply with the Standards of Conduct as set forth below:

- **A.** No official shall accept or solicit any compensation, gift, favor, or service that might reasonably tend to influence him or her in the discharge of their official duties or that he or she knows or should know is being offered with the intent to influence his or her official conduct.
- **B.** No official shall accept employment or engage in any business or professional activity which they might reasonably expect would require or induce him or her to disclose confidential information acquired by reason of his or her position as an official of the District.
- **C.** No official shall accept other employment or compensation which could reasonably be expected to impair his or her independence of judgment in the performance of their official duties.

D. No official shall make personal investments which could reasonably be expected to create a substantial conflict between his or her personal interest and the public interest.

E. No official shall intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised his or her official powers or perform his or her official duties in favor of one over another.

NEPOTISM

The officials of the District shall comply with Government Code Chapter 573 - Degrees of Relationship; Nepotism Prohibitions, which is set forth in Appendix 4.

USE OF DISTRICT PROPERTY

The facilities, personnel, equipment, machinery and supplies of the District shall not be used by District officials for personal gain. District officials may use the facilities, personnel, equipment, machinery and supplies of the District in connection with civic or church related activities or for personal reasons where no substantial personal or monetary gain is associated or the same services are afforded to residents of the District. Use is subject to reimbursement or replacement of supplies used and repair or replacement of equipment damaged. Limited personal use of the District vehicles is allowed provided it is in accordance with the following:

USE OF DISTRICT VEHICLES

The District provides vehicles to certain employees for their business use while employed by the District. District vehicles are always the property of the Texas Country Groundwater Conservation District and must be returned to the District upon termination of employment. In some cases it is considered to be in the best interest of the District for vehicles assigned to employees to be taken home by the employees.

The following rules apply to District vehicles:

A. District vehicles in some cases may be taken home by employees at night and over the weekend and may be used for limited personal purposes. Employees must maintain a log of all personal miles driven using District vehicles. Any employee who is provided with a District vehicle will be required to maintain the vehicle in a reasonably clean and presentable state.

B. Employees who need to use a District vehicle in a manner other than that outlined above shall request the use of, and discuss the reason for use of the District vehicle with the General Manager or one of the Directors prior to that use. If the request is granted, the employee shall record the number of miles used.

C. The District vehicles shall not be used if such use will result in monetary gain other than that outlined in subsection (a) and (b)

D. All employees who use a District vehicle for personal use during the year shall report, to the Manager, the total number of personal miles used for the preceding calendar year on or before January 15th of each year.

E. Only employees with good driving records will be authorized to drive District vehicles. The employer reserves the right to determine which employees are eligible for the use of District vehicles and that eligibility may be withdrawn at any time for

any reason with or without notice.

F. Motor Vehicle Department reports may be obtained each year on each employee who drives a District vehicle or uses a personal vehicle on District business. Reports showing moving violations, reckless driving, or driving under the influence may result in an immediate loss of driving privileges for that employee and possible termination of employment.

G. Moving violations incurred while driving a District vehicle will be the driver's sole responsibility. Employees with repeated violations may face revocation of District driving privileges and disciplinary action, up to and including termination of employment.

H. Non moving and parking violations incurred while driving a District vehicle may be paid by the District subject to the discretion of the General Manager.

I. Should an employee's driving record cause the insurance carrier to increase the rates, the employee may be required to pay the additional insurance charges or may be subject to disciplinary action, up to and including revocation of the District vehicle privileges and possible termination of employment.

J. Employees whose business duties regularly involve driving are required to maintain good driving records. Such an employee whose insurance is dropped or whose license is suspended or revoked may face disciplinary action, up to and including termination of employment.

K. Employees must be aware and alert regarding vehicle operation and maintenance. When a District vehicle needs maintenance, the employee is required to have it done in a timely manner.

L. All repair work, including emergency repair work, must be authorized in advance by the General Manager or Assistant Manager, if possible. Receipts for repairs shall be submitted to the Financial Secretary.

M. If you are involved in an accident while on District business, you must immediately notify the General Manager or the Financial Secretary. A police report must be completed before leaving the accident site. Any fines issued to the employee in connection with the accident while on District business are the employee's sole responsibility.

USE OF PERSONAL VEHICLES FOR OFFICIAL BUSINESS

The District recognizes that there may be times when officials may need or prefer to use their personal vehicle while on official business of the District. Reimbursement for use of personal vehicles for official business shall be in accordance with Article II, Reimbursement and Compensation Policy. If you are asked to use your personal vehicle(s) for District business, not including commuting, you are required to have a current and valid state driver's license and adequate public liability coverage.

The following rules apply to the use of personal vehicles for District business:

A. Drivers will log mileage accrued for traveling to and from their designated locations while on District business.

B. Employees must observe and abide by all traffic laws and drive in a safe manner consistent with traffic conditions.

C. Moving violations incurred while driving a personal vehicle for District business will be the

driver's sole responsibility.

D. Non moving and parking violations incurred while driving a personal vehicle for District business may be paid by the District subject to the discretion of the General Manager.

E. If you are involved in an accident while on District business, you must immediately notify your insurance carrier and the District. A police report must be completed before leaving the accident site. Any fines issued to the employee in connection with the accident while on District business are the employee's sole responsibility.

F. You are not authorized to drive on any District business if so restricted due to District insurance considerations.

SMOKING POLICY

Smoking is prohibited in all offices and public areas within the main office building of the Texas Country Groundwater Conservation District in Dumas, Texas. Smoking is permitted in designated areas of the property outside the main office building. Employees who have a District vehicle assigned to them and who smoke may smoke in the District vehicle assigned to them. Smoking in vehicles assigned to other employees is at the discretion of that employee.

I have read and understand Article I Code of Ethics.

_____ _____

Employee Name **Date**

ARTICLE II
DIRECTORS FEES AND TRAVEL REIMBURSEMENT POLICY

The District hereby establishes policies for reimbursing the Directors and employees of the District for necessary and reasonable expenses incurred while conducting business or performing official duties or assignments.

DIRECTORS FEES OF OFFICE

Directors fees of office shall be set at the maximum level stated in Chapter 36, Texas Water Code. Each Director shall be entitled to receive the fee while performing the duties of a Director, with the exception of attending county committee meeting. Each director is also entitled to receive reimbursement of actual expenses reasonably and necessarily incurred while engaging in activities on behalf of the District. Reimbursement for mileage shall be at the level approved by the Federal Government under the Internal Revenue Code and related regulations.

REIMBURSEMENT OF EXPENSES

The District may reimburse officials for expenses incurred while conducting business or performing official duties or assignments as follows:

A. Authorized expenses may include cost of meals, lodging, commercial travel, in some cases personal automobile mileage, and other necessary and reasonable costs incurred while on official business away from home or designated headquarters.

B. Reimbursement for travel expenses are subject to approval of the Manager or the Board. The reimbursement request shall include a statement of the business purpose of the travel, date, time, and place, and shall be accompanied by supporting receipts and invoices as required.

C. Reimbursement of expenses shall be made to District officials only.

D. When traveling, lodging shall be reimbursed at the single room rate.

E. Meal receipts may include the meals of other parties, who are officials of the district or others associated with entities in connection with the official duties of the District.

F. The expenses of spouses, children, and/or other persons not associated with the official business of the district but traveling with the official shall not be reimbursed.

TRANSPORTATION

Officials who use personal vehicles while on District business may be reimbursed for actual miles driven at the current rate allowed by the Internal Revenue Service. Mileage will be computed by the most direct route. Directors traveling by commercial transportation are entitled to reimbursement of the actual cost of necessary transportation for performing official business.

CALCULATIONS AND REPORTING

The District shall calculate and report the monetary value received by the employees for the use of the District vehicle for personal use and the fees of office directors receive in accordance with Internal Revenue Service Requirements.

I have read and understand Article II Directors Fees and Travel Reimbursement Policy.

_____ _____

Employee Name **Date**

ARTICLE III
MANAGEMENT POLICY

PURPOSE

The District has adopted policies to ensure better use of management information, including the use of budgets in planning and controlling costs. The District has developed and approved certain programs for the employees of the District. The District provides for the management of the District in accordance with Chapter 36, Texas Water Code.

A. As provided in Chapter 36, Texas Water Code, the Board has employed a General Manager of the District. It is the responsibility of the General Manager to ensure that the programs, policies, and operations of the district are carried out as directed by the Board. All employees are responsible to the General Manager. Employees are not authorized to interpret, or explain the policies, rules, or positions of the District without authorization from the General Manager or the Board. An employee who is unsure of a policy, rule, or position of the District should consult the General Manager, Assistant Manager, or a Director before attempting to interpret or explain a policy, rule, or position of the District.

B. The General Manager has the responsibility to see that all employees have a job description document which outlines their duties and responsibilities and to see that necessary training is provided to the employees as needed to better enable them to perform their job.

C. The General Manager is the representative to and from the Board of Directors in regard to personnel matters. It is the policy of the District that any employee may make a request to appear before the Board to discuss any activity in regard to the District operations, management, or policies. The request should be in writing and presented to the General Manager and/or a Director, and the request is to be included on the agenda of the next regular or special meeting of the Board.

I have read and understand Article III Management Policy.

_____ _____

Employee Name **Date**

ARTICLE IV
EMPLOYEE POLICIES

AT WILL EMPLOYMENT POLICY

It is important that you understand the terms of your employment. You and the Texas Country Groundwater Conservation District have an employment **at will** relationship. The employment relationship is for an unspecified time period. Either you or the District may terminate employment at any time, with or without reason or notice. An employment contract for a specified duration may be entered into only in writing, signed by you and the General Manager and approved by the Board. While we hope that our relationship is a mutually satisfying one, we can make no assurances, either expressed or implied, concerning the duration of your employment with us or of the reason or reasons for termination of employment.

This statement of policy contains all terms relative to termination of employment, and no representations may be made contrary to the foregoing, either express or implied, unless in a document signed by you and the General Manager and approved by the Board. Nothing in this document or in any other documents (such as benefits statements, performance evaluations, or any other written or verbal communications) should be construed to create an employment agreement for a specified time period.

The **at will** employment policy is not subject to change except by a written employment agreement, signed by the employee and the General Manager and approved by the Board.

During initial employment with the district, the first ninety-day (90-day) period will be used for evaluation of the employee. The employee will be classified as a trainee during this period. After this evaluation period, employment with the District may be terminated if it is determined that the employee is not suitable for the job.

A full-time employee will become eligible for the health insurance provided by the District in accordance with the health insurance plan of the District. The employee will also become eligible to participate in the District retirement plan in accordance with the retirement plan of the District. There are other benefits that the employee may become eligible for during the first year of employment.

EMPLOYEE FILE POLICY

The District maintains confidential employment records for each employee. These records may include all application materials, performance and conduct records, records of attendance and punctuality, promotions, transfers, disciplinary action, warning notices, and other information relative to your employment. The District strives to protect the confidentiality of these records by storing them in a safe and secure place. Only authorized individuals will be permitted to view confidential employment records. Authorized individuals include the Manager and management executives in the employee's direct chain of command. In the event of litigation or a federal or state investigation, we may be required to provide the contents of your employment file or payroll information to a court of law or to a governmental agency. You will be notified of any such investigation, if appropriate.

Each employee has a limited right to review his or her own employment file, at reasonable times, upon request. To better protect the confidentiality of your file, you may review the file only in the presence of the Manager or a Director. All employment files are the District's property and will not be removed from District premises.

Each employee is responsible for reporting to the Manager any change of information which could affect payroll, personnel, emergency, or benefit information, including name, address, telephone number, dependents, beneficiaries, withholding status, deductions, or other such changes necessary to update a W-4. Changes must be made in writing and submitted within ten days of the date the change becomes effective.

OUTSIDE EMPLOYMENT POLICY

Your first work priority is to the Texas Country Groundwater Conservation District. If you choose to work outside this employment, you may do so, as long as it does not interfere with your work schedule or performance for the District. Outside employment that affects your attendance, work performance, productivity, or conduct, either directly or indirectly, or that creates a conflict of interest of any kind, is strictly prohibited. If you find it necessary to seek outside employment, you must discuss your plans with the General Manager before engaging in such outside employment.

Schedules will not be adjusted and special considerations will not be made for employees who have outside employment.

Prohibited outside employment includes:

- **A.** Performing services for or acting as an agent, officer, employee, director, consultant, partner, or share holder for any entity which could reasonably be considered a conflict of interest between the employee and their duties as a District official.
- **B.** Receiving personal income or material gain from outside individuals or companies for producing materials or rendering services either during working hours, on District premises, using District property, or at any time while performing services on the District's behalf.
- **C.** Promoting a personal business at any time during working hours, while using District property, while on District premises, or at any time while representing the District.
- **D.** Using the District name as part of any outside promotional campaign or other business endeavor without express knowledge and approval of the General Manager.

If you must accept outside employment, please submit to the General Manager a completed "Outside Employment " form located in the Appendix. In some cases, an employee may have to choose between employment with the District and other outside employment.

GENERAL CONDUCT POLICY

To assure orderly operations and provide a safe and productive work environment for all, establishing certain rules of general conduct for all District employees is important. The following list will help you understand some of the District's rules of unacceptable conduct. Providing an exhaustive list would be impossible; therefore, the list represents only examples of unacceptable conduct. These examples were not selected or listed because of or according to their severity. Other forms of unacceptable conduct, which are equally or more severe in their nature, are not listed in this document. If you are not sure about a mode of conduct, please ask the General Manager before proceeding. In all cases, the District reserves the right to handle each situation individually. While the District does not utilize a formal progressive discipline policy, the employer may decide to use warnings and other disciplinary actions as the employer may consider appropriate. However, as this document discusses elsewhere, the employment relationship is **at will** and may be terminated by the

employee or the District at any time, with or without reason or notice.
Unacceptable conduct may result in disciplinary action, up to and including termination.
Examples of unacceptable conduct include:

- Substantiated complaints by coworkers, supervisors, or customers concerning the employee's misconduct or performance.
- Abuse or inconsiderate treatment of employees or customers, or inability to cooperate with coworkers or supervisors.
- Intoxication during work hours or while on District premises.
- Unlawful possession, use, sale, purchase, distribution, or offer to hold, sell, or distribute drugs or alcohol on work premises or at any time during working hours.
- Possession of firearms or other dangerous weapons either on one's person, in the work area, or in the surrounding areas.
- Sleeping on the job.
- Possession, removal, lending, or selling of District property or the property of fellow employees; mistreatment of District property; or use of any District vehicle, equipment, or machinery not in accordance with District Policy.
- Falsification or omission of records, including but not limited to time records, accounts payable, accounts receivable, pricing, inventory, etc.
- Dishonesty or failure to report dishonest acts, whether knowledge of such acts are obtained directly or indirectly.
- Failure to adhere to work schedules, or absence without permission, loafing, unauthorized use of time, or excessive use of work time for personal business such as personal use of telephone and/or internet service or excessive visitation with persons not relevant to District business.
- Excessive absenteeism and/or tardiness.
- Violations of federal, state or local laws (including traffic violations) while in District vehicles, on District premises, or at any time while on duty.
- Insufficient work or careless work performance, neglect of duties, substandard work performance, or frequent errors.
- Violation of the District harassment policy or harassment of another individual.
- Repeatedly reporting to work wearing inappropriate attire.
- Excessive accidents or failure to report accidents.
- Violation of safety standards or risking the safety of oneself or another.
- Use of profane, abusive, or threatening language to fellow workers, supervisors, district officials, or customers.
- Refusal to perform work as assigned.
- Inability or unwillingness to cooperate with coworkers.
- Distracting coworkers; interfering with other workers' performance; disrupting the workplace with unnecessary noise or actions; or causing false alarm or panic in the workplace.
- Causing or contributing to unsanitary work conditions.
- Unauthorized posting of materials on the bulletin board; defacement or alteration of any posting on District bulletin boards.
- Deliberate delaying or restricting productivity, or inciting others to delay or restrict productivity.
- Horseplay or malicious mischief such as damaging or hiding property of another employee or of

the District.

- Fighting or the use of hostile physical force against any person.
- Failure to comply with District rules.
- Personal use of District tools, supplies, and equipment, including such items as vehicles, telephones, postage machines, copiers, as well as job site work-related tools and equipment not in accordance with District Policy.

ABSENCE AND LATENESS POLICY

Excessive absenteeism and late attendance places a burden on other employees and on the District. Each employee is expected to be prompt and regular in attendance. Personal appointments should be scheduled during the lunch hour or after work hours, whenever possible. If scheduling a personal appointment during working hours is absolutely necessary, the approval of the General Manager or Assistant Manager is required.

As soon as you know that you will be absent or late to work, you must, within half an hour of your scheduled starting time, notify the General Manager or Assistant Manager or an employee who will report your absence or lateness to the General Manager. Failure to promptly report your absence may result in an unexcused absence. Unexcused or excessive absences or lateness will result in disciplinary action, up to and including termination.

Nonexempt employees will not be paid for time not worked, except when required by law. Therefore, arriving to work late, leaving work early, or any absence that is not taken as vacation, sick, or holiday time will be without pay. Any employee who fails to report to work without notice for three or more consecutive days will be considered to have voluntarily terminated employment, effective at 5:00 p.m. on the third day of unreported absence. However, the District reserves the right to make allowances, based on its sole discretion, for what it considers emergency or extraordinary circumstances.

DRESS POLICY

To our customers, you ARE the District. Therefore, we want you to look your best at all times while on duty. All employees are expected to be clean, neat, and well groomed at all times while on duty. Excessively faddish, gaudy, or immodest clothing is considered inappropriate attire and should not be worn. For safety reasons, shoes must be worn at all times when in the office or while on duty.

Violation of the dress code will result in disciplinary action, up to and including being sent home for the day, possibly without pay.

SAFETY POLICY

Your safety is our primary concern. This statement of policy is intended to reaffirm the District's concern for your safety and our support for safe work practices.

All District employees must observe and abide by safety standards and be safety conscious at all times. Any unsafe condition or practice an employee observes must be reported to the General Manager or the Safety Officer immediately. A first aid kit is located in the lab, near the refrigerator. Fire extinguishers are secured throughout the office. Employees must learn the location of all fire extinguishers and first aid kits as soon as possible after beginning employment with the District.

Safety Standards are as follows:

A. Each new employee will receive a description of the Districts work activities. All known potential job hazards will be discussed in detail. Job safety activities will be explained, as well as any required provisions to prevent harm or injury to the employee.
B. A semi-annual inspection of the work site will be conducted to detect actual and potential safety hazards. All employees must inspect their immediate work areas daily to detect safety hazards. Any actual or potential safety hazards shall be reported to the General Manager or Safety Officer immediately.
C. When a hazardous situation is identified, all reasonable steps will be taken to correct the hazard as soon as possible. If correcting the hazard is not immediately possible, sufficient modifications will be made to eliminate any risk to employees or others.
D. The District will take all reasonable steps to ensure workplace health and safety and to minimize the potential for workplace hazards. The Employer will train new and existing employees on general safety and healthy work practices, as well as safety practices for a specific job, if applicable.
E. The District will provide necessary safety tools, equipment and clothing for the employees. If clothing is provided to the employee, it is the employee's responsibility to clean and care for the clothing issued and return the clothing to the District when it needs to be replaced and/or upon separation from District employment.
F. Employees are responsible for immediately reporting all accidents and injuries to the General Manager or Safety Officer, regardless of how minor the occurrences may seem at the time. Failure to report such incidents may result in disciplinary action, up to and including termination of employment.
G. Accidents, spills, or any problem associated with the laboratory chemicals or equipment are to be reported to the Laboratory Manager, Safety Officer or General Manager. An unauthorized or untrained employee should never attempt to wipe up spills or correct a malfunction of laboratory equipment.
H. Reprisal shall not be permitted against any employee who reports a workplace hazard or injury.

Fire Prevention

Fires and injuries associated with fires can be avoided if proper steps are taken and care is given. Fires and injuries due to fires usually occur because of poor housekeeping, inadequate protection, poor or faulty heat control sources, inadequate quantity and type of fire fighting equipment, improper storage and handling of combustibles, improperly trained employees and faulty electrical insulation. All employees must take every precaution to prevent work-related fires and fire related injuries.

Each employee must be aware and alert regarding the following:

A. Inspect work areas daily for potential fire hazards.
B. Know the telephone number and location of the nearest public and private fire protection services.
C. Know the location and use of job site fire extinguishers. All fire extinguishers will regularly be fully charged, maintained, and inspected.
D. Know the location of all exits.
E. Observe safe housekeeping procedures.

Violating safety standards or risking the safety of oneself or others will result in disciplinary action, up to and including termination.

SECURITY POLICY

Each person is responsible for making the workplace a secure environment for everyone.

The following security guidelines apply to all employees:

A. District keys given to employees may not be duplicated or loaned to anyone. Lost keys must be reported to the General Manager immediately. Security codes are not to be disclosed to any unauthorized individual.

B. Each person is responsible for turning off the lights and equipment, such as fans, heaters, radios, and computers, in his or her individual office at the end of each workday.

C. The last person to leave the office for the day must ensure that all lights, fans, and equipment, including coffee pots and copiers, are turned off; and all doors are locked.

D. During working hours, purses and wallets should not be left out in the open where they are easily seen or accessible. The District will not be responsible for any personal items lost or stolen.

E. Any employee who notices any unusual condition upon entering the building or office must report this condition to the Manager or Assistant Manager as soon as possible.

F. Guests are to be escorted through the office and not allowed to walk through unattended.

G. Guests are not permitted on work premises during non-work hours unless accompanied by an employee.

H. Former employees who visit the office should be treated as any other non-employee for security purposes and should be escorted in and out of the office.

INSPECTION POLICY

The District provides offices, desks, computers, and other District property to employees for their use while employed by the District. These items are the property of the District. The District can make no assurances about the security or privacy of any office, desk, file cabinet, computer, or other District facility and discourages the storage of valuables, perishables, and other personal items in them. Additionally, the District reserves the right to open and inspect any office, desk, computer and files, file cabinet, or District property and its contents, at any time, with or without reason, notice, or consent.

Employees must not place personal locks on any District office door, desk, or file cabinet. Employees may identify and designate a limited amount of office space, storage space, desk or file cabinet drawers as a "personal space". The employer will provide locks for all employees who wish to lock something in their "personal space". These locks are the property of the District, and the management my remove them at any time, with or without reason, notice, or consent.

Messages left on District electronic equipment (such as voice mail, electronic mail, and computer and network files), even when a personal password is required, are subject to inspection by District officials. Your password is designed to protect your files and messages from access by other personnel. However, District officials retain the ability to access any electronic file when necessary.

When using District electronic equipment, please be aware of the following rules:

- Foul, inappropriate, offensive, or harassing messages are forbidden.
- Use of the equipment for non-business related communications not in accordance with District policy is forbidden.
- Use of unauthorized codes or passwords to gain access to the files of others is forbidden.

Only the Manager will be permitted to search an employee's office, desk, computer and files, or file cabinet. No other person will be allowed to do so unless required by a court order.

EQUAL OPPORTUNITY EMPLOYMENT

The District is committed to a policy of equal employment opportunity for all individuals and will make every effort to provide equal employment opportunity without regard to race, color, religion, sex, national origin, age, mental or physical disability, veteran status, or any other classification protected by federal, state, or local law. Equal Employment Opportunity applies to all personnel practices, including (but not limited to) recruitment, hiring, training, promotion, termination, leaves of absence, compensation, discipline, evaluation, benefits, transfers, educational assistance, and social and recreational activities.

Our goal is to establish and maintain a work environment free from discrimination, coercion, and harassment. While the District will not hire or promote any person who is not qualified for a job, we wish for our District to be known as one that welcomes women, minority, disabled, and veteran applicants at all job levels and encourages their hire and promotion.

The following practices are strictly prohibited by the District's Equal Employment Opportunity Policy:

A. The identification of one or more protected classifications during the pre-employment phase.
B. Employment discrimination based on one or more protected classifications in hiring promotion; transfer; training; benefits; compensation; termination; and all terms, conditions and privileges of employment.

Any discrimination in the workplace based upon membership in any protected classification is illegal and violates District policy. If you feel you have been the subject of discrimination or if you are aware of any violation of this policy, you should report it to the General Manager or a member of the Board. Any infraction of this policy is a serious violation and will result in disciplinary action, up to and including termination.

EXCEPTION TO EQUAL OPPORTUNITY EMPLOYMENT POLICY

As an exception to the policy above, the District may employ an individual on the basis of the individual's religion, sex, national origin or age in those certain instances where religion, sex, national origin, or age is a bona fide occupational qualification reasonably necessary to the normal operation of the District.

Reference:/42 U.S.C. 2000e-2, 621, et seq., Art. 5221k, V.A.T.S.; Meritor Savings Bank v. Vinson, 106 S. Ct 2399 (1986)

FEDERAL PROGRAMS

The District shall not discriminate on the basis of sex in its employment practices in any of its

operations if any part of its programs or activities receives federal financial assistance.

HANDICAP

No qualified handicapped person shall, solely on the basis of handicap, be subject to discrimination in employment in any of the Districts operations if any part of its programs or activities receives federal financial assistance. 29 U.S.C. 794

"Handicapped person" shall mean anyone who has a record of, is regarded as having, or has a physical or mental impairment that substantially limits one or more of life's major activities. A "qualified handicapped person" is a handicapped person who, with reasonable accommodations can perform the essential functions of the job in question. 34 C.F.R. 104.3

EXCEPTIONS TO HANDICAP POLICY

A. An employee whose current use of alcohol or drugs prevents him or her from performing duties of the job or constitutes a direct threat to the property or safety of others is not included in the definition of handicapped person. 29 U.S.C, 706(8)(B)

B. An employee who has a currently contagious disease or infection and who, by reasons of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who by reason of currently contagious disease or infection is unable to perform the duties of the job is not included in the definition of handicapped person. 29 U.S.C. 706(8)(C) .

ANTI-HARASSMENT POLICY

The District is committed to establishing and maintaining a work environment free from discrimination, coercion, or harassment. The District strictly prohibits unlawful harassment based upon race, color, religion, sex, national origin, age, disability, or veteran status.

Any infraction of this policy will be a serious violation and will result in disciplinary action, up to and including termination.

Sexual harassment in the workplace is prohibited, is illegal, and is against District policy. Sexual harassment is harassment directed solely at members of one sex and includes, but is not limited to, making unwanted sexual advances; unwanted verbal, physical, or visual conduct of a sexual nature; and requests for favors where either, explicitly or implicitly:

- Submission to such conduct is made a condition of employment; or
- Submission to or rejection of such conduct by an individual influences employment decisions affecting such individual; or
- Such conduct intentionally and substantially interferes with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

This policy prohibits any type of sexual harassment---verbal, physical or visual by coworkers, supervisors, customers, vendors, or District officials.

Defining sexual harassment precisely is difficult, but conduct that may create sexual harassment includes:

- Unwelcome requests for sexual favors; lewd or derogatory comments or jokes; comments regarding sexual behavior or the body of another employee; sexual innuendo and other vocal activity such as cat calls or whistles; or leering and making gestures.

- Obscene letters, notes, invitations, photographs, cartoons, articles, or other written or pictorial materials of a sexual nature.
- Continuing to express sexual interest after being informed that the interest is unwelcome.
- Retaliating or threatening retribution against an employee for refusing a sexual advance or reporting an incident of possible sexual harassment to the General Manager, a member of the Board or a government agency.
- Offering or providing factors or employment benefits such as promotions, favorable evaluations, favorable assigned duties or shifts, or similar employee decisions, in exchange for sexual favors.
- Any unwanted physical touching or assault, or blocking or impeding of movements.

Employees are responsible for respecting the rights of coworkers. Supervisors and managers are responsible for establishing a workplace environment free from all discrimination, coercion, or harassment.

The District provides the following guidelines for handling a harassment complaint:

A. All harassment complaints must be reported as soon as possible. You have the right to report a harassment claim to the General Manager or a member of the Board.

B. All harassment complaints will be promptly and thoroughly investigated. Confidentiality will be maintained to the extent possible. The investigation will be objective and complete; all those with pertinent information on the subject will be interviewed.

C. No employee will suffer reprisals for reporting sexual harassment or any other unlawful conduct, or for initiating or assisting in any action or proceeding regarding unlawful harassment or discrimination. Any incidents of further harassment should be reported immediately to the General Manager or a member of the Board.

D. When the investigation ends, a determination will be made. and the results will communicated to the complainant, the alleged harasser, and, as appropriate, to all others directly concerned.

E. If sexual harassment is proven, prompt and effective remedial action will result. This action includes the following:
(a) the harasser will be disciplined and the complainant notified;
(b) steps will be taken to prevent any further harassment, and
(c) other appropriate remedial action will be taken, possibly termination of employment.

F. Any harassment complaint found to be frivolous, malicious, or based upon false information will be a serious violation and may result in disciplinary action, up to and including termination of employment.

For more information about eliminating sexual harassment in the workplace, please contact the General Manager.

DRUG AND ALCOHOL POLICY

This statement of policy prohibits the unlawful manufacture, use, influence, possession, sale, purchase, distribution, or offer to manufacture, sell, purchase, hold, or distribute alcohol, controlled substances, or drugs by any employee during work hours or at any time while on District premises. For all employees, if prescription drugs must be taken, they must not affect the employee's ability to perform his or her work. If you are required to take medication your physician prescribes and it may

affect your ability to perform your job or present a safety risk to you or your coworkers, you are asked to notify the General Manager before beginning work.

Any employee who takes the initiative to advise the General Manager or a Director of a personal medical problem with alcohol or drugs, who has not engaged in misconduct or repeated poor performance at work, and who has demonstrated a commitment to take the necessary remedial action, will be provided an unpaid medical leave of absence to enter a treatment program.

Pre-employment Screening

The District requires all persons who are offered and accept a position to submit to a pre-employment drug screening test before starting work. Pre-employment screening helps to reduce the chance of hiring individuals who currently use illegal drugs or individuals who use legal drugs in an illegal manner or alcohol at times or in amounts that would indicate a potential for unsafe work performance. Failure to submit to the test will result in disqualification from further consideration for employment. Test results that identify the presence of controlled substances will result in disqualification from further consideration for employment.

When reporting to the medical facility for drug testing, an applicant must present a valid picture identification.

We regret any inconvenience this may pose for those individuals who do not use or abuse drugs or alcohol. However, we hope that you will share in our concern for a safe and healthful work environment that cannot be achieved when workers are using drugs and/or alcohol at the work site.

Post-employment Testing

If a workplace accident occurs or if reasonable suspicion exists of drug or alcohol use, the employee may be subject to a post employment drug and alcohol screening test. Upon such event, the employee will be immediately escorted from the work premises and requested to submit to a drug and alcohol screening test. Failure to submit to the test or positive test results will result in disciplinary action, up to and including termination from employment.

Observation of any one or more of the following may constitute reasonable suspicion: slurred speech, loss of balance, the odor of drugs or alcohol, the presence of alcohol or drug-related paraphernalia, observation of the use of drugs or alcohol, red eyes, irregular work pace, decline in productivity, mood swings, frequent absences, excessive time away from the workplace, trembling, disorientation, aggressive behavior, drowsiness, restlessness, or hyperactivity.

The possession of drugs, controlled substances, or alcohol during work hours or on District premises is strictly prohibited. Therefore, drugs, alcohol, or paraphernalia possibly used in connection with illicit drugs found on the employee's person or at or near the employee's work area will also constitute reasonable suspicion. The employer reserves the right to inspect employee work areas in connection with the inspections policy. Any employee who is found to be in possession of drugs, controlled substances, or alcohol at District offices and/or job sites or while operating District vehicles, tools, or equipment, or at any time during working hours, will be in violation of the stated policy and will be subject to disciplinary action, up to and including termination.

Each employee is responsible for notifying the employer of any convictions involving criminal drug violations within five days of the conviction. As a condition of employment, each employee agrees to adhere strictly to the stated policy.

Violations

Refusal to take a drug test is considered a positive test result. Violation of any portion of this policy may result in disciplinary action, up to and including termination. The employer reserves the right to require the employee to satisfactorily complete an employee assistance program or rehabilitation program in lieu of initiating disciplinary action.

Your health and safety are our primary concern. Help us to keep your workplace drug and alcohol free.

(This notice complies with notice requirements imposed by the federal Drug-free Workplace Act [20 U.S.C. 3471, 1221e-3(a)(1) and 34 CFR 85.6301].)

POLITICAL ACTIVITIES BY EMPLOYEES

A. District employees shall not be directly or indirectly coerced to participate or refrain from participating in political affairs in community, state, or nation.

B. District employees engaging in political activity shall make it clear that their utterances and actions are theirs as individuals and that they, in no manner, represent the views of the District.

C. District employees shall not engage in political activity on the District's premises during business hours.

DISCIPLINARY ACTION DESCRIPTION

Since employment is **at will**, termination may occur at any time, with or without reason or notice. The District does not utilize a formal progressive disciplinary procedure and does not implement disciplinary action in any particular order. We will review each disciplinary case individually and issue disciplinary action as we deem necessary and appropriate.

Disciplinary action may include any one or more of the following:

- **Verbal Warning**. Date and reason for Verbal warnings will be documented and placed in the employee's personnel file.
- **Written Warning**. Written warnings to the employee and any written response from the employee shall be signed by the General Manager and the employee. A copy of the written warning shall be placed in the employees personnel file and the original document given to the employee. Original responses to the written warning from the employee shall be placed in the employees personnel file and a copy given to the employee.
- **Probation**. Probation is a period during which an employee will be expected to achieve certain goals or meet certain performance expectations.
- **Demotion**. Demotion is the placement of an employee into a lower-level position, usually with a lower level of pay.
- **Suspension**. Suspension is time away from work without pay, for a specified duration, not to exceed five working days.
- **Termination**. Termination is a permanent removal from the job and may occur at any time with or without reason and with or without advance notice.

PAY PERIOD

All pay checks will include a statement of earnings showing gross wages paid, overtime paid,

vacation and or sick leave used, itemized deductions, additions, net pay and other information deemed necessary in regard to payroll.

Nonexempt employees shall turn in a time sheet to the Financial Secretary in accordance with the pay roll schedule set by the General Manager. The pay checks shall be issued based on the amount of regular time, any overtime or comp-time earned and comp-time, vacation or sick leave used during that pay period. Any overtime or comp-time earned after the time sheets are turned in shall be accounted for and carried forward to the next pay period.

All employees shall document their annual and or sick leave used during a pay period and provide such documentation to the Financial Secretary in accordance with the pay roll schedule.

When a pay day falls on a non-workday, pay checks will generally be available on the last working day preceding the pay day. Employees who are absent or on leave may make arrangements to have their pay check picked up or mailed to them if such arrangements are made in writing and in advance. Any employee who voluntarily wishes to have his or her pay checks automatically deposited into a financial institution may request to do so in writing at any time. Any employee who wishes to cancel a direct deposit arrangement may do so in writing at any time. No employee service charge or fee is assessed for the use of the direct deposit arrangement. Any employee who has his or her wages deposited into a financial institution will receive a statement of earnings showing gross wages paid, overtime paid, vacation and or sick leave used, itemized deductions, additions, net pay and other information deemed necessary in regard to payroll.

POLICY ON ADVANCES

The District's general policy is not to grant payroll advances or extend credit to employees.

OVER-TIME AND COMP-TIME

A. Nonexempt employees are eligible for "Over-Time pay" and "Comp-Time". Both of these will be calculated in accordance with the Fair Labor Standards Act.

B. Overtime pay will be on an approved basis. The Manager shall determine when the employee is approved to work over-time and to be eligible to receive over-time pay or comp-time. Although comp-time may be carried over from one pay period to the next, every effort should be made by the employee to use the comp-time during the same pay period it is earned. An employee may not accumulate more than 40 hours of comp-time.

C. Time sheets will be used to adjust salary each payroll period when over-time or comp-time is earned and to account for accumulated comp-time.

FINAL PAY POLICY

If discharged, you will be paid your final wages at the time of termination. If you resign from employment, you will be paid your final wages not later than the next regular payday following the resignation. In accordance with state law, your final wages will include any accrued vacation and sick leave time and will be reduced by any wage or expense advances made but not yet earned, or other funds owed by the employee to the District.

Any benefits due the employee from the District's Retirement Plan upon separation of employment will be paid as soon as possible pending the calculations of the actuaries and receiving the funds from the company administering the Plan. The benefits paid the employee will be in accordance with the provisions of the District Retirement Plan.

UNEMPLOYMENT BENEFITS POLICY

Terminated employees may be eligible for unemployment benefits administered by the state and funded with a tax paid by the District. The poster, "Your Unemployment Benefits," located in the employee work room, further explains unemployment benefits.

To help determine whether an unemployed worker should receive unemployment benefits, the state will request that the District explain the circumstances surrounding the termination. Employees who voluntarily quit without good cause or who are discharged for misconduct are generally ineligible for unemployment benefits. The state may also treat other termination types as ineligible for benefits.

Because increasing unemployment taxes reduce the funds the District has available to pay employees and other expenses, the District intends to challenge unemployment claims it considers unmerited.

JURY DUTY POLICY

If you are called to serve on a jury or as a witness, you may be granted a leave of absence to perform that service. The District will continue to pay your wages for a period not to exceed 40 hours in a calendar year. Jury service beyond the 40 hours will be without pay unless advance permission is granted by the Board. An employee may use any vacation as compensation during a jury duty leave of absence. Voluntary service will not be compensated unless advance permission is granted by the Board.

The District must be notified of your request for jury duty leave of absence as soon as you receive notice to serve. The time allowed for jury duty shall be only as long as necessary to carry out that service. You are expected to report to work when not serving jury duty.

The District will continue to pay health insurance premiums for an employee who is taking an approved jury duty leave of absence. Vacation benefits shall continue to accrue while on jury duty leave. Holiday pay, however, shall not be paid for any employee on jury duty leave.

EMPLOYEE BENEFITS

The District provides a pension plan, a health insurance plan, and has an annual leave and sick leave policy, holiday policy, and disability leave policy for the full-time employees of the District. **Part-time, temporary and intern employees are not eligible for employee benefits.** Questions in regard to the details of the plans may be answered by the Manager or a representative of the company administering the plan. All employee benefit plans shall be presented to the Board for approval or change.

ANNUAL LEAVE

Annual Leave may be used by a full-time employee at any time the employee needs to be away from his or her job for personal business. For an annual leave of more than two (2) days the employee shall submit a request to the General Manager for the time he or she needs to be on annual leave three days prior to the day he or she is to start the annual leave. All annual leave scheduling is at the discretion of the General Manager.

A. Each full-time employee of the district shall be entitled to annual leave of twelve (12) working day per year. Annual leave is earned at the rate of one (1) day for each month of employment during a fiscal year.
B. An employee may carry over annual leave from one fiscal year to the next, however, they may not accumulate more than twenty-four (24) working days for any one fiscal year.
C. An employee who has not used his or her annual leave and has carried over annual leave from one fiscal year to the next and has in excess of twelve (12) working days annual leave at the end of the fiscal year shall be adjusted back to twelve (12) working days annual leave and shall be paid for the days in excess of the twelve (12) working days annual leave at his or her current rate of pay.
D. An employee who leaves the employment of the District shall be paid for the annual leave they have accumulated at his or her current rate of pay.

SICK LEAVE

Sick Leave may be used by the full-time employee if; he or she is sick, his or her spouse or dependents are sick, or have a doctor's appointment. Sick leave may be used by the employee to attend a funeral of a relative or close friend.

A. Each full-time employee of the district shall be entitled to sick leave of twelve (12) working days per year. Sick leave is earned at the rate of one (1) day for each month of employment during a fiscal year.
B. An employee may carry over sick leave from one fiscal year to the next, however, they may not accumulate more than twenty-four (24) working days for any one fiscal year.
C. An employee who has in excess of twenty-four (24) working days at the end of a fiscal year shall be adjusted back to twenty-four (24) working days sick leave and shall be paid for the days in excess of the twenty-four (24) working days at his or her current rate of pay.
D. An employee who leaves the employment of the District shall be paid for the sick leave they have accumulated at his or her current rate of pay.

ANNUAL LEAVE AND SICK LEAVE ACCOUNTING:

A. An account of the days of Annual Leave and Sick Leave shall be kept for each employee entitled to Annual or Sick Leave.
B. The adjustments made in each employees accounting of annual and sick leave shall be made at the end of each fiscal year and shall become a part of the Board Minutes.
C. It is recognized that this policy does not cover all cases in which an employee needs to be absent from work. Therefore it shall be at the discretion of the General Managers as to the type leave an employee shall be charged.
D. It is recognized that there are times an employee needs to be away from the office or his or

her duties for personal business which may require a short amount of time. It shall be up to the Manager to decide if the employee shall be charged for the time off.

E. It is recognized that emergencies arise and in these cases exceptions to this policy may be worked out by the employee and the Manager.

HOLIDAY POLICY

At the beginning of each year, the District will publish a list of the holidays to be observed that year. The District generally recognizes the following paid holidays each year:

New Year's Day , Presidents' Day, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving (2 days Thursday and Friday), and Christmas Day. Employees receive Christmas day and one additional day and New Year's day and one additional day if the holidays are not on weekends. They may use the additional days at any time between the week of Christmas and the week before New Year's. The District may alter this schedule to fit the workload and personal preferences of the employees during the Christmas - New Year's holiday season.

If a recognized holiday falls on a non-workday, you will be notified of an alternative holiday, if any is provided.

To earn eligibility for paid holiday benefits, the employee must have approval of the General Manager. Occasionally, an employee may be asked to work on a holiday. In this situation, the employee will be granted overtime pay (if applicable) or a paid "floating" holiday to be taken within six months of the holiday on which the employee worked. Unused "floating" holidays are not paid upon termination.

Employees must work the regularly scheduled hours on the workday preceding and the workday following the holiday to qualify for holiday pay. Employees wishing to extend one of the recognized holidays may, with prior approval of the General Manager, use their vacation time to do so.

If a recognized holiday falls during an employee's scheduled vacation, that day will be treated as a holiday, not as a vacation day. If a holiday falls during an employee's leave of absence, of any kind, that day shall not be treated as a holiday. Paid time off for holidays will not be counted as hours worked for the purposes of determining overtime.

The District will not close for any of the other nationally celebrated holidays unless otherwise posted.

DISABILITY LEAVE POLICY

The Family and Medical Leave Act does not Apply to The Texas Country Groundwater Conservation District due to the number of employees. In certain circumstances full-time employees may be provided up to 12 weeks of unpaid leave.

You may be eligible for unpaid disability leave provided you meet all of the following conditions:

- You have been a Company employee for at least three months.

- You are regularly scheduled to work 30 or more hours a week.
- The disability is the result of an injury, illness, or physical or mental condition that renders you unable to perform your essential job duties for more than five consecutive workdays.
- If the disability is caused by a work-related injury or illness, you immediately reported to General Manager or Assistant Manager or the Financial Secretary the injury or illness when it occurred and completed a written Injury Report.
- You request disability leave within three workdays after you become disabled and will be unable to perform your essential job duties for at least five consecutive workdays.
- You provide a doctor's statement certifying your inability to perform your essential job duties due to a physical or mental disability and the expected duration of the disability. The District reserves the right to require recertification of your disability.
- You state your intention to return to work once the disability is resolved.

By law, pregnancy is considered to be a disability.

During a disability leave:

- Insurance benefits will remain intact if you continue to pay your share of the insurance premiums.
- You will not accrue vacation, personal, or sick leave, or receive holiday pay.
- You must notify the District as soon as possible regarding your return to work date, but in all cases, you must notify the District in writing at least one week before your return date.
- The District may request at any time a physician's statement to verify the continued need for recuperation, but no more frequently than every 30 days.

If your disability is work related, you may be eligible for workers' compensation benefits in accordance with the District's workers compensation insurance plan. It is your responsibility to inquire about and apply for any state benefits for which you may be eligible. Where allowed by law, short-term disability pay will be reduced by any amount you receive from workers' compensation insurance.

Upon returning to work, you must provide a doctor's certification that you are fit to perform your essential job duties, with or without reasonable accommodation. You will be considered "returned to work" after you have performed your job duties for 30 calendar days. If you have a recurrence of a disability within the 30 calendar days, the five-day waiting period is waived, but you are only eligible to receive any unused disability leave weeks remaining from your original leave period.

The employer will make every effort, but no guarantee, that the employee will be reinstated into the same or a substantially similar position. If business circumstances prevent the employer from offering the same or similar position upon the employee's return to work, the employer will offer an alternative position if one is available that is suitable to the employee's skill and experience level. Failure to accept the offered position will constitute a voluntary termination of employment, effective immediately.

Failure to return to work within three days of the end of your disability will be considered a voluntary termination. Termination will also occur if your disability renders you unable to return to work within three days after the end of your disability leave period and you have available no other leave, including vacation, sick leave, or personal leave. In both instances, elections may be available to extend your medical benefits.

Employees terminated under this policy may apply for re-employment. Such former employees will be considered for employment on the same basis as other applicants.

Where applicable, you are required to apply paid disability leave against your entitlement to 12 weeks of unpaid leave during the fiscal year.

I have read and understand Article IV Employee Policies.

_____ _____

Employee Name **Date**

ARTICLE V
INVESTMENTS, FINANCES and PROFESSIONAL SERVICES POLICY & PROCEDURES

INVESTMENTS AND DISTRICT FINANCES

The Board shall manage, account for and secure the financial stability of the District in accordance with Chapter 36, Texas Water Code including but not limited to the following: Fiscal Year, Annual Audit, District Audit and Records, Annual Budget, Notice; Hearing; Adoption of Budget, Amending Budget, Limitation on Expenditures, Sworn Statement, Depository, Investments and Authority to Receive Grants or Donations.

SELECTION OF DISTRICT DEPOSITORIES

The General Manager shall request bids from all eligible financial institutions within the District on a competitive basis. The Manager shall determine which bid submitted will assure the highest rate of interest for the District funds. The funds deposited shall be scheduled to provide timely maturity of the funds on deposit. The Manager is responsible for maintaining records including all bids submitted and interest rates from the various institutions submitting bids. There shall not be more than the maximum amount insured by Federal Deposit Insurance Corporation (FDIC) deposited in any one financial institution with the exception of the main depository account and the institution must execute a bond or other security in an amount sufficient to secure from loss the District funds that exceed the amount secured by the FDIC.

SECURITY OF DISTRICT FUNDS

A. It shall be the policy of the District that all funds shall be insured by the FDIC, or by collateral pledged to the extent of the fair market value of the amount not insured. The District recognize that: FDIC insurance is only available up to a maximum of $100,000 (including accrued interest) and that the amount of funds at any one Texas financial institution (including branch banks located within the same county) will be cumulated to determine the maximum amount of insurance coverage.

B. The District shall comply with the terms of the Public Funds Collateral Act to the extent applicable.

C. The investment officer shall review the fair market value of the collateral pledged to secure the District's funds on a on-going basis to ensure that the District's funds are fully secured.

D. There shall be no sharing, splitting or contingence of collateral with other parties or entities. The investment officer shall ensure that the custodian of the collateral shall be an independent third party Texas financial institution and that the collateral shall be pledged only to the District; the investment officer shall obtain safe-keeping receipts from the Texas financial institution regarding same.

E. Number of Signatures required on District Checks - all checks drawn on the District shall require two signatures.

(1) One of the signatures on a check drawn on the District , other than the permit or escrow account, shall be the Manager or the Financial Secretary.

(2) One of the signatures on a check drawn on the District from the permit or escrow account shall be the Manager or the employee designated by the manager as the permitting official.

(3) The other signature on the check may be one of the other employees of the District, preferably the General Manager or Financial Secretary if they are available to sign the check.

PROFESSIONAL SERVICES POLICY PURPOSE

This professional services policy has been adopted to provide for the selection, engagement, monitoring, review, and evaluation of the District's consultant/professional services for the District.

DEFINITIONS

A. The term "Professional Services" shall mean those services within the scope of fiscal or management advisory services or of the practice of accounting, architecture, law, medicine, and professional engineering as defined by the laws of the State of Texas.

B. The term "Consultant" shall included any person, proprietorship, partnership, firm, or corporation, providing professional services and/or appraisers, engineers, financial advisors, actuaries, auditors, and other persons whose expertise qualifies them to provide professional services, as distinguished from providing goods only. The definition of consultant includes any person paid any monies by the District that is not an employee of the District. This policy does not apply to suppliers rendering services in training, consulting, or installation supervision incident to equipment purchased from such suppliers.

SELECTION

The District will not select or contract for professional services on the basis of competitive bids. Agreements for professional services may provide for the services to be paid for on the basis of time and expense or on the basis of a percentage of the costs of the project in connection with which the services are furnished. Fees/charges must conform to the generally accepted fees/charges of that profession/industry.

CONTRACTS / AGREEMENTS

A. No consultant shall be retained without a written contract. All written contracts shall set out the term, scope of work, cost and cancellation/termination provisions. Increases in the scope of the consultant's contract shall be in writing and shall require, as a minimum, a revised estimate of the total cost of the service subject to the contract.

B. The Board may authorize the General Manager to approve professional services contracts of a set amount or less than set amounts as established by the Board by separate action.

C. The contract shall require a detailed account of the expenses of consultants for review by the District.

PERIODIC REVIEW

The performance of the consultants providing professional services to the District shall be regularly monitored and reviewed by the Board, and the Board may appoint a professional services committee to provide such monitoring and review to the Board. The professional services committee may also review the proposals submitted by consultants and make recommendations to the Board.

I have read and understand Article V Investments, Finances and Professional Services Policy.

_____ _____

Employee Name **Date**

APPENDIX

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1. Example: Notification of Texas Country Groundwater Conservation District Director and Employee Policy document.

2. Example:
Disclosure Statement
Outside Employment Form

3. Government Code Chapter 573 - Degrees of Relationship; Nepotism Prohibitions

NOTIFICATION OF
Texas Country Groundwater Conservation District
DIRECTOR AND EMPLOYEE POLICY

I Employee Name, have received a copy of the Texas Country Groundwater Conservation District Director and Employee Policy". I have read and understand this document and agree to comply with its provisions.

Dated this the _____ day of _____, 19____

_____
Employee Name

_____

Notary Republic _____ County, Texas

My commission expires _____

DISCLOSURE OF INTEREST

I, Employee Name, have a substantial interest in the following business entities and feel it is reasonably foreseeable that actions or decisions the Board of Directors may make could have a special economic effect on the business entity I am involved with.

In disclosing this information I agree to abstain from participation in matters which may come before the Directors or Management of this District which involve these business entities. (If None so state.)

Name of Business Entity	**Interest** (Director, Manager or Share holder)

Dated this the _____ day of _____, 19____

_____
Employee Name

_____

Notary Public _____ County, Texas

My commission expires _____
Date

OUTSIDE EMPLOYMENT

Employee Name: _____

Job title or position with District: _____

Name of outside employer: _____
Address: _____, City, _____, State _____
Phone No. _____

Description of job duty for outside employment: _____
_____
_____

Proposed schedule of hours to be on duty at outside employment: _____
_____

Date outside employment will begin: _____
Date outside employment will end: _____

_____ _____
(Employee Signature) **Date**

Approved by: _____ _____
(Name) **(Title)**

_____ _____
(Signature of Approving official) **Date**

Government Code
Chapter 573 - Degrees of Relationship; Nepotism Prohibitions

Sec. 573.001. Definitions.

In this chapter:

(1) "Candidate" has the meaning assigned by Section 251.001, Election Code.

(2) "Position" includes an office, clerkship, employment, or duty.

(3) "Public official" means:

(A) an officer of this state or of a district, county, municipality, precinct, school district, or other political subdivision of this state;

(B) an officer or member of a board of this state or of a district, county, municipality, school district, or other political subdivision of this state; or

(C) a judge of a court created by or under a statute of this state.

Sec. 573.002. Degrees of Relationship.

Except as provided by Section 573.043, this chapter applies to relationships within the third degree by consanguinity or within the second degree by affinity.

Sec. 573.021. Method of Computing Degree of Relationship.

The degree of a relationship is computed by the civil law method.

Sec. 573.022. Determination of Consanguinity.

(a) Two individuals are related to each other by consanguinity if:

(1) one is a descendant of the other; or

(2) they share a common ancestor.

(b) An adopted child is considered to be a child of the adoptive parent for this purpose.

Sec. 573.023. Computation of Degree of Consanguinity.

(a) The degree of relationship by consanguinity between an individual and the individual's descendant is determined by the number of generations that separate them. A parent and child are related in the first degree, a grandparent and grandchild in the second degree, a great-grandparent and great-grandchild in the third degree and so on.

(b) If an individual and the individual's relative are related by consanguinity, but neither is descended from the other, the degree of relationship is determined by adding:

(1) the number of generations between the individual and the nearest common ancestor of the individual and the individual's relative; and

(2) the number of generations between the relative and the nearest common ancestor.

(c) An individual's relatives within the third degree by consanguinity are the individual's:

(1) parent or child (relatives in the first degree);

(2) brother, sister, grandparent, or grandchild (relatives in the second degree); and

(3) great-grandparent, great-grandchild, aunt who is a sister of a parent of the individual, uncle who is a brother of a parent of the individual, nephew who is a child of a brother or sister of the individual, or niece who is a child of a brother or sister of the individual (relatives in the third degree).

Sec. 573.024. Determination of Affinity.

(a) Two individuals are related to each other by affinity if:

(1) they are married to each other; or

(2) the spouse of one of the individuals is related by consanguinity to the other individual.

(b) The ending of a marriage by divorce or the death of a spouse ends relationships by affinity created by that marriage unless a child of that marriage is living, in which case the marriage is considered to continue as long as a child of that marriage lives.

(c) Subsection (b) applies to a member of the board of trustees of or an officer of a school district only until the youngest child of the marriage reaches the age of 21 years.

Sec. 573.025. Computation of Degree of Affinity.

(a) A husband and wife are related to each other in the first degree by affinity. For other relationships by affinity, the degree of relationship is the same as the degree of the underlying relationship by consanguinity. For example: if two individuals are related to each other in the second degree by consanguinity, the spouse of one of the individuals is related to the other individual in the second degree by affinity.

(b) An individual's relatives within the third degree by affinity are:

(1) anyone related by consanguinity to the individual's spouse in one of the ways named in Section 573.023(c); and

(2) the spouse of anyone related to the individual by consanguinity in one of the ways named in Section 573.023(c).

Sec. 573.041. Prohibition Applicable to Public Official.

A public official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position that is to be directly or indirectly compensated from public funds or fees of office if:

(1) the individual is related to the public official within a degree described by Section 573.002; or

(2) the public official holds the appointment or confirmation authority as a member of a state or local board, the legislature, or a court and the individual is related to another member of that board, legislature, or court within a degree described by Section 573.002.

Sec. 573.044. Prohibition Applicable to Trading.

A public official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position in which the individual's services are under the public official's direction or control and that is to be compensated directly or indirectly from public funds or fees of office if:

(1) the individual is related to another public official within a degree described by Section 573.002; and

(2) the appointment, confirmation of the appointment, or vote for appointment or confirmation of the appointment would be carried out in whole or partial consideration for the other public official appointing, confirming the appointment, or voting for the appointment or confirmation of the appointment of an individual who is related to the first public official within a degree described by Section 573.002.

Sec. 573.061. General Exceptions.

Section 573.041 does not apply to:

(1) an appointment to the office of a notary public or to the confirmation of that appointment;

(2) an appointment of a page, secretary, attendant, or other employee by the legislature for

attendance on any member of the legislature who, because of physical infirmities, is required to have a personal attendant;

(3) a confirmation of the appointment of an appointee appointed to a first term on a date when no individual related to the appointee within a degree described by Section 573.002 was a member of or a candidate for the legislature, or confirmation on reappointment of the appointee to any subsequent consecutive term;

(4) an appointment or employment of a bus driver by a school district if:

(A) the district is located wholly in a county with a population of less than 35,000; or

(B) the district is located in more than one county and the county in which the largest part of the district is located has a population of less than 35,000; or

(5) an appointment or employment of a personal attendant by an officer of the state or a political subdivision of the state for attendance on the officer who, because of physical infirmities, is required to have a personal attendant.

Text of subd. (5) as added by Acts 1995, 74 th. Leg., ch. 260, Sec. 33

(5) an appointment or employment of a substitute teacher by a school district.

Sec. 573.062. Continuous Employment.

(a) A nepotism prohibition prescribed by Section 573.041 or by a municipal charter or ordinance does not apply to an appointment, confirmation of an appointment, or vote for an appointment or confirmation of an appointment of an individual to a position if:

(1) the individual is employed in the position immediately before the election or appointment of the public official to whom the individual is related in a prohibited degree; and

(2) that prior employment of the individual is continuous for at least:

(A) 30 days, if the public official is appointed;

(B) six months, if the public official is elected at an election other than the general election for state and county officers; or

(C) one year, if the public official is elected at the general election for state and county officers.

(b) If, under Subsection (a), an individual continues in a position, the public official to whom the individual is related in a prohibited degree may not participate in any deliberation or voting on the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of the individual if that action applies only to the individual and is not taken regarding a bona fide class or category of employees.

Sec. 573.081. Removal In General.

(a) An individual who violates Subchapter C or Section 573.062(b) shall be removed from the individual's position. The removal must be made in accordance with the removal provisions in the constitution of this state, if applicable. If a provision of the constitution does not govern the removal, the removal must be by a quo warranto proceeding.

(b) A removal from a position shall be made immediately and summarily by the original appointing authority if a criminal conviction against the appointee for a violation of Subchapter C or Section 573.062(b) becomes final. If the removal is not made within 30 days after the date the conviction becomes final, the individual holding the position may be removed under Subsection

Sec. 573.082. Removal by Quo Warranto Proceeding.

(a) A quo warranto proceeding under this chapter must be brought by the attorney general in a district court in Travis County or in a district court of the county in which the defendant resides.

(b) The district or county attorney of the county in which a suit is filed under this section shall assist the attorney general at the attorney general's discretion.

Sec. 573.083. Withholding Payment of Compensation.

A public official may not approve an account or draw or authorize the drawing of a warrant or order to pay the compensation of an ineligible individual if the official knows the individual is ineligible.

Sec. 573.084. Criminal Penalty.

(a) An individual commits an offense involving official misconduct if the individual violates Subchapter C or Section 573.062(b) or 573.083.

(b) An offense under this section is a misdemeanor punishable by a fine not less than $100 or more than $1,000.

Application
For Employment
NORTH PLAINS GROUNDWATER
CONSERVATION DISTRICT NO. TWO
DUMAS, TEXAS

We consider applicants for all positions without regard to race, color, religion, sex, national origin, age, marital or veteran status, The presence of a non-job related medical condition or handicap, or any other legally protected status.

(PLEASE PRINT OR TYPE)

_____ _____
Position (s) Applied For Date of Application

How did you learn about us?
Advertisement _____ Friend _____ Walk-In _____
Employment Agency _____ Relative _____ Other _____

_____ _____ _____
Last Name First Name Middle Name or I

_____ _____ _____ _____
Address Number Street City State Zip Code

_____ _____
Telephone Number (s) Social Security Number

1. If you are under 18 years of age, can you provide required proof of your eligibility to work? Yes No
2. Have you ever filed an application with us before? Yes No
   If Yes, give date _____
3. Have you ever been employed with us before? Yes No
   If Yes, give date _____
4. Are you currently employed? Yes No
5. May we contact your present employer? Yes No
6. Are you prevented from lawfully becoming employed in this county because of Visa or Immigration Status? Yes No
   Proof of citizenship or immigration status will be required upon employment.
7. On what date would you be available for work? _____

8. Are you able to work:_____Full Time_____Part Time_____Shift Work_____Temporary
9. Are you currently on "laid-off" status and subject to recall? Yes No
10. Can you travel if a job requires it? Yes No
11. Have you been convicted of a felony within the last 7 years? Yes No
    Conviction will not necessarily disqualify an applicant from employment.
    If Yes, please explain _____

Employment Experience:

Start with your present or last job. Include any job-related military service assignments and volunteer activities. You may exclude organizations which indicate race, color, religion, gender, national origin, handicap or other protected status.

If you need additional space, please continue on a separate sheet of paper.

_____
Employer

_____
Address State Zip Code

_____
Telephone Number(s)

Dates Employed: From _____ To_____

Hourly Rate/Salary Starting _____ Final _____

Work Performed _____ Job Title _____

Name of Supervisor _____

Reason for leaving: _____

_____

****

Employer

Address State Zip Code

Telephone Number(s)

Dates Employed: From _____ To_____

Hourly Rate/Salary Starting _____ Final _____

Work Performed _____ Job Title _____

Name of Supervisor _____

Reason for leaving: _____

****

Employer

Address State Zip Code

Telephone Number(s)

Dates Employed: From _____ To_____

Hourly Rate/Salary Starting _____ Final _____

Work Performed _____ Job Title _____

Name of Supervisor _____

Reason for leaving: _____

****

Special Skills and Qualifications

Summarize special job-related skills and qualifications acquired from employment or other experience.

_____

_____

_____

_____

Education

Elementary School_____High School_____Undergraduate_____

School Name and Location
Graduate/ Professional _____
Years Completed 1 2 3 4

College/University _____
Years Completed 1 2 3 4

Diploma/Degree _____

Describe Course of Study _____
_____

Describe any specialized training, apprenticeship, skills and extra-curricular activities.
_____
_____

Describe any honors you have received. _____
_____
_____

State any additional information you feel may be helpful to us in considering your application.
_____
_____
_____

Indicate any foreign language you can speak, read and / or write and how proficiency (fluent, good, or fair).

SPEAK _____
READ _____
WRITE _____

List professional, trade, business or civic activities and offices held
You may exclude membership which would reveal sex, race religion, national origin, age, ancestry, or handicap or other protected status:

_____
_____
_____
_____
_____

References

Give name, address and telephone number of three references who are not related to you and are not previous employers.

1. _____
2. _____
3. _____

12. Have you ever had any job-related training in the United States military?

Yes No

If Yes, please describe _____
_____

The Minimum Job Requirements for the Positions of _____ _____ are as follows:

(LIST REQUIREMENTS FOR THE JOB TO BE FILLED SUCH AS THE LIST BELOW.)

21 Years of Age.
Have a valid Texas Drivers license.
Qualify for Vehicle Liability Insurance coverage.
60 Hours of college or 5 years job related experience.
Read, write, speak and understand the English language.

Typing and computer skills (May want to list any computer programs used such as Work Perfect, Word, etc.)
Be able to lift and carry 100 pounds of weight.
Be able to climb a ladder 20 feet into the air.
Crouch and or bend and perform mechanical duties.
Read and follow directions on legal ownership maps or other maps used by the District to locate wells and areas of land.
Navigate to various locations within the District by use of the above mentioned maps.
The above listed requirements of the job will be assessed during the application and screening process and at the end of the ninety (90) day trial period.

13. Do you feel you are able to meet or exceed the above listed requirements? Yes No

14. Do you understand that if you are hired, the job will not become a permanent job until after the end of the ninety (90) day trial period and a second evaluation has been completed: Yes No

15. What salary requirements do you have? Annual Salary_____

Applicant's Statement

I certify that answers given herein are true and complete to the best of my knowledge.
I authorize investigation of all statements contained in this application for employment as may be necessary in arriving at an employment decision.
This application for employment shall be considered active for a period of time not to exceed 45 days. Any applicant wishing to be considered for employment beyond this time period should inquire as to whether or not applications are being accepted at that time.
I hereby understand and acknowledge that, unless otherwise defined by applicable law, any employment relationship with North Plains Groundwater Conservation District No. Two is of an "at will" nature, which means that the Employee may resign at any time and the Employer may discharge Employee at any time with or without cause. It is further understood that this "at will" employment relationship may not be changed by any written document or by conduct unless such change is specifically acknowledged in writing by an authorized executive of North Plains Groundwater Conservation District No. Two.
In the event of employment, I understand that false or misleading information given in my application or interview(s) may result in discharge. I understand, also, that I am required to abide by all rules and regulations of the employer.

_____ _____
Signature of Applicant Date

Employment Data Record

Employees are treated during employment without regard to race, color, religion, sex, national origin, age, marital or veteran status, medical condition or handicap, or any other legally protected status. As an employer with an Affirmative Action Program, we comply with government regulations, including Affirmative Action responsibilities where they apply.
The purpose of this Data Record is to comply with government record keeping, reporting, and other legal requirements. Periodic reports are made to the government on the following information. The completion of this Data Record is optional. If you choose to volunteer the requested information please note that all Data Record are kept in a Confidential File and are not a part of your Application for Employment or personnel file. Please note: YOUR COOPERATION IS VOLUNTARY. INCLUSION OR EXCLUSION OF ANY DATA WILL NOT AFFECT ANY EMPLOYMENT DECISION.

VOLUNTARY SURVEY

(Please Print or Type) Date _____

Government agencies at times require periodic reports on the sex, ethnicity, handicap, veteran and other protected status of employees. This data is for statistical analysis with respect to the success of the Affirmative Action program. SUBMISSION OF THIS INFORMATION IS VOLUNTARY.

Name: _____
Address: _____
City _____ State _____ Zip _____
Social Security No. _____

Complete Only the Sections Below That Have Been Checked

Current Job _____
Check One: Male _____ Female _____
Check One of The Following: (Ethnic Origin)
White _____ Hispanic _____ American Indian/Alaskan Native _____
Black _____ Other _____ Asian/Pacific Islander _____
Check If Any Of The Following Are Applicable
Vietnam Era Veteran ____ Disabled Veteran ____ Handicapped Individual _____
Date of Birth _____

FOR PERSONNEL DEPARTMENT USE ONLY

Arrange Interview Yes _____ No _____
Remarks _____
_____
_____
_____

Interviewer _____ Date _____

Employed: Yes ____ No _____ Date of Employment _____
Hourly Rate _____ / hr. _____ or Annual Salary _____
Job Title _____ Department _____

Approved By _____

_____ _____ _____
NAME TITLE DATE

NOTES _____
_____

NORTH PLAINS GROUND WATER CONSERVATION DISTRICT NO. TWO

P.O. Box 796
Dumas, Texas 79029-0795
806-935-6401

January 4, 1999

Physicians Preferred Laboratories, LTD
3501 Soncy #116
Amarillo, Texas 79121
Ph. 358-1211

This is to request a Drug Screen Test for _____ for employment at North Plains Ground Water Conservation District No. Two.

Please send results and the charges for this test to:

Richard S. Bowers, General Manager
North Plains Ground Water Cons. Dist. No. Two
P.O. Box 795
Dumas, Texas 79029-0795

Sincerely,

Richard S. Bowers.

DISCLOSURE OF INTEREST

I _____, have a substantial interest in the following business entities and feel it is reasonably foreseeable that actions or decisions the Board of Directors may make could have a special economic effect on the business entity I am involved with.

In disclosing this information I agree to abstain from participation in matters which may come before the Directors or Management of this District which involve these business entities.

(If None so state.)

Name of Business Entity	**Interest** (Director, Manager or Share holder)
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Dated this the _____ day of _____, 19____

_____

_____

Notary Public _____ County, Texas

My commission expires _____

NOTIFICATION OF CODE OF ETHICS

I _____ have received a copy of the ANorth Plains Ground Water Conservation District No. Two Policies for Directors and Employees@. I have read this code of ethics and agree to comply with its provisions.

Dated this the _____ day of _____, 19____

_____

_____

Notary Republic _____ County, Texas

My commission expires _____

Sick Leave and Annual Leave Verification

This form should be presented to the employee prior to the issuance of a payroll check. If the employee is unavailable, the form should be completed and presented to the employee upon their return to work. Any question in regard to the accounting of the absence from work by the employee should be immediately brought to the attention of the Manager.

Employee: _____

Date or Dates Absence Occurred: _____
Absence charged to:

_____ **Annual Leave** _____ **Number of Days or Hours**

_____ **Sick Leave** _____ **Number of Days or Hours.**

The above statement is a true and correct accounting of my absence from work.

_____ Date _____
(Signature of Employee)

Employee Time Sheet

Employee Name:	Pay Period Dates
Title:	

	Sat.	Sun.	Mon.	Tue.	Wed.	Thu.	Fri.	Total Hours
Hrs. Worked 1stWk.								
Regular Time								
Over-time								
Comp-time Earned								
Comp-time Used								
Vacation Leave								
Sick Leave								
Holiday								
Jury Duty								
Disability Leave								
Other								
Total Hrs. /Week								

	Sat.	Sun.	Mon.	Tue.	Wed	Thu.	Fri.	Total Hours
Hrs. Worked 2ndWk.								
Regular Time								
Over-time								
Comp-time Earned								
Comp-time Used								
Vacation Leave								
Sick Leave								
Holiday								
Jury Duty								
Disability Leave								
Other								
Total Hrs. /Week								

This section is to be completed by General Manager or Financial Secretary.		
	Totals from Above for Pay Period	**Year to Date**
Regular Time		See Paycheck Stub
Over-time		See Paycheck Stub
Comp-time Earned		
Comp-time Used		
Vacation Leave		See Paycheck Stub
Sick Leave		See Paycheck Stub
Holiday		
Jury Duty		
Disability Leave		
Other		
Gross Pay This Period		See Paycheck Stub

Employee signature: _____ Date: _____

APPENDIX E

Other State Statutes

1. **Election Calendar.**
2. **Chapter 131 Financial Depositories**
3. **Chapter 171 Regulation of Conflict of Interest**
4. **Chapters 201 - 205 Local Gov. Records Act**
5. **Chapter 551 Open Meeting Act**
6. **Chapter 552 Open Records Act**
7. **Chapter 2254 Professional Services**
8. **Chapter 2256 Public Funds Investment Act**
9. **Chapter 2257 Public Funds Collateral Act**
10. **Property Tax Code**

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060

Alberto R. Gonzales

Secretary of State

Sample

Office of the Secretary of State

ELECTION CALENDAR

FOR

OTHER POLITICAL SUBDIVISIONS

Come visit *our ne* w home on *the Internet @ http:llwww.*sos. *state.tx us*
(512) 463-5650 1-800-252-VOTE(8683) FAX (512) 475-2811 TDD 1-800-735-2989
The Office of *the Secretary* of *State does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of services.*

Sample

NOTE ON STATUTORY REFERENCES

Unless otherwise indicated, all references are to the Texas Election Code.

NOTE ON NOTICE OF ELECTIONS

Political subdivisions other than cities and school districts may or may not have specific statutory notice requirements. In the absence of specific statutory requirements, such political subdivisions must post a notice on or before the 21st day before the election. (Sec. 4.003 (b)). In addition, notice must be given in one of the following methods:

A. By posting a notice in each election precinct in which the election is to be held on or before the 21st day before the election. (Sec. 4.003 (a)(2)). If the 21st day before election day is a Saturday, this deadline is extended to Monday. (Sec. 1.006).

B. By publishing the notice at least once in a newspaper of general circulation between the 30th day and the 10th day before the election. - (Sec. 4.003(a)(1)).

C. By mailing a copy of the notice to each registered voter of the territory covered by the election, not later than the 10th day before election day. (Sec. 4.003(a)(3)).

The notice must include the nature and date of the election, the location of each polling place, the hours the polls will be open, the location of the main early voting polling place, the regular dates and hours for early voting by personal appearance, the dates and hours of any Saturday or Sunday early voting, and the early voting clerk's mailing address.

(75th day before election)

Recommended last day to submit changes affecting voting to U.S. Department of Justice for preclearance for any election.

(61st day before election day)

Recommended date to order from voter registrar lists of registered voters and should request both the voters' residence addresses and mailing addresses so they will be available for the conduct of early voting by mail. (Sec. 18.006).

Recommended date to confirm telephone number for voter registrar's office on election day. (Sec. 12.004(c)).

Recommended date to order election supplies.

Recommended last day to appoint presiding and alternate judges in elections other than those conducted by the county. (For further information concerning procedures for appointing judges and their alternates, see sections 32.005, 32.008, and 32.011. General eligibility requirements are found

in subchapter C, chapter 32.) Presiding judges and their alternates must be given notice of their appointments not later than the 20th day after the appointment is made. (Sec. 32.009). This notice may be combined with the judge's duty to conduct the election pursuant to section 4.007, which is required to be delivered to each presiding judge not later than the 15th day before the election. If the notices are combined, both must be delivered by the date the earliest notice is required.

Sample

(60th day before election day)

First day to accept applications for early voting ballots by mail for any election. (Sec. 84.007).

(50th day before election day - 40th day after election day)

Mandatory office hours. Secretary of governing body (or the person performing duties of a secretary) must keep office open for election duties for at least 3 hours each day, during regular office hours, on regular business days. (Sec. 31.122)

(48th day before election day)

If a candidate dies on or before this date, his or her name is not placed on the ballot (Sec. 145.094(a)(1)). (This deadline is not extended under section 1.006.)

(47th day before election day)

Last day to post notice of ballot position drawing if drawing is to be conducted on March 18, 1999. This notice must be posted for 72 hours immediately preceding the time of the drawing. (Sec. 52.094(c)).

Notice of ballot position drawing must be mailed to candidates by this date. (Sec. 52.094(d)). Candidates who have not filed by this date should be given a copy of the notice at the time they file.

(45th day before election day)

Last day for political subdivisions to order an election to be held, unless otherwise provided by law. (Sec. 3.005). The order must include the date of the election, the offices or measures to be voted on, the location of the main early voting polling place, the dates and hours for early voting, the dates and hours of any Saturday and Sunday early voting, and the early voting clerk's address.

5:00 p.m. Deadline to file application for a place on the ballot for regular officer elections for most political subdivisions unless otherwise provided by law. (Sec. 144.005(a)).

5:00 p.m. Deadline for write-in candidates to file declaration of write-in candidacy for board member of hospital district governed by Section 285.131 of the Health & Safety Code, unless otherwise provided by special law, if any.

5:00 p.m. Deadline for write-in candidate for office of director of self-navigation districts covered by chapter 63 of the Texas Water Code to file declarations of write-in

candidacy (Sec. 63.0945, Water Code).

Early voting clerk may begin mailing early voting ballots to applicants as soon as ballots are available on or after this date. (Sec. 86.004).

Sample

Recommended last date for order designating election precincts and polling places, unless Justice Department preclearance is pending.

(44th day before election day)

Recommended date to conduct ballot position drawing. (Sec. 52.094).

(40th day before election day; 5th day after the regular filing deadline)

Last day to notify election judges of their appointment if they were appointed, as recommended, on March 1, 1999. (Sec. 32.009(b)). Presiding and alternate judges must be notified of their appointment in writing, not later than the 20th day after the date the appointment is made. The notice of the judge's duty to conduct the election pursuant to section 4.007, may be combined with the above notice. Otherwise, the notice of the judge's duty to conduct the election must be delivered not later than April 16, 1999.

5:00 p.m. - Deadline for write-in candidate for office of director of water districts covered by chapters 49 and 36 of the Texas Water Code, to file declarations of write-in candidacy unless otherwise provided by law. (Sees. 49.101, 36.059, Water Code).

Note: This write-in deadline is the 5th day after the regular filing deadline for a place on the ballot. Therefore, if a water district's special law provides a different regular filing deadline, the write-in deadline is the 5th day after the special law's regular deadline.

(36th day before election day)

5:00 p.m. - Last day for a candidate to withdraw in order to have his or her name omitted from the ballot in an election for which the filing deadline is the 45th day before election day. If a candidate withdraws or is declared ineligible by this date, his or her name is omitted from the ballot. (Sec. 145.092(b) and 145.094(a)(3)).

(31st day before election day)

5:00 p.m. - Last day to file application for a place on the ballot in a special election to fill a vacancy . (Sec. 201.054(a)).

Last day to make a change of address in the same county that will be effective for the election. A voter who submits a change of address after this date may still be eligible to return to his or her previous precinct to vote under "fail-safe" voting, if he or she still resides in the same political subdivision conducting the election. (Sec. 15.025).

First day to begin inspecting and sealing voting machines. (Sec. 125.031(a)).

First day of period during which notice of election must be published if method of giving notice is not specified by a law outside the Election Code and this method of giving notice is selected. (Sec. 4.003(a)(1)).

Recommended last day for early voting clerk to order supplemental and registration correction lists, if applicable, or order revised original list from the voter registrar for use in early voting by personal appearance. (Sec. 18.001 and 18.003).

Last day to register to vote.

Last day for a person to apply for a full ballot by mail using a federal postcard application and who is not a registered voter, but meets the requirements under title 2. (Sec. 101.004(e)).

(29th day before election day - 8th day before election day)

A person submitting a federal postcard application during this time period and who is not registered to vote is not entitled to receive a ballot for this election. Application must be rejected for this election; however, the application may be used for other elections during the remainder of the calendar year. (Sec. 101.004(f)).

(22nd day before election day)

If an FPCA is *received* by this date without a postmark to prove mailing date, the early voting clerk will accept the FPCA and mail the applicant a full ballot if the applicant is not a permanently registered voter but meets the requirements under title 2. (Sec. 101.004(i)).

(19th day before election day)

Last day to post notice of election on bulletin board used for posting notices of meetings of governing body. (Sec. 4.003(b)).*

Last day to post notice of election in each election precinct if method of giving notice is not specified by a law outside the Election Code and notice is given by this method in lieu of publication. (Sec. 4.003(a)(2)).*

*Because the 1st' day before election day falls on a Saturday, the Election Code extends this deadline to the next regular business day. (Sec. 1.006).

(17th day before election day)

First day to vote early in person. (Sec. 85.001).

Last day to post notice on bulletin board for posting notice of meetings of governmental authority if

early voting will be conducted, if applicable. (Sec. 85.007). Notice must be posted at least 72 hours before early voting begins on a Saturday.

(6th day before election day)

Last day to post notice on bulletin board for posting notice of meetings of governmental authority if early voting will be conducted on Sunday, if applicable. (Sec. 85.007). Notice must be posted at least 72 hours before early voting begins on a Sunday.

(15th day before election day)

Last day to notify election judges of duty to hold election (Writ of Election). (Sec. 4.007).

(12th day before election day)

If defective application to vote early by mail is received on or before this date, clerk mails new application with explanation of defects and instructions for submitting new application back to voter. For defective applications received after April 19th, the clerk mails only notice of defect and statement that the voter is not entitled to vote early by mail unless he or she submits a sufficient application. Last day to apply for ballot by mail). (Sec. 86.008).

(10th day before election day)

Last day of period during which notice of other elections must be published if method of giving notice is not specified by a law outside the Election Code and this method of giving notice is selected. (Sec. 4.003(a)(1)).

Last day to mail a copy of the notice for other elections to each registered voter in the county if method of giving notice is not specified by a law outside the Election Code and this method of giving notice is selected. (Sec. 4.003(a)(3)).

Last day to post notice on bulletin board if early voting will be conducted. Notice must be posted at least 72 hours before early voting in person on a Saturday. (Sec. 85.007).

(9th day before election day)

A voter who becomes ill or disabled on or after this date may vote a late ballot if the illness or disability prevents the voter from appearing at the polling place without the likelihood of needing personal assistance or of injuring his or her health. (Sec. 102.001).

Last day to post notice on bulletin board if early voting will be conducted. Notice must be posted at least 72 hours before early voting in person on a Sunday. (Sec. 85.007).

(8th day before election day)

Last day to receive application for a ballot to be voted by mail. (Sec. 84.007).

Last day to receive federal postcard application for persons who are registered to vote. (Sec. 101.004, 114.004, & 84.007(c)).

Sample

Because the 7th day before election day falls on a Saturday, the deadline is the first preceding regular business day. (Sec. 84.007(c)).

(5th day before election day)

Last day to inspect and seal voting machines. (Sec. 125.031(a)).

(4th day before election day)

Requests for election inspectors for May elections must be received by the Secretary of State on or before this date. (Sec. 34.001).

Last day to vote early by personal appearance. (Sec. 85.001(a)).

Last day to post notice of the first test of automatic tabulating equipment (48 hours before the date of the test). (Sec. 127.096)

(3rd day before election day)

First day to submit an application for and vote a late ballot because of a death in the immediate family that occurred on or after April 26, 1999, and will require absence from the county on election day. (Sec. 103.001 and 103.003(b)).

First day to submit an application for and vote a late ballot because of sickness or disability that arose. (Sec. 102.001 and 102.003).

Political subdivisions may convene the ballot board for the purpose of processing the ballots but may not begin counting the ballots until election day. (Sec. 87.0221, 87.023, 87.024, 87.0241).

(2nd day before election day)

The first test of automatic tabulating equipment used for counting ballots at a central counting station must be conducted by this date (48 hours before election day). (Sec. 127.093). The presiding judge of the central counting station shall publish notice of the time and place of the test at least 48 hours before the date of the test. (Sec. 127.096).

(day before election day)

Last day to post notice of governing authority's meeting to canvass returns of election. (3rd

condition through this date unless they are needed for another election, or unless the security period is extended. (Sees. 126.031, 126.032, and 127.181).

Sample

(23rd day after election day)

Manual count must be completed. (Sec. 127.201(a)).

Please note that this procedure was extended under section 1.006.

(40th day after election day)

Last day of the period for mandatory office hours. (Sec. 31.122).

(60th day after election day)

Contents of ballot box(es) may be destroyed if no contest or criminal investigation has arisen (Sees. 66.058 and 1.013), and if no open records request has been filed (Tex. Atty. Gen. ORD-505 (1988)). Certain information must be maintained in permanent register. (Sec. 67.006).

early voting will be conducted, if applicable. (Sec. 85.007). Notice must be posted at least 72 hours before early voting begins on a Saturday.

(6th day before election day)

Sample

Last day to post notice on bulletin board for posting notice of meetings of governmental authority if early voting will be conducted on Sunday, if applicable. (Sec. 85.007). Notice must be posted at least 72 hours before early voting begins on a Sunday.

(15th day before election day)

Last day to notify election judges of duty to hold election (Writ of Election). (Sec. 4.007).

(12th day before election day)

If defective application to vote early by mail is received on or before this date, clerk mails new application with explanation of defects and instructions for submitting new application back to voter. For defective applications received after April 19th, the clerk mails only notice of defect and statement that the voter is not entitled to vote early by mail unless he or she submits a sufficient application. Last day to apply for ballot by mail). (Sec. 86.008).

(10th day before election day)

Last day of period during which notice of other elections must be published if method of giving notice is not specified by a law outside the Election Code and this method of giving notice is selected. (Sec. 4.003(a)(1)).

Last day to mail a copy of the notice for other elections to each registered voter in the county if method of giving notice is not specified by a law outside the Election Code and this method of giving notice is selected. (Sec. 4.003(a)(3)).

Last day to post notice on bulletin board if early voting will be conducted. Notice must be posted at least 72 hours before early voting in person on a Saturday. (Sec. 85.007).

(9th day before election day)

A voter who becomes ill or disabled on or after this date may vote a late ballot if the illness or disability prevents the voter from appearing at the polling place without the likelihood of needing personal assistance or of injuring his or her health. (Sec. 102.001).

Last day to post notice on bulletin board if early voting will be conducted. Notice must be posted at least 72 hours before early voting in person on a Sunday. (Sec. 85.007).

(8th day before election day)

Last day to receive application for a ballot to be voted by mail. (Sec. 84.007).

Last day to receive federal postcard application for persons who are registered to vote. (Sec. 101.004, 114.004, & 84.007(c)).

Because the 7th day before election day falls on a Saturday, the deadline is the first preceding regular business day. (Sec. 84.007(c)).

Sample

(5th day before election day)

Last day to inspect and seal voting machines. (Sec. 125.031(a)).

(4th day before election day)

Requests for election inspectors for May elections must be received by the Secretary of State on or before this date. (Sec. 34.001).

Last day to vote early by personal appearance. (Sec. 85.001(a)).

Last day to post notice of the first test of automatic tabulating equipment (48 hours before the date of the test). (Sec. 127.096)

(3rd day before election day)

First day to submit an application for and vote a late ballot because of a death in the immediate family that occurred on or after April 26, 1999, and will require absence from the county on election day. (Sec. 103.001 and 103.003(b)).

First day to submit an application for and vote a late ballot because of sickness or disability that arose. (Sec. 102.001 and 102.003).

Political subdivisions may convene the ballot board for the purpose of processing the ballots but may not begin counting the ballots until election day. (Sec. 87.0221, 87.023, 87.024, 87.0241).

(2nd day before election day)

The first test of automatic tabulating equipment used for counting ballots at a central counting station must be conducted by this date (48 hours before election day). (Sec. 127.093). The presiding judge of the central counting station shall publish notice of the time and place of the test at least 48 hours before the date of the test. (Sec. 127.096).

(day before election day)

Last day to post notice of governing authority's meeting to canvass returns of election. (3rd

day after election day). This notice must be posted at least 72 hours before the scheduled time of the meeting (Sec. 551.043, Tex. Govt. Code). Last day for local canvass. (6th day after election). (Sec. 67.003).

Sample

Last day to submit an application for and vote a late ballot by personal appearance due to death in immediate family. (Sec. 103.003(b)).

Last day to deliver precinct early voting lists to election judges. (Sec. 87.122).

ELECTION DAY

7:00 a.m. to 7:00 p.m. - Polls open. (Sec. 41.031).

Exception: In accordance with section 41.033, an entity created under section 52, article 111, or section 59, article XVI of the Texas Constitution may close the polls before 7:00 p.m. in an election held by the entity if the entity has fewer than 50 qualified voters and the number of ballots cast in the election equals the number of qualified voters.

7:00 a.m. to 7:00 p.m. - Voter registrar's office open. (Sec. 12.004(c)).

7:00 a.m. to 7:00 p.m. - Early voting clerk's office is open for early voting activities. (Sec. 83.011).

7:00 a.m. to 7:00 p.m. - Disabled and ill persons may vote at the main early voting polling place if lever voting machines are used at regular polling place(s) on election day. (Sec. 104.003).

8:00 a.m. to 2:00 p.m. - Disabled and ill persons may vote at the main early voting polling place if punch card systems are used at regular polling place(s) on election day. (Sec. 104.003).

2:00 p.m. Deadline for receiving applications for late ballots to be voted by persons who became ill or disabled. (Sec. 102.003(b)).

Clerk for early voting must check mail box for early voting mail ballots at least once after time for regular mail delivery. (Sec. 86.007(b)). Clerk delivers voted ballots, key to double-locked ballot box, etc., to the early voting ballot board at time or times specified by the presiding judge of the early voting ballot board, during the hours the polls are open or as soon after the polls close as practicable. (Sec. 87.022).

NOTE: Early voting ballots may be delivered to the early voting ballot board at any time after early voting by personal appearance ends. Ballots may be qualified and prepared for counting before election day, but they may not be counted until election day. (Sees. 87.0221, 87.023, 87.024, and 87.0241(b)). If ballots are to be delivered before election day, the early voting clerk must post notice at least 24 hours before each delivery at the main early voting polling place. (Sees. 87.0221(b), 87.023(b) and 87.024(b)).

The custodian of the key to the second lock on the double-locked early voting ballot box (constable) delivers his or her key to the presiding judge of the early voting ballot board on request of the presiding judge. (Sees. 87.025 and 85.032(d)).

Sample

7:00 p.m. - Deadline for receiving early voting ballots by mail and late ballots cast by voters who became ill or disabled. (Sees. 102.006(c) and 86.007(a)).

The second test of automatic tabulating equipment used for counting ballots at a central counting station must be conducted immediately before the counting of ballots with equipment begins. The third test must be conducted immediately after the counting is completed. (Sees. 127.093, 127.097, and 127.098).

Precinct election returns are delivered to the appropriate authorities after completion of precinct returns. (Sec. 67.003).

(2nd day after election day)

Last day to receive carrier envelopes placed in the mail for delivery by 7:00 p.m. on election day from voters who are voting outside the United States. (Sec. 86.007(d)(3)(B)).

(3rd day after election day)

If late ballots cast from outside the United States are received by the deadline, the Early Voting Ballot Board shall convene to count late ballots received as late as the third day after election day. (Sec. 87.125). The Secretary of State plans to adopt a rule to permit reconvening between the last mail delivery on the 3rd day after the election and the 5th day after the election.

Earliest date for official local canvass of returns by governing authority of political subdivision. (Sec. 67.003(2)).

For districts using electronic voting systems, last day to begin manual recount of ballots in three precincts or one percent of precincts, whichever is greater, unless requirement has been waived. (Sec. 127.201(a)). The manual count must be completed. Results of manual count must be mailed to Secretary of State not later than the 3rd day after the count is completed. (Sec. 127.201(e)).

(6th day after election day)

Last day for official canvass of returns by governing authority of political subdivision. (Sec. 67.003).

Voting machines may be unlocked or punch-card devices disassembled, but only if they are needed for another election and if the canvass of the election returns has been completed and the machine's custodian has not received a request for extended security. (Sees. 126.031(a) and 127.181).

(10th day after election day)

Voting machines remain locked against unauthorized operation and voting devices remain in secured

condition through this date unless they are needed for another election, or unless the security period is extended. (Sees. 126.031, 126.032, and 127.181).

Sample

(25th day after election day)

Manual count must be completed. (Sec. 127.201(a)).

Please note that this procedure was extended under section 1.006.

(40th day after election day)

Last day of the period for mandatory office hours. (Sec. 31.122).

(60th day after election day)

Contents of ballot box(es) may be destroyed if no contest or criminal investigation has arisen (Sees. 66.058 and 1.013), and if no open records request has been filed (Tex. Atty. Gen. ORD-505 (1988)). Certain information must be maintained in permanent register. (Sec. 67.006).

CHAPTER 131.

DEPOSITORY PROVISIONS AFFECTING FUNDS OF MUNICIPALITIES, COUNTIES, AND OTHER LOCAL GOVERNMENTS

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SUBTITLE C. FINANCIAL PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 131. DEPOSITORY PROVISIONS AFFECTING FUNDS OF MUNICIPALITIES, COUNTIES, AND OTHER LOCAL GOVERNMENTS

SUBCHAPTER A. SPECIAL DEPOSITORY

Sec. 131.001. Special Depository Authorized.

If a bank that is a depository under state law for the public funds of a county, municipality, or district suspends business or is taken charge of by the banking commissioner of Texas or the federal comptroller of the currency, the local government authority authorized to select the original depository may select by contract a special depository for the public funds in the suspended bank.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 131.002. Duties of Special Depository.

The special depository shall assume the payment of the amount of public funds due by the suspended bank on the date of its suspension, including interest to that date, and shall pay that amount to the designated local government authority in accordance with the contract entered into by the special depository.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 131.003. Special Depository Contract.

(a) The contract must require the payment of the deposit in installments as agreed to by the parties. The last installment must be paid not later than three years from the date of the contract.

(b) The parties may contract for the installments or the amount due to be evidenced by negotiable certificates of deposit or cashier's checks, payable at specified dates.

(c) The contract must set the rate of interest applicable to the funds placed in the special depository under this subchapter unless the parties agree that the funds are not to bear interest.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 131.004. Bond.

(a) To secure the performance of a special depository contract, the special depository shall execute a bond, or bonds in the case of installments, with the same character of sureties required for

regular depository bonds.

(b) The local government authority authorized by law to approve a bond of a regularly selected depository must approve a bond ofa special depository.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 131.005. State Funds.

(a) The comptroller shall determine the amount of state funds held by a county depository that suspends business or is taken charge of by the Banking Commissioner of Texas or the federal comptroller of the currency. The comptroller may:

(1) contract with a special depository selected by the county authorities as provided by this subchapter for the custody and payment of those funds; and

(2) approve a bond for the deposit contract.

(b) State funds placed in a special depository as provided by Subsection (a) shall bear the average rate of interest received by the state on state funds placed with regularly selected state depositories.

(c) The comptroller may proceed with available legal remedies against a suspended bank that is a depository for state funds if the comptroller considers that action to be in the best interest of the public.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 35, eff. Sept. 1, 1993.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 131.901. Out-of-State Depository Prohibited.

(a) The governing body of a political subdivision, including a county, municipality, school district, or other district, may not designate a financial institution located outside the state as a depository for funds under the governing body's jurisdiction.

(b) An institution selected as a paying agent or trustee for specific bonds or obligations or an institution selected by the governing body to provide safekeeping services is not considered a depository for purposes of this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 3, eff. Sept. 1,1993.

Sec. 131.902. Pursuit of Legal Remedies Against Suspended Bank.

A county, municipality, or district authority may proceed with available legal remedies against a suspended bank that is a depository for public funds of the authority if the authority considers that action to be in the best interest of the public.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 131.903. Conflict of Interest.

(a) A bank is not disqualified from serving as a depository for funds of a political subdivision if:

(1) an officer or employee of the political subdivision who does not have the duty to select the political subdivision's depository is an officer, director, or shareholder of the bank; or

(2) one or more officers or employees of the political subdivision who have the duty to select the political subdivision's depository are officers or directors of the bank or own or have a beneficial interest, individually or collectively, in 10 percent or less of the outstanding capital stock of the bank, if:

(A) a majority of the members of the board, commission, or other body of the political subdivision vote to select the bank as a depository; and

(B) the interested officer or employee does not vote or take part in the proceedings.

(b) This section may not be construed as changing or superseding a conflicting provision in the charter of a home-rule municipality.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 36, eff. Sept. 1, 1993

CHAPTER 171

REGULATION

OF

CONFLICTS OF INTEREST

OF

OFFICERS

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SUBTITLE C. MATTERS AFFECTING PUBLIC OFFICERS AND EMPLOYEES OF MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 171. REGULATION OF CONFLICTS OF INTEREST OF OFFICERS OF MUNICIPALITIES, COUNTIES, AND CERTAIN OTHER LOCAL GOVERNMENTS

Sec. 171.001. Definitions.

In this chapter:

(1) "Local public official" means a member of the governing body or another officer, whether elected, appointed, paid, or unpaid, of any district (including a school district), county, municipality, precinct, central appraisal district, transit authority or district, or other local governmental entity who exercises responsibilities beyond those that are advisory in nature.

(2) "Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 171.002. Substantial Interest in Business Entity.

(a) For purposes of this chapter, a person has a substantial interest in a business entity if:

(1) the person owns 10 percent or more of the voting stock or shares of the business entity or owns either 10 percent or more or $15,000 or more of the fair market value of the business entity; or

(2) funds received by the person from the business entity exceed 10 percent of the person's gross income for the previous year.

(b) A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of $2,500 or more.

(c) A local public official is considered to have a substantial interest under this section if a person related to the official in the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has a substantial interest under this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 40(a), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 561, Sec. 37, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(27), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 849, Sec. 1, eff. Sept. 1, 1997.

Sec. 171.0025. Application of Chapter to Member of Higher Education Authority.

This chapter does not apply to a board member of a higher education authority created under Chapter 53, Education Code, unless a vote, act, or other participation by the board member in the affairs of the higher education authority would provide a financial benefit to a financial institution, school,

college, or university that is:

(1) a source of income to the board member; or

(2) a business entity in which the board member has an interest distinguishable from a financial benefit available to any other similar financial institution or other school, college, or university whose students are eligible for a student loan available under Chapter 53, Education Code.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 41(a), eff. Aug. 28, 1989.

Sec. 171.003. Prohibited Acts; Penalty.

(a) A local public official commits an offense if the official knowingly:

(1) violates Section 171.004;

(2) acts as surety for a business entity that has work, business, or a contract with the governmental entity; or

(3) acts as surety on any official bond required of an officer of the governmental entity.

(b) An offense under this section is a Class A misdemeanor.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 40(a), eff. Aug. 28, 1989.

Sec. 171.004. Affidavit and Abstention From Voting Required.

(a) If a local public official has a substantial interest in a business entity or in real property, the official shall file, before a vote or decision on any matter involving the business entity or the real property, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter if:

(1) in the case of a substantial interest in a business entity the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or

(2) in the case of a substantial interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.

(b) The affidavit must be filed with the official record keeper of the governmental entity.

(c) If a local public official is required to file and does file an affidavit under Subsection (a), the official is not required to abstain from further participation in the matter requiring the affidavit if a majority of the members of the governmental entity of which the official is a member is composed of persons who are likewise required to file and who do file affidavits of similar interests on the same official action.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 40(a), eff. Aug. 28, 1989.

Sec. 171.005. Voting on Budget.
(a) The governing body of a governmental entity shall take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a member of the governing body has a substantial interest.

(b) Except as provided by Section 171.004(c), the affected member may not participate in that separate vote. The member may vote on a final budget if:

(1) the member has complied with this chapter; and

(2) the matter in which the member is concerned has been resolved.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 171.006 and amended by Acts 1989, 71st Leg., ch. 1, Sec. 40(a), eff. Aug. 28, 1989.

Sec. 171.006. Effect of Violation of Chapter.
The finding by a court of a violation under this chapter does not render an action of the governing body voidable unless the measure that was the subject of an action involving a conflict of interest would not have passed the governing body without the vote of the person who violated the chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 171.008 by Acts 1989, 71st Leg., ch. 1, Sec. 40(a), eff. Aug. 28, 1989.

Sec. 171.007. Common Law Preempted; Cumulative of Municipal Provisions.
(a) This chapter preempts the common law of conflict of interests as applied to local public officials.

(b) This chapter is cumulative of municipal charter provisions and municipal ordinances defining and prohibiting conflicts of interests.

Amended by Acts 1989, 71st Leg., ch. 1, Sec. 40(a), eff. Aug. 28, 1989.

Sec. 171.009. Service on Board of Corporation for No Compensation.
It shall be lawful for a local public official to serve as a member of the board of directors of private, nonprofit corporations when such officials receive no compensation or other remuneration from the nonprofit corporation or other nonprofit entity.

Added by Acts 1989, 71st Leg., ch. 475, Sec. 2, eff. Aug. 28,1989

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LOCAL GOVERNMENT

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SUBTITLE C. RECORDS PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 201. GENERAL PROVISIONS

Sec. 201.001. Short Title.
This subtitle may be cited as the Local Government Records Act.

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 201.002. Purpose.
Recognizing that the citizens of the state have a right to expect, and the state has an obligation to foster, efficient and cost-effective government and recognizing the central importance of local government records in the lives of all citizens, the legislature finds that:

(1) the efficient management of local government records is necessary to the effective and economic operation of local and state government;

(2) the preservation of local government records of permanent value is necessary to provide the people of the state with resources concerning their history and to document their rights of citizenship and property;

(3) convenient access to advice and assistance based on well-established and professionally recognized records management techniques and practices is necessary to promote the establishment of sound records management programs in local governments, and the state can provide the assistance impartially and uniformly; and

(4) the establishment of uniform standards and procedures for the maintenance, preservation, microfilming, or other disposition of local government records is necessary to fulfill these important public purposes.

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 201.003. Definitions.
In this subtitle:

(1) "Commission" means the Texas State Library and Archives Commission.

(2) "Custodian" means the appointed or elected public officer who by the state constitution, state law, ordinance, or administrative policy is in charge of an office that creates or receives local government records.

(3) "Designee" means an employee of the commission designated by the director and librarian as provided by Section 441.167, Government Code.

(4) "Director and librarian" means the executive and administrative officer of the Texas State Library and Archives Commission.

(5) "Essential record" means any local government record necessary to the resumption or continuation of government operations in an emergency or disaster, to the re-creation of the legal and financial status of the government, or to the protection and fulfillment of obligations to the people of the state.

(6) "Governing body" means the court, council, board, commission, or other body established or authorized by law to govern the operations of a local government. In those instances in which authority over an office or department of a local government is shared by two or more governing bodies or by a governing body and the state, the governing body, for the purposes of this subtitle only, is the governing body that provides most of the operational funding for the office or department.

(7) "Local government" means a county, including all district and precinct offices of a county, municipality, public school district, appraisal district, or any other special-purpose district or authority.

(8) "Local government record" means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by a local government or any of its officers or employees pursuant to law, including an ordinance, or in the transaction of public business. The term does not include:

(A) extra identical copies of documents created only for convenience of reference or research by officers or employees of the local government;

(B) notes, journals, diaries, and similar documents created by an officer or employee of the local government for the officer's or employee's personal convenience;

(C) blank forms;

(D) stocks of publications;

(E) library and museum materials acquired solely for the purposes of reference or display;

(F) copies of documents in any media furnished to members of the public to which they are entitled under Chapter 552, Government Code, or other state law; or

G) any records, correspondence, notes, memoranda, or other documents associated with a matter conducted under an alternative dispute resolution procedure in which personnel of a state department or institution, local government, special district, or other political subdivision of the state participated as a party, facilitated as an impartial third party, or facilitated as the administrator of a dispute resolution system or organization.

(9) "Office" means any office, department, division, program, commission, bureau, board, committee, or similar entity of a local government.

(10) "Permanent record" or "record of permanent value" means any local government record for which the retention period on a records retention schedule issued by the commission is given as permanent.

(11) "Record" means a local government record.

(12) "Records control schedule" means a document prepared by or under the authority of a records management officer listing the records maintained by a local government or an elective county office, their retention periods, and other records disposition information that the records management program in each local government or elective county office may require.

(13) "Records management" means the application of management techniques to the creation, use, maintenance, retention, preservation, and disposal of records for the purposes of reducing the costs and improving the efficiency of recordkeeping. The term includes the development of records control schedules, the management of filing and information retrieval systems, the protection of essential and permanent records, the economical and space-effective storage of inactive records, control over the creation and distribution of forms, reports, and correspondence, and the management of micrographics and electronic and other records storage systems.

(14) "Records management officer" means the person identified under Section 203.001 or designated under Section 203.025 as the records management officer.

(15) "Records retention schedule" means a document issued by the Texas State Library and Archives Commission under authority of Subchapter J, Chapter 441, Government Code, establishing mandatory retention periods for local government records.

(16) "Retention period" means the minimum time that must pass after the creation, recording, or receipt of a record, or the fulfillment of certain actions associated with a record, before it is eligible for destruction.

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 31, Sec. 3, eff. Sept. 1, 1997.

Sec. 201.004. Record Books.
If a state law relating to the keeping of records by a local government officer or employee requires the records to be kept in a "book," "record book," or "well-bound book," or contains any similar requirement that a record be maintained in bound paper form, the record whose creation is called for in the provision may be maintained on microfilm or stored electronically in accordance with the requirements of Chapters 204 and 205 and rules adopted under those chapters unless the law specifically prohibits those methods.

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 201.005. Declaration of Records as Public Property; Access.
(a) Local government records created or received in the transaction of official business or the creation or maintenance of which were paid for by public funds are declared to be public property and are subject to the provisions of this subtitle and Subchapter J, Chapter 441, Government Code.

(b) A local government officer or employee does not have, by virtue of the officer's or employee's position, any personal or property right to a local government record even though the officer or employee developed or compiled it.

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 201.006. Records to be Delivered to Successor in Office.
(a) A custodian of local government records shall, at the expiration of the custodian's term of office, appointment, or employment, deliver to the custodian's successor, if there is one, all local government records in custody. If there is no successor, the governing body shall determine which officer of the local government shall have custody.

(b) If the functions of an office of one local government are assumed by another local government, the governing bodies of the two local governments shall determine in which local government custody of the records of the office shall be vested.

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 201.007. Records of Abolished Local Governments.
(a) If a local government is abolished or declared void pursuant to state law, the records of the local government shall be dealt with according to this section.

(b) After the settlement of the outstanding indebtedness of an abolished municipality and the satisfaction of the other applicable requirements of Chapter 62, Local Government Code, the municipality's governing body at the time the municipality is abolished, or the receiver or trustees if appointed by a court, shall transfer the records of the municipality to the custody of the General Services Commission. A record of an abolished municipality may not be sold to satisfy an outstanding indebtedness.

(c) After the settlement of the outstanding indebtedness of an abolished special-purpose district or authority, other than a school district, and the satisfaction of the other applicable requirements of state law establishing or permitting the establishment of the district or authority or governing its abolition, the district's governing body at the time the district is abolished shall transfer the records of the district to the custody of the General Services Commission. A record of an abolished special-purpose district or authority may not be sold to satisfy an outstanding indebtedness.

(d) As an exception to Subsections (b) and (c), if some or all of the functions of an abolished municipality or special-purpose district or authority, other than a school district, are assumed by another local government, the records of the abolished local government relating to the assumed functions shall be transferred to the appropriate offices of the local government assuming the functions.

(e) The records of annexed, consolidated, or abolished school districts shall be transferred as provided by this subsection. The records of an annexed school district shall be transferred to the custody of the governing body of the school district to which the abolished school district has been annexed. The records of each of two or more school districts that have been consolidated shall be transferred to the custody of the governing body of the consolidated school district. The records of an abolished school district whose entire territory is annexed to another school district shall be transferred to the custody of the governing body of that school district. The commissioner of education shall determine to which governing body custody of the records of an abolished school district shall be transferred in those instances in which the territory of the abolished district is divided among two or more school districts.

(f) The cost of the transfer of records to the General Services Commission under this section shall be paid for out of the funds of the abolished local government. If funds of the local government are not available for this purpose, the cost of the transfer shall be paid out of the funds of the General Services Commission.

(g) The records retention schedules issued by the commission shall be used, as far as practicable, as the basis for the retention and disposition of local government records transferred to the custody of the General Services Commission under this section.

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 558, Sec. 1, eff. Sept. 1, 1997.

Sec. 201.008. Records of Abolished Offices of County Superintendents of Schools.
(a) Records of an office of county superintendent of schools or county superintendent of education abolished under former Section 17.95, Education Code, before September 1, 1989, that are still in the possession of a custodian of county records or a county officer shall be transferred to the custody of the commission by order of the director and librarian.

(b) The director and librarian shall determine the time and manner of the transfer of the records on a county-by-county basis. The cost of the transfer shall be paid for out of funds of the commission.

(c) The county judge of a county in which a custodian of county records has possession of the records of an abolished office of the county superintendent of schools may petition the director and librarian to allow the county to retain all or part of the records and the director and librarian may grant the petition.
Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch.

165, Sec. 6.70, eff. Sept. 1, 1997.

Sec. 201.009. Access to Records.
(a) Local government records are subject to Chapter 552, Government Code.

(b) Any local government record to which public access is denied under Chapter 552, Government Code, is, if still in existence, open to public inspection 75 years after it was originally created or received. However, a birth record maintained by a local registrar is, if still in existence, open to public inspection 100 years after it was originally created or received and a death record maintained by a local registrar is, if still in existence, open to public inspection 55 years after it was originally created or received. This subsection does not limit the authority of a governing body or an elected county officer to establish retention periods for records under Section 203.042.

(c) Subsection (b) does not apply to a local government record whose public disclosure is prohibited by an order of a court or by another state law.

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995

CHAPTER 202. DESTRUCTION AND ALIENATION OF RECORDS

Sec. 202.001. Destruction of Records.
(a) A local government record may be destroyed if:

(1) the record is listed on a records control schedule accepted for filing by the director and librarian as provided by Section 203.041 and either its retention period has expired or it has been microfilmed or stored electronically in accordance with the requirements of Chapters 204 and 205;
(2) the record appears on a list of obsolete records approved by the director and librarian as provided by Section 203.044; or
(3) a destruction request is filed with and approved by the director and librarian as provided by Section 203.045 for a record not listed on an approved control schedule.

(b) The following records may be destroyed without meeting the conditions of Subsection (a):

(1) records the destruction or obliteration of which is directed by an expunction order issued by a district court pursuant to state law; and
(2) records defined as exempt from scheduling or filing requirements by rules adopted by the commission or listed as exempt in a records retention schedule issued by the commission.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 202.002. Litigation and Open Records Requests.
(a) Regardless of any other provision of this subtitle or rules adopted under it, a local government

record the subject matter of which is known by the custodian to be in litigation may not be destroyed until the litigation is settled.

(b) Regardless of any other provision of this subtitle or rules adopted under it, a local government record subject to a request under Chapter 552, Government Code, may not be destroyed until the request is resolved.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995.

Sec. 202.003. Method of Destruction.
(a) A local government record may be destroyed by burning, shredding, pulping, or burial in a landfill or by sale or donation for recycling purposes except as provided by Subsection (b).

(b) Records to which public access is restricted under Chapter 552, Government Code, or other state law may be destroyed only by burning, pulping, or shredding.

(c) A local government that sells or donates records for recycling purposes shall establish procedures for ensuring that the records are rendered unrecognizable as local government records by the recycler.

(d) The director and librarian may approve other methods of destruction that render the records unrecognizable as local government records.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995.

Sec. 202.004. Alienation of Records.
(a) A local government record may be sold or donated, loaned, transferred, or otherwise passed out of the custody of a local government to any public institution of higher education, public museum, public library, or other public entity with the approval of the local government's records management officer and after the expiration of the record's retention period under the local government's records control schedule.

(b) A local government record may not be sold or donated (except for the purposes of recycling), loaned, transferred, or otherwise passed out of the custody of a local government to any private college or university, private museum or library, private organization of any type, or an individual, except with the consent of the director and librarian and after the expiration of its retention period under the local government's records control schedule.

(c) A records management officer or custodian may temporarily transfer a local government record to a person for the purposes of microfilming, duplication, conversion to electronic media, restoration, or similar records management and preservation procedures.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 28, eff. Sept. 1, 1995.

Sec. 202.005. Right of Recovery.

(a) The governing body may demand and receive from any person any local government record in private possession created or received by the local government the removal of which was not authorized by law.

(b) If the person in possession of a local government record refuses to deliver the record on demand, the governing body may petition the district court of the county in which the person resides for the return of the record. If the court finds that the record is a local government record, the court shall order the return of the record.

(c) As part of the petition to the district court or at any time after its filing, the governing body may petition to have the record seized pending the determination of the court if the governing body finds the record is in danger of being destroyed, mutilated, altered, secreted, or removed from the state.

(d) The director and librarian may demand and receive from any person any local government record of permanent value in private possession.

(e) If the person in possession of the local government record of permanent value refuses to deliver the record on demand, the director and librarian may ask the attorney general to petition for the recovery of the record as provided by this section. As part of the petition or at any time after its filing, the attorney general may petition to have the record seized pending the determination of the court if the governing body finds the record is in danger of being destroyed, mutilated, altered, secreted, or removed from the state.

(f) A local government record recovered as the result of a petition by the attorney general shall be transferred to the custody of the commission or, at the discretion of the director and librarian, be returned to the local government that originally had custody of the record.

(g) If a local government refuses to deliver custody of a record to the commission as provided by Section 201.007, 201.008, or 203.050, the director and librarian may ask the attorney general to petition for recovery of the record. If the court determines that the director and librarian has acted in accordance with Section 201.007, 201.008, or 203.050, as applicable, and with regard to Section 203.050, the court finds that the survival of the record is imperiled, the court shall order the record to be transferred to the custody of the commission.

(h) If a governing body petitions a court for the recovery of a record under Subsection (b) and prevails or if the attorney general petitions a court for the recovery of a record under Subsection (e) or (g) and prevails, the court shall award attorney's fees and court costs to the prevailing party.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 202.006. Destruction of Nonrecord Material.
(a) Material that is not included in the definition of a local government record and is described by Section 201.003(8)(A), (B), or (C) may be disposed of at the discretion of the custodian or the creator of the document, as applicable, subject to any policies developed in each local government or elective county office regarding the destruction.

(b) Extra identical copies of a local government record to which public access is restricted under Chapter 552, Government Code, or other state law may be destroyed only by burning, pulping, or shredding.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995.

Sec. 202.007. Personal Liability.
A custodian of local government records, records management officer, or other officer or employee of a local government may not be held personally liable for the destruction of a local government record if the destruction is in compliance with this subtitle and rules adopted under it.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 202.008. Penalty: Destruction or Alienation of Record.
An officer or employee of a local government commits an offense if the officer or employee knowingly or intentionally violates this subtitle or rules adopted under it by destroying or alienating a local government record in contravention of this subtitle or by intentionally failing to deliver records to a successor in office as provided by Section 201.006(a). An offense under this section is a Class A misdemeanor.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 202.009. Penalty: Possession of Record by Private Entity.
(a) A private college or university, a private museum or library, a private organization of any other type, or an individual commits an offense if the entity knowingly or intentionally acquires or possesses a local government record. An offense under this subsection is a Class A misdemeanor.

(b) It is a defense to prosecution under this section that a private college, university, museum, or library, by agreement with the commission under Subchapter J, Chapter 441, Government Code, provides physical housing for a local government record the title to which has been vested in the commission.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989

CHAPTER 203. MANAGEMENT AND PRESERVATION OF RECORDS
SUBCHAPTER A. ELECTIVE COUNTY OFFICES

Sec. 203.001. Records Management Officer.
Each elected county officer is the records management officer for the records of the officer's office.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 203.002. Duties and Responsibilities of Elected County Officers as Records Management Officers.
The elected county officer shall:

(1) develop policies and procedures for the administration of an active and continuing records management program;
(2) administer the records management program so as to reduce the costs and improve the efficiency of recordkeeping;
(3) prepare and file with the director and librarian the records control schedules and amended schedules required by Section 203.041 and the list of obsolete records as provided by Section 203.044;
(4) prepare requests for authorization to destroy records not on an approved control schedule as provided by Section 203.045, requests to destroy the originals of permanent records that have been microfilmed as provided by Section 204.008, and electronic storage authorization requests as provided by Section 205.007;
(5) identify and take adequate steps to preserve records that are of permanent value;
(6) identify and take adequate steps to protect the essential records of the office;
(7) ensure that the maintenance, preservation, microfilming, destruction, or other disposition of records is carried out in accordance with the policies and procedures of the records management program and the requirements of this subtitle and rules adopted under it; and
(8) cooperate with the commission in its conduct of statewide records management surveys.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 203.003. Duties of Commissioners Court.
The commissioners court of each county shall:

(1) promote and support the efficient and economical management of records of all elective offices in the county to enable elected county officers to conform to this subtitle and rules adopted under it;
(2) facilitate the creation and maintenance of records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of each elective office and designed to furnish the information necessary to protect the legal and financial rights of the local government, the state, and the persons affected by the activities of the local government;
(3) facilitate the identification and preservation of the records of elective offices that are of

permanent value;

(4) facilitate the identification and protection of the essential records of elective offices;

(5) establish a county clerk records management and preservation fund for fees subject to Section 118.0216 and approve in advance any expenditures from the fund; and

(6) establish a records management and preservation fund for the records management and preservation fees authorized under Sections 118.052, 118.0546, and 118.0645, Section 51.317, Government Code, and Article 102.005(d), Code of Criminal Procedure, and approve in advance any expenditures from the fund, which may be spent only for records management preservation or automation purposes in the county.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 675, Sec. 4, eff. Sept. 1, 1993.

Sec. 203.004. Director and Librarian.
The director and librarian shall provide advice and assistance to records management officers in establishing records management programs and in carrying out the other requirements of this subtitle and rules adopted under it.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 203.005. Records Management Program to be Established.
(a) On or before January 1, 1991, each elected county officer shall adopt a written plan establishing an active and continuing program for the efficient and economical management of the records of the elective office of which the elected officer is custodian.

(b) The plan must provide policies, methods, and procedures to fulfill the duties and responsibilities set out in Section 203.002 concerning the management and preservation of records. The plan may establish additional policies or procedures for the operation of the records management program that are consistent with the requirements of this subtitle and rules adopted under it.

(c) A copy of the plan must be filed by the elected county officer with the director and librarian within 30 days after the date of its adoption.

(d) A plan establishing or relating to a records management program adopted before September 1, 1989, must be amended if any provision of the plan is in conflict with this subtitle or a rule adopted under it. A copy of the amended plan shall be filed with the director and librarian as provided by Subsection (c).

(e) A copy of an amended plan relating to the establishment or operation of the records management plan must be filed with the director and librarian within 30 days after the date of its adoption.

(f) The director and librarian or the designee of the director and librarian shall within a reasonable time bring to the attention of the elected county officer in writing any aspect of a plan filed in the

office of the director and librarian or that otherwise comes to the attention of the director and librarian that is inconsistent with requirements of this subtitle or rules adopted under it.

(g) An elected county officer is authorized, instead of or in conjunction with submitting a plan and establishing an independent records program for the elective office, to participate in a county program established as provided by Subchapter B or in one or more specific components of a county program and to authorize the records management officer of the county program to act as the records management officer for the records of the elective office.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER B. ALL OTHER LOCAL GOVERNMENT OFFICES

Sec. 203.021. Duties and Responsibilities of Governing Body.

The governing body of a local government, including a commissioners court with regard to nonelective county offices, shall:

(1) establish, promote, and support an active and continuing program for the efficient and economical management of all local government records;

(2) cause policies and procedures to be developed for the administration of the program under the direction of the records management officer;

(3) facilitate the creation and maintenance of local government records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the local government and designed to furnish the information necessary to protect the legal and financial rights of the local government, the state, and persons affected by the activities of the local government;

(4) facilitate the identification and preservation of local government records that are of permanent value;

(5) facilitate the identification and protection of essential local government records; and

(6) cooperate with the commission in its conduct of statewide records management surveys.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 203.022. Duties and Responsibilities of Custodians.

(a) Custodians of records in each local government shall:

(1) cooperate with the records management officer in carrying out the policies and procedures established by the local government for the efficient and economical management of records and in carrying out the requirements of this subtitle;

(2) adequately document the transaction of government business and the services, programs, and duties for which the custodian and the custodian's staff are responsible; and

(3) maintain the records in the custodian's care and carry out their preservation, microfilming, destruction, or other disposition only in accordance with the policies and procedures of the local government's records management program and the requirements of this subtitle and rules adopted under it.

(b) State law relating to the duties, other responsibilities, or recordkeeping requirements of a custodian of local government records do not exempt the custodian or the records in the custodian's care from the application of this subtitle and rules adopted under it and may not be used by the custodian as a basis for refusal to participate in the records management program of the local government whose establishment is required by this chapter.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 203.023. Duties of Records Management Officer.

The records management officer in each local government shall:

(1) assist in establishing and developing policies and procedures for a records management program for the local government;

(2) administer the records management program and provide assistance to custodians for the purposes of reducing the costs and improving the efficiency of recordkeeping;

(3) in cooperation with the custodians of the records:

(A) prepare and file with the director and librarian the records control schedules and amended schedules required by Section 203.041 and the list of obsolete records as provided by Section 203.044; and

(B) prepare or direct the preparation of requests for authorization to destroy records not on an approved control schedule as provided by Section 203.045, of requests to destroy the originals of permanent records that have been microfilmed as provided by Section 204.008, and of electronic storage authorization requests as provided by Section 205.007;

(4) in cooperation with custodians, identify and take adequate steps to preserve local government records that are of permanent value;

(5) in cooperation with custodians, identify and take adequate steps to protect essential local government records;

(6) in cooperation with custodians, ensure that the maintenance, preservation, microfilming, destruction, or other disposition of records is carried out in accordance with the policies and procedures of the local government's records management program and the requirements of this subtitle and rules adopted under it;

(7) disseminate to the governing body and custodians information concerning state laws, administrative rules, and the policies of the government relating to local government records; and

(8) in cooperation with custodians, establish procedures to ensure that the handling of records in any context of the records management program by the records management officer or those under the officer's authority is carried out with due regard for:

(A) the duties and responsibilities of custodians that may be imposed by law; and

(B) the confidentiality of information in records to which access is restricted by law.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 203.024. Director and Librarian.

The director and librarian shall provide advice and assistance to governing bodies, custodians, and records management officers in establishing records management programs and in carrying out the other requirements of this subtitle and rules adopted under it.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 203.025. Designation of Records Management Officer.
(a) On or before June 1, 1990, the governing body of each local government shall designate a records management officer by:

(1) designating an individual; or
(2) designating an office or position, the holder of which shall be the records management officer.

(b) The name, office, or position of the records management officer shall be entered on the minutes of the governing body.

(c) The name or the name and office or position of the records management officer shall be filed by the records management officer with the director and librarian within 30 days after the date of the designation.

(d) The designation of a new individual or a new office or position shall be entered on the minutes and reported by the records management officer to the director and librarian in the same manner as the original designation.

(e) If the order designating a records management officer designates an office or position rather than an individual, a new holder of that office or position must file the holder's name with the director and librarian within 30 days after the date of assuming the office or position.

(f) Through an agreement or contract under The Interlocal Cooperation Act (Article 4413(32c), Vernon's Texas Civil Statutes), a person may serve as records management officer to more than one local government if the person is employed by one of the local governments that is party to the contract or agreement or employed by an administrative agency that is created by the contract or agreement.

(g) An elected county officer may not be designated as records management officer for the nonelective offices of a county without the county officer's consent.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 203.026. Records Management Program to be Established.
(a) On or before January 1, 1991, each governing body by ordinance or order, as appropriate, shall establish a records management program to be administered by the records management officer.

(b) The ordinance or order must provide methods and procedures to enable the governing body, custodians, and the records management officer to fulfill the duties and responsibilities set out in Sections 203.021, 203.022, and 203.023 concerning the management and preservation of records. The ordinance or order may prescribe any policies or procedures for the operation of the records management program that are consistent with the requirements of this subtitle and rules adopted under it.

(c) A copy of the ordinance or order must be filed by the records management officer with the director and librarian within 30 days after the date of its adoption.

(d) An ordinance or order establishing or relating to a records management program adopted before September 1, 1989, must be amended if any provision of the ordinance or order is in conflict with this subtitle or a rule adopted under it. A copy of the amended ordinance or order shall be filed with the director and librarian as provided by Subsection (c).

(e) A copy of an amended ordinance or revised order relating to the establishment or operation of the records management program must be filed by the governing body with the director and librarian within 30 days after the date of its adoption.

(f) The director and librarian or the designee of the director and librarian shall within a reasonable time bring to the attention of the governing body in writing any aspect of an ordinance or order filed in the office of the director and librarian or that otherwise comes to the attention of the director and librarian that is inconsistent with the requirements of this subtitle or rules adopted under it.

(g) The governing body in a records management program established under this section may require the mandatory destruction of any record of the local government when its retention period has expired on a records control schedule developed under Section 203.041.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER C. RECORDS CONTROL SCHEDULES

Sec. 203.041. Preparation and Filing of Records Control Schedules.
(a) On or before January 4, 1999, the records management officer shall prepare and file with the director and librarian:

(1) a records control schedule listing the following records and establishing a retention period for each as provided by Section 203.042:
   (A) all records created or received by the local government or elective county office;
   (B) any record no longer created or received by the local government or elective county office that is still in its possession and for which the retention period on a records retention schedule issued by the commission has not expired; and
   (C) any record no longer created or received by the local government or elective county office that is still in its possession and for which the retention period on a records

retention schedule issued by the commission has expired but which will not be destroyed as provided by Section 203.044; or

(2) the records management officer, in lieu of filing a records control schedule, may file with the director and librarian a written certification of compliance that the local government or the elective county office has adopted records control schedules that comply with the minimum requirements established on records retention schedules issued by the commission.

(b) At the discretion of the records management officer the records control schedule may also list and provide retention periods for material that is excluded from the definition of a local government record by Section 201.003(8) and exempted records described by Section 202.001(b) if in the officer's opinion the inclusion of the material or records is necessary to ensure the periodic destruction of the material or records in the interest of efficient records management.

(c) A records management officer, in lieu of filing an amended records control schedule, may file with the director and librarian an amended written certification of compliance that the local government or the elective county office has adopted amended records control schedules to comply with the minimum requirements established on records retention schedules issued by the commission including any revised schedules issued by the commission.

(d) The records management officer shall review the records control schedules of the local government or elective county office and prepare amendments to the schedules as needed to reflect new records created or received by the government or office or revisions to retention periods established in a records retention schedule issued by the commission. Amendments to records control schedules shall be filed with the director and librarian in the same manner as the original schedules.

(e) The governing body shall require in the ordinance or order establishing the records management program the review or approval of a records control schedule or amended schedule by the officers of the local government as it considers necessary. The records control schedule or amended schedule for an elective county office need only be approved by the elected official in charge of that office.

(f) Records control schedules may be filed on an office-by-office basis or on a department-by-department basis within each office.

(g) A local government that intends to retain all records permanently or that destroys only those records for which no retention periods have been established in a records retention schedule established under Section 441.158, Government Code, is not required to submit a records control schedule under this section.

(h) The director and librarian shall determine the form and manner of the filing of records control schedules, amended schedules, the written certification of compliance described by Subsection (a)(2), and the amended written certification of compliance described by Subsection (c). The director and

librarian may request that the records management officer file with the written certification of compliance or the amended written certification of compliance any amendment that establishes a records series or retention requirement other than that issued on a commission records retention schedule.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 29, eff. Sept. 1, 1995.

Sec. 203.042. Retention Periods.
(a) A retention period for each record on the records control schedule shall be determined by the governing body or under its direction or by the elected county officer, as applicable.

(b) A retention period may not be less than:
(1) a retention period prescribed by a state or federal law, regulation, or rule of court; or
(2) a retention period for the record established on a records retention schedule issued by the commission.

(c) If at the time a records control schedule is filed by a local government or elected county officer with the director and librarian as provided by Section 203.041, a records retention schedule for the records of that type of local government or elective county office has not been issued by the commission, the records control schedule filed with the director and librarian must be amended to conform with the commission schedule when it is issued to the extent that any retention period on a records control schedule is less than a retention period for the same record on the commission schedule.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 203.043. Filing of Records Control Schedules.
(a) If the director and librarian or the designee of the director and librarian accepts the records control schedule, amended schedule, written certification of compliance described by Section 203.041(a)(2), or amended written certification of compliance described by Section 203.041(c) for filing, the acceptable records control schedule may be used as the basis for the destruction of records listed on it without additional notice to the director and librarian.

(b) If the director and librarian or the designee of the director and librarian rejects the records control schedule, amended schedule, written certification of compliance described by Section 203.041(a)(2), or amended written certification of compliance described by Section 203.041(c) for filing, the reasons for the rejection shall be stated in writing within a reasonable time to the records management officer and the schedule, amended schedule, written certification of compliance, or amended written certification of compliance shall be corrected and resubmitted.

(c) The director and librarian or the designee of the director and librarian may reject a records control schedule or amended schedule for filing only if a retention period listed on it is less than a retention

period for the same record established on a records retention schedule issued by the commission or if the schedule is in violation of this subtitle or a rule adopted under it. The director and librarian or the designee of the director and librarian may reject a written certification of compliance described by Section 203.041(a)(2) or an amended written certification of compliance described by Section 203.041(c) for filing only if the records management officer files a written certification of compliance in a form and manner that has not been approved by the director and librarian.

(d) The director and librarian or the designee of the director and librarian may make it a condition of acceptance of a records control schedule or amended schedule for filing that a record listed on the schedule be transferred to the custody of the commission on the expiration of its retention period rather than being destroyed.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 30, eff. Sept. 1, 1995.

Sec. 203.044. Initial Destruction of Obsolete Records.
(a) In preparing a records control schedule required by Section 203.041, the records management officer may list separately those obsolete records no longer created or received by the local government or elective county office whose retention periods on a records retention schedule issued by the commission have expired and that the local government or elected county officer wishes to destroy.

(b) The lists of obsolete records to be destroyed must be reviewed or approved in the same manner as records control schedules must be reviewed or approved under Section 203.041(e).

(c) The lists shall be submitted to the director and librarian for approval. If the director and librarian or the designee of the director and librarian approves the list, the records listed on it may be destroyed. If the director and librarian or the designee of the director and librarian disapproves the list, the director and librarian or the designee shall state in writing within a reasonable time to the records management officer the record or records on the list that must be retained by the government or elective county office or transferred to the custody of the commission.

(d) The director and librarian shall determine the form and manner of submission of requests to destroy obsolete records.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 203.045. Destruction of Unscheduled Records.
(a) Before the filing of a records control schedule or a written certification of compliance as provided by Section 203.041, a local government record may be destroyed only with the prior approval of the director and librarian.

(b) After the filing of a records control schedule, amended schedule, written certification of

compliance as provided by Section 203.041(a)(2), or amended written certification of compliance as provided by Section 203.041(c), a record that does not appear on a records control schedule or amended schedule may be destroyed only with the prior approval of the director and librarian.

(c) Requests for authorization to destroy unscheduled records shall be submitted by the records management officer or under the officer's direction. However, if the request is submitted before the filing of a records control schedule or a written certification of compliance as provided by Section 203.041 and a records management officer has not yet been designated as provided by Section 203.025, the request shall be submitted by the custodian.

(d) If the director and librarian or the designee of the director and librarian approves the request, the records listed on it may be destroyed. If the director and librarian or the designee disapproves the request, the director and librarian or the designee shall state in writing within a reasonable time to the records management officer or custodian the record or records on the list that must be retained by the government or transferred to the custody of the commission.

(e) The director and librarian shall determine the form and manner of submission of requests to destroy unscheduled records.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 31, eff. Sept. 1, 1995.

Sec. 203.046. Recordkeeping Requirements.
As the governing body may require, the records management officer shall keep accurate lists of records destroyed, their volume, and other information of records management activities.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 203.047. New Local Governments.
A local government established after September 1, 1989, shall fulfill the requirements of Sections 203.025, 203.026, and 203.041 within one year after the date of its establishment.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 203.048. Care of Records of Permanent Value.
The commission shall adopt rules establishing standards for the proper care and storage of local government records of permanent value. The commission may require that certain local government records of permanent value be created on permanent-durable paper, the standards for which shall be established by rule. The rules must be approved as required by Section 441.165, Government Code.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 203.049. Transfer of Records of Permanent Value.

(a) The governing body or elected county officer may offer to transfer records of permanent value not needed in the day-to-day business of the local government to the custody of:

(1) the commission; or

(2) another local government that operates an archives, library, or museum that meets standards for the care and storage of permanent records established by the commission as provided by Section 203.048.

(b) Transfers of permanent records to another local government require the prior approval of the director and librarian.

(c) In a transfer of permanent records under this section, title and control of the records and all rights pertaining to the records granted by law to the original custodian or elected county officer are vested in the commission or the local government that receives the records.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 203.050. Inspection of Permanent Records.

(a) The director and librarian or the authorized representative of the director and librarian is entitled to inspect in the offices of any local government or elected county officer the condition of any permanent record to which access by the director and librarian or the representative is not restricted by law. The inspection is not a release of a record to a member of the public under Chapter 552, Government Code.

(b) The director and librarian, in writing, shall bring to the attention of the governing body or elected county officer, any aspect of the storage, handling, or use of the record that imperils its survival and state what measures must be taken to properly care for and preserve the record.

(c) If, after having been notified by the director and librarian as provided by Subsection (b), the governing body or the elected county officer fails to take required measures to preserve the record, the director and librarian may:

(1) if the record is an obsolete record whose creation is no longer required by law, demand and receive delivery of the record to the custody of the commission; or

(2) if the record is required for current use by the local government, make copies of the record for the purpose of preservation by the commission.

(d) The cost of transferring or copying records under this section shall be paid for out of funds of the commission.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995

CHAPTER 204. MICROFILMING OF RECORDS

Sec. 204.001. Definitions.
In this chapter:

(1) "Microfilm" means roll microfilm, microfiche, and all other formats produced by any method of microphotography or other means of miniaturization on film.

(2) "Microfilming" means the methods, procedures, and processes used to produce roll microfilm, microfiche, or other microphotographic formats.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 204.002. Authorization.
Any local government record may be maintained on microfilm in addition to or instead of paper or other media, subject to the requirements of this chapter and rules adopted under it.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 204.003. Microfilm Produced Under Prior Law.
(a) All microfilm produced before June 1, 1990, under prior law is validated to the extent the microfilm was produced in the manner and according to the standards prescribed by prior law.

(b) In rules adopted under Section 204.004, the commission may establish procedures for the retrospective certification of uncertified or improperly certified microfilm produced before April 1, 1990, that otherwise meets the standards prescribed by prior law.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 204.004. Standards and Procedures.
(a) The commission shall adopt rules on or before April 1, 1990, establishing standards and procedures for the microfilming of local government records. The rules must be approved as required by Section 441.165, Government Code.

(b) The rules must prescribe:
(1) standards for film quality, resolution, density, definition, and chemical stability;
(2) tests and other methods of inspection required to establish that prescribed standards have been met;
(3) procedures for verifying that records have been filmed accurately;
(4) procedures for the certification of microfilmed records;
(5) standards for the use of editorial and technical targets on microfilm;
(6) standards for the production of use copies from and the storage of master microfilm negatives;

(7) procedures for the labeling and indexing of microfilmed records;
(8) procedures establishing the manner in which court case papers must be filmed;
(9) procedures for the expunction of criminal records on microfilm pursuant to court order;
(10) standards for computer-output microfilm; and
(11) standards for providing access by the members of the public to records on microfilm to which they are entitled under law.

(c) In rules adopted under this section, the commission may establish differing standards and procedures for the microfilming of:
(1) any permanent record;
(2) any record of a municipal, justice, county, or district court; or
(3) any record to which access is restricted under Chapter 552, Government Code, or other state law.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995.

Sec. 204.005. Rules to be Updated.
The director and librarian shall monitor standards relating to microfilming developed for use by federal agencies or adopted by national organizations that develop and set standards in the fields of information and records management in order to recommend to the commission any needed amendments to rules.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 204.006. Indexing.
An index to a microfilm record must show the same information that may be required by state law for an index to the same record if it is not microfilmed.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 204.007. Destruction of Original Records.
(a) Except as provided by Section 204.008, the original of a record that has been microfilmed pursuant to this chapter and rules adopted under it may be destroyed before the expiration of its retention period on a records retention schedule issued by the commission.

(b) A list of the originals of microfilmed records destroyed shall be filed with the records management officer.

(c) The microfilm record must be retained until the expiration of the retention period for the original record.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 204.008. Destruction of Permanent Records.
(a) The original of a permanent record may not be destroyed until a destruction authorization request is submitted to the director and librarian certifying that the microfilm of the record meets the standards of this chapter and rules adopted under it.

(b) Requests shall be submitted by the records management officer or under the officer's direction or, if a records management officer has not yet been designated under Section 203.025, by the custodian of the microfilm records.

(c) If the director and librarian or the designee of the director and librarian approves the request, the original record may be destroyed.

(d) In lieu of destruction, the director and librarian may require that the original record be transferred to the custody of the commission.

(e) If the director and librarian or the designee of the director and librarian disapproves the request, the reasons for the disapproval shall be stated in writing within a reasonable time to the records management officer or custodian. The original records may not be destroyed until the microfilm of the records is brought into compliance with this chapter and the rules adopted under it as evidenced by the submission of a new destruction authorization request.

(f) The director and librarian shall determine the form and manner of submission of destruction authorization requests required by this section.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 204.009. Microfilm of Permanent Records to be Supplied.
(a) A local government or elected county officer, at the request of the director and librarian, shall supply to the commission a copy of the microfilm of any permanent record to which access is not restricted by law.

(b) The commission shall reimburse the local government or elected county officer for the cost of the copy. If the film duplication is performed by the local government or elected county officer, the cost must be the same as that paid by state agencies to the Texas State Library for a similar microfilm copy. If the film duplication is done by a commercial microfilming service under contract with the local government or elected county officer, the cost of the copy may not exceed the cost paid by the local government or elected county officer for a copy under the contract.

(c) The director and librarian or an employee of the commission may not provide certified copies of a record on microfilm obtained under this section without the consent of the original local custodian of the record.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 204.010. Commercial Microfilm Storage Facilities.
(a) The commission may establish a program for the certification of commercial microfilm storage facilities for the storage of the master microfilm negatives of local government records.

(b) If the commission establishes a certification program, the procedures of this subsection apply. On request by the commercial storage facility, the director and librarian or the representative of the director and librarian shall inspect the facility to determine if the facility meets the minimum standards established by the commission under Section 204.004 for the storage of the microfilm of local government records. If the commercial storage facility meets the minimum standards established by the commission, the name of the facility shall be added to a list of certified storage facilities to be prepared by the director and librarian and made available on request to a local government, elected county officer, or other interested party. The inspection and certification of commercial storage facilities shall be on a fee basis to be determined by the commission.

(c) The commission shall determine the period a certification made under this section is effective.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 204.011. Effective as Original Record.
(a) A microfilmed record created in compliance with this chapter and rules adopted under it, including microfilm validated by Section 204.003, is an original record and shall be accepted by any court or administrative agency of this state.

(b) If issued and certified by a local government recordkeeper, a copy on paper or film of a microfilmed record shall be accepted by a court or administrative agency of this state as a certified copy of an original record.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989

CHAPTER 205. ELECTRONIC STORAGE OF RECORDS

Sec. 205.001. Definitions.
In this chapter:

(1) "Electronic storage" means the maintenance of local government record data in the form of digital electronic signals on a computer hard disk, magnetic tape, optical disk, or similar machine-readable medium.

(2) "Local government record data" means the information that by law, regulation, rule of court, ordinance, or administrative procedure in a local government comprises a local government record as defined by Section 201.003.

(3) "Source document" means the local government record from which local government record data is obtained for electronic storage. The term does not include backup copies of the data in any media generated from electronic storage.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 205.002. Authorization.
Any local government record data may be stored electronically in addition to or instead of source documents in paper or other media, subject to the requirements of this chapter and rules adopted under it.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 205.003. Standards and Procedures to be Adopted.
(a) The commission shall adopt rules establishing standards and procedures for the electronic storage of any local government record data of permanent value and may adopt rules establishing standards and procedures for the electronic storage of any local government record data whose retention period is at least 10 years on a records retention schedule issued by the commission. The rules must be approved as required by Section 441.165, Government Code.

(b) With regard to the types of local government record data covered by Subsection (a), the rules may require or prescribe:

(1) standards and procedures for the generation of backup or preservation copies of the local government record data on paper, microfilm, electronic, or other approved media;
(2) standards and procedures for the recopying or duplication of the magnetic tape, optical disk, or similar machine-readable medium on which the local government record data are stored;
(3) standards and procedures for the physical storage and maintenance of magnetic tapes, optical disks, or similar machine-readable media;
(4) standards and procedures for providing access by members of the public to electronically stored local government record data to which they are entitled under law; and
(5) other standards and procedures that the commission considers necessary to ensure the availability, readability, or integrity of the local government record data.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 205.004. Rules to be Updated.
The director and librarian shall monitor standards and procedures relating to electronic storage developed for use by federal agencies or adopted by national organizations that develop and set standards in the fields of records and information management in order to recommend to the commission any needed amendments to rules.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 205.005. Supreme Court Rules.
This chapter is not intended to conflict with Subchapter I, Chapter 51, Government Code, relating to the electronic filing of certain documents in district and county courts. The commission shall incorporate any rules adopted under that subchapter into its own.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 205.006. Index.
An index to local government record data stored electronically must provide the same information that may be required by state law for an index to the source document, if applicable.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 205.007. Electronic Storage Authorization Requests.
(a) Before the electronic storage of any local government record data of permanent value or, if stipulated in commission rules, any local government record data whose retention period is at least 10 years on a records retention schedule issued by the commission, an electronic storage authorization request shall be submitted to the director and librarian for approval.

(b) Electronic storage authorization requests shall be submitted by the records management officer or under the officer's direction or, if a records management officer has not yet been designated under Section 203.025, by the custodian of the local government record data to be stored electronically.

(c) If the director and librarian or the designee of the director and librarian approves the request, the local government record data may be stored electronically.

(d) If the director and librarian or the designee of the director and librarian disapproves the request, the reasons for the disapproval shall be stated in writing within a reasonable time to the records management officer or custodian. Electronic storage of the local government record data may not take place until an electronic storage authorization request receives the approval of the director and librarian or the designee of the director and librarian.

(e) The director and librarian or the designee of the director and librarian may disapprove an electronic storage authorization request only if the standards and procedures proposed for the electronic storage of the local government record data are in violation of this chapter or rules adopted under it.

(f) The director and librarian shall determine the form and manner of submission of authorization requests required by this chapter.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 205.008. Destruction of Source Documents.

(a) The source document, if any, for electronically stored local government record data covered by Section 205.007(a) may be destroyed or returned to the person who filed it for record if the electronic storage authorization request is approved.

(b) The magnetic tape, optical disk, or similar medium containing the local government record data and the hardware and software necessary to provide access to it must be retained by the local government or be available to the local government until the expiration of the retention period for all source documents, subject to the rules adopted under this chapter.

(c) The source document, if any, for electronically stored local government record data not covered by Section 205.007(a) may be destroyed before the expiration of the retention period for the source document in a records retention schedule issued by the commission if the magnetic tape, optical disk, or similar medium and hardware and software necessary to provide access to local government record data on the media are retained for the retention period in the schedule. Conversely, the magnetic tape, optical disk, or similar medium may be erased, written over, or destroyed before the expiration of the retention period for a source document for local government record data not covered by Section 205.007(a), if the source document, if any, is retained until the expiration of its retention period or, if the source document has already been destroyed, paper or microfilm copies are generated from the magnetic tape, optical disk, or similar medium before destruction or erasure and retained until the expiration of the retention period for the source document.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989.

Sec. 205.009. Denial of Access Prohibited.
A person under contract or agreement with a local government or elected county officer to create, file, or store local government record data electronically or to provide services, equipment, or the means for the creation, filing, or storage, may not, under any circumstances, refuse to provide local government record data to the local government in a timely manner in a format accessible and useable by the local government.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989

Government Code

Chapter 551

Texas

Open Meetings

Act

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GOVERNMENT CODE CHAPTER 551. OPEN MEETINGS

SUBCHAPTER A. GENERAL PROVISIONS

§ 551.001. Definitions

In this chapter:

(1) "Closed meeting" means a meeting to which the public does not have access.

(2) "Deliberation" means a verbal exchange during a meeting between a quorum of a governmental body, or between a quorum of a governmental body and another person, concerning an issue within the jurisdiction of the governmental body or any public business.

(3) "Governmental body" means:

(A) a board, commission, department, committee, or agency within the executive or legislative branch of state government that is directed by one or more elected or appointed members;

(B) a county commissioners court in the state;

(C) a municipal governing body in the state;

(D) a deliberative body that has rulemaking or quasi-judicial power and that is classified as a department, agency, or political subdivision of a county or municipality;

(E) a school district board of trustees;

(F) a county board of school trustees;

(G) a county board of education;

(H) the governing board of a special district created by law; and

(I) a nonprofit corporation organized under Chapter 76, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 1434a, Vernon's Texas Civil Statutes), that provides a water supply or wastewater service, or both, and is exempt from ad valorem taxation under Section 11.30, Tax Code.

(4) "Meeting" means a deliberation between a quorum of a governmental body, or between a quorum of a governmental body and another person, during which public business or public policy over which the governmental body has supervision or control is discussed or considered or during which the governmental body takes formal action. The term does not include the gathering of a quorum of a governmental body at a social function unrelated to the public business that is conducted by the body, or the attendance by a quorum of a governmental body at a regional, state, or national convention or workshop, if formal action is not taken and any discussion of public business is incidental to the social function, convention, or workshop. The term includes a session of a governmental body.

(5) "Open" means open to the public.

(6) "Quorum" means a majority of a governmental body, unless defined differently by applicable law or rule or the charter of the governmental body.

§ 551.002. Open Meetings Requirement
Every regular, special, or called meeting of a governmental body shall be open to the public, except as provided by this chapter.

§ 551.003. Legislature
In this chapter, the legislature is exercising its powers to adopt rules to prohibit secret meetings of the legislature, committees of the legislature, and other bodies associated with the legislature, except as specifically permitted in the constitution.

§ 551.004. Open Meetings Required by Charter
This chapter does not authorize a governmental body to close a meeting that a charter of the governmental body:

(1) prohibits from being closed; or

(2) requires to be open.

SUBCHAPTER B. RECORD OF OPEN MEETING

§ 551.021. Minutes or Tape Recording of Open Meeting Required
(a) A governmental body shall prepare and keep minutes or make a tape recording of each open meeting of the body.

(b) The minutes must:

(1) state the subject of each deliberation; and
(2) indicate each vote, order, decision, or other action taken.

§ 551.022. Minutes and Tape Recordings of Open Meeting: Public Record
The minutes and tape recordings of an open meeting are public records and shall be available for public inspection and copying on request to the governmental body's chief administrative officer or the officer's designee.

§ 551.023. Recording of Meeting by Person in Attendance
(a) A person in attendance may record all or any part of an open meeting of a governmental body by means of a tape recorder, video camera, or other means of aural or visual reproduction.

(b) A governmental body may adopt reasonable rules to maintain order at a meeting, including rules relating to:
(1) the location of recording equipment; and
(2) the manner in which the recording is conducted.

(c) A rule adopted under Subsection (b) may not prevent or unreasonably impair a person from exercising a right granted under Subsection (a).

SUBCHAPTER C. NOTICE OF MEETINGS.

§ 551.041. Notice of Meeting Required
A governmental body shall give written notice of the date, hour, place, and subject of each meeting held by the governmental body.

§ 551.042. Inquiry Made at Meeting
(a) If, at a meeting of a governmental body, a member of the public or of the governmental body inquires about a subject for which notice has not been given as required by this subchapter, the notice provisions of this subchapter do not apply to:
(1) a statement of specific factual information given in response to the inquiry; or
(2) a recitation of existing policy in response to the inquiry.

(b) Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.

§ 551.043. Time and Accessibility of Notice; General Rule
The notice of a meeting of a governmental body must be posted in a place readily accessible to the general public at all times for at least 72 hours before the scheduled time of the meeting, except as provided by Sections 551.044-551.046.

§ 551.044. Exception to General Rule: Governmental Body With Statewide Jurisdiction
(a) The secretary of state must post notice of a meeting of a state board, commission, department, or officer having statewide jurisdiction for at least seven days before the day of the meeting.

(b) Subsection (a) does not apply to:
(1) the Texas Workers' Compensation Commission; or
(2) the governing board of an institution of higher education.

§ 551.045. Exception to General Rule: Notice of Emergency Meeting or Emergency Addition to Agenda
(a) In an emergency or when there is an urgent public necessity, the notice of a meeting or the supplemental notice of a subject added as an item to the agenda for a meeting for which notice has been posted in accordance with this subchapter is sufficient if it is posted for at least two hours before the meeting is convened.

(b) An emergency or an urgent public necessity exists only if immediate action is required of a governmental body because of:
(1) an imminent threat to public health and safety; or
(2) a reasonably unforeseeable situation.

(c) the governmental body shall clearly identify the emergency or urgent public necessity in the notice or supplemental notice under this section.

(d) A person who is designated or authorized to post notice of a meeting by a governmental body under this subchapter shall post the notice taking at face value the governmental body's stated reason for the emergency or urgent public necessity.

§ 551.046. Exception to General Rule: Committee of Legislature
The notice of a legislative committee meeting shall be as provided by the rules of the house of representatives or of the senate.

§ 551.047. Special Notice to News Media of Emergency Meeting or Emergency Addition to Agenda
(a) The presiding officer of a governmental body, or the member of a governmental body who calls an emergency meeting of the governmental body or adds an emergency item to the agenda of a meeting of the governmental body, shall notify the news media of the emergency meeting or emergency item as required by this section.

(b) The presiding officer or member is required to notify only those members of the news media that have previously:
(1) filed at the headquarters of the governmental body a request containing all pertinent information for the special notice; and

(2) agreed to reimburse the governmental body for the cost of providing the special notice.

(c) The presiding officer or member shall give the notice by telephone or telegraph.

§ 551.048. State Governmental Body: Notice to Secretary of State; Place of Posting Notice
(a) A state governmental body shall provide notice of each meeting to the secretary of state.

(b) The secretary of state shall post the notice on a bulletin board at a place convenient to the public in the main office of the secretary of state.

§ 551.049. County Governmental Body: Place of Posting Notice
A county governmental body shall post notice of each meeting on a bulletin board at a place convenient to the public in the county courthouse.

§ 551.050. Municipal Governmental Body: Place of Posting Notice
A municipal governmental body shall post notice of each meeting on a bulletin board at a place convenient to the public in the city hall.

§ 551.051. School District: Place of Posting Notice
A school district shall post notice of each meeting on a bulletin board at a place convenient to the public in the central administrative office of the district.

§ 551.052. School District: Special Notice to News Media
(a) A school district shall provide special notice of each meeting to any news media that has:
(1) requested special notice; and
(2) agreed to reimburse the district for the cost of providing the special notice.

(b) The notice shall be by telephone or telegraph.

§ 551.053. District or Political Subdivision Extending Into Four or More Counties: Notice to Public, Secretary of State, and County Clerk; Place of Posting Notice
(a) The governing body of a water district or other district or political subdivision that extends into four or more counties shall:
(1) post notice of each meeting at a place convenient to the public in the administrative office of the district or political subdivision;
(2) provide notice of each meeting to the secretary of state; and
(3) provide notice of each meeting to the county clerk of the county in which the administrative office of the district or political subdivision is located.

(b) The secretary of state shall post the notice provided under Subsection (a)(2) on a bulletin board at a place convenient to the public in the main office of the secretary of state.

(c) A county clerk shall post the notice provided under Subsection (a)(3) on a bulletin board at a place convenient to the public in the county courthouse.

§ 551.054. District or Political Subdivision Extending Into Fewer Than Four Counties: Notice to Public and County Clerks; Place of Posting Notice

(a) The governing body of a water district or other district or political subdivision that extends into fewer than four counties shall:

(1) post notice of each meeting at a place convenient to the public in the administrative office of the district or political subdivision; and

(2) provide notice of each meeting to the county clerk of each county in which the district or political subdivision is located.

(b) A county clerk shall post the notice provided under Subsection (a)(2) on a bulletin board at a place convenient to the public in the county courthouse.

§ 551.055. Institution of Higher Education

In addition to providing any other notice required by this subchapter, the governing board of a single institution of higher education;

(1) shall post notice of each meeting at the county courthouse of the county in which the meeting will be held;

(2) shall publish notice of a meeting in a student newspaper of the institution if an issue of the newspaper is published between the time of the posting and the time of the meeting; and

(3) may post notice of a meeting at another place convenient to the public.

SUBCHAPTER D. EXCEPTIONS TO REQUIREMENT THAT MEETINGS BE OPEN.

§ 551.071. Consultation With Attorney; Closed Meeting

A governmental body may not conduct a private consultation with its attorney except:

(1) when the governmental body seeks the advice of its attorney about:

(A) pending or contemplated litigation; or

(B) a settlement offer; or

(2) on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter.

§ 551.072. Deliberation Regarding Real Property; Closed Meeting

A governmental body may conduct a closed meeting to deliberate the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.

§ 551.073. Deliberation Regarding Prospective Gift; Closed Meeting

A governmental body may conduct a closed meeting to deliberate a negotiated contract for a

prospective gift or donation to the state or the governmental body if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.

§ 551.074. Personnel Matters; Closed Meeting

(a) This chapter does not require a governmental body to conduct an open meeting:

(1) to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or

(2) to hear a complaint or charge against an officer or employee.

(b) Subsection (a) does not apply if the officer or employee who is the subject of the deliberation or hearing requests a public hearing.

§ 551.0745. Personnel Matters Affecting County Advisory Body: Closed Meeting

(a) This chapter does not require the commissioners court of a county to conduct an open meeting:

(1) to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a member of an advisory body; or

(2) to hear a complaint or charge against a member of an advisory body.

(b) Subsection (a) does not apply if the individual who is the subject of the deliberation or hearing requests a public hearing.

§ 551.075. Conference With Employees; Closed Meeting

(a) This chapter does not require a governmental body to confer with one or more employees of the governmental body in an open meeting if the only purpose of the conference is to:

(1) receive information from the employees; or

(2) question the employees.

(b) During a conference under Subsection (a), members of the governmental body may not deliberate public business or agency policy that affects public business.

§ 551.076. Deliberation Regarding Security Devices; Closed Meeting

This chapter does not require a governmental body to conduct an open meeting to deliberate the deployment, or specific occasions for implementation, of security personnel or devices.

§ 551.077. Agency Financed by Federal Government

This chapter does not require an agency financed entirely by federal money to conduct an open meeting.

§ 551.078. Medical Board or Medical Committee

This chapter does not require a medical board or medical committee to conduct an open meeting to deliberate the medical or psychiatric records of an individual applicant for a disability benefit

from a public retirement system.

§ 551.079. State Board of Insurance
(a) The requirements of this chapter do not apply to a meeting of the State Board of Insurance in the discharge of responsibilities to regulate and maintain the solvency of a person regulated by the board.

(b) The board may deliberate and determine the appropriate action to be taken concerning the solvency of a person regulated by the board in a closed meeting with persons in one or more of the following categories:

(1) staff of the board;
(2) a regulated person; or
(3) representatives of a regulated person.

§ 551.080. Board of Pardons and Paroles
This chapter does not require the Board of Pardons and Paroles to conduct an open meeting to interview or counsel an inmate of a facility of the institutional division of the Texas Department of Criminal Justice.

§ 551.081. Credit Union Commission
This chapter does not require the Credit Union Commission to conduct an open meeting to deliberate a matter made confidential by law.

§ 551.082. School Children; School District Employees; Disciplinary Matter or Complaint
(a) This chapter does not require a school board to conduct an open meeting to deliberate in a case:

(1) involving discipline of a public school child; or
(2) in which a complaint or charge is brought against an employee of the school district by another employee and the complaint or charge directly results in a need for a hearing.

(b) Subsection (a) does not apply if an open hearing is requested in writing by a parent or guardian of the child or by the employee against whom the complaint or charge is brought.

§ 551.083. Certain School Boards; Closed Meeting Regarding Consultation With Representative of Employee Group
This chapter does not require a school board operating under a consultation agreement authorized by Section 13.901, Education Code, to conduct an open meeting to deliberate the standards, guidelines, terms, or conditions the board will follow, or instruct its representatives to follow, in a consultation with a representative of an employee group.

§ 551.084. Investigation; Exclusion of Witness From Hearing
A governmental body that is investigating a matter may exclude a witness from a hearing during the examination of another witness in the investigation.

§ 551.085. Governing Board of Municipal Hospital, Hospital District, or Municipal Hospital Authority

This chapter does not require the governing board of a municipal hospital, municipal hospital authority, or hospital district created under general or special law to conduct an open meeting to deliberate:

(1) pricing or financial planning information relating to a bid or negotiation for the arrangement or provision of services or product lines to another person if disclosure of the information would give advantage to competitors of the hospital or hospital district; or

(2) information relating to a proposed new service or product line of the hospital or hospital district before the hospital publicly announces the service or product line.

SUBCHAPTER E. PROCEDURES RELATING TO CLOSED MEETING

§ 551.101. Requirement to First Convene in Open Meeting

If a closed meeting is allowed under this chapter, a governmental body may not conduct the closed meeting unless a quorum of the governmental body first convenes in an open meeting for which notice has been given as provided by this chapter and during which the presiding officer publicly:

(1) announces that a closed meeting will be held; and

(2) identifies the section or sections of this chapter under which the closed meeting is held.

§ 551.102. Requirement to Vote or Take Final Action in Open Meeting

A final action, decision, or vote on a matter deliberated in a closed meeting under this chapter may only be made in an open meeting that is held in compliance with the notice provisions of this chapter.

§ 551.103. Certified Agenda or Tape Recording Required

(a) A governmental body shall either keep a certified agenda or make a tape recording of the proceedings of each closed meeting, except for a private consultation permitted under Section 551.071.

(b) The presiding officer shall certify that an agenda kept under Subsection (a) is a true and correct record of the proceedings.

(c) The certified agenda must include:

(1) a statement of the subject matter of each deliberation;

(2) a record of any further action taken; and

(3) an announcement by the presiding officer at the beginning and the end of the meeting indicating the date and time.

(d) A tape recording made under Subsection (a) must include announcements by the presiding

officer at the beginning and the end of the meeting indicating the date and time.

§ 551.104. Certified Agenda or Tape; Preservation; Disclosure

(a) A governmental body shall preserve the certified agenda or tape recording of a closed meeting for at least two years after the date of the meeting. If an action involving the meeting is brought within that period, the governmental body shall preserve the certified agenda or tape while the action is pending.

(b) In litigation in a district court involving an alleged violation of this chapter, the court:

(1) is entitled to make an in camera inspection of the certified agenda or tape;

(2) may admit all or part of the certified agenda or tape as evidence, on entry of a final judgment; and

(3) may grant legal or equitable relief it considers appropriate, including an order that the governmental body make available to the public the certified agenda or tape of any part of a meeting that was required to be open under this chapter.

(c) The certified agenda or tape of a closed meeting is available for public inspection and copying only under a court order issued under Subsection (b)(3).

SUBCHAPTER F. MEETINGS BY TELEPHONE CONFERENCE CALL OR VIDEO CONFERENCE CALL

§ 551.121. Governing Board of Institution of Higher Education

(a) In this section, "governing board," "institution of higher education," and "university system" have the meanings assigned by Section 61.003, Education Code.

(b) This chapter does not prohibit the governing board of an institution of higher education from holding an open or closed meeting by telephone conference call.

(c) A meeting held by telephone conference call may be held only if:

(1) the meeting is a special called meeting and immediate action is required; and

(2) the convening at one location of a quorum of the governing board is difficult or impossible.

(d) The telephone conference call meeting is subject to the notice requirements applicable to other meetings.

(e) The notice of the telephone conference call meeting must specify as the location of the meeting the location where meetings of the governing board are usually held. For a meeting of the governing board of a university system, the notice must specify as the location of the meeting the board's conference room at the university system office.

(f) Each part of the telephone conference call meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting as the location of the meeting and shall be tape recorded. The tape recording shall be made available to the public.

[§ 551.122. Texas High-Speed Rail Authority - Repealed]

§ 551.123. Texas Board of Criminal Justice

(a) The Texas Board of Criminal Justice may hold an open or closed emergency meeting by telephone conference call.

(b) The portion of the telephone conference call meeting that is open shall be recorded. The recording shall be made available to be heard by the public at one or more places designated by the board.

§ 551.124. Board of Pardons and Paroles

At the call of the presiding officer of the Board of Pardons and Paroles, the board may hold a hearing on clemency matters by telephone conference call.

§ 551.125. Other Governmental Body

(a) Except as otherwise provided by this subchapter, this chapter does not prohibit a governmental body from holding an open or closed meeting by telephone conference call.

(b) A meeting held by telephone conference call may be held only if:

(1) an emergency or public necessity exists within the meaning of Section 551.045 of this chapter; and

(2) the convening at one location of a quorum of the governmental body is difficult or impossible; or

(3) the meeting is held by an advisory board.

(c) The telephone conference call meeting is subject to the notice requirements applicable to other meetings.

(d) The notice of the telephone conference call meeting must specify as the location of the meeting the location where meetings of the governmental body are usually held.

(e) Each part of the telephone conference call meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting as the location of the meeting and shall be tape-recorded. The tape recording shall be made available to the public.

(f) The location designated in the notice as the location of the meeting shall provide two-way communication during the entire telephone conference call meeting and the identification of each

party to the telephone conference shall be clearly stated prior to speaking.

[Text of section 551.126 as added by Acts 1997, 75th Leg., ch. 1038, § 2.]

§ 551.126. Video Conference Call

(a) Except as otherwise provided by this section, this chapter does not prohibit a governmental body from holding an open or closed meeting by videoconference call.

(b) A meeting may be held by video conference call only if a quorum of the governmental body is physically present at one location of the meeting.

(c) A meeting held by video conference call is subject to the notice requirements applicable to other meetings in addition to the notice requirements prescribed by this section.

(d) The notice of a meeting to be held by videoconference call must specify as a location of the meeting the location where a quorum of the governmental body will be physically present and specify the intent to have a quorum present at that location. In addition, the notice of the meeting must specify as a location of the meeting each other location where a member of the governmental body who will participate in the meeting will be physically present during the meeting. Each of the locations shall be open to the public during the open portions of the meeting.

(e) Each portion of a meeting held by videoconference call that is required to be open to the public shall be visible and audible to the public at each location specified under Subsection (d).

(f) The governmental body shall make at least an audio recording of the meeting. The recording shall be made available to the public.

(g) Each location specified under Subsection (d) shall have two-way communication with each other location during the entire meeting. Each participant in the video conference call, while speaking, shall be clearly visible and audible to each other participant and, during the open portion of the meeting, to the members of the public in attendance at a location of the meeting.

(h) The Department of Information Resources by rule shall specify minimum standards for audio and video signals at a meeting held by videoconference call. The quality of the audio and video signals perceptible at each location of the meeting must meet or exceed those standards.

(i) The quality of the audio and video signals perceptible by members of the public at each location of the meeting must:

(1) meet or exceed the quality of the audio and video signals perceptible by the members of the governmental body participating in the meeting; and

(2) be of sufficient quality so that members of the public at each location of the meeting can observe the demeanor and hear the voice of each participant in the open portion of the meeting.

(j) Without regard to whether a member of the governmental body is participating in a meeting from a remote location by videoconference call, a governmental body may allow a member of the public to testify at a meeting from a remote location by videoconference call.

[Text of section 551.126 as added by Acts 1997, 75th Leg., ch. 944, § 1.]

§ 551.127. Higher Education Coordination Board
(a) In this section, "board," means the Texas Higher Education Coordinating Board.

(b) The board may hold an open meeting by telephone conference call or video conference call in order to consider a higher education impact statement if the preparation of a higher education impact statement by the board is to be provided under the rules of either the house of representatives or the senate.

(c) A meeting held by telephone conference call must comply with the procedures described in Section 551.125.

(d) A meeting held by video conference call is subject to the notice requirements applicable to other meetings. In addition, a meeting held by video conference call shall:

(1) be visible and audible to the public at the location specified in the notice of the meeting as the location of the meeting;

(2) be recorded by audio and video; and

(3) have two-way audio and video communications with each participant in the meeting during the entire meeting.

SUBCHAPTER G. ENFORCEMENT AND REMEDIES; CRIMINAL VIOLATIONS

§ 551.141. Action Voidable
An action taken by a governmental body in violation of this chapter is voidable.

§ 551.142. Mandamus; Injunction
(a) An interested person, including a member of the news media, may bring an action by mandamus or injunction to stop, prevent, or reverse a violation or threatened violation of this chapter by members of a governmental body.

(b) The court may assess costs of litigation and reasonable attorney fees incurred by a plaintiff or defendant who substantially prevails in an action under Subsection (a). In exercising its discretion, the court shall consider whether the action was brought in good faith and whether the conduct of the governmental body had a reasonable basis in law.

§ 551.143. Conspiracy to Circumvent Chapter; Offense; Penalty

(a) A member or group of members of a governmental body commits an offense if the member or group of members knowingly conspires to circumvent this chapter by meeting in numbers less than a quorum for the purpose of secret deliberations in violation of this chapter.

(b) An offense under Subsection (a) is a misdemeanor punishable by:

(1) a fine of not less than $100 or more than $500;

(2) confinement in the county jail for not less than one month or more than six months; or

(3) both the fine and confinement.

§ 551.144. Closed Meeting; Offense; Penalty

(a) A member of a governmental body commits an offense if a closed meeting is not permitted under this chapter and the member knowingly:

(1) calls or aids in calling or organizing the closed meeting, whether it is a special or called closed meeting;

(2) closes or aids in closing the meeting to the public, if it is a regular meeting; or

(3) participates in the closed meeting, whether it is a regular, special, or called meeting.

(b) An offense under Subsection (a) is a misdemeanor punishable by:

(1) a fine of not less than $100 or more than $500;

(2) confinement in the county jail for not less than one month or more than six months; or

(3) both the fine and confinement.

§ 551.145. Closed Meeting Without Certified Agenda or Tape Recording; Offense; Penalty

(a) A member of a governmental body commits an offense if the member participates in a closed meeting of the governmental body knowing that a certified agenda of the closed meeting is not being kept or that a tape recording of the closed meeting is not being made.

(b) An offense under Subsection (a) is a Class C misdemeanor.

§ 551.146. Disclosure of Certified Agenda or Tape Recording of Closed Meeting; Offense; Penalty; Civil Liability

(a) An individual, corporation, or partnership that without lawful authority knowingly discloses to a member of the public the certified agenda or tape recording of a meeting that was lawfully closed to the public under this chapter:

(1) commits an offense; and

(2) is liable to a person injured or damaged by the disclosure for:

(A) actual damages, including damages for personal injury or damage, lost wages, defamation, or mental or other emotional distress;

(B) reasonable attorney fees and court costs; and

(C) at the discretion of the trier of fact, exemplary damages.

(b) An offense under Subsection (a)(1) is a Class B misdemeanor.

(c) It is a defense to prosecution under Subsection (a)(1) and an affirmative defense to a civil action under Subsection (a)(2) that:

(1) the defendant had good reason to believe the disclosure was lawful; or

(2) the disclosure was the result of a mistake of fact concerning the nature or content of the certified agenda or tape recording.

Government Code

Chapter 552.

Open Records

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SUBCHAPTER A. GENERAL PROVISIONS

§ 552.001. Policy; Construction

(a) Under the fundamental philosophy of the American constitutional form of representative government that adheres to the principle that government is the servant and not the master of the people, it is the policy of this state that each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. The provisions of this chapter shall be liberally construed to implement this policy.

(b) This chapter shall be liberally construed in favor of granting a request for information.

§ 552.002. Definition of Public Record

"Public record" means the portion of a document, writing, letter, memorandum or other written, printed, typed, copied, or developed material that contains public information.

§ 552.003. Definition of Governmental Body

In this chapter, "governmental body" means:

(1) a board, commission, department, committee, institution, agency, or office that is within or is created by the executive or legislative branch of state government and that is directed by one or more elected or appointed members;

(2) a county commissioners court in the state;

(3) a municipal governing body in the state;

(4) a deliberative body that has rulemaking or quasi-judicial power and that is classified as a department, agency, or political subdivision of a county or municipality;

(5) a school district board of trustees;

(6) a county board of school trustees;

(7) a county board of education;

(8) the governing board of a special district;

(9) the governing body of a nonprofit corporation organized under Chapter 76, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 1434a, Vernon's Texas Civil Statutes), that provides a water supply or wastewater service, or both, and is exempt from advalorem taxation under Section 11.30, Tax Code; and

(10) the part, section, or portion of an organization, corporation, commission, committee, institution, or agency that spends or that is supported in whole or in part by public funds.

(b) In this chapter, "governmental body" does not include the judiciary.

(c) In this section, "public funds" means funds of the state or of a governmental subdivision of the state.

§ 552.004. Preservation of Records
A governmental body or, for records of an elective county office, the elected county officer, may determine a time for which records that are not currently in use will be preserved, subject to state laws governing the destruction and other disposition of state and local government records.

§ 552.005. Effect of Chapter on Scope of Civil Discovery
(a) This chapter does not affect the scope of civil discovery under the Texas Rules of Civil Procedure.

(b) Exceptions from disclosure under this chapter do not create new privileges from discovery.

§ 552.006. Effect of Chapter on Withholding Information
This chapter does not authorize withholding of information or limit the availability of public records to the public, except as expressly provided by this chapter.

§ 552.007. Voluntary Disclosure of Certain Records When Disclosure Not Required
(a) This chapter does not prohibit a governmental body or its officer for public records from voluntarily making part or all of its records available to the public, unless the disclosure is expressly prohibited by law or the records are confidential under law.

(b) Records made available under Subsection (a) must be made available to any person.

§ 552.008. Information for Legislative Purposes
This chapter does not grant authority to withhold information from individual members or committees of the legislature to use for legislative purposes.

SUBCHAPTER B. RIGHT OF ACCESS TO PUBLIC INFORMATION

§ 552.021. Public Information
(a) Information is public information if, under a law or ordinance or in connection with the transaction of official business, it is collected, assembled, or maintained:
(1) by a governmental body; or
(2) for a governmental body and the governmental body owns the information or has a right of access to it.

(b) Public information is available to the public during normal business hours of the governmental body.

§ 552.022. Categories of Public Information; Examples
Without limiting the meaning of other sections of this chapter, the following categories of information are public information:

(1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body;

(2) the name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a governmental body;

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body, if the information is not otherwise made confidential by law;

(4) the name of each official and the final record of voting on all proceedings in a governmental body;

(5) all working papers, research material, and information used to estimate the need for or expenditure of public funds or taxes by a governmental body, on completion of the estimate;

(6) the name, place of business, and the name of the municipality to which local sales and use taxes are credited, if any, for the named person, of a person reporting or paying sales and use taxes under Chapter 151, Tax Code;

(7) a description of an agency's central and field organization, including:
   (A) the established places at which the public may obtain information, submit information or requests, or obtain decisions;
   (B) the employees from whom the public may obtain information, submit information or requests, or obtain decisions;
   (C) in the case of a uniformed service, the members from whom the public may obtain information, submit information or requests, or obtain decisions; and
   (D) the methods by which the public may obtain information, submit information or requests, or obtain decisions;

(8) a statement of the general course and method by which an agency's functions are channeled and determined, including the nature and requirements of all formal and informal procedures;

(9) a rule of procedure, a description of forms available or the places at which forms may be obtained, and instructions relating to the scope and content of all papers, reports, or examinations;

(10) a substantive rule of general applicability adopted by an agency as authorized by law, and a statement of general policy or interpretation of general applicability formulated and adopted by an agency;

(11) each amendment, revision, or repeal of information described by Subdivisions (7)-(10);

(12) final opinions, including concurring and dissenting opinions, and orders issued in the adjudication of cases;

(13) a policy statement or interpretation that has been adopted by an agency;

(14) administrative staff manuals and instructions to staff that affect a member of the public; and

(15) information regarded as open to the public under an agency's policies.

§ 552.023. Special Right of Access to Confidential Information

(a) A person or a person's authorized representative has a special right of access, beyond the right of the general public, to records and copies of records held by a governmental body that contain information relating to the person that is protected from public disclosure by laws intended to protect that person's privacy interests.

(b) A governmental body may not deny access to information to the person, or the person's representative, to whom the information relates on the grounds that the information is considered confidential by privacy principles under this chapter but may assert as grounds for denial of access other provisions of this chapter or other law that are not intended to protect the person's privacy interests.

(c) A release of information under Subsections (a) and (b) is not an offense under Section 552.352.

(d) A person who receives information under this section may disclose the information to others only to the extent consistent with the authorized purposes for which consent to release the information was obtained.

(e) Access to information under this section shall be provided in the manner prescribed by Sections 552.229 and 552.307.

§ 552.024. Electing to Disclose Address and Telephone Number

(a) Each employee or official of a governmental body and each former employee or official of a governmental body shall choose whether to allow public access to the information in the custody of the governmental body relating to the person's home address and home telephone number.

(b) Each employee and official and each former employee and official shall state that person's choice under Subsection (a) to the main personnel officer of the governmental body in a signed writing not later than the 14th day after the date on which:

(1) the employee begins employment with the governmental body;

(2) the official is elected or appointed; or

(3) the former employee or official ends service with the governmental body.

(c) If the employee or official or former employee or official chooses not to allow public access to the information, the information is protected under Subchapter C.

(d) If an employee or official or a former employee or official fails to state the person's choice within the period established by this section, the information is subject to public access.

(e) An employee or official or former employee or official of a governmental body who wishes to close or open public access to the information may request in writing that the main personnel officer of the governmental body close or open access.

§ 552.025. Tax Rulings and Opinions

(a) A governmental body with taxing authority that issues a written determination letter, technical advice memorandum, or ruling that concerns a tax matter shall index the letter, memorandum, or ruling by subject matter.

(b) On request, the governmental body shall make the index prepared under Subsection (a) and the document itself available to the public, subject to the provisions of this chapter.

(c) Subchapter C does not authorize withholding from the public or limiting the availability to the public of a written determination letter, technical advice memorandum, or ruling that concerns a tax matter and that is issued by a governmental body with taxing authority.

§ 552.026. Education Records

This chapter does not require the release of information contained in education records of an educational agency or institution, except in conformity with the Family Educational Rights and Privacy Act of 1974, Sec. 513, Pub. L. No. 93-380, 20 U.S.C. Sec. 1232g.

SUBCHAPTER C.INFORMATION EXCEPTED FROM REQUIRED DISCLOSURE

§ 552.101. Exception: Confidential Information

Information is excepted from the requirements of Section 552.021 if it is information considered to be confidential by law, either constitutional, statutory, or by judicial decision.

§ 552.102. Exception: Personnel Information

(a) Information is excepted from the requirements of Section 552.021 if it is information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, except that all information in the personnel file of an employee of a governmental body is to be made available to that employee or the employee's designated representative as public information is made available under this chapter.

(b) Information is excepted from the requirements of Section 552.021 if it is a transcript from an institution of higher education maintained in the personnel file of a professional public school employee, except that this section does not exempt from disclosure the degree obtained or the curriculum on a transcript in the personnel file of the employee.

§ 552.103. Exception: Litigation or Settlement Negotiations Involving the State or a Political Subdivision

(a) Information is excepted from the requirements of Section 552.021 if it is information:
   (1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and
   (2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

(b) For purposes of this section, the state or a political subdivision is considered to be a party to litigation of a criminal nature until the applicable statute of limitations has expired or until the defendant has exhausted all appellate and post conviction remedies in state and federal court.

§ 552.104. Exception: Information Related to Competition or Bidding

Information is excepted from the requirements of Section 552.021 if it is information that, if released, would give advantage to a competitor or bidder.

§ 552.105. Exception: Information Related to Location or Price of Property

Information is excepted from the requirements of Section 552.021 if it is information relating to:
   (1) the location of real or personal property for a public purpose prior to public announcement of the project; or
   (2) appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property.

§ 552.106. Exception: Certain Legislative Documents

A draft or working paper involved in the preparation of proposed legislation is excepted from the requirements of Section 552.021.

§ 552.107. Exception: Certain Legal Matters

Information is excepted from the requirements of Section 552.021 if:
   (1) it is information that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Rules of the State Bar of Texas; or
   (2) a court by order has prohibited disclosure of the information.

§ 552.108. Exception: Certain Law Enforcement and Prosecutorial Records

(a) A record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021.

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021

§ 552.109. Exception: Certain Private Communications of an Elected Office Holder
Private correspondence or communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy are excepted from the requirements of Section 552.021.

§ 552.110. Exception: Trade Secrets, Commercial Information, or Financial Information
A trade secret or commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision is excepted from the requirements of Section 552.021.

§ 552.111. Exception: Agency Memoranda
An interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency is excepted from the requirements of Section 552.021.

§ 552.112. Exception: Certain Information Relating to Regulation of Financial Institutions or Securities

(a) Information is excepted from the requirements of Section 552.021 if it is information contained in or relating to examination, operating, or condition reports prepared by or for an agency responsible for the regulation or supervision of financial institutions or securities, or both.

(b) In this section, "securities" has the meaning assigned by The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes).

§ 552.113. Exception: Geological or Geophysical Information
Information is excepted from the requirements of Section 552.021 if it is :

(1) an electric log confidential under Subchapter M, Chapter 91, Natural Resources Code; or
(2) geological or geophysical information or data, including maps concerning wells, except information filed in connection with an application or proceeding before an agency.

§ 552.114. Exception: Student Records

(a) Information is excepted from the requirements of Section 552.021 if it is information in a student record at an educational institution funded wholly or partly by state revenue.

(b) A record under Subsection (a) shall be made available on the request of:
(1) educational institution personnel;

(2) the student involved or the student's parent, legal guardian, or spouse; or
(3) a person conducting a child abuse investigation required by Section 34.05, Family Code.

§ 552.115. Exception: Birth and Death Records
A birth or death record maintained by the bureau of vital statistics of the Texas Department of Health is excepted from the requirements of Section 552.021, except that:
(1) a birth record is public information and available to the public on and after the 50th anniversary of the date on which the record is filed with the bureau of vital statistics or local registration official; and
(1) a death record is public information and available to the public on and after the 25th anniversary of the date on which the record is filed with the bureau of vital statistics or local registration official.

§ 552.116. Exception: State Auditor Working Papers
An audit working paper of the state auditor is excepted from the requirements of Section 552.021.

§ 552.117. Exception: Certain Addresses, Telephone Numbers, and Social Security Numbers
Information is excepted from the requirements of Section 552.021 if it is information relating to:
(1) the home address or home telephone number of:
(A) a current or former official or employee of a governmental body, except as otherwise provided by Section 552.024; or
(B) a peace officer as defined by Article 2.12, Code of Criminal Procedure, or a security officer commissioned under Section 51.212, Education Code; or
(2) the home address, home telephone number, or social security number of an employee of the Texas Department of Criminal Justice, or the home or employment address or telephone number, name, or social security number of a family member of the employee.

§ 552.118. Exception: Triplicate Prescription Form
Information is excepted from the requirements of Section 552.021 if it is information on or derived from a triplicate prescription form filed with the Department of Public Safety under Section 481.075, Health and Safety Code.

§ 552.119. Exception: Photograph of Peace Officer or Certain Security Guards
(a) A photograph that depicts a peace officer as defined by Article 2.12, Code of Criminal Procedure, or a security officer commissioned under Section 51.212, Education Code, the release of which would endanger the life or physical safety of the officer, is excepted from the requirements of Section 552.021 unless:
(a) the officer is under indictment or charged with an offense by information;
(b) the officer is a party in a fire or police civil service hearing or a case in arbitration; or
(c) the photograph is introduced as evidence in a judicial proceeding.

(b) A photograph exempt from disclosure under Subsection (a) may be made public only if the

peace officer or security officer gives written consent to the disclosure.

§ 552.120. Exception: Certain Rare Books and Original Manuscripts

A rare book or original manuscript that was not created or maintained in the conduct of official business of a governmental body and that is held by a private or public archival and manuscript repository for the purpose of historical research is excepted from the requirements of Section 552.021.

§ 552.121. Exception: Certain Documents Held for Historical Research

An oral history interview, personal paper, unpublished letter, or organizational record of a nongovernmental entity that was not created or maintained in the conduct of official business of a governmental body and that is held by a private or public archival and manuscript repository for the purpose of historical research is excepted from the requirements of Section 552.021 to the extent that the archival and manuscript repository and the donor of the interview, paper, letter, or record agree to limit disclosure of the item.

§ 552.122. Exception: Curriculum Objectives and Test Items

(a) A curriculum objective or test item developed by an educational institution that is funded wholly or in part by state revenue is excepted from the requirements of Section 552.021.

(b) A test item developed by a licensing agency or governmental body is excepted from the requirements of Section 552.021.

§ 552.123. Exception: Name of Applicant for Chief Executive Officer of Institution of Higher Education

The name of an applicant for the position of chief executive officer of an institution of higher education is excepted from the requirements of Section 552.021, except that the governing body of the institution must give public notice of the name or names of the finalists being considered for the position at least 21 days before the date of the meeting at which final action or vote is to be taken on the employment of the person.

SUBCHAPTER D. OFFICER FOR PUBLIC RECORDS

§ 552.201. Identity of Officer for Public Records

(a) The chief administrative officer of a governmental body is the officer for public records, except as provided by Subsection (b).

(b) Each elected county officer is the officer for public records and the custodian, as defined by Section 201.003, Local Government Code, of the records created or received by that county officer's office.

§ 552.202. Department Heads

Each department head is an agent of the officer for public records for the purposes of complying with this chapter.

§ 552.203. General Duties of Officer for Public Records

Each officer for public records, subject to penalties provided in this chapter, shall:

(1) make public records available for public inspection and copying;

(2) carefully protect public records from deterioration, alteration, mutilation, loss, or unlawful removal; and

(3) repair, renovate, or rebind public records as necessary to maintain them properly.

SUBCHAPTER E. PROCEDURES RELATED TO ACCESS

§ 552.221. Application for Public Information

(a) An officer for public records of a governmental body shall promptly produce public information for inspection, duplication, or both, in the offices of the governmental body on application by any person to the officer.

(b) If the requested information is unavailable at the time of the request to examine because it is in active use or in storage, the officer for public records shall certify this fact in writing to the applicant and set a date and hour within a reasonable time when the record will be available for inspection or duplication.

§ 552.222. Permissible Inquiry of Person Applying for Inspection of Records

The officer for public records and the officer's agent may not make an inquiry of a person who applies for inspection or copying of a public record except to establish proper identification and the public records requested.

§ 552.223. Uniform Treatment of Requests for Information

The officer for public records or the officer's agent shall treat all requests for information uniformly without regard to the position or occupation of the person making the request, the person on whose behalf the request is made, or the status of the individual as a member of the media.

§ 552.224. Comfort and Facility

The officer for public records or the officer's agent shall give to a person requesting public records all reasonable comfort and facility for the full exercise of the right granted by this chapter.

§ 552.225. Time for Examination

(a) A person requesting public information must complete the examination of the information not later than the 10th day after the date the custodian of the information makes it available to the person.

(b) The officer for public records shall extend the initial examination period by an additional 10 days if, within the initial period, the person requesting the information files with the officer for public records a written request for additional time. The officer for public records shall extend an additional examination period by another 10 days if, within the additional period, the person requesting the information files with the officer for public records a written request for more additional time.

(c) The time during which a person may examine information may be interrupted by the officer for public records if the information is needed for use by the governmental body. The period of interruption is not considered to be a part of the time during which the person may examine the information.

§ 552.226. Removal of Original Record

This chapter does not authorize a person to remove an original copy of a public record from the office of a governmental body.

§ 552.227. Research of State Library Holdings Not Required

An officer for public records or the officer's agent is not required to perform general research within the reference and research archives and holdings of state libraries.

§ 552.228. Providing Suitable Copy of Record Within Reasonable Time

It shall be a policy of a governmental body to provide a suitable copy of a public record within a reasonable time after the date on which the copy is requested.

§ 552.229. Consent to Release Information Under Special Right of Access

(a) Consent for the release of information excepted from disclosure to the general public but available to a specific person under Sections 552.023 and 552.307 must be in writing and signed by the specific person or the person's authorized representative.

(b) An individual under 18 years of age may consent to the release of information under this section only with the additional written authorization of the individual's parent or guardian.

(c) An individual who has been adjudicated incompetent to manage the individual's personal affairs or for whom an attorney ad litem has been appointed may consent to the release of information under this section only by the written authorization of the designated legal guardian or attorney ad litem.

§ 552.230. Rules of Procedure for Inspection of Public Records

A governmental body may promulgate reasonable rules of procedure under which public records may be inspected efficiently, safely, and without delay.

SUBCHAPTER F. COST OF COPIES

§ 552.261. Determining Cost of Copies

(a) A governmental body may not charge an excessive amount for noncertified, photographic reproductions of public records comprised of pages that are legal size or smaller.

(b) The cost of obtaining a standard or legal size photographic reproduction shall be an amount that reasonably includes all costs related to reproducing the record, including costs of materials, labor, and overhead, unless the request is for 50 or fewer pages of readily available information.

(c) The General Services Commission shall periodically determine guidelines for the actual cost of standard size reproductions and shall periodically publish these cost figures for use by governmental bodies in determining charges under this subchapter.

§ 552.262. Cost for Nonstandard Records

The charge for access to public records that are comprised in a form other than standard or smaller sized pages or that are in computer record banks, microfilm records, or other similar record keeping systems shall be set:

(1) making every effort to match the charge with the actual cost of providing the record;
(2) after consultation between a governmental body's officer for public records and the General Services Commission; and
(3) in an amount that reasonably includes all costs related to providing the record, including costs of materials, labor, and overhead.

§ 552.263. Bond for Payment of Costs or Cash Prepayment for Preparation of Public Records

An officer for public records or the officer's agent may require a bond for payment of costs or cash prepayment of anticipated costs for the preparation of a public record if the preparation of the record would be unduly costly and its reproduction would cause undue hardship to the department or agency if the costs were not paid.

§ 552.264. Copy of Public Record Requested by Member of Legislature

One copy of a public record that is requested from a state agency by a member of the legislature in the performance of the member's duties shall be provided without charge.

§ 552.265. Certified Record Provided by District or County Clerk

The charge for a copy made in a district or county clerk's office may not be more than the actual cost of copies, as provided by Sections 552.261 and 552.262, unless a certified record, the cost of which is set by law, is requested.

§ 552.266. Copy of Public Record Provided by Municipal Court Clerk

The charge for a copy made by a municipal court clerk shall be the charge provided by municipal

ordinance.

§ 552.267. Waiver or Reduction of Fee for Copy of Public Record
A governmental body shall furnish public records without charge or at a reduced charge if the governmental body determines that waiver or reduction of the fee is in the public interest because furnishing the information primarily benefits the general public.

§ 552.268. Efficient Use of Public Records
A governmental body shall make reasonably efficient use of each page of a public record to avoid excessive reproduction costs.

§ 552.269. Recovery of Overpayment for Public Record
A person who overpays for a copy of a public record because a governmental body refuses or fails to provide the copy at the actual cost of reproducing the record as provided by Sections 552.261 and 552.262 is entitled to recover three times the amount of the overcharge if the governmental body did not act in good faith in computing the costs.

SUBCHAPTER G. ATTORNEY GENERAL DECISIONS

§ 552.301. Request for Attorney General Decision
(a) A governmental body that receives a written request for information that it considers to be within one of the exceptions under Subchapter C must ask for a decision from the attorney general about whether the information is within that exception if there has not been a previous determination about whether the information falls within one of the exceptions. The governmental body must ask for the attorney general's decision within a reasonable time but not later than the 10th calendar day after the date of receiving the written request.

(b) A governmental body that wishes to withhold information must submit written comments stating the reasons why the information should be withheld.

§ 552.302. Failure to Make Timely Request for Attorney General Decision; Presumption that Information is Public
If a governmental body does not request an attorney general decision as provided by Section 552.301(a), the information requested in writing is presumed to be public information.

§ 552.303. Delivery of Requested Information to Attorney General; Disclosure of Requested Information
A governmental body that requests an attorney general decision under this subchapter shall supply to the attorney general the specific information requested and shall not disclose the information to

the public or the party requesting the information until the attorney general makes a final determination or, if suit is filed under this chapter, until a final decision has been made by the court with jurisdiction over the suit, except as otherwise provided by Section 552.322.

§ 552.304. Submission of Public Comments

A member of the public may submit written comments stating reasons why the information at issue in a request for an attorney general decision should or should not be released.

§ 552.305. Information Involving Privacy or Property Interests of Third Party

(a) In a case in which information is requested under this chapter and a third party's privacy or property interests may be involved, including a case under Section 552.101, 552.104, 552.110, or 552.114, a governmental body may decline to release the information for the purpose of requesting an attorney general decision.

(b) A person whose interests may be involved under Subsection (a), or any other person, may submit in writing to the attorney general the person's reasons why the information should be withheld or released.

(c) The governmental body may, but is not required to, submit its reasons why the information should be withheld or released.

§ 552.306. Rendition of Attorney General Decision; Issuance of Written Opinion

(a) The attorney general shall promptly render a decision requested under this subchapter, consistent with the standards of due process, determining whether the requested information is a public record or is within one of the exceptions of Subchapter C.

(b) The attorney general shall issue a written opinion of the determination.

§ 552.307. Special Right of Access; Attorney General Decisions

(a) If a governmental body determines that information subject to a special right of access under Section 552.023 is exempt from disclosure under an exception of Subsection C, other than an exception intended to protect the privacy interest of the requestor or the person whom the requestor is authorized to represent, the governmental body shall, before disclosing the information, submit a written request for a decision to the attorney general under the procedures of this subchapter.

(b) If a decision is not requested under Subsection (a), the governmental body shall release the information to the person with a special right of access under Section 552.023 not later than the 10th day after the date of receiving the request for information.

SUBCHAPTER H. CIVIL ENFORCEMENT

§ 552.321. Suit for Writ of Mandamus
A person requesting information or the attorney general may file suit for a writ of mandamus compelling a governmental body to make information available for public inspection if the governmental body refuses to request an attorney general's decision as provided by Subchapter G or refuses to supply public information or information that the attorney general has determined is a public record.

§ 552.322. Discovery of Information Under Protective Order Pending Final Determination
In a suit filed under this chapter, the court may order that the information at issue may be discovered only under a protective order until a final determination is made.

§ 552.323. Assessment of Costs of Litigation and Reasonable Attorney Fees
(a) In an action brought under Section 552.321 or Section 552.353(b)(3), the court may assess costs of litigation and reasonable attorney fees incurred by a plaintiff or defendant who substantially prevails.

(b) In exercising its discretion under this section, the court shall consider whether the conduct of the governmental body had a reasonable basis in law and whether the litigation was brought in good faith.

SUBCHAPTER I. CRIMINAL VIOLATIONS

§ 552.351. Destruction, Removal, or Alteration of Public Record
(a) A person commits an offense if the person wilfully destroys, mutilates, removes without permission as provided by this chapter, or alters a public record.

(b) An offense under this section is a misdemeanor punishable by:
(1) a fine of not less than $25 or more than $4,000;
(2) confinement in the county jail for not less than three days or more than three months; or
(3) both the fine and confinement.

§ 552.352. Distribution of Confidential Information
(a) A person commits an offense if the person distributes information considered confidential under the terms of this chapter.

(b) An offense under this section is a misdemeanor punishable by:
(1) a fine of not more than $1,000;
(2) confinement in the county jail for not more than six months; or
(3) both the fine and confinement.

(c) A violation under this section constitutes official misconduct.

§ 552.353. Failure or Refusal of Officer for Public Records to Provide Access to or Copying of Public Record

(a) An officer for public records, or the officer's agent, commits an offense if, with criminal negligence, the officer or the officer's agent fails or refuses to give access to, or to permit or provide copying of, public records to a person on request as provided by this chapter.

(b) It is an affirmative defense to prosecution under Subsection (a) that the officer for public records reasonably believed that public access to the requested records was not required and that the officer:

(1) acted in reasonable reliance on a court order or a written interpretation of this chapter contained in an opinion of a court of record or of the attorney general issued under Subchapter G;

(a) requested a decision from the attorney general in accordance with Subchapter G, and the decision is pending; or

(2) not later than the 10th calendar day after the date of receipt of a decision by the attorney general that the information is public, filed a petition for a declaratory judgment, writ of mandamus, or both, against the attorney general in a Travis County district court seeking relief from compliance with the decision of the attorney general, and a petition is pending.

(c) It is an affirmative defense to prosecution under Subsection (a) that a person or entity has, not later than the 10th calendar day after the date of receipt by a governmental body of a decision by the attorney general that the information is public, filed a cause of action seeking relief from compliance with the decision of the attorney general, and the cause is pending.

(d) It is an affirmative defense to prosecution under Subsection (a) that the defendant is the agent of an officer for public records and that the agent reasonably relied on the written instruction of the officer for public records not to disclose the public records requested.

(e) An offense under this section is a misdemeanor punishable by:

(1) a fine of not more than $1,000;

(2) confinement in the county jail for not more than six months; or

(3) both the fine and confinement.

(f) A violation under this section constitutes official misconduct.

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Government Code

CHAPTER 2254. PROFESSIONAL AND CONSULTING SERVICES

SUBCHAPTER A. PROFESSIONAL SERVICES

Sec. 2254.001. Short Title.
This subchapter may be cited as the Professional Services Procurement Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1,1993.

Sec. 2254.002. Definitions.
In this subchapter:

(1) "Governmental entity" means:
  (A) a state agency or department;
  (B) a district, authority, county, municipality, or other political subdivision of the state; or
  (C) a publicly owned utility.

(2) "Professional services" means services:
  (A) within the scope of the practice, as defined by state law, of:
    (i) accounting;
    (ii) architecture;
    (iii) land surveying;
    (iv) medicine;
    (v) optometry;
    (vi) professional engineering; or
    (vii) real estate appraising; or
  (B) provided in connection with the professional employment or practice of a person who is licensed as:
    (i) a certified public accountant;
    (ii) an architect;
    (iii) a land surveyor;
    (iv) a physician, including a surgeon;
    (v) an optometrist;
    (vi) a professional engineer; or
    (vii) a state certified or state licensed real estate appraiser.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1,1993. Amended by Acts 1997, 75th Leg., ch. 244, Sec. 1, eff.Sept. 1, 1997.

Sec. 2254.003. Selection of Provider; Fees.
(a) A governmental entity may not select a provider of professional services or a group or association

of providers or award a contract for the services on the basis of competitive bids submitted for the contract or for the services, but shall make the selection and award:

(1) on the basis of demonstrated competence and qualifications to perform the services; and

(2) for a fair and reasonable price.

(b) The professional fees under the contract:

(1) must be consistent with and not higher than the recommended practices and fees published by the applicable professional associations; and

(2) may not exceed any maximum provided by law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1,1993.

Sec. 2254.004. Contract for Professional Services of Architect, Engineer, or Surveyor.

(a) In procuring architectural, engineering, or land surveying services, a governmental entity shall:

(1) first select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and

(2) then attempt to negotiate with that provider a contract at a fair and reasonable price.

(b) If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land surveying services, the entity shall:

(1) formally end negotiations with that provider;

(2) select the next most highly qualified provider; and

(3) attempt to negotiate a contract with that provider at a fair and reasonable price.

(c) The entity shall continue the process described in Subsection (b) to select and negotiate with providers until a contract is entered into.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 119, Sec. 1, eff. Sept. 1, 1997.

Sec. 2254.005. Void Contract.

A contract entered into or an arrangement made in violation of this subchapter is void as against public policy.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B. CONSULTING SERVICES

Sec. 2254.021. Definitions.

In this subchapter:

(1) "Consulting service" means the service of studying or advising a state agency under a contract that does not involve the traditional relationship of employer and employee.

(2) "Major consulting services contract" means a consulting services contract for which it is reasonably foreseeable that the value of the contract will exceed $15,000.

(3) "Consultant" means a person that provides or proposes to provide a consulting service. The term includes a political subdivision but does not include the federal government, a state agency, or a state governmental entity.

(4) "Political subdivision" means:
- (A) a county;
- (B) an incorporated or unincorporated municipality;
- (C) a public junior college;
- (D) a public school district or other educational or rehabilitative district;
- (E) a metropolitan or regional transit authority;
- (F) an airport authority;
- (G) a river authority or compact;
- (8) a regional planning commission, a council of governments, or a similar regional planning agency created under Chapter 391, Local Government Code;
- (I) the Edwards Aquifer Authority or a district governed by Title 4, Water Code;
- (J) a soil and water conservation district;
- (K) a county or municipal improvement district;
- (L) a county road or road utility district;
- (M) a county housing authority;
- (N) an emergency services or communications district;
- (O) a fire prevention district;
- (P) a public health or hospital authority or district;
- (Q) a mosquito control district;
- (R) a special waste district;
- (C) a rural rail transportation district; or
- (T) any other local government or special district of this state.

(5) "State agency" has the meaning assigned by Section 2151.002.

(6) "State governmental entity" means a state department, commission, board, office, institution, facility, or other agency the jurisdiction of which is not limited to a geographical portion of the state. The term includes a university system and an institution of higher education, other than a public junior college, as defined by Section 61.003, Education Code. The term does not include a political subdivision.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.44(a), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec.17.19(11), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1035, Sec. 3, eff. June 19, 1997.

Sec. 2254.022. Interpretation of Subchapter.

(a) This subchapter shall be interpreted to ensure:

(1) the greatest and fairest competition in the selection by state agencies of consultants; and

(2) the giving of notice to all potential consultants of the need for and opportunity to provide consulting services.

(b) This subchapter does not:

(1) discourage state agencies from using consultants if the agencies reasonably foresee that the use of consultants will produce a more efficient and less costly operation or project;

(2) prohibit the making of a sole-source contract for consulting services if a proposal is not received from a competent, knowledgeable, and qualified consultant at a reasonable fee, after compliance with this subchapter; or

(3) require or prohibit the use of competitive bidding procedures to purchase consulting services.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 4, eff. June 19, 1997.

Sec. 2254.023. Applicability of Subchapter.

This subchapter applies to consulting services that a state agency acquires with money:

(1) appropriated by the legislature;

(2) derived from the exercise of the statutory duties of a state agency; or

(3) received from the federal government, unless a federal law or regulation conflicts with the application of this subchapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2254.024. Exemptions.

(a) This subchapter does not apply to or discourage the use of consulting services provided by:

(1) practitioners of professional services described in Subchapter A;

(2) private legal counsel;

(3) investment counselors;

(4) actuaries;

(5) medical or dental services providers; or

(6) other consultants whose services are determined by the governing board of a retirement system trust fund to be necessary for the governing board to perform its constitutional fiduciary duties, except that the governing board shall comply with Section 2254.030.

(b) If the governor, comptroller, and General Services Commission consider it more advantageous to the state to procure a particular consulting service under the procedures of Chapters 2155-2158, instead of under this subchapter, they may make a memorandum of understanding to that effect and each adopt the memorandum by rule. Procurement of a consulting service described in a memorandum of understanding under this subsection is subject only to Chapters 2155-2158.

(c) The comptroller by rule may define circumstances in which a state agency may procure, without complying with this subchapter, certain consulting services that will cost less than a minimum amount established by the comptroller. The comptroller must determine that noncompliance in those circumstances is more cost-effective for the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.19(1), eff. Sept. 1, 1997.

Sec. 2254.025. Emergency Waiver.

(a) The governor, after receipt of a request complying with this section, may grant a limited waiver of the provisions of this subchapter for a state agency that requires consulting services before compliance with this subchapter can be completed because of an unforeseen emergency.

(b) A state agency's request for a waiver must include information required by the governor, including:

(1) information about the nature of the emergency;
(2) the reason that the state agency did not foresee the emergency;
(3) the name of the consultant with whom the agency intends to contract; and
(4) the amount of the intended contract.

(c) As soon as possible after the governor grants a limited waiver, a state agency shall comply with this subchapter to the extent that the requirements of this subchapter are not superfluous or ineffective because of the waiver. The agency shall include with information filed with the secretary of state for publication in the Texas Register a detailed description of the emergency on which the request for waiver was predicated.

(d) The governor shall adopt rules to administer this section.

(e) In this section, "unforeseen emergency" means a situation that suddenly and unexpectedly causes a state agency to need the services of a consultant. The term includes the issuance of a court order, an actual or imminent natural disaster, and new state or federal legislation. An emergency is not unforeseen if a state agency was negligent in foreseeing the occurrence of the emergency.

(f) This section applies to all consulting services contracts and renewals, amendments, and extensions of consulting services contracts.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 5, eff. June 19, 1997.

Sec. 2254.026. Contract With Consultant.

A state agency may contract with a consultant only if:

(1) there is a substantial need for the consulting services; and
(2) the agency cannot adequately perform the services with its own personnel or obtain the

consulting services through a contract with a state governmental entity.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 6, eff. June 19, 1997.

Sec. 2254.027. Selection of Consultant.
In selecting a consultant, a state agency shall:

(1) base its choice on demonstrated competence, knowledge, and qualifications and on the reasonableness of the proposed fee for the services; and
(2) if other considerations are equal, give preference to a consultant whose principal place of business is in the state or who will manage the consulting contract wholly from an office in the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 7, eff. June 19, 1997.

Sec. 2254.028. Notice of Intent: Major Consulting Services Contract.
(a) Before entering into a major consulting services contract, a state agency shall:

(1) notify the Legislative Budget Board and the governor's Budget and Planning Office that the agency intends to contract with a consultant;
(2) give information to the Legislative Budget Board and the governor's Budget and Planning Office to demonstrate that the agency has complied or will comply with Sections 2254.026 and 2254.027; and
(3) obtain a finding of fact from the governor's Budget and Planning Office that the consulting services are necessary.

(b) A major consulting services contract that a state agency enters into without first obtaining the finding required by Subsection (a)(3) is void.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 8, eff. June 19, 1997.

Sec. 2254.029. Publication in Texas Register Before Entering Into Major Consulting Services Contract.
(a) Not later than the 30th day before the date it enters into a major consulting services contract, a state agency shall file with the secretary of state for publication in the Texas Register:

(1) an invitation for consultants to provide offers of consulting services;
(2) the name of the individual who should be contacted by a consultant that intends to make an offer;
(3) the closing date for the receipt of offers; and
(4) the procedure by which the state agency will award the contract.

(b) If the consulting services sought by a state agency relate to services previously provided by a

consultant, the agency shall disclose that fact in the invitation required by Subsection (a). If the state agency intends to award the contract for the consulting services to a consultant that previously provided the services, unless a better offer is received, the agency shall disclose its intention in the invitation required by Subsection (a).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 9, eff. June 19, 1997.

Sec. 2254.030. Publication in Texas Register After Entering Into Major Consulting Services Contract.

Not later than the 10th day after the date of entering into a major consulting services contract, the state agency shall file with the secretary of state for publication in the Texas Register:

(1) a description of the activities that the consultant will conduct;

(2) the name and business address of the consultant;

(3) the total value and the beginning and ending dates of the contract; and

(4) the dates on which documents, films, recordings, or reports that the consultant is required to present to the agency are due.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 10, eff. June 19, 1997.

Sec. 2254.031. Renewal; Amendment; Extension.

(a) A state agency that intends to renew a major consulting services contract shall:

(1) file with the secretary of state for publication in the Texas Register the information required by Section 2254.030 not later than the 10th day after the date the contract is renewed if the renewal contract is not a major consulting services contract; or

(2) comply with Sections 2254.028 and 2254.029 if the renewal contract is a major consulting services contract.

(b) A state agency that intends to renew a contract that is not a major consulting services contract shall comply with Sections 2254.028 and 2254.029 if the original contract and the renewal contract have a reasonably foreseeable value totaling more than $15,000.

(c) A state agency that intends to amend or extend a major consulting services contract shall:

(1) not later than the 10th day after the date the contract is amended or extended, file the information required by Section 2254.030 with the secretary of state for publication in the Texas Register if the contract after the amendment or extension is not a major consulting services contract; or

(2) comply with Sections 2254.028 and 2254.029 if the contract after the amendment or extension is a major consulting services contract.

(d) A state agency that intends to amend or extend a contract that is not a major consulting services

contract shall comply with Sections 2254.028 and 2254.029 if the original contract and the amendment or extension have a reasonably foreseeable value totaling more than $15,000.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1,1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 11, eff. June 19, 1997.

Sec. 2254.032. Conflicts of Interest.
(a) An officer or employee of a state agency shall report to the chief executive of the agency, not later than the 10th day after the date on which a private consultant submits an offer to provide consulting services to the agency, any financial interest that:

(1) the officer or employee has in the private consultant who submitted the offer; or
(2) an individual who is related to the officer or employee within the second degree by consanguinity or affinity, as determined under Chapter 573, has in the private consultant who submitted the offer.

(b) This section applies to all consulting services contracts and renewals, amendments, and extensions of consulting services contracts.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2254.033. Restriction on Former Employees of a State Agency.
(a) An individual who offers to provide consulting services to a state agency and who has been employed by that agency or by another agency at any time during the two years preceding the making of the offer shall disclose in the offer:

(1) the nature of the previous employment with the agency or the other agency;
(2) the date the employment was terminated; and
(3) the annual rate of compensation for the employment at the time of its termination.

(b) A state agency that accepts an offer from an individual described in Subsection (a) shall include in the information filed under Section 2254.030 a statement about the individual's previous employment and the nature of the employment.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2254.034. Contract Void.
(a) A contract entered into in violation of Sections 2254.029 through 2254.031 is void.

(b) A contract entered into with a private consultant who did not comply with Section 2254.033 is void.

(c) If a contract is void under this section:

(1) the comptroller may not draw a warrant or transmit money to satisfy an obligation under the contract; and

(2) a state agency may not make any payment under the contract with state or federal money or money held in or outside the state treasury until the agency has complied with Sections 2254.029 through 2254.031.

(d) This section applies to all consulting services contracts, including renewals, amendments, and extensions of consulting services contracts.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2254.035. Dividing Contracts.
(a) A state agency may not divide a consulting services contract into more than one contract to avoid the requirements of this subchapter.

(b) This section applies to all consulting services contracts, including renewals, amendments, and extensions of consulting services contracts.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2254.036. Archives.
(a) On request, a state agency shall, after the agency's contract with a consultant has ended, supply the Legislative Budget Board and the governor's Budget and Planning Office with copies of all documents, films, recordings, or reports compiled by the consultant under the contract.

(b) Copies of all documents, films, recordings, or reports compiled by the consultant shall be filed with the Texas State Library and shall be retained by the library for at least five years.

(c) The Texas State Library shall list each document, film, recording, and report given to it under Subsection (b) and shall file the list at the end of each calendar quarter with the secretary of state for publication in the Texas Register.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 12, eff. June 19, 1997.

Sec. 2254.037. Reports.
As part of the biennial budgetary hearing process conducted by the Legislative Budget Board and the governor's Budget and Planning Office, a state agency shall report to the Legislative Budget Board and the governor's Budget and Planning Office on any actions taken in response to the recommendations of any consultant with whom the state agency contracts during the previous biennium.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 13, eff. June 19, 1997.

Sec. 2254.038. Mixed Contracts.
This subchapter applies to a contract that involves both consulting and other services if the primary objective of the contract is the acquisition of consulting services.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2254.039. Comptroller's Rules.
(a) The comptroller shall adopt rules to implement and administer this subchapter. The comptroller's rules may not conflict with or cover a matter on which this subchapter authorizes the governor to adopt rules.

(b) The comptroller shall give proposed rules to the governor and the General Services Commission for review and comment before adopting the rules.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2254.040. Procurement by General Services Commission.
(a) The General Services Commission shall, on request of a state agency, procure for the agency consulting services that are covered by this subchapter.

(b) The commission may require reimbursement for the costs it incurs in procuring the services.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993

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Chapter 2256

PUBLIC

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INVESTMENT

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CHAPTER 2256. PUBLIC FUNDS INVESTMENT

SUBCHAPTER A. AUTHORIZED INVESTMENTS FOR GOVERNMENTAL ENTITIES

Sec. 2256.001. Short Title.
This chapter may be cited as the Public Funds Investment Act.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.002. Definitions.
In this chapter:

(1) "Bond proceeds" means the proceeds from the sale of bonds, notes, and other obligations issued by an entity, and reserves and funds maintained by an entity for debt service purposes.

(2) "Book value" means the original acquisition cost of an investment plus or minus the accrued amortization or accretion.

(3) "Funds" means public funds in the custody of a state agency or local government that:
(A) are not required by law to be deposited in the state treasury; and
(B) the investing entity has authority to invest.

(4) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(5) "Investing entity" and "entity" mean an entity subject to this chapter and described by Section 2256.003.

(6) "Investment pool" means an entity created under this code to invest public funds jointly on behalf of the entities that participate in the pool and whose investment objectives in order of priority are:
(A) preservation and safety of principal;
(B) liquidity; and
(C) yield.

(7) "Local government" means a municipality, a county, a school district, a district or authority created under Section 52(b)(1) or (2), Article III, or Section 59, Article XVI, Texas Constitution, a fresh water supply district, a hospital district, and any political subdivision, authority, public corporation, body politic, or instrumentality of the State of Texas, and any nonprofit corporation acting on behalf of any of those entities.

(8) "Market value" means the current face or par value of an investment multiplied by the net

selling price of the security as quoted by a recognized market pricing source quoted on the valuation date.

(9) "Pooled fund group" means an internally created fund of an investing entity in which one or more institutional accounts of the investing entity are invested.

(10) "Qualified representative" means a person who holds a position with a business organization, who is authorized to act on behalf of the business organization, and who is one of the following:

(A) for a business organization doing business that is regulated by or registered with a securities commission, a person who is registered under the rules of the National Association of Securities Dealers;

(B) for a state or federal bank, a savings bank, or a state or federal credit union, a member of the loan committee for the bank or branch of the bank or a person authorized by corporate resolution to act on behalf of and bind the banking institution; or

(C) for an investment pool, the person authorized by the elected official or board with authority to administer the activities of the investment pool to sign the written instrument on behalf of the investment pool.

(11) "School district" means a public school district.

(12) "Separately invested asset" means an account or fund of a state agency or local government that is not invested in a pooled fund group.

(13) "State agency" means an office, department, commission, board, or other agency that is part of any branch of state government, an institution of higher education, and any nonprofit corporation acting on behalf of any of those entities.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 1, eff. Sept. 1, 1997.

Sec. 2256.003. Authority to Invest Funds; Entities Subject to this Chapter.
Each governing body of the following entities may purchase, sell, and invest its funds and funds under its control in investments authorized under this subchapter in compliance with investment policies approved by the governing body and according to the standard of care prescribed by Section 2256.006:

(1) a local government;

(2) a state agency;

(3) a nonprofit corporation acting on behalf of a local government or a state agency; or

(4) an investment pool acting on behalf of two or more local governments, state agencies, or a combination of those entities.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.004. Applicability.
This subchapter does not apply to:

(1) a public retirement system as defined by Section 802.001;

(2) state funds invested as authorized by Section 404.024;

(3) an institution of higher education having total endowments of at least $95 million in book value on May 1, 1995;

(4) funds invested by the Veterans' Land Board as authorized by Chapter 161, 162, or 164, Natural Resources Code;

or Text of subd. (5) as added by Acts 1997, 75th Leg., ch. 505, Sec. 24

(5) registry funds deposited with the county or district clerk under Chapter 117, Local Government Code.

Text of subd. (5) as added by Acts 1997, 75th Leg., ch. 1421, Sec. 2

(5) a deferred compensation plan that qualifies under either Section 401(k) or 457 of the Internal Revenue Code of 1986 (26 U.S.C. Section 1 et seq.), as amended.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 505, Sec. 24, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1421, Sec. 2, eff. Sept. 1, 1997.

Sec. 2256.005. Investment Policies; Investment Strategies; Investment Officer.
(a) The governing body of an investing entity shall adopt by rule, order, ordinance, or resolution, as appropriate, a written investment policy regarding the investment of its funds and funds under its control.

(b) The investment policies must:

(1) be written;
(2) primarily emphasize safety of principal and liquidity;
(3) address investment diversification, yield, and maturity and the quality and capability of investment management; and
(4) include:
  (A) a list of the types of authorized investments in which the investing entity's funds may be invested;

  (B) the maximum allowable stated maturity of any individual investment owned by the entity;

(C) for pooled fund groups, the maximum dollar-weighted average maturity allowed based on the stated maturity date for the portfolio;
(D) methods to monitor the market price of investments acquired with public funds; and
(E) a requirement for settlement of all transactions, except investment pool funds and mutual funds, on a delivery versus payment basis.

(c) The investment policies may provide that bids for certificates of deposit be solicited:
(1) orally;
(2) in writing;
(3) electronically; or
(4) in any combination of those methods.

(d) As an integral part of an investment policy, the governing body shall adopt a separate written investment strategy for each of the funds or group of funds under its control. Each investment strategy must describe the investment objectives for the particular fund using the following priorities in order of importance:
(1) understanding of the suitability of the investment to the financial requirements of the entity;
(2) preservation and safety of principal;
(3) liquidity;
(4) marketability of the investment if the need arises to liquidate the investment before maturity;
(5) diversification of the investment portfolio; and
(6) yield.

(e) The governing body of an investing entity shall review its investment policy and investment strategies not less than annually. The governing body shall adopt a written instrument by rule, order, ordinance, or resolution stating that it has reviewed the investment policy and investment strategies and that the written instrument so adopted shall record any changes made to either the investment policy or investment strategies.

(f) Each investing entity shall designate, by rule, order, ordinance, or resolution, as appropriate, one or more officers or employees of the state agency, local government, or investment pool as investment officer to be responsible for the investment of its funds consistent with the investment policy adopted by the entity. Authority granted to a person to invest an entity's funds is effective until rescinded by the investing entity or until termination of the person's employment by the investing entity. In the administration of the duties of an investment officer, the person designated as investment officer shall exercise the judgment and care, under prevailing circumstances, that a prudent person would exercise in the management of the person's own affairs. Unless authorized by law, a person may not deposit, withdraw, transfer, or manage in any other manner the funds of the investing entity.

(g) Subsection (f) does not apply to a state agency, local government, or investment pool for which

an officer of the entity is assigned by law the function of investing its funds.

Text of subsec. (h) as amended by Acts 1997, 75th Leg., ch. 685, Sec. 1

(h) An officer or employee of a commission created under Chapter 391, Local Government Code, is ineligible to be an investment officer for the commission under Subsection (f) if the officer or employee is an investment officer designated under Subsection (f) for another local government.

Text of subsec. (h) as amended by Acts 1997, 75th Leg., ch. 1421, Sec. 3

(h) An officer or employee of a commission created under Chapter 391, Local Government Code, is ineligible to be designated as an investment officer under Subsection (f) for any investing entity other than for that commission.

(i) An investment officer of an entity who has a personal business relationship with a business organization offering to engage in an investment transaction with the entity shall file a statement disclosing that personal business interest. An investment officer who is related within the second degree by affinity or consanguinity, as determined under Chapter 573, to an individual seeking to sell an investment to the investment officer's entity shall file a statement disclosing that relationship. A statement required under this subsection must be filed with the Texas Ethics Commission and the governing body of the entity. For purposes of this subsection, an investment officer has a personal business relationship with a business organization if:

(1) the investment officer owns 10 percent or more of the voting stock or shares of the business organization or owns $5,000 or more of the fair market value of the business organization;

(2) funds received by the investment officer from the business organization exceed 10 percent of the investment officer's gross income for the previous year; or

(3) the investment officer has acquired from the business organization during the previous year investments with a book value of $2,500 or more for the personal account of the investment officer.

(j) The governing body of an investing entity may specify in its investment policy that any investment authorized by this chapter is not suitable.

(k) A written copy of the investment policy shall be presented to any person offering to engage in an investment transaction with an investing entity. For purposes of this subsection, a business organization includes investment pools. Nothing in this subsection relieves the investing entity of the responsibility for monitoring the investments made by the investing entity to determine that they are in compliance with the investment policy. The qualified representative of the business organization offering to engage in an investment transaction with an investing entity shall execute a written instrument in a form acceptable to the investing entity and the business organization substantially to the effect that the business organization has:

(1) received and reviewed the investment policy of the entity; and
(2) acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the entity and the organization that are not authorized by the entity's investment policy, except to the extent that this authorization is dependent on an analysis of the makeup of the entity's entire portfolio or requires an interpretation of subjective investment standards.

(l) The investment officer of an entity may not acquire or otherwise obtain any authorized investment described in the investment policy of the investing entity from a person who has not delivered to the entity the instrument required by Subsection (k).

(m) An investing entity, in conjunction with its annual financial audit, shall perform a compliance audit of management controls on investments and adherence to the entity's established investment policies. State agencies shall report the results of the audit performed under this subsection to the state auditor. The state auditor shall compile the results of reports received under this subsection and annually report those results to the legislative audit committee.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 685, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1421, Sec. 3, eff. Sept. 1, 1997.

Sec. 2256.006. Standard of Care.

(a) Investments shall be made with judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived. Investment of funds shall be governed by the following investment objectives, in order of priority:
(1) preservation and safety of principal;
(2) liquidity; and
(3) yield.

(b) In determining whether an investment officer has exercised prudence with respect to an investment decision, the determination shall be made taking into consideration:
(1) the investment of all funds, or funds under the entity's control, over which the officer had responsibility rather than a consideration as to the prudence of a single investment; and
(2) whether the investment decision was consistent with the written investment policy of the entity.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.007. Investment Training; State Agency Board Members and Officers.

(a) Each member of the governing board of a state agency and its investment officer shall attend at

least one training session relating to the person's responsibilities under this chapter within six months after taking office or assuming duties.

(b) The Texas Higher Education Coordinating Board shall provide the training under this section.

(c) Training under this section must include education in investment controls, security risks, strategy risks, market risks, and compliance with this chapter.

(d) An investment officer shall attend a training session not less than once in a two-year period and may receive training from any independent source approved by the governing body of the state agency. The investment officer shall prepare a report on this subchapter and deliver the report to the governing body of the state agency not later than the 180th day after the last day of each regular session of the legislature.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 73, Sec. 1, eff. May 9, 1997; Acts 1997, 75th Leg., ch. 1421, Sec. 4, eff. Sept. 1, 1997.

Sec. 2256.008. Investment Training; Local Governments.

(a) The treasurer, the chief financial officer if the treasurer is not the chief financial officer, and the investment officer of a local government shall:

(1) attend at least one training session relating to the treasurer's or officer's responsibilities under this subchapter within 12 months after taking office or assuming duties; and

(2) attend an investment training session not less than once in a two-year period and receive not less than 10 hours of instruction relating to investment responsibilities under this subchapter from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government.

(b) Training under this section must include education in investment controls, security risks, strategy risks, market risks, and compliance with this chapter.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 5, eff. Sept. 1, 1997.

Sec. 2256.009. Authorized Investments: Obligations of, or Guaranteed by Governmental Entities.

(a) Except as provided by Subsection (b), the following are authorized investments under this subchapter:

(1) obligations of the United States or its agencies and instrumentalities;

(2) direct obligations of this state or its agencies and instrumentalities;

(3) collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or

instrumentality of the United States;

(4) other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or the United States or their respective agencies and instrumentalities; and

(5) obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent.

(b) The following are not authorized investments under this section:

(1) obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal;

(2) obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;

(3) collateralized mortgage obligations that have a stated final maturity date of greater than 10 years; and

(4) collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.010. Authorized Investments: Certificates of Deposit and Share Certificates.
A certificate of deposit is an authorized investment under this subchapter if the certificate is issued by a state or national bank domiciled in this state, a savings bank domiciled in this state, or a state or federal credit union domiciled in this state and is:

(1) guaranteed or insured by the Federal Deposit Insurance Corporation or its successor or the National Credit Union Share Insurance Fund or its successor;

(2) secured by obligations that are described by Section 2256.009(a), including mortgage backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates, but excluding those mortgage backed securities of the nature described by Section 2256.009(b); or

(3) secured in any other manner and amount provided by law for deposits of the investing entity.

Amended by Acts 1995, 74th Leg., ch. 32, Sec. 1, eff. April 28, 1995; Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 6, eff. Sept. 1, 1997.

Sec. 2256.011. Authorized Investments: Repurchase Agreements.
(a) A fully collateralized repurchase agreement is an authorized investment under this subchapter if the repurchase agreement:

(1) has a defined termination date;

(2) is secured by obligations described by Section 2256.009(a)(1); and

(3) requires the securities being purchased by the entity to be pledged to the entity, held in the entity's name, and deposited at the time the investment is made with the entity or with

a third party selected and approved by the entity; and

(4) is placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in this state.

(b) In this section, "repurchase agreement" means a simultaneous agreement to buy, hold for a specified time, and sell back at a future date obligations described by Section 2256.009(a)(1), at a market value at the time the funds are disbursed of not less than the principal amount of the funds disbursed. The term includes a direct security repurchase agreement and a reverse security repurchase agreement.

(c) Notwithstanding any other law, the term of any reverse security repurchase agreement may not exceed 90 days after the date the reverse security repurchase agreement is delivered.

(d) Money received by an entity under the terms of a reverse security repurchase agreement shall be used to acquire additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.012. Authorized Investments: Banker's Acceptances.
A bankers' acceptance is an authorized investment under this subchapter if the bankers' acceptance:

(1) has a stated maturity of 270 days or fewer from the date of its issuance;
(2) will be, in accordance with its terms, liquidated in full at maturity;
(3) is eligible for collateral for borrowing from a Federal Reserve Bank; and
(4) is accepted by a bank organized and existing under the laws of the United States or any state, if the short-term obligations of the bank, or of a bank holding company of which the bank is the largest subsidiary, are rated not less than A-1 or P-1 or an equivalent rating by at least one nationally recognized credit rating agency.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.013. Authorized Investments: Commercial Paper.
Commercial paper is an authorized investment under this subchapter if the commercial paper:

(1) has a stated maturity of 270 days or fewer from the date of its issuance; and
(2) is rated not less than A-1 or P-1 or an equivalent rating by at least:
    (A) two nationally recognized credit rating agencies; or
    (B) one nationally recognized credit rating agency and is fully secured by an irrevocable letter of credit issued by a bank organized and existing under the laws of the United States or any state.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.014. Authorized Investments: Mutual Funds.
(a) A no-load money market mutual fund is an authorized investment under this subchapter if the mutual fund:

(1) is registered with and regulated by the Securities and Exchange Commission;
(2) provides the investing entity with a prospectus and other information required by the Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.) or the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.);
(3) has a dollar-weighted average stated maturity of 90 days or fewer; and
(4) includes in its investment objectives the maintenance of a stable net asset value of $1 for each share.

(b) In addition to a no-load money market mutual fund permitted as an authorized investment in Subsection (a), a no-load mutual fund is an authorized investment under this subchapter if the mutual fund:

(1) is registered with the Securities and Exchange Commission;
(2) has an average weighted maturity of less than two years;
(3) is invested exclusively in obligations approved by this subchapter;
(4) is continuously rated as to investment quality by at least one nationally recognized investment rating firm of not less than AAA or its equivalent; and
(5) conforms to the requirements set forth in Sections 2256.016(b) and (c) relating to the eligibility of investment pools to receive and invest funds of investing entities.

(c) An entity is not authorized by this section to:

(1) invest in the aggregate more than 80 percent of its monthly average fund balance, excluding bond proceeds and reserves and other funds held for debt service, in money market mutual funds described in Subsection (a) or mutual funds described in Subsection (b), either separately or collectively;
(2) invest in the aggregate more than 15 percent of its monthly average fund balance, excluding bond proceeds and reserves and other funds held for debt service, in mutual funds described in Subsection (b);
(3) invest any portion of bond proceeds, reserves and funds held for debt service, in mutual funds described in Subsection (b); or
(4) invest its funds or funds under its control, including bond proceeds and reserves and other funds held for debt service, in any one mutual fund described in Subsection (a) or (b) in an amount that exceeds 10 percent of the total assets of the mutual fund.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 7, eff. Sept. 1, 1997.

Sec. 2256.015. Authorized Investments for State Agencies: Guaranteed Investment Contracts.
(a) A guaranteed investment contract is an authorized investment for state agencies for bond proceeds under this subchapter if the guaranteed investment contract:

(1) has a defined termination date;
(2) is secured by obligations described by Section 2256.009(a)(1), excluding those obligations described by Section 2256.009(b), in an amount at least equal to the amount of bond proceeds invested under the contract; and
(3) is pledged to the entity and deposited with the entity or with a third party selected and approved by the entity.

(b) Bond proceeds, other than bond proceeds representing reserves and funds maintained for debt service purposes, may not be invested under this subchapter in a guaranteed investment contract with a term of longer than five years from the date of issuance of the bonds.

(c) To be eligible as an authorized investment:
(1) the governing body of the entity must specifically authorize guaranteed investment contracts as an eligible investment in the order, ordinance, or resolution authorizing the issuance of bonds;
(2) the entity must receive bids from at least three separate providers with no material financial interest in the bonds from which proceeds were received;
(3) the entity must purchase the highest yielding guaranteed investment contract for which a qualifying bid is received;
(4) the price of the guaranteed investment contract must take into account the reasonably expected drawdown schedule for the bond proceeds to be invested; and
(5) the provider must certify the administrative costs reasonably expected to be paid to third parties in connection with the guaranteed investment contract.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 8, eff. Sept. 1, 1997.

Sec. 2256.016. Authorized Investments: Investment Pools.
(a) An entity may invest its funds and funds under its control through an eligible investment pool if the governing body of the entity by rule, order, ordinance, or resolution, as appropriate, authorizes investment in the particular pool. An investment pool shall invest the funds it receives from entities in authorized investments permitted by this subchapter.

(b) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must furnish to the investment officer or other authorized representative of the entity an offering circular or other similar disclosure instrument that contains, at a minimum, the following information:
(1) the types of investments in which money is allowed to be invested;
(2) the maximum average dollar-weighted maturity allowed, based on the stated maturity date, of the pool;
(3) the maximum stated maturity date any investment security within the portfolio has;
(4) the objectives of the pool;
(5) the size of the pool;

(6) the names of the members of the advisory board of the pool and the dates their terms expire;
(7) the custodian bank that will safekeep the pool's assets;
(8) whether the intent of the pool is to maintain a net asset value of one dollar and the risk of market price fluctuation;
(9) whether the only source of payment is the assets of the pool at market value or whether there is a secondary source of payment, such as insurance or guarantees, and a description of the secondary source of payment;
(10) the name and address of the independent auditor of the pool;
(11) the requirements to be satisfied for an entity to deposit funds in and withdraw funds from the pool and any deadlines or other operating policies required for the entity to invest funds in and withdraw funds from the pool; and
(12) the performance history of the pool, including yield, average dollar-weighted maturities, and expense ratios.

(c) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must furnish to the investment officer or other authorized representative of the entity:
(1) investment transaction confirmations; and
(2) a monthly report that contains, at a minimum, the following information:
(A) the types and percentage breakdown of securities in which the pool is invested;
(B) the current average dollar-weighted maturity, based on the stated maturity date, of the pool;
(C) the current percentage of the pool's portfolio in investments that have stated maturities of more than one year;
(D) the book value versus the market value of the pool's portfolio, using amortized cost valuation;
(E) the size of the pool;
(F) the number of participants in the pool;
(G) the custodian bank that is safekeeping the assets of the pool;
(H) a listing of daily transaction activity of the entity participating in the pool;
(I) the yield and expense ratio of the pool;
(J) the portfolio managers of the pool; and
(K) any changes or addenda to the offering circular.

(d) An entity by contract may delegate to an investment pool the authority to hold legal title as custodian of investments purchased with its local funds.

(e) In this section, "yield" shall be calculated in accordance with regulations governing the registration of open-end management investment companies under the Investment Company Act of 1940, as promulgated from time to time by the federal Securities and Exchange Commission.

(f) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, a

public funds investment pool created to function as a money market mutual fund must mark its portfolio to market daily, and, to the extent reasonably possible, stabilize at a $1 net asset value. If the ratio of the market value of the portfolio divided by the book value of the portfolio is less than 0.995 or greater than 1.005, portfolio holdings shall be sold as necessary to maintain the ratio between 0.995 and 1.005.

(g) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, a public funds investment pool must have an advisory board composed:

(1) equally of participants in the pool and other persons who do not have a business relationship with the pool and are qualified to advise the pool, for a public funds investment pool created under Chapter 791 and managed by a state agency; or

(2) of participants in the pool and other persons who do not have a business relationship with the pool and are qualified to advise the pool, for other investment pools.

(h) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 9, eff. Sept. 1, 1997.

Sec. 2256.017. Existing Investments.
An entity is not required to liquidate investments that were authorized investments at the time of purchase.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.46(a), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1421, Sec. 10, eff. Sept. 1, 1997.

Sec. 2256.019. Rating of Certain Investment Pools.
A public funds investment pool must be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service or no lower than investment grade by at least one nationally recognized rating service with a weighted average maturity no greater than 90 days.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1421, Sec. 11, eff. Sept. 1, 1997.

Sec. 2256.020. Authorized Investments: Institutions of Higher Education.
In addition to the authorized investments permitted by this subchapter, an institution of higher education may purchase, sell, and invest its funds and funds under its control in the following:

(1) cash management and fixed income funds sponsored by organizations exempt from federal income taxation under Section 501(f), Internal Revenue Code of 1986 (26 U.S.C. Section

501(f));

(2) negotiable certificates of deposit issued by a bank that has a certificate of deposit rating of at least 1 or the equivalent by a nationally recognized credit rating agency or that is associated with a holding company having a commercial paper rating of at least A-1, P-1, or the equivalent by a nationally recognized credit rating agency; and

(3) corporate bonds, debentures, or similar debt obligations rated by a nationally recognized investment rating firm in one of the two highest long-term rating categories, without regard to gradations within those categories.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.021. Effect of Loss of Required Rating.
An investment that requires a minimum rating under this subchapter does not qualify as an authorized investment during the period the investment does not have the minimum rating. An entity shall take all prudent measures that are consistent with its investment policy to liquidate an investment that does not have the minimum rating.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.022. Expansion of Investment Authority.
Expansion of investment authority granted by this chapter shall require a risk assessment by the state auditor or performed at the direction of the state auditor.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.023. Internal Management Reports.
(a) Not less than quarterly, the investment officer shall prepare and submit to the governing body of the entity a written report of investment transactions for all funds covered by this chapter for the preceding reporting period.

(b) The report must:

(1) describe in detail the investment position of the entity on the date of the report;

(2) be prepared jointly by all investment officers of the entity;

(3) be signed by each investment officer of the entity;

(4) contain a summary statement, prepared in compliance with generally accepted accounting principles, of each pooled fund group that states the:

(A) beginning market value for the reporting period;

(B) additions and changes to the market value during the period;

(C) ending market value for the period; and

(D) fully accrued interest for the reporting period;

(5) state the book value and market value of each separately invested asset at the beginning and end of the reporting period by the type of asset and fund type invested;

(6) state the maturity date of each separately invested asset that has a maturity date;

(7) state the account or fund or pooled group fund in the state agency or local government for which each individual investment was acquired; and
(8) state the compliance of the investment portfolio of the state agency or local government as it relates to:
    (A) the investment strategy expressed in the agency's or local government's investment policy; and
    (B) relevant provisions of this chapter.

(c) The report shall be presented not less than quarterly to the governing body and the chief executive officer of the entity within a reasonable time after the end of the period.

(d) If an entity invests in other than money market mutual funds, investment pools or accounts offered by its depository bank in the form of certificates of deposit, or money market accounts or similar accounts, the reports prepared by the investment officers under this section shall be formally reviewed at least annually by an independent auditor, and the result of the review shall be reported to the governing body by that auditor.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1421, Sec. 12, eff. Sept. 1, 1997.

Sec. 2256.024. Subchapter Cumulative.

(a) The authority granted by this subchapter is in addition to that granted by other law. Except as provided by Subsection (b), this subchapter does not:
(1) prohibit an investment specifically authorized by other law; or
(2) authorize an investment specifically prohibited by other law.

(b) Except with respect to those investing entities described in Subsection (c), a security described in Section 2256.009(b) is not an authorized investment for a state agency, a local government, or another investing entity, notwithstanding any other provision of this chapter or other law to the contrary.

(c) Mortgage pass-through certificates and individual mortgage loans that may constitute an investment described in Section 2256.009(b) are authorized investments with respect to the housing bond programs operated by:
(1) the Texas Department of Housing and Community Affairs or a nonprofit corporation created to act on its behalf;
(2) an entity created under Chapter 392, Local Government Code; or
(3) an entity created under Chapter 394, Local Government Code.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.025. Selection of Authorized Brokers.

The governing body of an entity subject to this subchapter or the designated investment committee of the entity shall, at least annually, review, revise, and adopt a list of qualified brokers that are authorized to engage in investment transactions with the entity.

Added by Acts 1997, 75th Leg., ch. 1421, Sec. 13, eff. Sept. 1, 1997.

Sec. 2256.026. Statutory Compliance.
All investments made by entities must comply with this subchapter and all federal, state, and local statutes, rules, or regulations.

Added by Acts 1997, 75th Leg., ch. 1421, Sec. 13, eff. Sept. 1, 1997.

SUBCHAPTER B. MISCELLANEOUS PROVISIONS

Sec. 2256.051. Electronic Funds Transfer.
Any local government may use electronic means to transfer or invest all funds collected or controlled by the local government.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.052. Private Auditor.
Notwithstanding any other law, a state agency shall employ a private auditor if authorized by the legislative audit committee either on the committee's initiative or on request of the governing body of the agency.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.053. Payment for Securities Purchased by State.
The comptroller or the disbursing officer of an agency that has the power to invest assets directly may pay for authorized securities purchased from or through a member in good standing of the National Association of Securities Dealers or from or through a national or state bank on receiving an invoice from the seller of the securities showing that the securities have been purchased by the board or agency and that the amount to be paid for the securities is just, due, and unpaid. A purchase of securities may not be made at a price that exceeds the existing market value of the securities.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 8.67, eff. Sept. 1, 1997.

Sec. 2256.054. Delivery of Securities Purchased by State.
A security purchased under this chapter may be delivered to the comptroller, a bank, or the board or agency investing its funds. The delivery shall be made under normal and recognized practices in the securities and banking industries, including the book entry procedure of the Federal Reserve Bank.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 8.68, eff. Sept. 1, 1997.

Sec. 2256.055. Deposit of Securities Purchased by State.
At the direction of the comptroller or the agency, a security purchased under this chapter may be deposited in trust with a bank or federal reserve bank or branch designated by the comptroller, whether in or outside the state. The deposit shall be held in the entity's name as evidenced by a trust receipt of the bank with which the securities are deposited.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 8.69, eff. Sept. 1, 1997.

Sec. 2256.056. Compliance With Other Laws.
Notwithstanding any other law, a municipality with a population of less than 50,000 may not issue for any purpose or cause to be issued in its behalf any installment sale obligation or lease-purchase obligation having the principal amount of $1 million or more without complying with the provisions of Section 3.002, Chapter 53, Acts of the 70th Legislature, 2nd Called Session, 1987 (Article 717k-8, Vernon's Texas Civil Statutes), regardless of whether the obligation was issued individually or in a series of related transactions, or whether the obligation was issued with no recourse to the local government.

Added by Acts 1997, 75th Leg., ch. 1421, Sec. 14, eff. Sept. 1, 1997.

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CHAPTER 2257. COLLATERAL FOR PUBLIC FUNDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2257.001. Short Title.
This chapter may be cited as the Public Funds Collateral Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.002. Definitions.
In this chapter:

(1) "Bank holding company" has the meaning assigned by Section 1.002(a), Texas Banking Act.

(2) Repealed by Acts 1997, 75th Leg., ch. 891, Sec. 3.22(4), eff. Sept. 1, 1997.

(3) "Control" has the meaning assigned by Section 1.002(a), Texas Banking Act.

(4) "Deposit of public funds" means public funds of a public entity that:
  (A) the comptroller does not manage under Chapter 404; and
  (B) are held as a demand or time deposit by a depository institution expressly authorized by law to accept a public entity's demand or time deposit.

(5) "Eligible security" means:
  (A) a surety bond;
  (B) an investment security;
  (C) an ownership or beneficial interest in an investment security, other than an option contract to purchase or sell an investment security;
  (D) a fixed-rate collateralized mortgage obligation that has an expected weighted average life of 10 years or less and does not constitute a high-risk mortgage security; or
  (E) a floating-rate collateralized mortgage obligation that does not constitute a high-risk mortgage security.

(6) "Investment security" means:
  (A) an obligation that in the opinion of the attorney general of the United States is a general obligation of the United States and backed by its full faith and credit;
  (B) a general or special obligation issued by a public agency that is payable from taxes, revenues, or a combination of taxes and revenues; or
  (C) a security in which a public entity may invest under Subchapter A, Chapter 2256.

(7) "Permitted institution" means:
  (A) a Federal Reserve Bank;

  (B) a clearing corporation, as defined by Section 8.102(c), Business & Commerce

Code;

(C) a bank eligible to be a custodian under Section 2257.041; or

(D) a state or nationally chartered bank that is controlled by a bank holding company that controls a bank eligible to be a custodian under Section 2257.041.

(8) "Public agency" means a state or a political or governmental entity, agency, instrumentality, or subdivision of a state, including a municipality, an institution of higher education, as defined by Section 61.003, Education Code, a junior college, a district created under Article XVI, Section 59, of the Texas Constitution, and a public hospital.

(9) "Public entity" means a public agency in this state, but does not include an institution of higher education, as defined by Section 61.003, Education Code.

(10) "State agency" means a public entity that:

(A) has authority that is not limited to a geographic portion of the state; and

(B) was created by the constitution or a statute.

(11) "Trust receipt" means evidence of receipt, identification, and recording, including:

(A) a physical controlled trust receipt; or

(B) a written or electronically transmitted advice of transaction.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.48(a), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 914, Sec. 5, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 254, Sec. 1, eff. Sept.1, 1997; Acts 1997, 75th Leg., ch. 891, Sec. 3.22(4), eff. Sept.1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 8.70, eff. Sept. 1,1997.

Sec. 2257.0025. High-Risk Mortgage Security.

(a) For purposes of this chapter, a fixed-rate collateralized mortgage obligation is a high-risk mortgage security if the security:

(1) has an average life sensitivity with a weighted average life that:

(A) extends by more than four years, assuming an immediate and sustained parallel shift in the yield curve of plus 300 basis points; or

(B) shortens by more than six years, assuming an immediate and sustained parallel shift in the yield curve of minus 300 basis points; and

(2) is price sensitive; that is, the estimated change in the price of the mortgage derivative product is more than 17 percent, because of an immediate and sustained parallel shift in the yield curve of plus or minus 300 basis points.

(b) For purposes of this chapter, a floating-rate collateralized mortgage obligation is a high-risk mortgage security if the security:

(1) bears an interest rate that is equal to the contractual cap on the instrument; or

(2) is price sensitive; that is, the estimated change in the price of the mortgage derivative product is more than 17 percent, because of an immediate and sustained parallel shift in

the yield curve of plus or minus 300 basis points.

Added by Acts 1997, 75th Leg., ch. 254, Sec. 2, eff. Sept. 1,1997.

Sec. 2257.003. Chapter Not Applicable to Deferred Compensation Plans.
This chapter does not apply to funds that a public entity maintains or administers under a deferred compensation plan, the federal income tax treatment of which is governed by Section 401(k) or 457 of the Internal Revenue Code of 1986 (26 U.S.C. Sections 401(k) and 457).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1,1993.

Sec. 2257.004. Conflict With Other Law.
This chapter prevails over any other law relating to security for a deposit of public funds to the extent of any conflict.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.005. Contract Governs Legal Action.
A legal action brought by or against a public entity that arises out of or in connection with the duties of a depository, custodian, or permitted institution under this chapter must be brought and maintained as provided by the contract with the public entity.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1,1993.

SUBCHAPTER B. DEPOSITORY; SECURITY FOR DEPOSIT OF PUBLIC FUNDS

Sec. 2257.021. Collateral Required.
A deposit of public funds shall be secured by eligible security to the extent and in the manner required by this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1,
1993.

Sec. 2257.022. Amount of Collateral.
(a) The total value of eligible security to secure a deposit of public funds must be in an amount not less than the amount of the deposit of public funds:

(1) increased by the amount of any accrued interest; and

(2) reduced to the extent that the United States or an instrumentality of the United States insures the deposit.

(b) The value of a surety bond is its face value.

(c) The value of an investment security is its market value.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1,1993.

Sec. 2257.023. Collateral Policy.
(a) In accordance with a written policy approved by the governing body of the public entity, a public entity shall determine if an investment security is eligible to secure deposits of public funds.

(b) The written policy may include:
(1) the security of the institution that obtains or holds an investment security;
(2) the substitution or release of an investment security; and
(3) the method by which an investment security used to secure a deposit of public funds is valued.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1,1993.

Sec. 2257.024. Contract for Securing Deposit of Public Funds.
(a) A public entity may contract with a bank domiciled in this state to secure a deposit of public funds.

(b) The contract may contain a term or condition relating to an investment security used as security for a deposit of public funds, including a term or condition relating to the:
(1) possession of the collateral;
(2) substitution or release of an investment security;
(3) ownership of the investment securities of the bank used to secure a deposit of public funds; and
(4) method by which an investment security used to secure a deposit of public funds is valued.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1,1993.

Sec. 2257.025. Records of Depository.
(a) A public entity's depository shall maintain a separate, accurate, and complete record relating to a pledged investment security, a deposit of public funds, and a transaction related to a pledged investment security.

(b) The comptroller or the public entity may examine and verify at any reasonable time a pledged investment security or a record a depository maintains under this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1,1993. Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.16, eff. Sept. 1, 1997.

Sec. 2257.026. Change in Amount or Activity of Deposits of Public Funds.
A public entity shall inform the depository for the public entity's deposit of public funds of a significant change in the amount or activity of those deposits within a reasonable time before the change occurs.
Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1,1993.

SUBCHAPTER C. CUSTODIAN; PERMITTED INSTITUTION

Sec. 2257.041. Deposit of Securities With Custodian.
(a) In addition to other authority granted by law, a depository for a public entity other than a state agency may deposit with a custodian a security pledged to secure a deposit of public funds.

(b) At the request of the public entity, a depository for a public entity other than a state agency shall deposit with a custodian a security pledged to secure a deposit of public funds.

(c) A depository for a state agency shall deposit with a custodian a security pledged to secure a deposit of public funds. The custodian and the state agency shall agree in writing on the terms and conditions for securing a deposit of public funds.

(d) A custodian must be approved by the public entity and be:
- (1) a state or national bank that:
  - (A) is designated by the comptroller as a state depository;
  - (B) is domiciled in this state; and
  - (C) has a capital stock and permanent surplus of $5 million or more;
- (2) the Texas Treasury Safekeeping Trust Company;
- (1) a Federal Reserve Bank or a branch of a Federal Reserve Bank; or
- (4) a federal home loan bank.

(e) A custodian holds in trust the securities to secure the deposit of public funds of the public entity in the depository pledging the securities.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1,1993. Amended by Acts 1995, 74th Leg., ch. 1010, Sec. 1, eff. June 17, 1995; Acts 1997, 75th Leg., ch. 891, Sec. 3.17, eff. Sept. 1, 1997.

Sec. 2257.042. Deposit of Securities With Permitted Institution.
(a) A custodian may deposit with a permitted institution an investment security the custodian holds under Section 2257.041.

(b) If a deposit is made under Subsection (a):
- (1) the permitted institution shall hold the investment security to secure funds the public entity deposits in the depository that pledges the investment security;
- (2) the trust receipt the custodian issues under Section 2257.045 shall show that the custodian has deposited the security in a permitted institution; and
- (3) the permitted institution, on receipt of the investment security, shall immediately issue to the custodian an advice of transaction or other document that is evidence that the custodian deposited the security in the permitted institution.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1,1993.

Sec. 2257.043. Depository as Custodian or Permitted Institution.
(a) A public entity other than a state agency may prohibit a depository or an entity of which the depository is a branch from being the custodian of or permitted institution for a security the depository pledges to secure a deposit of public funds.

(b) A depository or an entity of which the depository is a branch may not be the custodian of or permitted institution for a security the depository pledges to secure a deposit of public funds by a state agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1,1993.

Sec. 2257.044. Custodian as Bailee.
(a) A custodian under this chapter or a custodian of a security pledged to an institution of higher education, as defined by Section 61.003, Education Code, whether acting alone or through a permitted institution, is for all purposes the bailee or agent of the public entity or institution depositing the public funds with the depository.

(b) To the extent of any conflict, Subsection (a) prevails over Chapter 8 or 9, Business & Commerce Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1,1993.

Sec. 2257.045. Receipt of Security by Custodian.
On receipt of an investment security, a custodian shall:

(1) immediately identify on its books and records, by book entry or another method, the pledge of the security to the public entity; and
(2) promptly issue and deliver to the appropriate public entity officer a trust receipt for the pledged security.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1,1993.

Sec. 2257.046. Books and Records of Custodian; Inspection.
(a) A public entity's custodian shall maintain a separate, accurate, and complete record relating to each pledged investment security and each transaction relating to a pledged investment security.

(b) The comptroller or the public entity may examine and verify at any reasonable time a pledged investment security or a record a custodian maintains under this section. The public entity or its agent may inspect at any time an investment security evidenced by a trust receipt.

(c) The public entity's custodian shall file a collateral report with the comptroller in the manner and on the dates prescribed by the comptroller.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1,1993. Amended by Acts 1997, 75th

Leg., ch. 891, Sec. 3.18, eff. Sept. 1, 1997.

Sec. 2257.047. Books and Records of Permitted Institution.
(a) A permitted institution may apply book entry procedures when an investment security held by a custodian is deposited under Section 2257.042.

(b) A permitted institution's records must at all times state the name of the custodian that deposits an investment security in the permitted institution.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1,1993.

Sec. 2257.048. Attachment and Perfection of Security Interest.
(a) A security interest that arises out of a depository's pledge of a security to secure a deposit of public funds by a public entity or an institution of higher education, as defined by Section 61.003, Education Code, is created, attaches, and is perfected for all purposes under state law from the time that the custodian identifies the pledge of the security on the custodian's books and records and issues the trust receipt.

(b) A security interest in a pledged security remains perfected in the hands of a subsequent custodian or permitted institution.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1,1993.

SUBCHAPTER D. AUDITS AND EXAMINATIONS; PENALTIES

Sec. 2257.061. Audits and Examinations.
As part of an audit or regulatory examination of a public entity's depository or custodian, the auditor or examiner shall:

(1) examine and verify pledged investment securities and records maintained under Section 2257.025 or 2257.046; and
(2) report any significant or material noncompliance with this chapter to the comptroller.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1,1993. Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.19, eff. Sept. 1, 1997.

Sec. 2257.062. Penalties.
(a) The comptroller may revoke a depository's designation as a state depository for one year if, after notice and a hearing, the comptroller makes a written finding that the depository, while acting as either a depository or a custodian:

(1) did not maintain reasonable compliance with this chapter; and
(2) failed to remedy a violation of this chapter within a reasonable time after receiving written notice of the violation.

(b) The comptroller may permanently revoke a depository's designation as a state depository if the comptroller makes a written finding that the depository:

(1) has not maintained reasonable compliance with this chapter; and

(2) has acted in bad faith by not remedying a violation of this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1,1993. Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.19, eff. Sept. 1, 1997.

Sec. 2257.063. Mitigating Circumstances.

(a) The comptroller shall consider the total circumstances relating to the performance of a depository or custodian when the comptroller makes a finding required by Section 2257.062,including the extent to which the noncompliance is minor, isolated, temporary, or nonrecurrent.

(b) The comptroller may not find that a depository or custodian did not maintain reasonable compliance with this chapter if the noncompliance results from the public entity's failure to comply with Section 2257.026.

(c) This section does not relieve a depository or custodian of the obligation to secure a deposit of public funds with eligible security in the amount and manner required by this chapter within a reasonable time after the public entity deposits the deposit of public funds with the depository.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1,1993. Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.19, eff. Sept. 1, 1997.

Sec. 2257.064. Reinstatement.

The comptroller may reinstate a depository's designation as a state depository if:

(1) the comptroller determines that the depository has remedied all violations of this chapter; and

(2) the depository assures the comptroller to the comptroller's satisfaction that the depository will maintain reasonable compliance with this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1,1993. Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.19, eff. Sept. 1, 1997.

SUBCHAPTER E. EXEMPT INSTITUTIONS

Sec. 2257.081. Definition.

In this subchapter, "exempt institution" means:

(1) a public retirement system, as defined by Section 802.001; or

(2) the permanent school fund, as described by Section 43.001, Education Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1,1993. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 6.31, eff. Sept. 1, 1997.

Sec. 2257.082. Funds of Exempt Institution.

An exempt institution is not required to have its funds fully insured or collateralized at all times if:

(1) the funds are held by:

(A) a custodian of the institution's assets under a trust agreement; or

(B) a person in connection with a transaction related to an investment; and

(2) the governing body of the institution, in exercising its fiduciary responsibility, determines that the institution is adequately protected by using a trust agreement, special deposit, surety bond, substantial deposit insurance, or other method an exempt institution commonly uses to protect itself from liability.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1,1993.

Sec. 2257.083. Investment; Selection of Depository.

This chapter does not:

(1) prohibit an exempt institution from prudently investing in a certificate of deposit; or

(2) restrict the selection of a depository by the governing body of an exempt institution in accordance with its fiduciary duty.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993

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TITLE 1. PROPERTY TAX CODE

SUBTITLE A. GENERAL PROVISIONS

CHAPTER 1. GENERAL PROVISIONS

Sec. 1.01. Short Title.
This title may be cited as the Property Tax Code.

Acts 1979, 66th Leg., p. 2218, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 1.02. Applicability of Title.
This title applies to a taxing unit that is created by or pursuant to any general, special, or local law enacted before or after the enactment of this title unless a law enacted after enactment of this title by or pursuant to which the taxing unit is created expressly provides that this title does not apply. This title supersedes any provision of a municipal charter or ordinance relating to property taxation. Nothing in this title invalidates or restricts the right of voters to utilize municipal-level initiative and referendum to set a tax rate, level of spending, or limitation on tax increase for that municipality.

Acts 1979, 66th Leg., p. 2218, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 117, ch. 13, Sec. 1, eff. Jan. 1, 1982.

Sec. 1.03. Construction of Title.
The Code Construction Act (Chapter 311, Government Code) applies to the construction of each provision of this title except as otherwise expressly provided by this title.

Acts 1979, 66th Leg., p. 2218, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 479, Sec. 72, eff. Sept. 1, 1985.

Sec. 1.04. Definitions.
In this title:

(1) "Property" means any matter or thing capable of private ownership.

(2) "Real property" means:
- (A) land;
- (B) an improvement;
- (C) a mine or quarry;
- (D) a mineral in place;
- (E) standing timber; or
- (F) an estate or interest, other than a mortgage or deed of trust creating a lien on property or an interest securing payment or performance of an obligation, in a property enumerated in Paragraphs (A) through (E) of this subdivision.

(3) "Improvement" means:
  (A) a building, structure, fixture, or fence erected on or affixed to land;
  (B) a transportable structure that is designed to be occupied for residential or business purposes, whether or not it is affixed to land, if the owner of the structure owns the land on which it is located, unless the structure is unoccupied and held for sale or normally is located at a particular place only temporarily; or
  (C) for purposes of an entity created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, the:
    (i) subdivision of land by plat;
    (ii) installation of water, sewer, or drainage lines; or
    (iii) paving of undeveloped land.

(4) "Personal property" means property that is not real property.

(5) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or otherwise perceived by the senses, but does not include a document or other perceptible object that constitutes evidence of a valuable interest, claim, or right and has negligible or no intrinsic value.

(6) "Intangible personal property" means a claim, interest (other than an interest in tangible property), right, or other thing that has value but cannot be seen, felt, weighed, measured, or otherwise perceived by the senses, although its existence may be evidenced by a document. It includes a stock, bond, note or account receivable, franchise, license or permit, demand or time deposit, certificate of deposit, share account, share certificate account, share deposit account, insurance policy, annuity, pension, cause of action, contract, and goodwill.

(7) "Market value" means the price at which a property would transfer for cash or its equivalent under prevailing market conditions if:
  (A) exposed for sale in the open market with a reasonable time for the seller to find a purchaser;
  (B) both the seller and the purchaser know of all the uses and purposes to which the property is adapted and for which it is capable of being used and of the enforceable restrictions on its use; and
  (C) both the seller and purchaser seek to maximize their gains and neither is in a position to take advantage of the exigencies of the other.

(8) "Appraised value" means the value determined as provided by Chapter 23 of this code.

(9) "Assessed value" means, for the purposes of assessment of property for taxation, the amount determined by multiplying the appraised value by the applicable assessment ratio, but, for the purposes of determining the debt limitation imposed by Article III, Section 52, of the Texas Constitution, shall mean the market value of the property recorded by

the chief appraiser.

(10) "Taxable value" means the amount determined by deducting from assessed value the amount of any applicable partial exemption.

(11) "Partial exemption" means an exemption of part of the value of taxable property.

(12) "Taxing unit" means a county, an incorporated city or town (including a home-rule city), a school district, a special district or authority (including a junior college district, a hospital district, a district created by or pursuant to the Water Code, a mosquito control district, a fire prevention district, or a noxious weed control district), or any other political unit of this state, whether created by or pursuant to the constitution or a local, special, or general law, that is authorized to impose and is imposing ad valorem taxes on property even if the governing body of another political unit determines the tax rate for the unit or otherwise governs its affairs.

(13) "Tax year" means the calendar year.

(14) "Assessor" means the officer or employee responsible for assessing property taxes as provided by Chapter 26 of this code for a taxing unit by whatever title he is designated.

(15) "Collector" means the officer or employee responsible for collecting property taxes for a taxing unit by whatever title he is designated.

(12) "Possessory interest" means an interest that exists as a result of possession or exclusive use or a right to possession or exclusive use of a property and that is unaccompanied by ownership of a fee simple or life estate in the property. However, "possessory interest" does not include an interest, whether of limited or indeterminate duration, that involves a right to exhaust a portion of a real property.

(17) "Conservation and reclamation district" means a district created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, or under a statute enacted under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution.

(18) "Clerical error" means an error:
(A) that is or results from a mistake or failure in writing, copying, transcribing, entering or retrieving computer data, computing, or calculating; or
(B) that prevents an appraisal roll or a tax roll from accurately reflecting a finding or determination made by the chief appraiser, the appraisal review board, or the assessor; however, "clerical error" does not include an error that is or results from a mistake in judgment or reasoning in the making of the finding or determination.

(19) "Comptroller" means the Comptroller of Public Accounts of the State of Texas.

Acts 1979, 66th Leg., p. 2218, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 118, ch. 13, Sec. 2, eff. Jan. 1, 1982; Acts 1987, 70th Leg., ch. 984, Sec. 25, eff. June 19, 1987; Acts 1989, 71st Leg., ch. 1123, Sec. 1, eff. Jan. 1, 1990; Acts 1991, 72nd Leg., ch. 20, Sec. 13, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 393, Sec. 1, eff. June 10, 1991; Acts 1991, 72nd Leg., ch. 843, Sec. 6, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 14, Sec. 8.01(22), eff. Nov. 12, 1991.

Amended by Acts 1993, 73rd Leg., ch. 347, Sec. 4.04, eff. May 31, 1993; Acts 1997, 75th Leg., ch. 1070, Sec. 52, eff. Sept. 1, 1997.

Sec. 1.05. City Fiscal Year.
The governing body of a home-rule city may establish by ordinance a fiscal year different from that fixed in its charter if a different fiscal year is desirable to adapt budgeting and other fiscal activities to the tax cycle required by this title.

Acts 1979, 66th Leg., p. 2220, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 1.06. Effect of Weekend or Holiday.
If the last day for the performance of an act is a Saturday, Sunday, or legal state or national holiday, the act is timely if performed on the next regular business day.

Acts 1979, 66th Leg., p. 2220, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 1.07. Delivery of Notice.
(a) An official or agency required by this title to deliver a notice to a property owner may deliver the notice by regular first-class mail, with postage prepaid, unless this section or another provision of this title requires a different method of delivery.

(b) The official or agency shall address the notice to the property owner, the person designated under Section 1.111(f) to receive the notice for the property owner, if that section applies, or, if appropriate, the property owner's agent at his address according to the most recent record in the possession of the official or agency. However, if a property owner files a written request that notices be sent to a particular address, the official or agency shall send the notice to the address stated in the request.

(c) A notice permitted to be delivered by first-class mail by this section is presumed delivered when it is deposited in the mail. This presumption is rebuttable when evidence of failure to receive notice is provided.

(d) A notice required by Section 11.45(d), 23.44(d), 23.57(d), 23.79(d), or 23.85(d) must be sent by certified mail.

Acts 1979, 66th Leg., p. 2220, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg.,

p. 4947, ch. 885, Sec. 1, eff. Jan. 1, 1984; Acts 1989, 71st Leg., ch. 796, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 1997, 75th Leg., ch. 1039, Sec. 1, eff. Jan. 1, 1998.

Sec. 1.08. Timeliness of Action by Mail.

When a property owner is required by this title to make a payment or to file or deliver a report, application, statement, or other document or paper before a specified date, his action is timely if:

(1) it is sent by regular first-class mail, properly addressed with postage prepaid; and

(2) it bears a post office cancellation mark of a date earlier than the specified date and within the specified period or the property owner furnishes satisfactory proof that it was deposited in the mail before the specified date and within the specified period.

Acts 1979, 66th Leg., p. 2220, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 1.09. Availability of Forms.

When a property owner is required by this title to use a form, the office or agency with which the form is filed shall make printed forms readily and timely available and shall furnish a property owner a form without charge.

Acts 1979, 66th Leg., p. 2220, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 1.10. Rolls in Electronic Data-Processing Records.

The appraisal roll for an appraisal district and the appraisal roll or the tax roll for the unit may be retained in electronic data-processing equipment. However, a physical document for each must be prepared and made readily available to the public.

Acts 1979, 66th Leg., p. 2220, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 118, ch. 13, Sec. 3, eff. Jan. 1, 1982.

Sec. 1.11. Communications to Fiduciary.

(a) On the written request of a property owner, an appraisal office or an assessor or collector shall deliver all notices, tax bills, and other communications relating to the owner's property or taxes to the owner's fiduciary.

(b) A request pursuant to this section remains in effect until revoked by the owner.

Added by Acts 1981, 67th Leg., 1st C.S., p. 118, ch. 13, Sec. 4, eff. Jan. 1, 1982.

Sec. 1.111. Representation of Property Owner.

(a) A property owner may designate a lessee or other person to act as the agent of the owner for any purpose under this title in connection with the property or the property owner.

(b) The designation of an agent must be made by written authorization signed by the owner, a property manager authorized to designate agents for the owner, or other person authorized to act on behalf of the owner, and must clearly indicate that the person is authorized to act on behalf of the property owner in property tax matters relating to the property or the property owner. The designation may authorize the agent to represent the owner in all property tax matters or in specific property tax matters as identified in the designation.

(c) The designation of an agent under this section remains in effect until revoked in a written revocation filed with the appraisal district by the property owner. A designation may be made to expire according to its own terms but is still subject to prior revocation by the property owner.

(d) A property owner may not designate more than one agent to represent the property owner in connection with an item of property. The designation of an agent in connection with an item of property revokes any previous designation of an agent in connection with that item of property.

(e) An agreement between a property owner or the owner's agent and the chief appraiser is final if the agreement relates to a matter:

(1) which may be protested to the appraisal review board or on which a protest has been filed but not determined by the board; or

(2) which may be corrected under Section 25.25 or on which a motion for correction under that section has been filed but not determined by the board.

(f) A property owner in writing filed with the appraisal district may direct the appraisal district, appraisal review board, and each taxing unit participating in the appraisal district to deliver all notices, tax bills, orders, and other communications relating to one or more specified items of the owner's property to a specified person instead of to the property owner. The instrument must clearly identify the person by name and give the person's address to which all notices, tax bills, orders, and other communications are to be delivered. The property owner may but is not required to designate the person's agent for other tax matters designated under Subsection (a) as the person to receive all notices, tax bills, orders, and other communications. The designation of an agent for other tax matters under Subsection (a) may also provide that the agent is the person to whom notices, tax bills, orders, and other communications are to be delivered under this subsection.

(g) An appraisal district, appraisal review board, or taxing unit may not require a person to designate an agent to represent the person in a property tax matter other than as provided by this section.

(h) The comptroller shall prescribe forms and adopt rules to facilitate compliance with this section. The comptroller shall include on any form used for designation of an agent for a single-family residential property in which the property owner resides the following statement in boldfaced type:

> "In some cases, you may want to contact your appraisal district or other local taxing units for free information and/or forms concerning your case before designating an agent."

(i) An appraisal review board shall accept and consider a motion or protest filed by an agent of a property owner if an agency authorization is filed at or before the hearing on the motion or protest.

Added by Acts 1987, 70th Leg., ch. 435, Sec. 1, eff. Jan. 1, 1988. Amended by Acts 1989, 71st Leg., ch. 796, Sec. 2, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 1993, 73rd Leg., ch. 981, Sec. 1, eff. Jan. 1, 1994; Acts 1993, 73rd Leg., ch. 1031, Sec. 1, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 349, Sec. 1, eff. Sept. 1, 1997.

Sec. 1.12. Median Level of Appraisal.
(a) For purposes of this title, the median level of appraisal is the median appraisal ratio of a reasonable and representative sample of properties in an appraisal district or, for purposes of Section 41.43 or 42.26, of a sample of properties specified by that section.

(b) An appraisal ratio is the ratio of a property's appraised value as determined by the appraisal office or appraisal review board, as applicable, to:

(1) the appraised value of the property according to law if the property qualifies for appraisal for tax purposes according to a standard other than market value; or

(2) the market value of the property if Subdivision (1) of this subsection does not apply.

(c) The median appraisal ratio for a sample of properties is, in a numerically ordered list of the appraisal ratios for the properties:

(1) if the sample contains an odd number of properties, the appraisal ratio above and below which there is an equal number of appraisal ratios in the list; or

(2) if the sample contains an even number of properties, the average of the two consecutive appraisal ratios above and below which there is an equal number of appraisal ratios in the list.

(d) For purposes of this section, the appraisal ratio of a homestead to which Section 23.23 applies is the ratio of the property's market value as determined by the appraisal district or appraisal review board, as applicable, to the market value of the property according to law. The appraisal ratio is not calculated according to the appraised value of the property as limited by Section 23.23.

Added by Acts 1981, 67th Leg., 1st C.S., p. 118, ch. 13, Sec. 5, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 4924, ch. 877, Sec. 1, eff. Jan. 1, 1984; Acts 1985, 69th Leg., ch. 823, Sec. 1, eff. Jan. 1, 1986; Acts 1989, 71st Leg., ch. 796, Sec. 3, eff. June 15, 1989.

Amended by Acts 1997, 75th Leg., ch. 1039, Sec. 46, eff. Jan. 1, 1998.

A taxing unit may not employ any person for the purpose of appraising property for taxation purposes

except to the extent necessary to perform a contract under Section 6.05(b) of this code.

Added by Acts 1983, 68th Leg., p. 5463, ch. 1028, Sec. 1, eff. Oct. 1, 1985. Renumbered from Sec. 1.13 by Acts 1987, 70th Leg.,ch. 167, Sec. 5.01(a)(50) eff. Sept. 1, 1987

APPENDIX F

Other Groundwater District Information

1. Internet Addresses
2. Groundwater Protection Committee General Info.
3. Groundwater District Addresses
4. TAGD Membership Application

Internet Home Page Addresses

State Agencies

Texas Water Development Board (TWDB)
http://www.twdb.state.tx.us/

Texas Natural Resources Information System (TNRIS)
http://www.tnris.state.tx.us/index.htm

Texas Natural Resource Conservation Commission (TNRCC)
http://www.tnrcc.state.tx.us/

Texas Department of Licensing & Regulation (TDL&R)
http://www.license.state.tx.us/default.htm

Water Well Drillers and Water Well Pump Installers
http://www.license.state.tx.us/water/wwd.htm

Texas Attorney General Home Page
http://www.oag.state.tx.us/index.html

Attorney General Publications
http://www.oag.state.tx.us/AG_Publications/ag_publications.html

Office of the Secretary of State
http://www.sos.state.tx.us/

Texas Register
http://www.sos.state.tx.us/texreg/index.html

Texas Statutes (This statutory database is jointly maintained by the Texas Legislative Council and West Publishing Company.)
http://www.capitol.state.tx.us/statutes/statutes.html

Texas Legislature Online
http://www.capitol.state.tx.us/

Texas Agricultural Experiment Station (TAES)
http://taeswww.tamu.edu/

Texas Agricultural Extension Service (TAEX)
http://leviathan.tamu.edu:70/

Federal Agencies

U.S. Environmental Protection Agency (EPA)
http://www.epa.gov/

U.S. Geological Survey (USGS)
http://water.usgs.gov/

Texas Associations & Districts

Texas Alliance of Groundwater Districts
http://www.angelfire.com/tx/TAGD/

Texas Waternet
http://twri.tamu.edu/

Edwards Aquifer
http://www.edwardsaquifer.net/

Glasscock County Underground Water Conservation District
http://www.angelfire.com/tx/gcuwd/

Hickory Underground Water Conservation District No. 1
http://www.angelfire.com/tx/hickory/

High Plains Underground Water Conservation District No. 1
http://www.hub.ofthe.net/hpwd/

Irion county Water Conservation District
http://www.angelfire.com/tx/icuwcd

Other Water Related Home Pages

American Water Works Association (AWWA)
http://www.awwa.org/

The Groundwater Foundation
http://www.groundwaater.org/

Water Wiser
http://www.waterwiser.org/

Groundwater Management District Association (GMDA)
http://164.119.105.2/

The Texas Groundwater Protection Committee

The following information is from the Texas Natural Resources Conservation Commission Home Page.

Creation and Mandate

The Texas Groundwater Protection Committee was created by the 71st Texas Legislature in 1989 as a means to bridge the gap between existing state groundwater programs and to optimize water quality protection by improving coordination among agencies involved in groundwater activities. House Bill 1458 (codified as Sections 26.401 through 26.407 of the Texas Water Code) established the committee and outlined the powers, duties, and responsibilities of the committee.

A state groundwater protection policy was also adopted by the Legislature as part of the bill that created the committee. The policy sets out nondegradation of the state's groundwater resources as the goal for all state programs. The policy recognizes the variability of the state's aquifers, the importance of maintaining water quality for existing and potential uses, the protection of the environment, and the maintenance and enhancement of the long-term economic health of the state. The policy states that discharges of pollutants, disposal of wastes, and other regulated activities be conducted in a manner that will maintain present uses of groundwater and not impair potential uses of groundwater or pose a public health hazard. The use of the best professional judgement by the responsible state agencies in attaining the goal and policy is also recognized.

The committee actively seeks to implement this policy by identifying opportunities to improve existing groundwater quality programs and promoting coordination between agencies. The committee also strives to improve or identify areas where new or existing programs could be enhanced to provide additional protection. Major responsibilities of the committee are:

* to improve interagency coordination in the area of groundwater protection;
* to develop and update a comprehensive groundwater protection strategy for the state;
* to study and recommend to the Legislature groundwater protection programs for areas in which groundwater is not protected by current regulation;
* to publish an interagency groundwater monitoring and contamination report; and
* to file with the governor, lieutenant governor, and speaker of the House of Representatives a report of the committee's activities during the biennium preceding each regular legislative session, including any recommendations for legislation for groundwater protection.

The committee's membership is composed of the following individuals or their designated representative:

* the executive director of the Texas Natural Resource Conservation Commission;
* the executive administrator of the Texas Water Development Board;

* a representative selected by the Railroad Commission of Texas;
* the commissioner of health of the Texas Department of Health;
* the deputy commissioner of the Department of Agriculture;
* the executive director of the Texas State Soil and Water Conservation Board;
* a representative selected by the Texas Alliance of Groundwater Districts;
* the director of the Texas Agriculture Experiment Station; and
* the director of the Bureau of Economic Geology, University of Texas at Austin.

The Texas Natural Resource Conservation Commission is designated as the lead agency with the commission's executive director designated as the committee's chairman. The executive administrator of the Texas Water Development Board is designated as the committee's vice-chairman.

Federal Involvement and Coordination

In March 1985, the Texas Department of Water Resources, predecessor to the Texas Natural Resource Conservation Commission and the Texas Water Development Board, received a grant from the U.S. Environmental Protection Agency (EPA) to improve the coordination of groundwater protection activities undertaken by state agencies. In response to this federal mandate, the interagency Groundwater Protection Committee, predecessor to the Texas Groundwater Protection Committee, was formed. Since that time, the coordination of groundwater protection activities of the various state programs and agencies and the development of a groundwater protection strategy have been mandated and funded through EPA grants administered under the Clean Water Act, Section 106. During fiscal year 1991, the EPA required each state to reassess its groundwater protection strategies in a process called profiling the respective state's groundwater protection program. The committee completed this profile for submission to the EPA.

During fiscal years 1992 and 1993, the EPA developed and published a draft guidance for the development of a comprehensive state groundwater protection program (CSGWPP). The EPA has developed its concept of such a program and is encouraging states to further their efforts in developing existing programs into a more comprehensive approach. The final guidance was published early in 1993. The EPA's guidance first calls for the development of a core protection program, a basic program from which states would work with the EPA over the next few years to build a fully integrated protection program. While this is a voluntary program, the EPA has promised greater program flexibility for states with endorsed programs.

Comprehensive State Groundwater Protection Program

In evaluating the states' activities under the groundwater protection strategy initiative begun in the early 1980s, the EPA concluded that additional efforts were needed to protect the nation's groundwater. The EPA developed a new initiative to build core programs, which were termed comprehensive state groundwater protection programs (CSGWPPs). The committee feels that the components of Texas' program should meet the EPA's criteria for a core program.

Because groundwater protection programs are a patchwork of federal, state, and local efforts that focus on individual sources of contamination rather than protection of the resource as a whole, the committee has begun to develop a comprehensive state groundwater protection program. The CSGWPP consists of six strategic activities:

* establishing a common protection goal;
* establishing priorities to achieve the most efficient and effective means of achieving the goal;
* defining roles and responsibilities of all program areas;
* implementing all necessary efforts to accomplish the goal;
* coordinating information; and
* improving public education and participation.

The committee met the first milestone of the CSGWPP initiative by preparing a core program assessment and submitting it to the EPA for endorsement in October 1993. The core assessment compared the Texas groundwater protection program, as strengthened and coordinated by the Committee, to federal CSGWPP guidance. The committee feels that the assessment demonstrated core program compliance, thus providing the base from which to develop the fully integrating CSGWPP. The EPA provided comments on the core assessment in February 1995. The committee has initiated efforts to address the EPA's comments and finalize the Texas-specific vision of a fully integrated CSGWPP in the near future. The committee will develop the six strategic activities of the CSGWPP, including milestones for achieving a fully
integrated groundwater protection program.

Meetings

The committee meets quarterly; meeting times and agenda are published in the Texas Register. The public is invited to attend all committee meetings and to participate on the subcommittees. The TNRCC maintains audio tapes and written record of all committee meetings. The commission maintains a mailing list of committee members, designated and alternate members, agency staff, and interested parties for meeting notification. The committee also files, with the governor and Legislature, a report of the committee's activities and recommendations for legislation for groundwater protection.

Texas Groundwater Protection Committee Members and Representatives

Chairman - Texas Natural Resource Conservation Commission
Jeffrey Saitas, Executive Director
Designated Chairman:
Mary L. Ambrose, Water Policy and Regulations Division

Vice Chairman - Texas Water Development Board
Craig D. Pedersen, Executive Administrator
Designated Vice Chairman:

Phil Nordstrom

Members

Railroad Commission of Texas
Designated Representative:
Richard Ginn

Texas Department of Health
David R. Smith, MD, Commissioner of Health
Designated Representative:
John Jocobi

Texas Department of Agriculture
Larry R. Soward, Deputy Commissioner

Alternate: Donnie Dipple, Assistant Commissioner, Pesticide Programs

Texas State Soil and Water Conservation Board
Robert G. Buckley, Executive Director
Designated Representative:
Beade Northcut

Texas Alliance of Groundwater Districts
Designated Representative
Scott Holland, President
Designated Alternate
Bill E. Couch, General Manager, Springs/Edwards Aquifer Conservation District

Texas Agricultural Experiment Station
Edward A. Hiler, Vice Chancellor, Dean, Agriculture and Life Sciences Director
Designated Representative:
Dr. Wayne R. Jordan, Director

Bureau of Economic Geology
Noel Tyler, Director
Designated Representative:
Alan Dutton

Information about the Member Entities:

Texas Natural Resource Conservation Commission

The Texas Natural Resource Conservation Commission (TNRCC) conducts various groundwater protection programs that focus on both prevention of contamination and remediation of existing problems through education, permitting, and enforcement. As the state lead agency for water

resources, the TNRCC administers both state and federally mandated programs including: the Resource Conservation and Recovery Act; the Comprehensive Environmental Response, Compensation, and Liability Act; the Clean Water Act; the Safe Drinking Water Act; and the development of state management plans for groundwater under the Federal Insecticide, Fungicide and Rodenticide Act.

TNRCC's Office of Waste Management and Pollution Cleanup contains the following groundwater related programs. The Petroleum Storage Tank Division regulates underground and above ground product storage tanks and requires groundwater monitoring and remediation at contaminated sites. The Industrial and Hazardous Waste Division has responsibility for preventing groundwater contamination and insuring remediation at industrial sites through the waste disposal facility permitting program, the Class I and Class III underground injection control programs, and uranium and radioactive waste disposal programs. The Municipal Solid Waste Division monitors activities associated with the collection, handling, storage, processing, and disposal of municipal solid waste to ensure protection of groundwater and requires remediation where these activities have failed. The Pollution Cleanup Division is responsible for both Federal and State Superfund activities, the Voluntary Cleanup Program, and spill response. The division conducts remedial investigations and seeks funding for remedial activities based upon a health risk ranking program.

TNRCC's Office of Water Resource Management contains the following groundwater related programs. The Water Planning and Assessment Division is responsible for the surface and groundwater quality management and planning programs, the development and implementation of water quality standards, the implementation of the surface and groundwater nonpoint source pollution programs, the Class V underground injection well program, the pesticides in groundwater program, and supporting the Texas Groundwater Protection Committee. The Agricultural and Watershed Management Division is responsible for ensuring that groundwater resources are protected through permitting activities related to concentrated animal feeding operations and municipal and industrial wastewater treatment. The Water Utilities Division monitors public water systems for compliance with state drinking water standards and conducts the Wellhead Protection Program.

Within TNRCC's Office of Compliance and Enforcement, the Field Operations Division is responsible for the field investigation of contamination complaints and the inspection of permitted and non-permitted facilities. In addition, primary responsibility for the Edwards aquifer pollution abatement plan review program and the on-site waste water program are in this division. The Compliance Support Division is responsible for the water well drilling program in which all monitor wells, water wells, and Class V injection wells are subject to the TNRCC's rules regarding driller licensing, reporting, and well construction criteria. The Enforcement Division is responsible for ensuring that groundwater resources are protected during enforcement activities related to the municipal solid waste, industrial and hazardous waste, petroleum storage tank, agricultural and watershed management, water utilities, and public water supply programs.

Texas Water Development Board

The Texas Water Development Board (TWDB) collects data on the state's aquifers which includes the occurrence, availability, quality, and quantity of groundwater and the current and projected demands on groundwater resources. This is done through the statewide groundwater level measurement program, groundwater quality sampling program, and groundwater studies.

The purpose of the groundwater quality sampling program is: 1) to monitor changes, if any, in the quality of groundwater over time, and; 2) to establish, as accurately as possible, the baseline quality of groundwater occurring naturally in the state's aquifers. The groundwater quality monitoring program is accomplished in accordance with procedures established in the TWDB's Field Manual for Groundwater Sampling, in supplemental samples analyzed on Hach instruments, and by obtaining data collected by other entities such as groundwater conservation districts and other state/federal agencies.

Railroad Commission of Texas

The Surface Mining and Reclamation Division of the Railroad Commission of Texas (RCT) is authorized to enforce laws and regulations consistent with the Texas Surface Coal Mining and Reclamation Act and the Texas Uranium Surface Mining and Reclamation Act. Groundwater information is required in the regulations, as are monitoring plans for pre-mining and post-mining conditions. Groundwater investigations and monitoring by the Surface Mining and Reclamation Division is conducted in response to citizen complaints of adverse impact from surface mining activities.

The RCT's Oil and Gas Division is responsible for protecting groundwater from activities related to the drilling, exploration, and production of oil, gas, and geothermal resources, the underground storage of hydrocarbons, and the solution mining of brine. The regulations of the Oil and Gas Division for the well drilling, completion, and plugging focus on the protection of groundwater resources. The RCT administers the EPA-delegated Underground Injection Control Program under the Safe Drinking Water Act for Class II injection wells associated with oil and gas activities. The RCT regulates the handling, storage, treatment, and disposal of oil and gas wastes. The RCT responds to spills from pipelines under its jurisdiction and to other emergencies related to the production and transportation of oil and gas. The RCT responds to citizen complaints regarding alleged groundwater contamination from oil and gas activities and to alleged unauthorized activities, which may endanger groundwater.

Texas Department of Health's Bureau of Radiation Control

The Texas Department of Health's Bureau of Radiation Control (BRC) regulates radioactive materials in Texas under the authority of the Atomic Energy Act of 1954 as amended. The BRC monitors groundwater for radionuclides on a routine basis at two facilities in Texas - Pantex and the University of Texas System Interim Storage site. Intermittently the BRC will sample groundwater as a result of an incident, complaint, or situation which leads the BRC to believe there may be groundwater contamination.

Texas Department of Agriculture

The Texas Department of Agriculture has lead authority for pesticide regulation in the state of Texas. Recognizing pesticides as potential groundwater contaminants, and having primary responsibility to prevent unreasonable risk to humans or the environment from the use of pesticides, TDA performs studies and analyses aimed at assessing health, ecological, and environmental effects of various pesticides. This analysis is performed by the agency's Pesticide Impact Evaluation activity in order to ensure compliance with federal laws and regulations relating to the use of pesticides and eventual protection of groundwater resources. TDA accomplishes this by independently substantiating and validating claims of pesticide contamination relating to human health and the environment.

Texas State Soil and Water Conservation Board

The Texas State Soil and Water Conservation Board, under Title 7, Chapter 201 and 203 of the Agriculture Code of Texas, is charged with the overall responsibility for administering and coordinating the state's soil and water conservation program with the state's soil and water conservation districts. Section 201.016 gives the agency responsibility for planning, implementing, and managing programs and practices for abating agricultural and silvicultural nonpoint source pollution. Currently, the agricultural/silvicultural nonpoint source management program includes: problem assessment, management program development and implementation, monitoring, education, and coordination.

Texas Alliance of Groundwater Districts

The Alliance is the umbrella organization composed of groundwater conservation districts within the state. Its membership is restricted to groundwater conservation districts which have the powers and duties to manage groundwater as defined in Chapter 36 of the Water Code. The districts were created by the Legislature or by the Texas Natural Resource Conservation Commission with the purpose and responsibility of preserving and protecting groundwater. The districts are local or regional in their jurisdiction and have, for the most part, elected boards of directors. Among their legislatively granted authorities is the power to monitor groundwater quality. A number of districts also have the authority to bring civil court proceedings for injunctive relief against an entity causing groundwater contamination.

Texas Agricultural Experiment Station

The Texas Agricultural Experiment Station (TAES) is the official agricultural research agency in Texas. Headquartered at Texas A&M University, TAES promotes food and fiber production that emphasizes water conservation and the protection of natural resources. Broad goals of the TAES groundwater research program are to protect, preserve, and efficiently use water resources, and to develop sustainable agricultural production systems. Groundwater programs of TAES stress the development of management strategies, technologies, and educational programs to support sustainable agriculture. TAES groundwater quality research focuses on reductions in chemical use; the control, fate, and transport of agricultural chemicals; and the remediation of contaminated groundwaters.

Bureau of Economic Geology

The Bureau of Economic Geology is a research entity of The University of Texas at Austin and

functions as the State Geological Survey. Extensive advisory, technical, and informational services relating to the geology and groundwater resources of Texas are provided by the Bureau. In addition, the Bureau conducts basic and applied research projects in energy and mineral resources and in hydrogeology, groundwater resources, and geochemistry. Some projects are conducted jointly with other units of the University as well as with state, federal, and local agencies, industry associates, and foreign companies.

TEXAS ALLIANCE OF GROUNDWATER DISTRICTS

DISTRICT ADDRESSES AS OF FEBRUARY 1, 1999

BARTON SPRINGS-EDWARDS AQUIFER
--Manager
Barbara Jensen--Secretary
1124A Regal Row
Austin, TX 78748
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Fax: (512) 282-7016
Home: (512) 312-0635
E-mail: bseacd@mail.capnet.state.tx.us

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Winton Milliff--Manager
Stephanie Rogers--Secretary
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Fax: (915) 453-2157
Home: (915) 453-2293
E-mail: ccuwcd@gte.net

CULBERSON COUNTY GCD
Kathy Hoskins-Board Secretary
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Fax: (915) 283-9234
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Home: (806) 362-4673

EDWARDS AQUIFER AUTHORITY
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Mary Esther Cortez--Secretary
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Diane Anderson--Secretary
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Belenda Barta--Secretary
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Mobile: (830) 769-7793
Home: (830) 569-6813
E-mail euwcd@connecti.com

FOX CROSSING WATER DISTRICT
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Mona-Secretary
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Fax: (915) 648-2806
Home: (915) 985-3576
E-Mail:

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Linda Cypert--Secretary
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E-mail: bcmill@connecti.com

HARRIS-GALVESTON COASTAL SUBSIDENCE DISTRICT
Ron Neighbors-Manager
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Fax: (281) 218-3700
E-mail: rneighbors@hgcsd.dst.tx.us

HEADWATERS U.W.C.D.
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Susan Sander--Bd. Member
Debbie Schick-Secretary
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HIGH PLAINS U.W.C.D. #1
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Deanya Williams–Secretary
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Pauletta Rhoades--Financial Secretary
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Fax:(806)935-6633
Mobile: (806) 922-5501
Handheld: (806) 922-5101
Pager: (800) 716-5037
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PANHANDLE G.C.D. #3
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Gary L. Walker--Independent Contractor
Kathy Jones--Secretary
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E-mail: sluwcd@crosswind.net

SANTA RITA U.W.C.D.
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Cindy Weatherby--Secretary
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SOUTH PLAINS U.W.C.D.
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Lindy Harris--Secretary
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E-mail: spuwcd@earthlink.net

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Cameron Cornett-Manager
Gwynne Schultz--Secretary
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Bandera, TX 78003
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Fax: (210) 796-8262
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E-mail: swmd@hctc.net

STERLING COUNTY U.W.C.D.
Bob Jennings--Manager
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Fax: (915) 378-2030
Home:

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Laura West--Secretary
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Fax: (915) 387-5737
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Home: (915) 853-2983
E-mail: sutuwcd@sonoratx.net

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Uvalde, TX 78802
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Fax: (830) 278-1904

WINTERGARDEN GROUNDWATER CD
Ed Walker–Manager
Jerrie Anderson–Secretary
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Carrizo Springs, TX 78834
Work: (830) 876-3801
Fax: (830) 876-3782
E-mail: wggwcd@brushco.net

CONFIRMED NON-MEMBERS

GARZA COUNTY UNDERGROUND AND FRESH WATER CONSERVATION DISTRICT
Ferrell Wheeler, Chairman
Rt. 2, Box 134
Post, TX 79356
Phone: (806) 996-5548

HASKELL/KNOX UWCD
David Perdue
PO Box 77
Benjamin, TX 79505

HEMPHILL COUNTY UWCD
Mark Meek, Member
RR 1, Box 55
Briscoe, TX 79011
Phone: (806) 375-2343

PENDING CONFIRMATION

OLDHAM COUNTY UWCD
Robert Jacobson, President
Rt. 1, Box 9
Adrian, TX 79001
Phone: (806) 538-6345

PRESIDIO COUNTY UWCD
Dick Baker
Box 628
Marfa, TX 79843
Phone: (915) 729-4761
Mobile: (915) 634-1458

GUADALUPE COUNTY
Ed Springs
307 W. Court
Seguin, TX 78155
Work: (210) 303-4188
Fax: (210) 303-5757

TEXAS ALLIANCE of GROUNDWATER DISTRICTS

P.O. Box 10 Mertzon, TX 76941
Ph: 915-835-2015 Fax: 915-835-2366 icwcd@airmail.net

President - Scott Holland
Vice President - Mike Mahoney
Parliamentarian - Cameron Cornett
Secretary - Kathy Jones
Treasurer - Paul Tybor

MEMBERSHIP APPLICATION

District Name: _____

Address: _____

City: _____, TX Zip:_____

Phone: _____ Fax:_____

E-Mail: _____

Board of Directors:

President: _____ Vice-President: _____

Secretary: _____ Member: _____

Member: _____ Member: _____

Member: _____ Member: _____

General Manager: _____

[Please check one]

__ One Year Temporary Non-Voting Membership* __ Voting Membership - $100 Dues Enclosed

Date of Confirmation Election _____

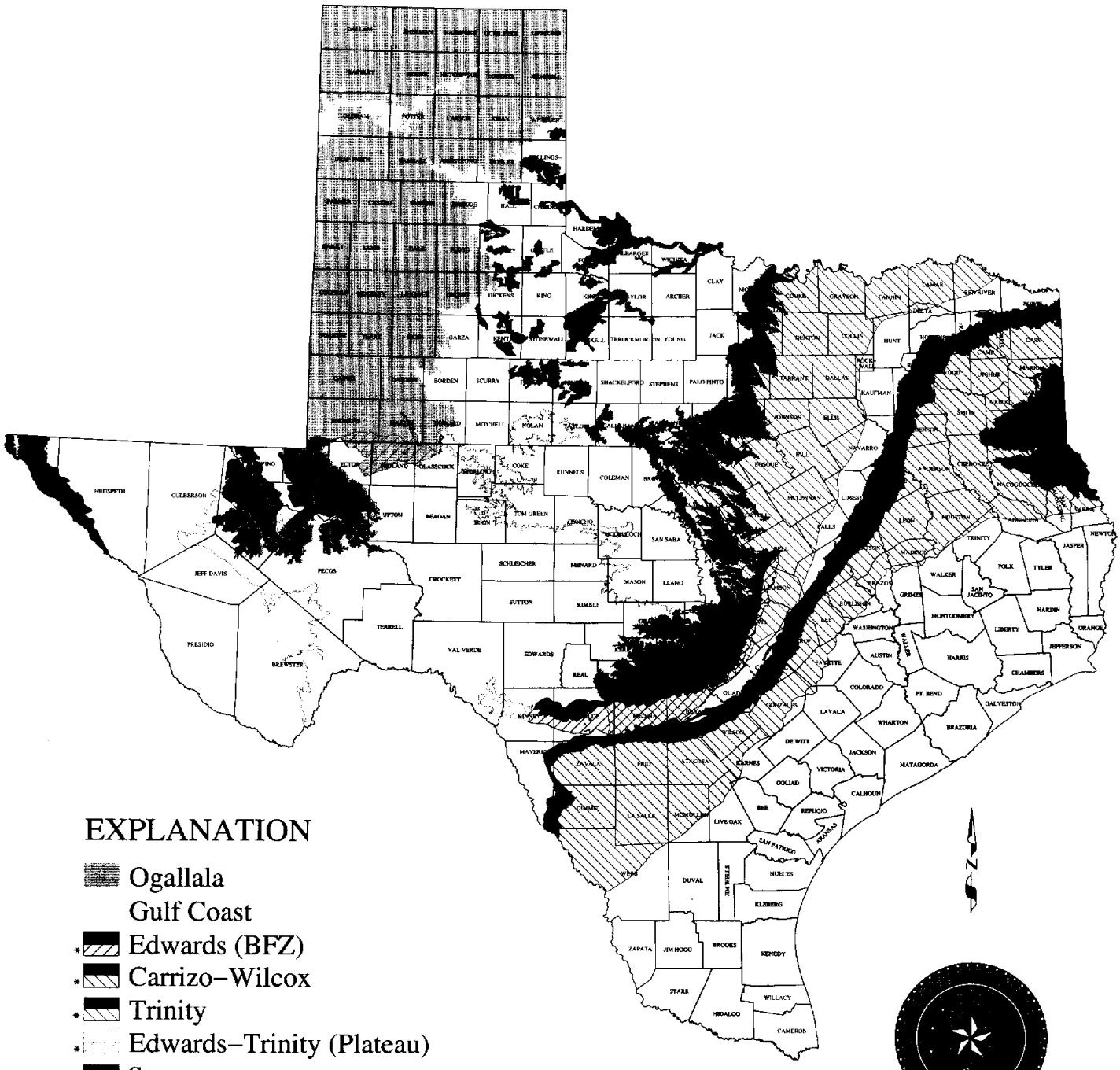
Mail completed application to: Kathy Jones, Secretary
Texas Alliance of Groundwater Districts
P.O. Box 130
Plains, Texas 79355

* Article 5.0(A) of the By-Laws allows a new district to be a non-voting member for up to one year after their confirmation election without paying dues.

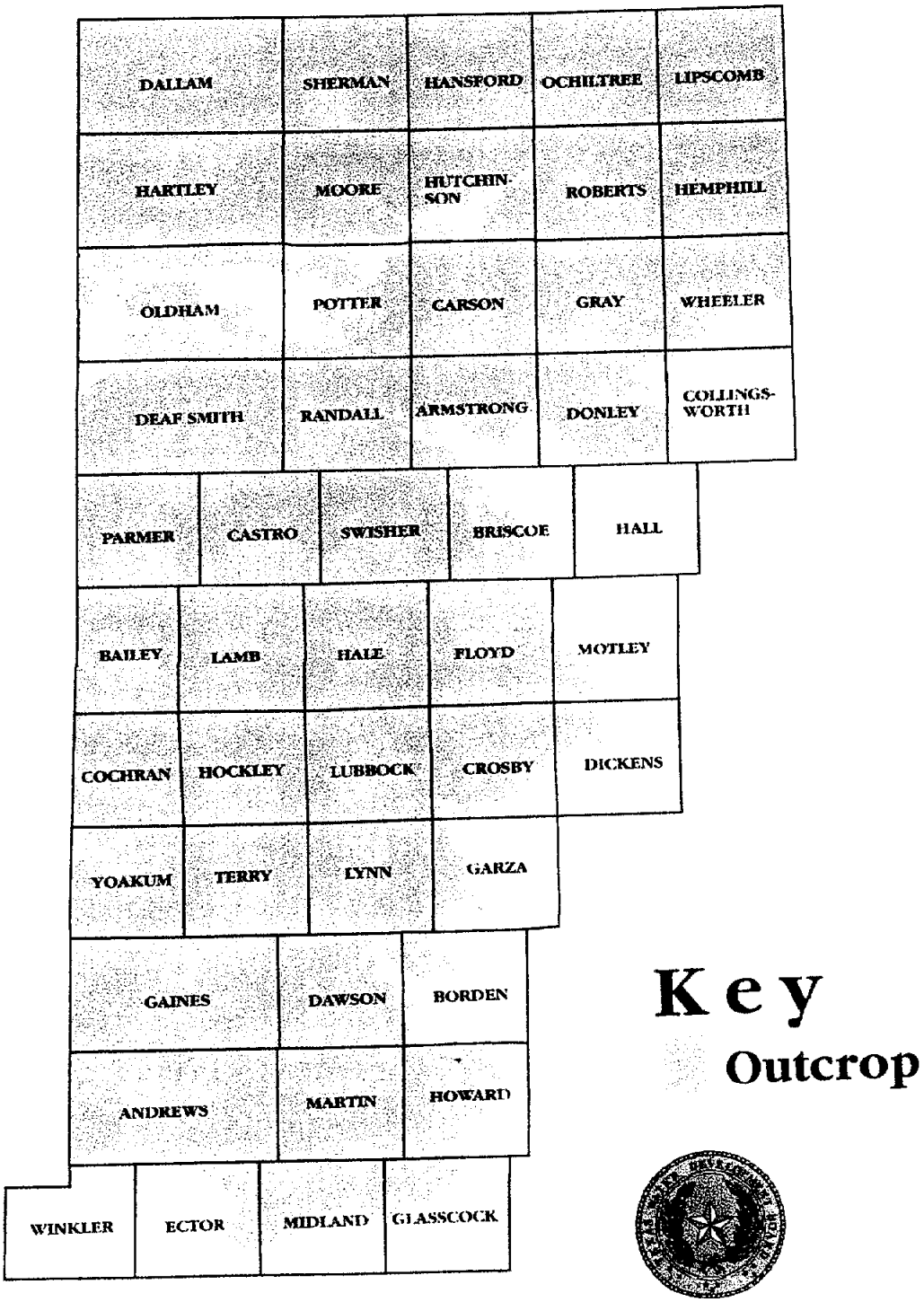
APPENDIX G

Major and Minor Aquifer Maps

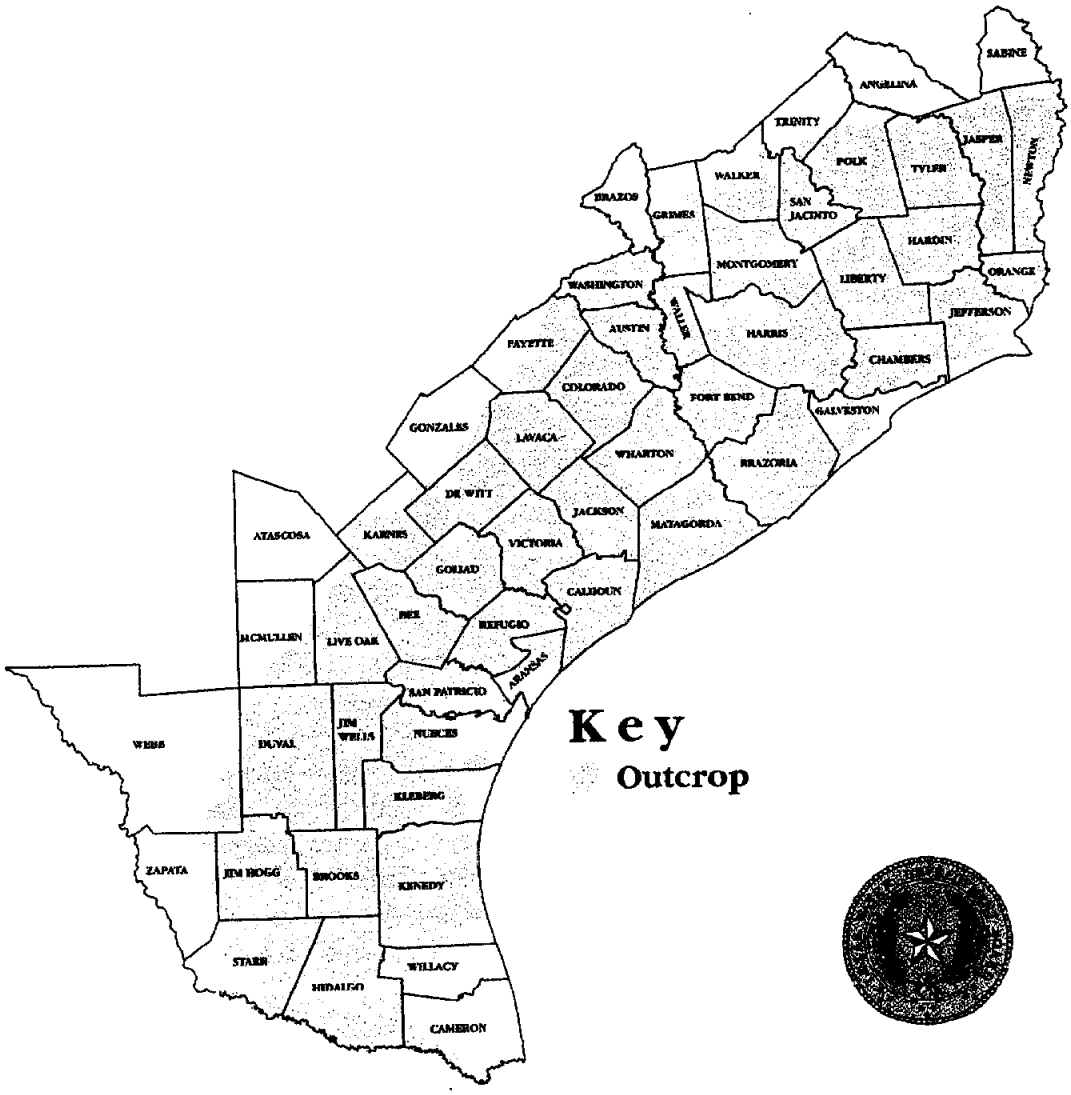
MAJOR AQUIFERS OF TEXAS



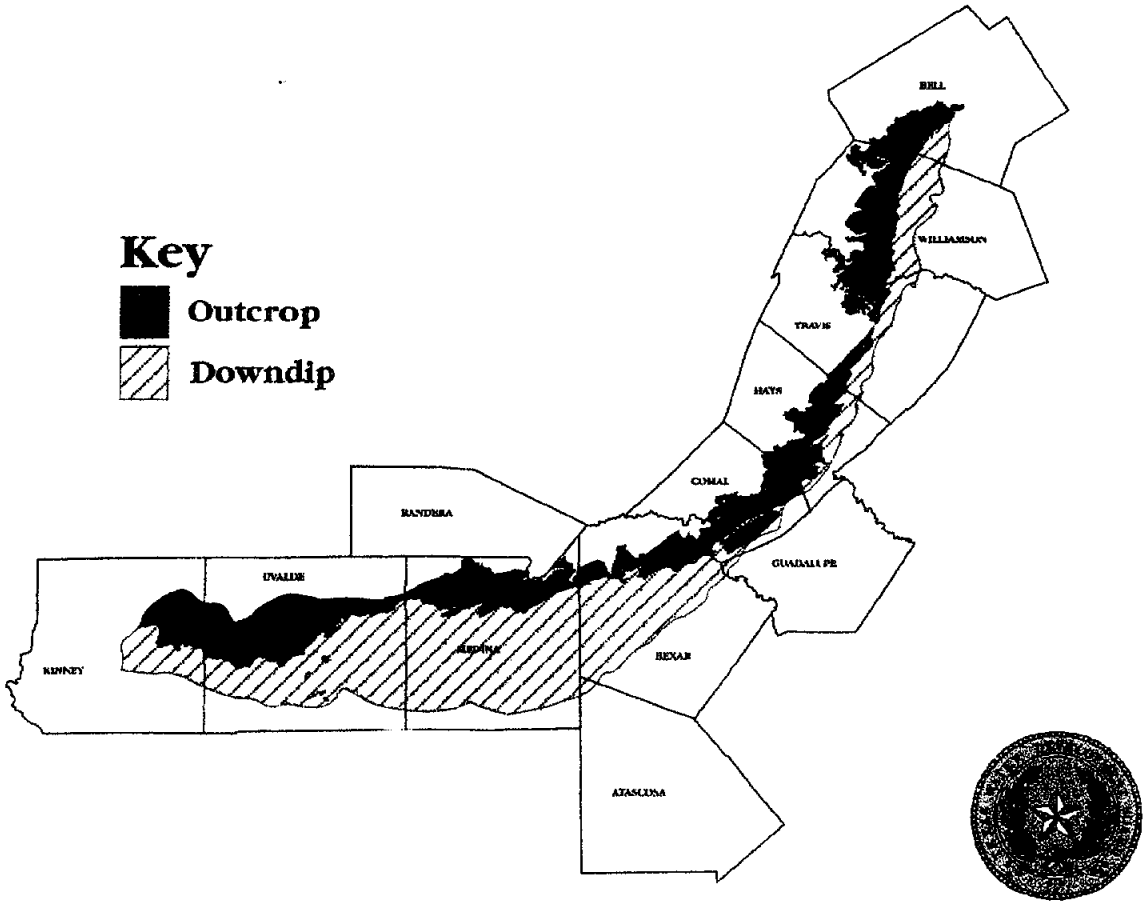
Ogallala Aquifer



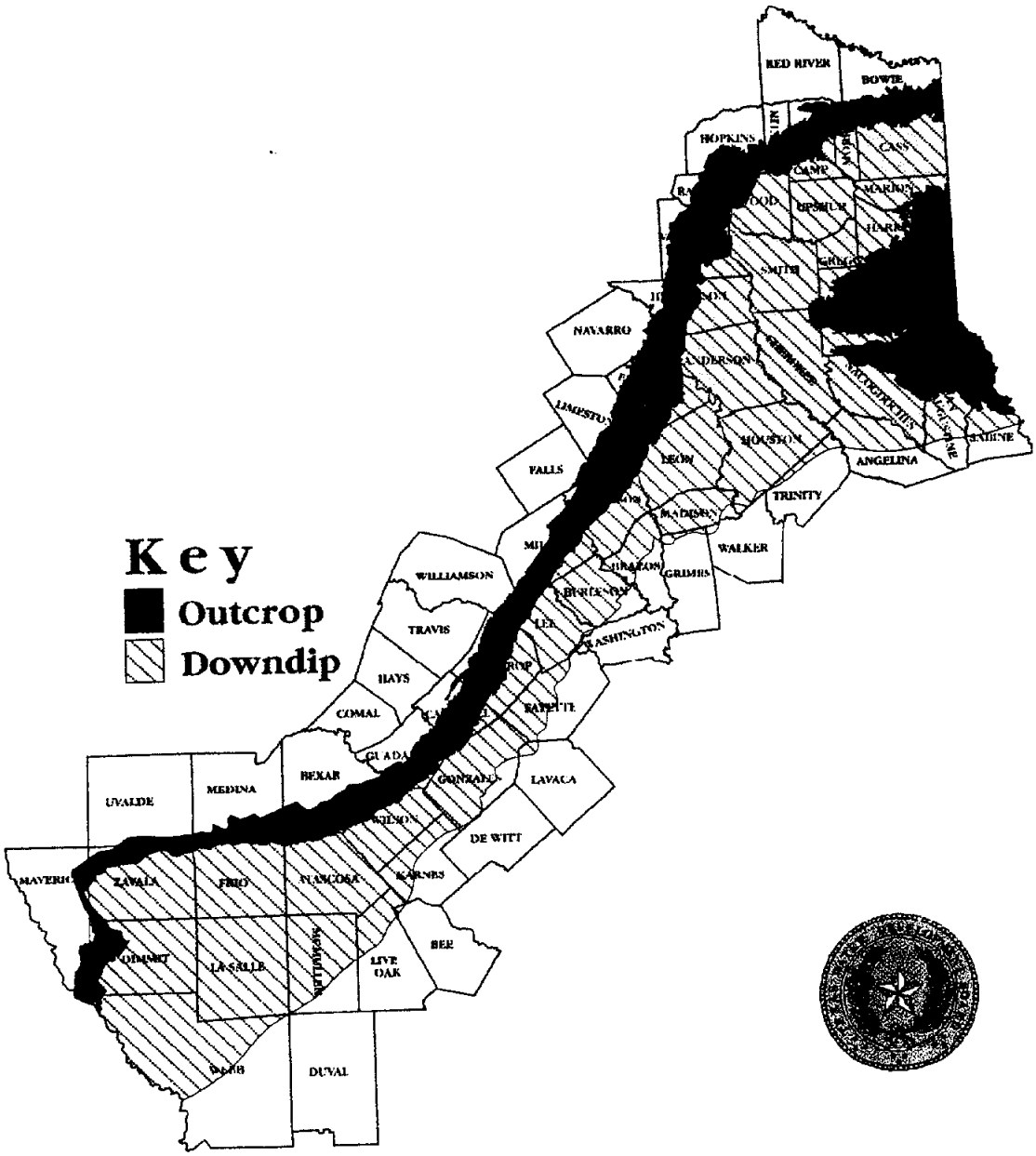
Gulf Coast Aquifer



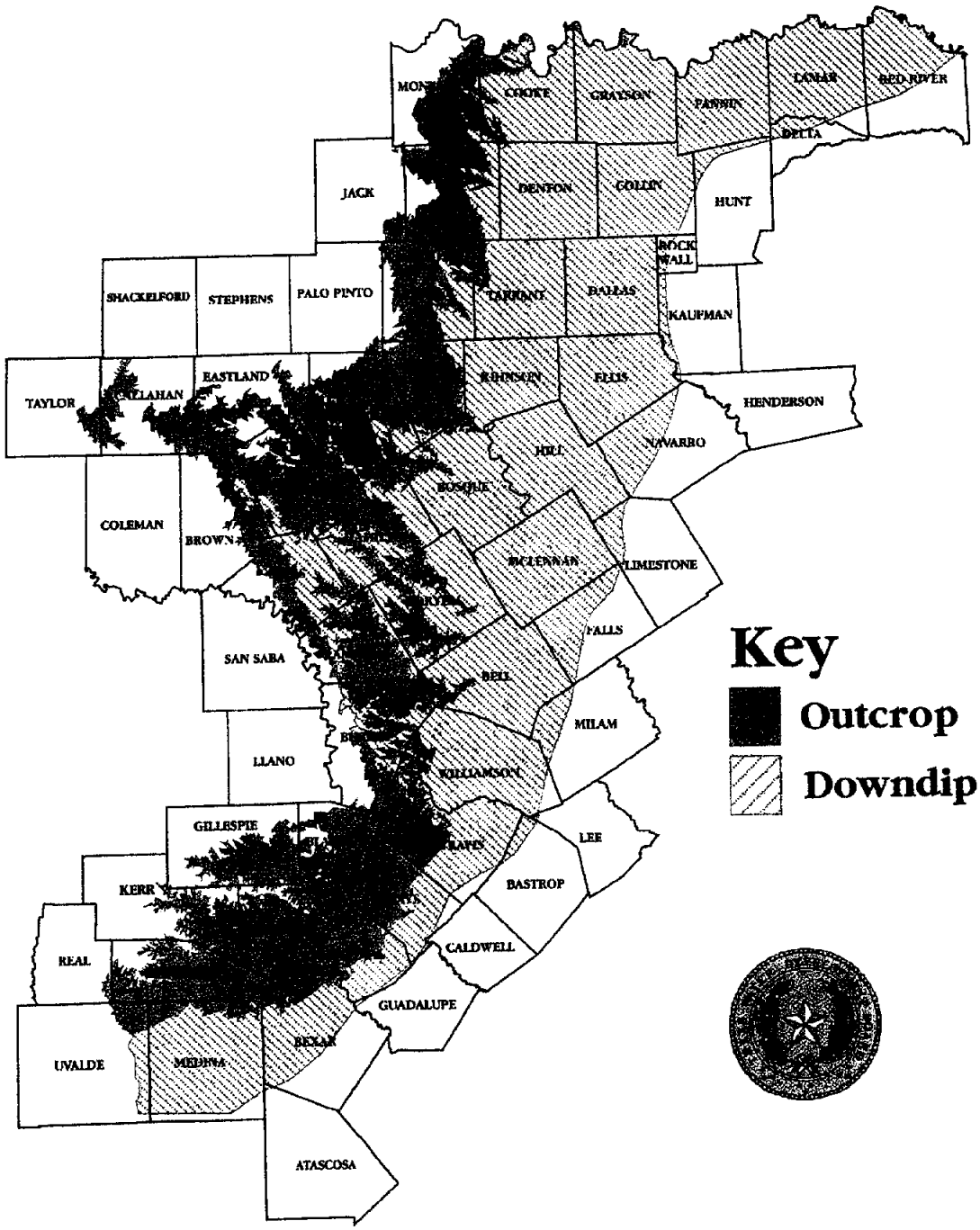
Edwards (BFZ) Aquifer



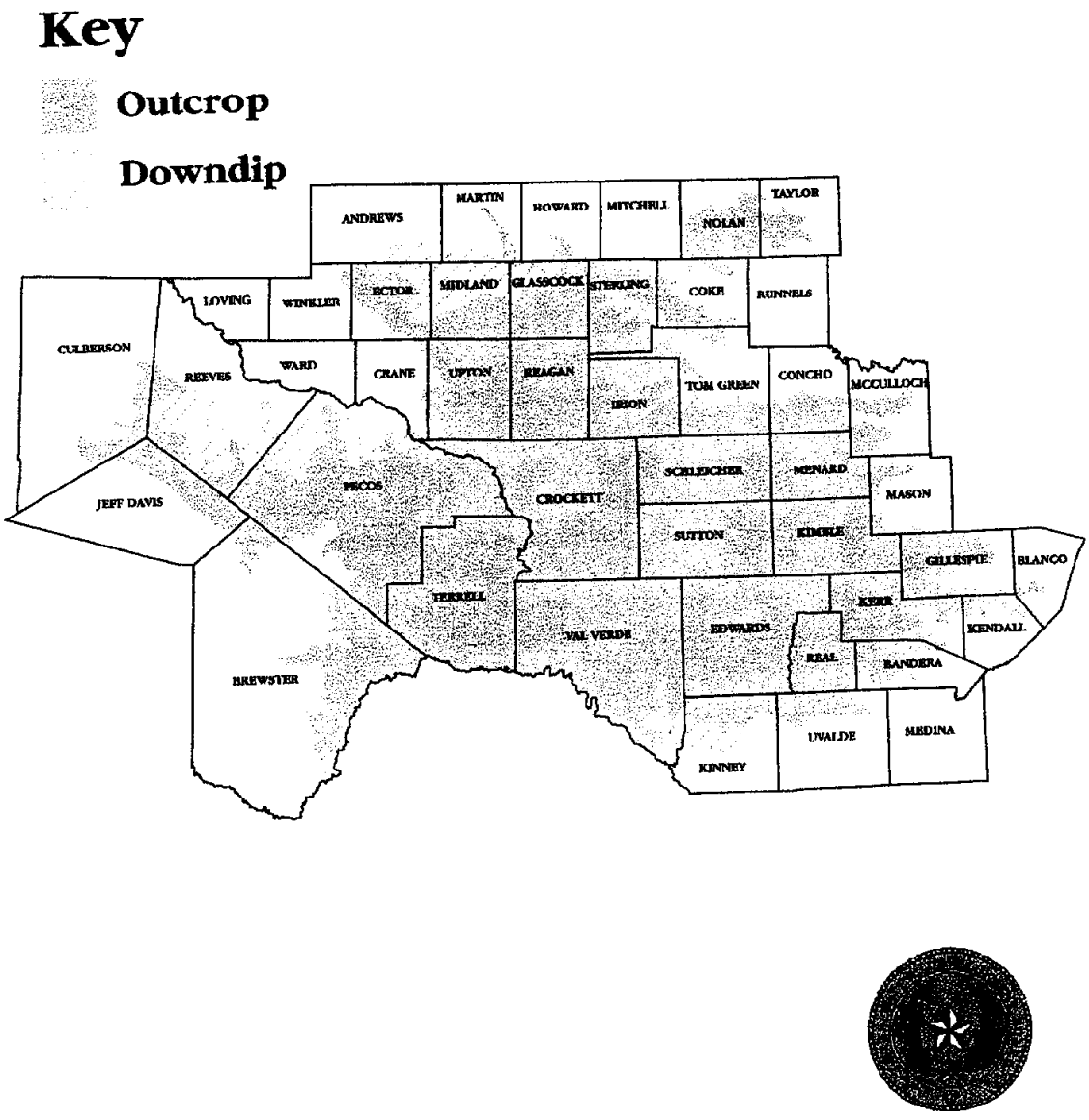
Carrizo-Willcox Aquifer



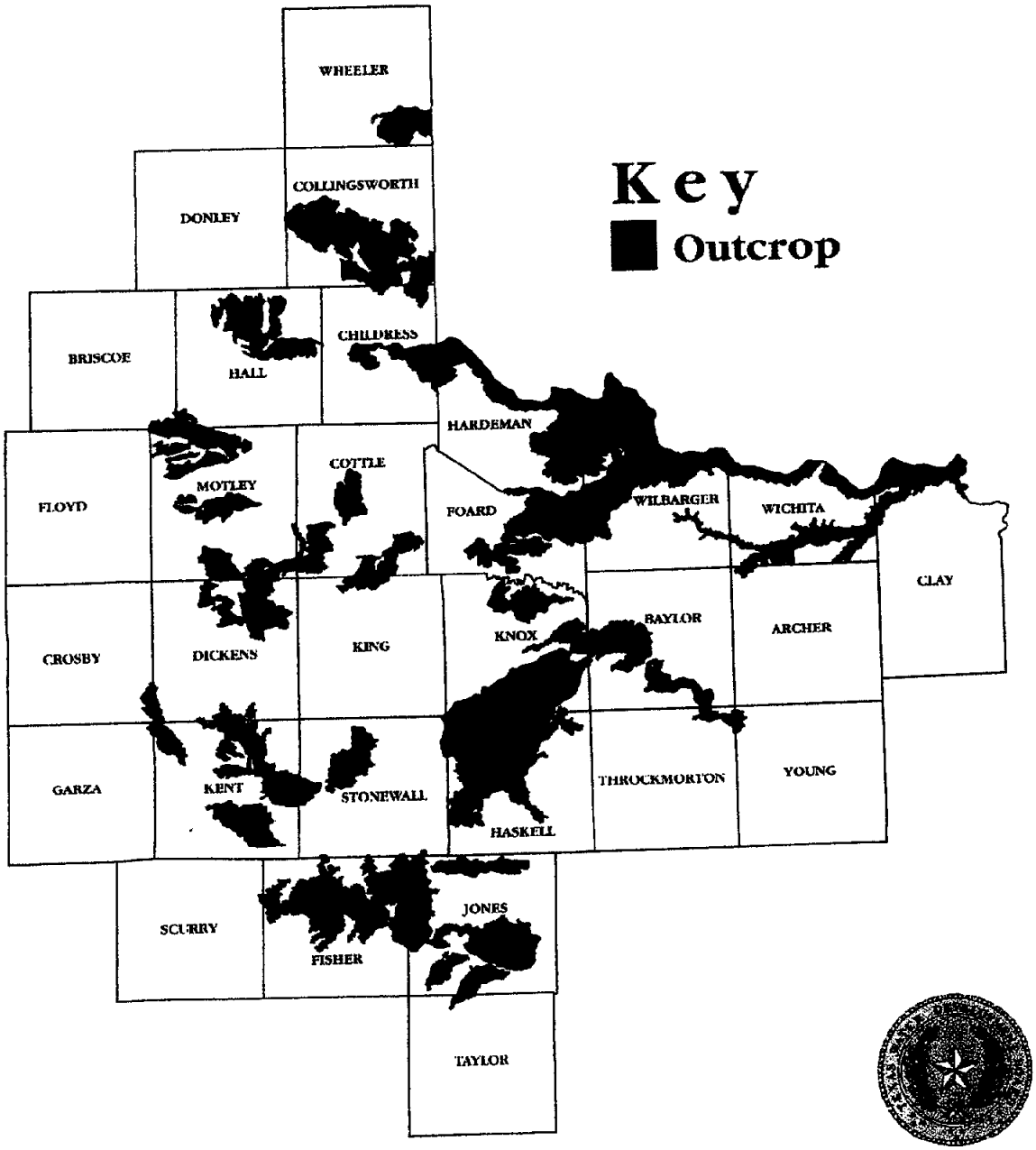
Trinity Aquifer



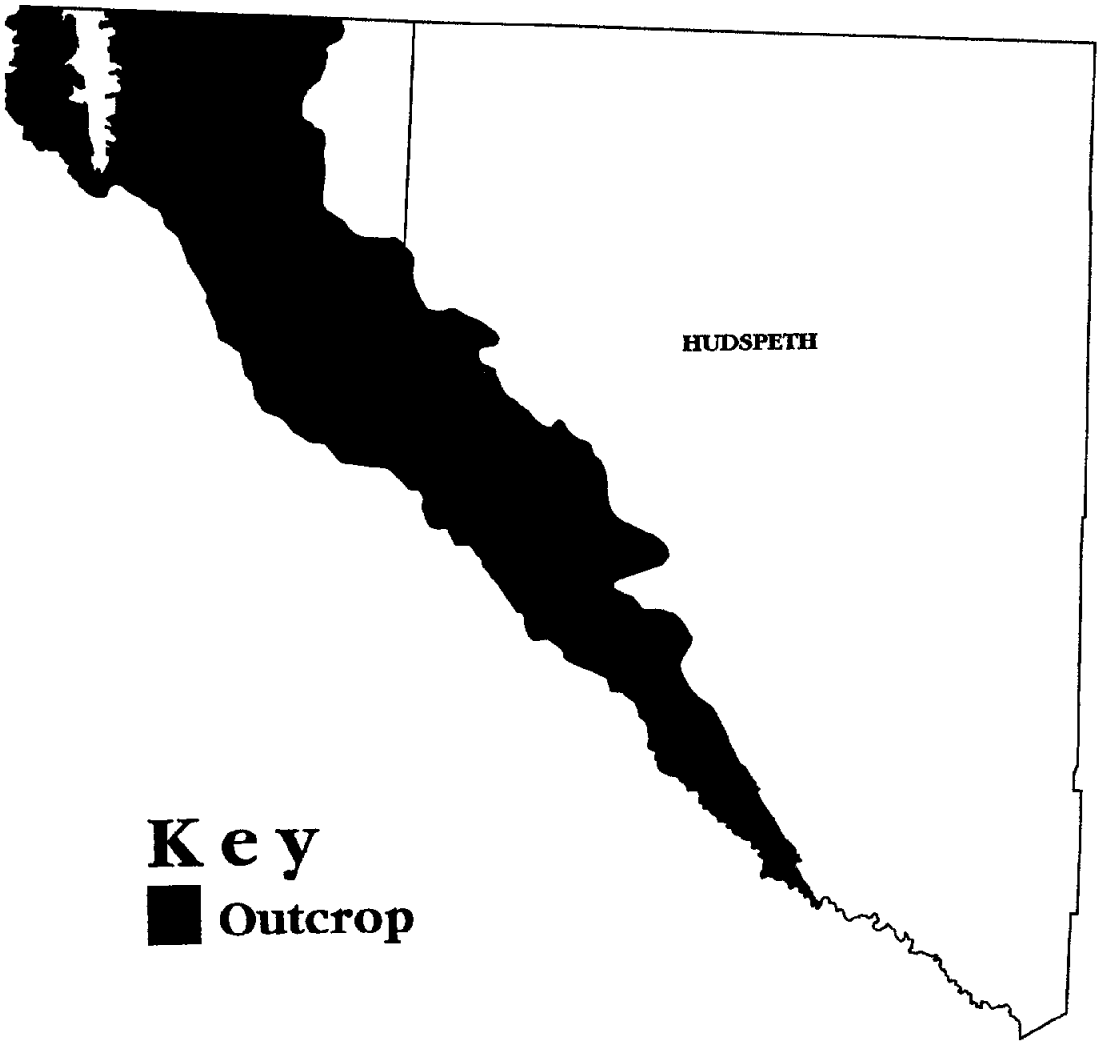
Edwards-Trinity (Plateau) Aquifer



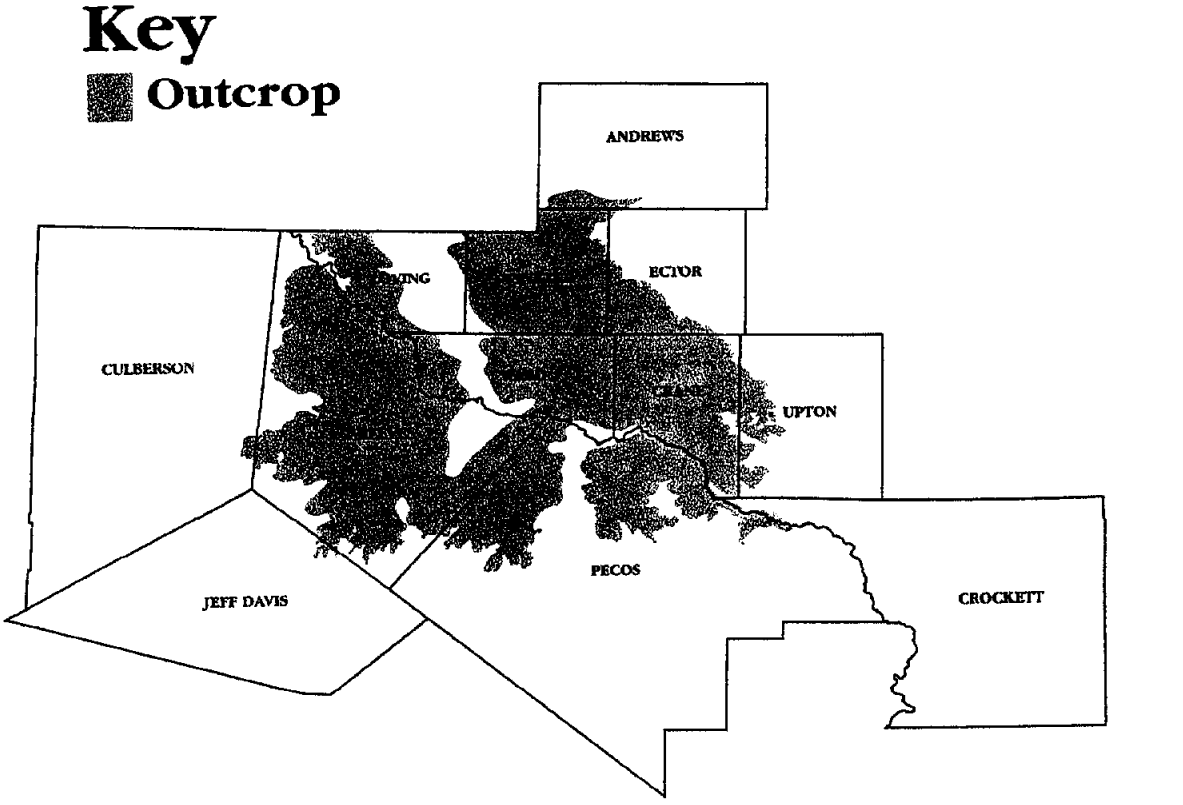
Seymour Aquifer



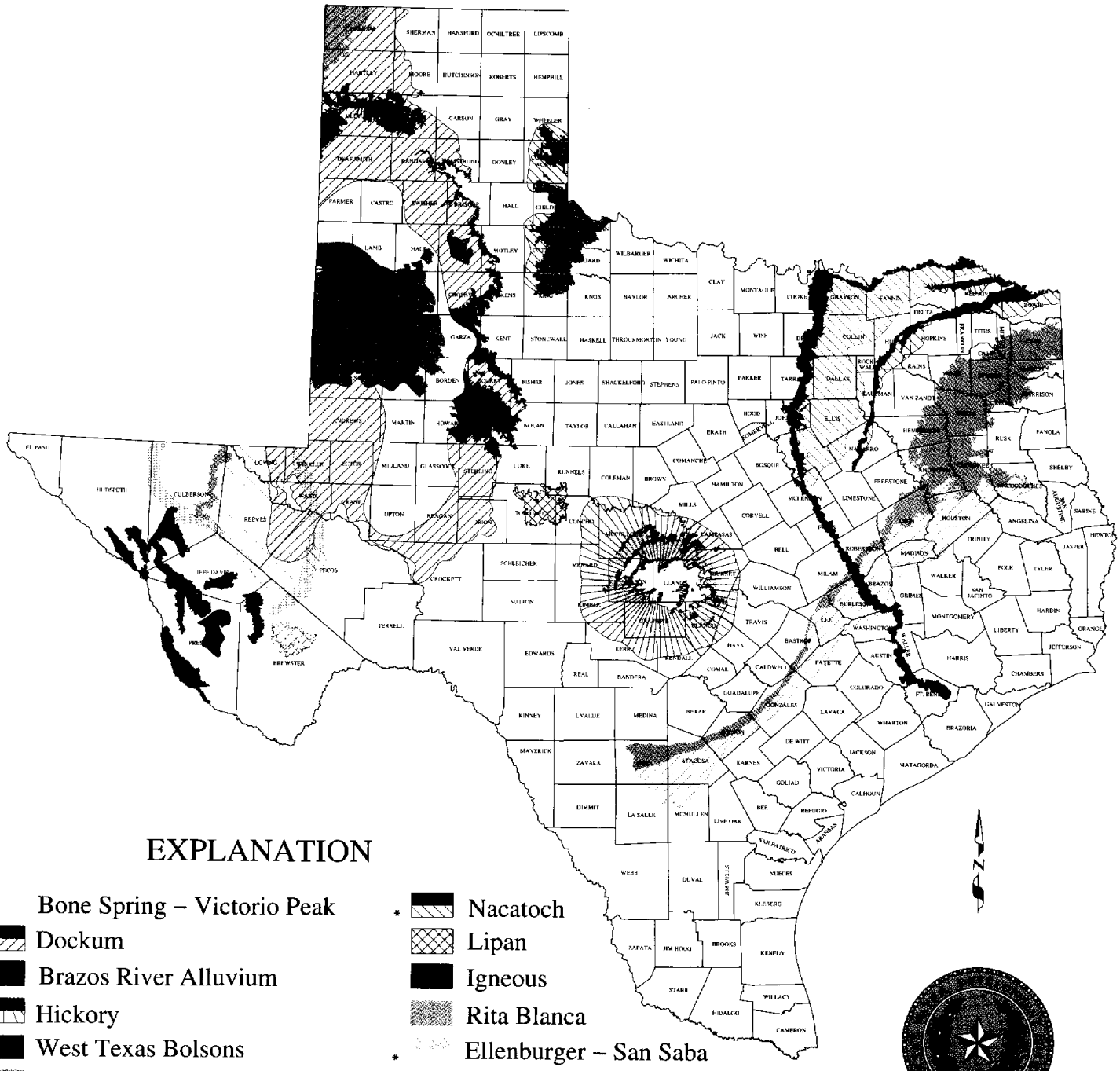
Hueco-Mesilla Bolson Aquifers



Cenozoic Pecos Alluvium Aquifer



MINOR AQUIFERS OF TEXAS



EXPLANATION

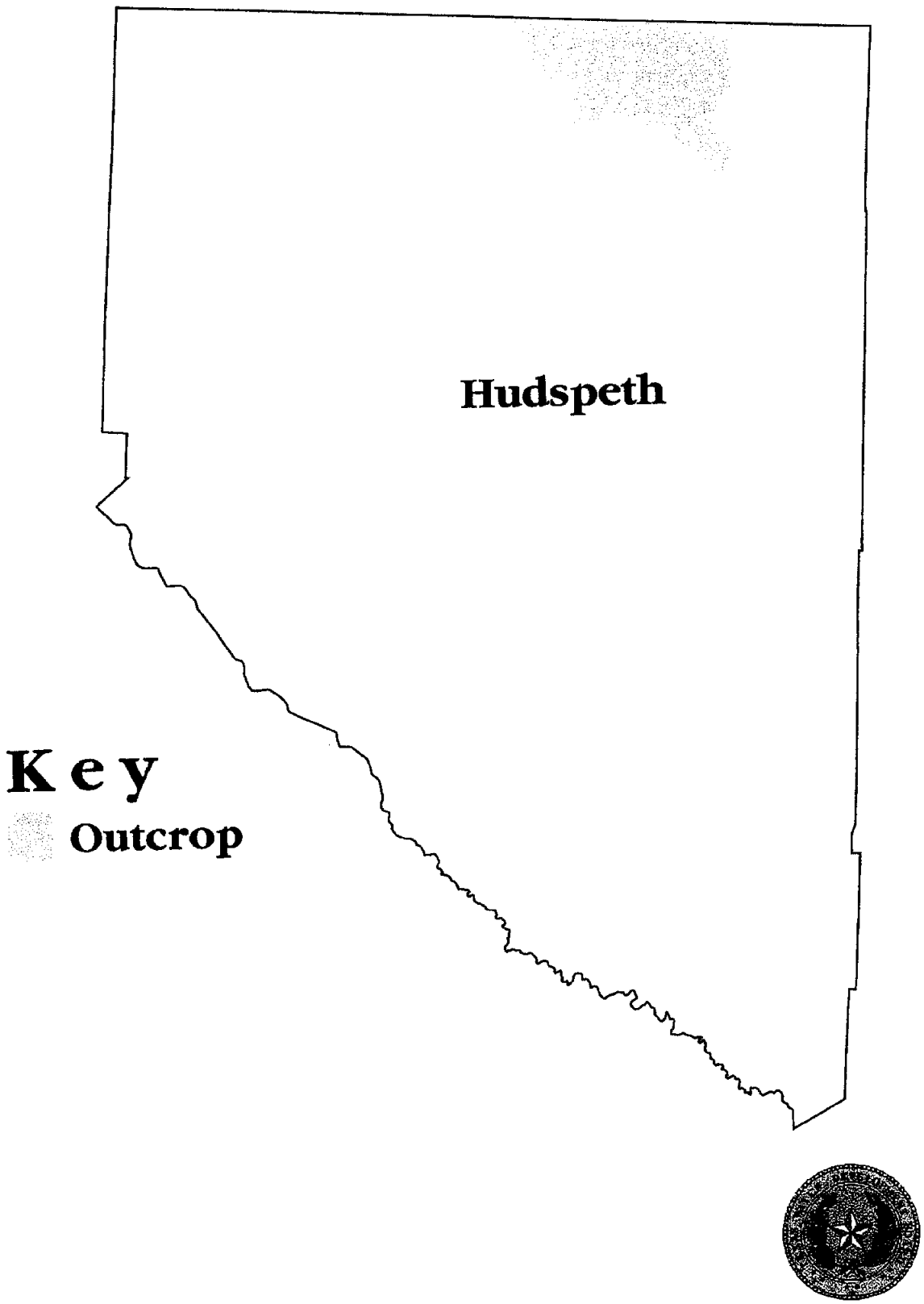
- Bone Spring – Victorio Peak
- * Dockum
- Brazos River Alluvium
- * Hickory
- West Texas Bolsons
- * Queen City
- * Woodbine
- Edwards – Trinity (High Plains)
- * Blaine
- * Sparta
- * Nacatoch
- Lipan
- Igneous
- Rita Blanca
- * Ellenburger – San Saba
- * Blossom
- Marble Falls
- * Rustler
- Capitan Reef Complex
- Marathon

Miles
0 25 50 75 100

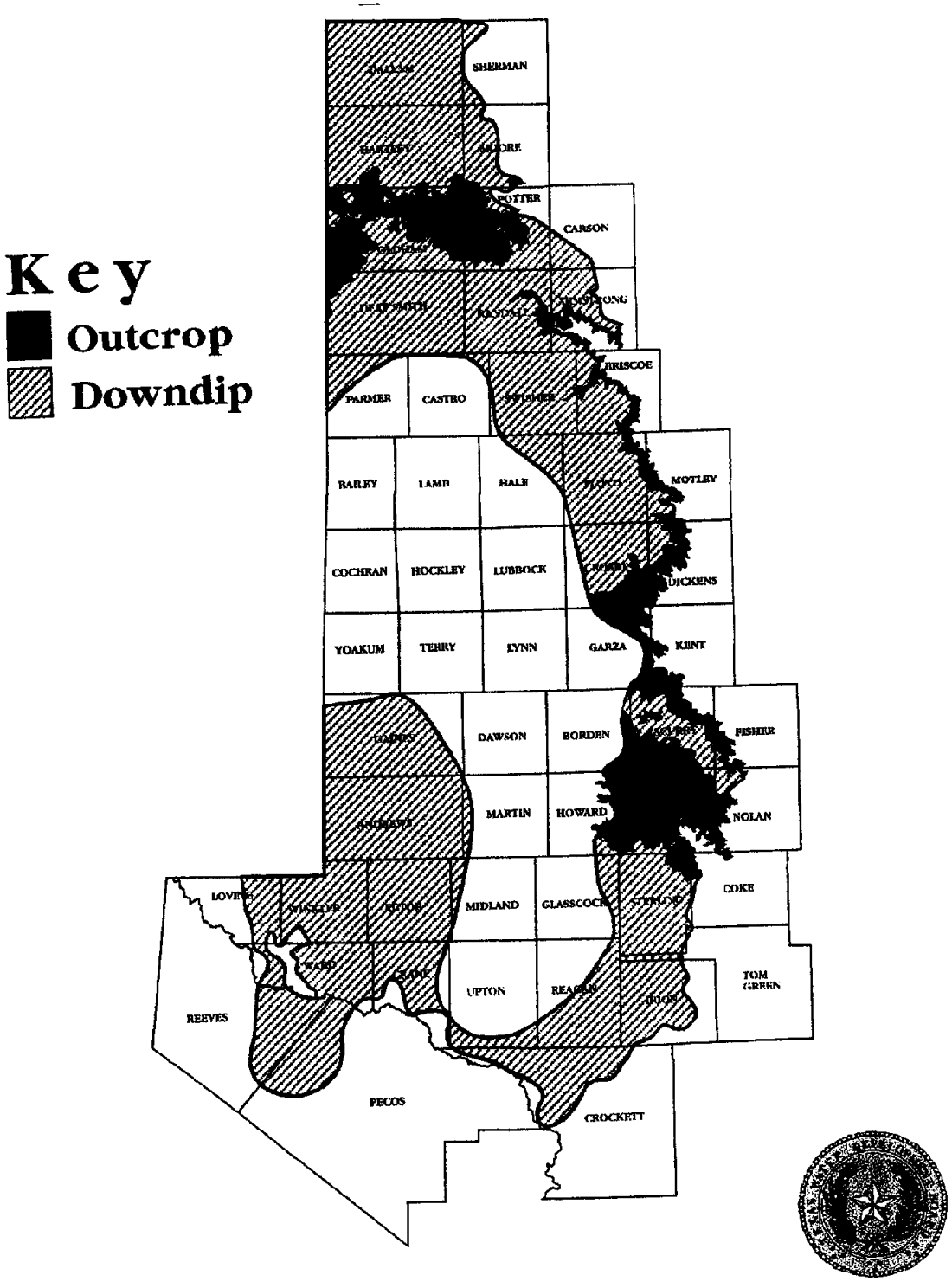
OUTCROP (That part of a water-bearing rock layer which appears at the land surface.)
* DOWNDIP (That part of a water-bearing rock layer which dips below other rock layers.)

January 1994

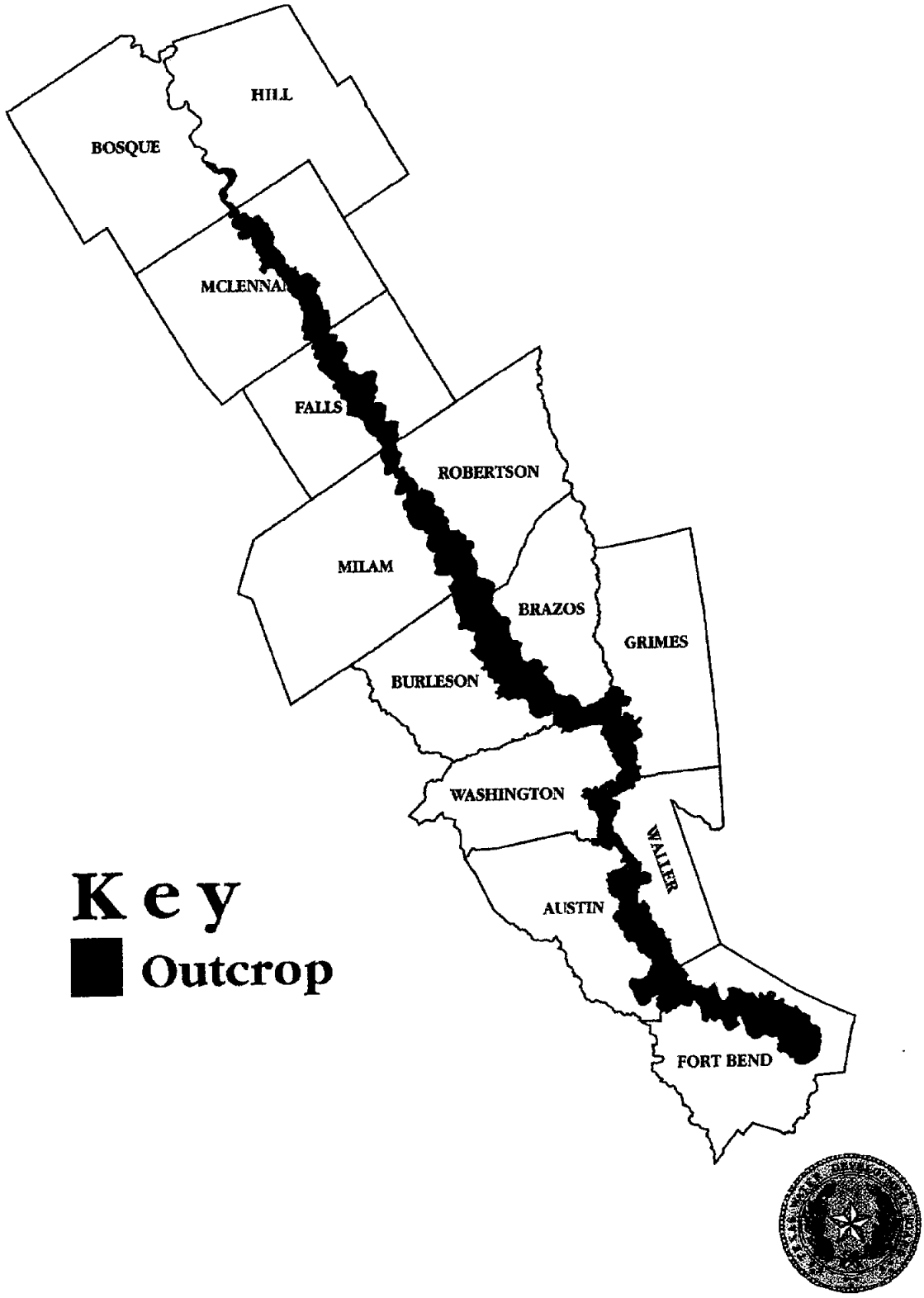
Bone Spring-Victorio Peak Aquifer



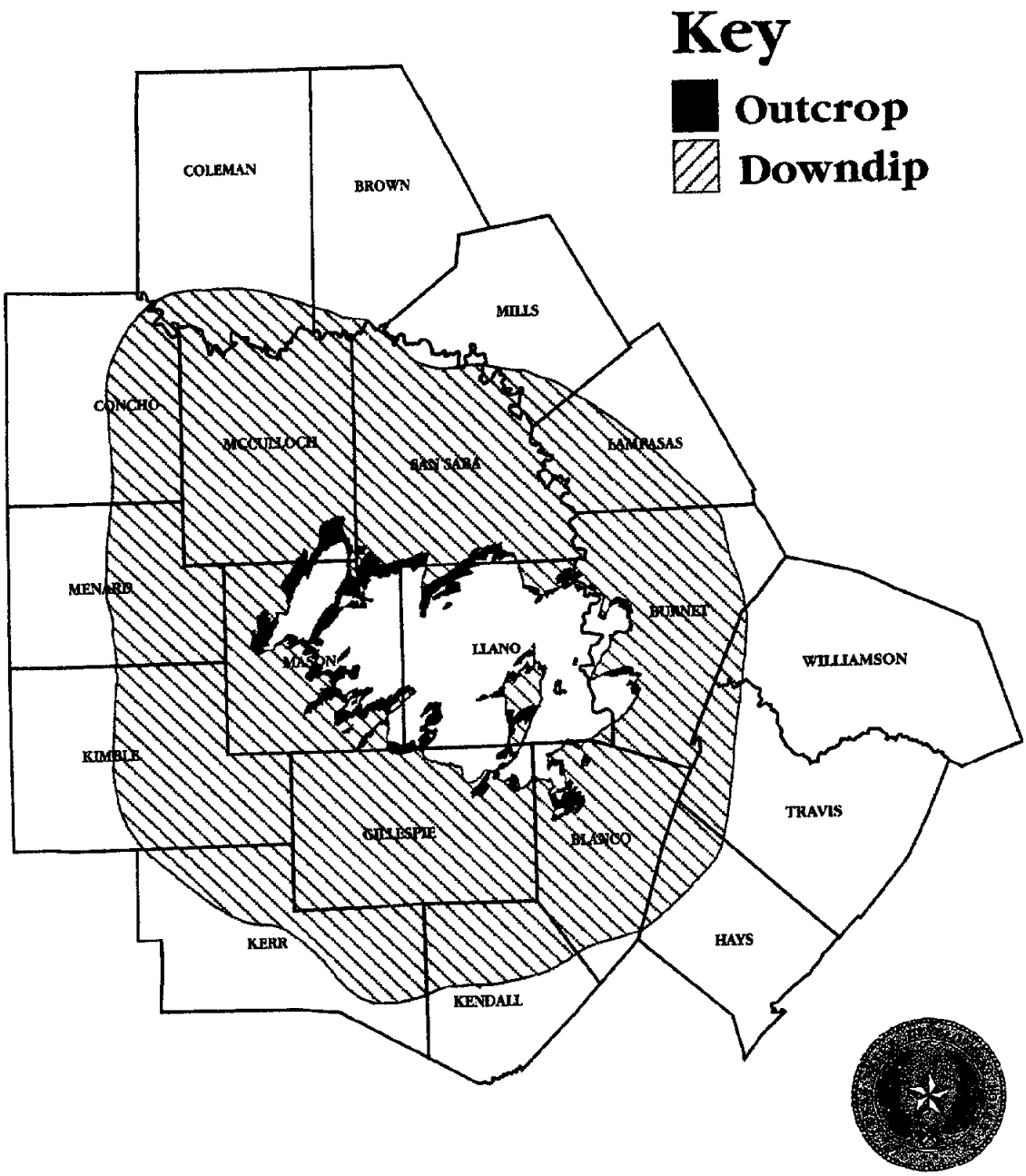
Dockum Aquifer



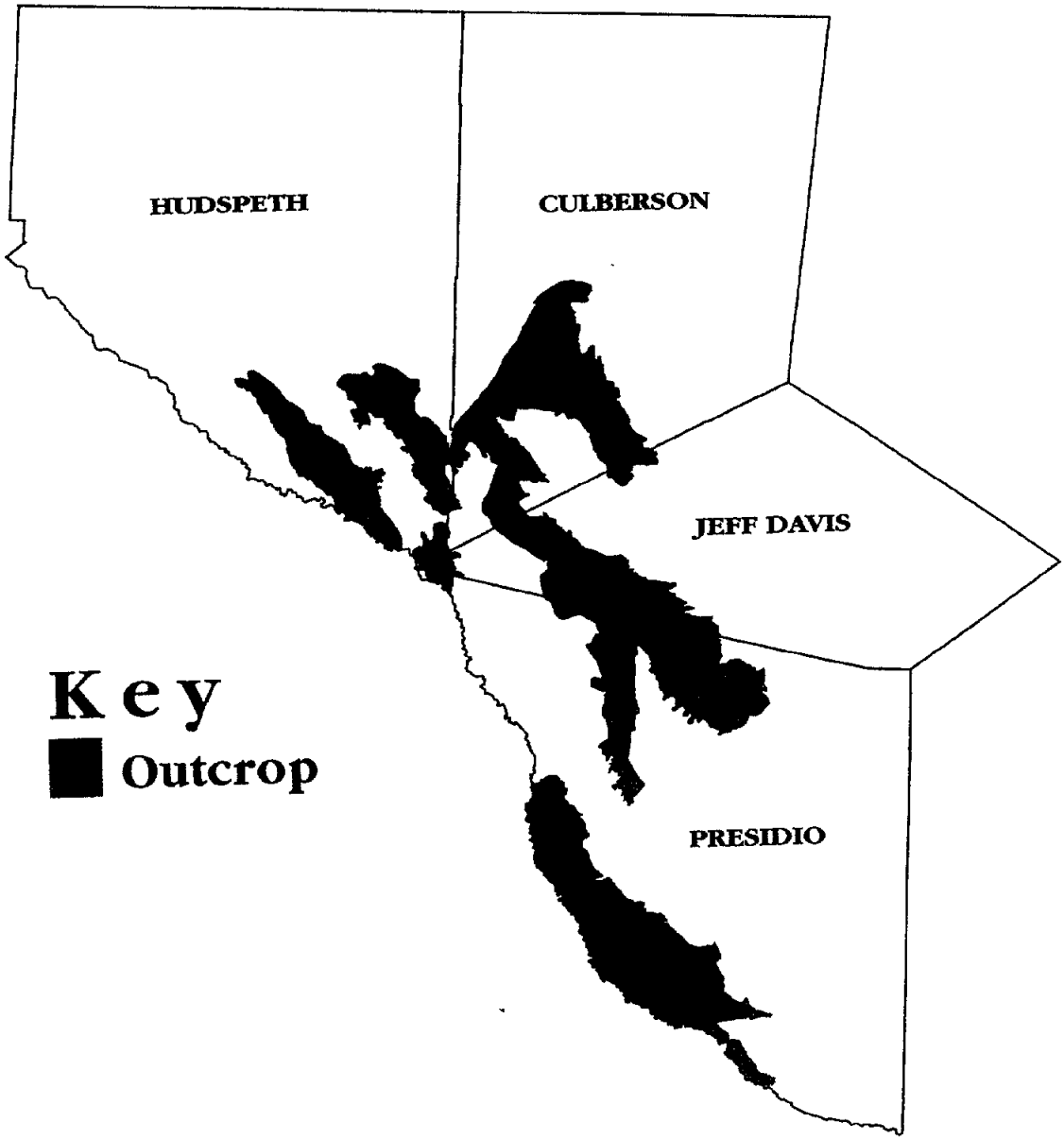
Brazos River Alluvium Aquifer



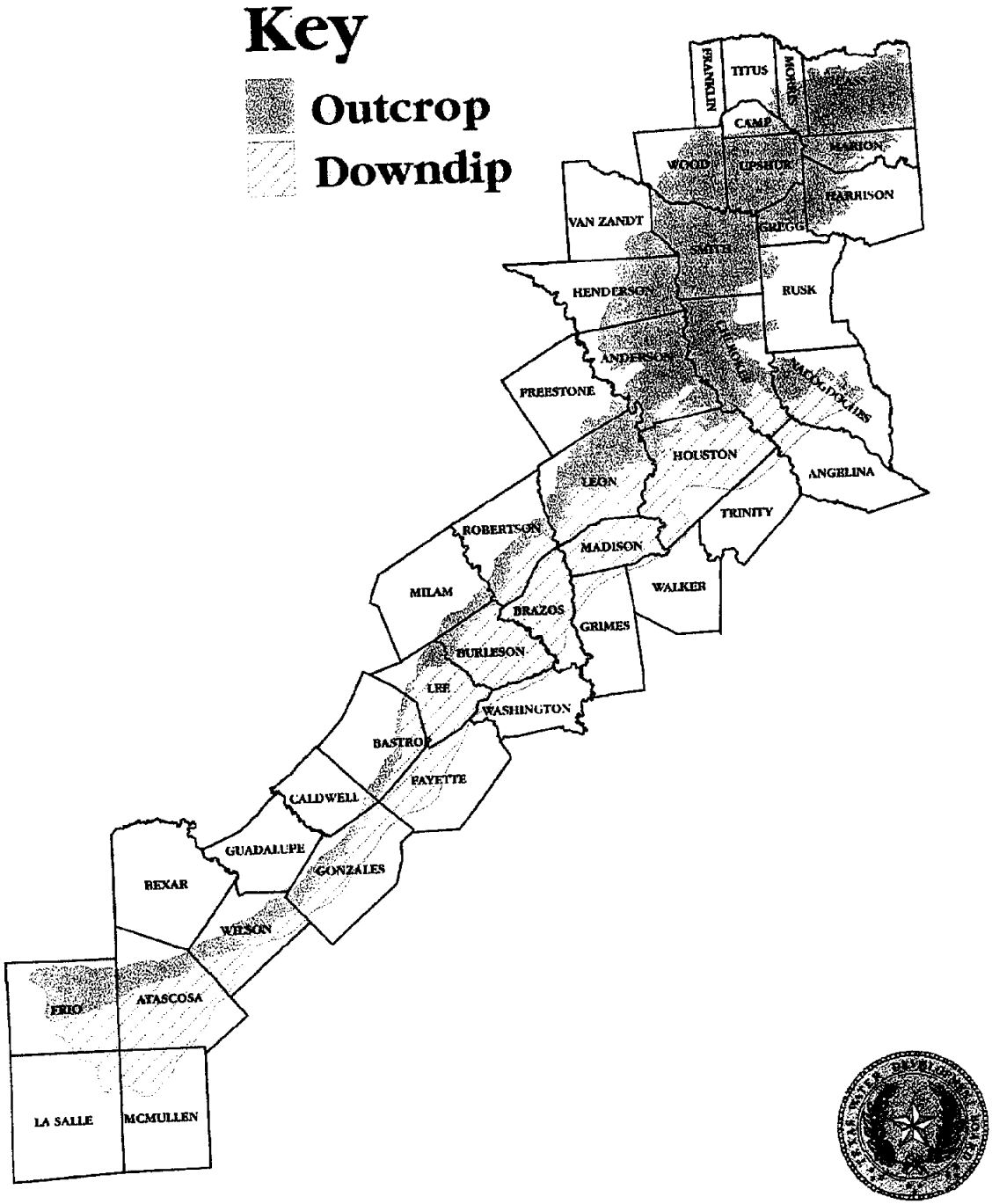
Hickory Aquifer



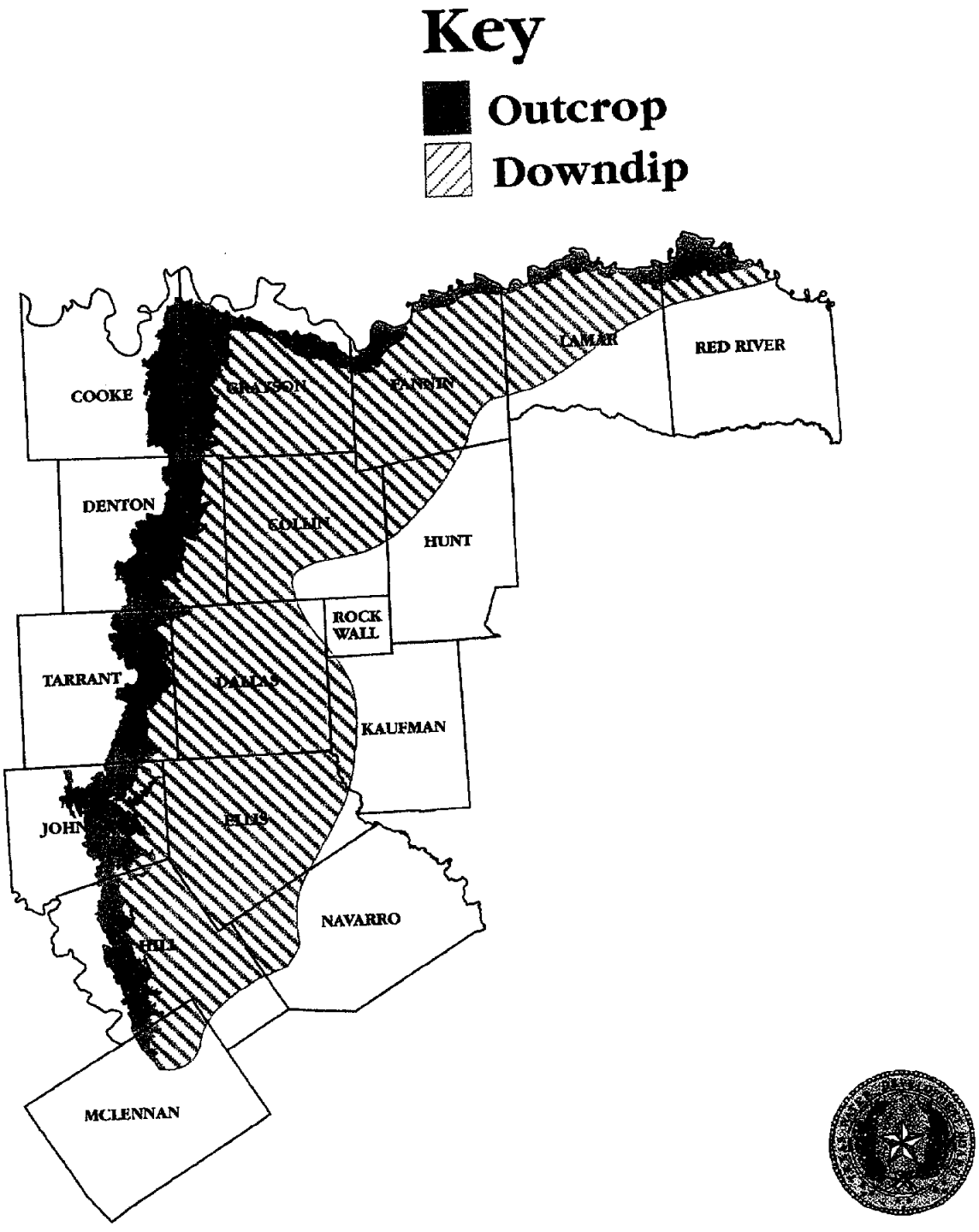
West Texas Bolson Aquifers



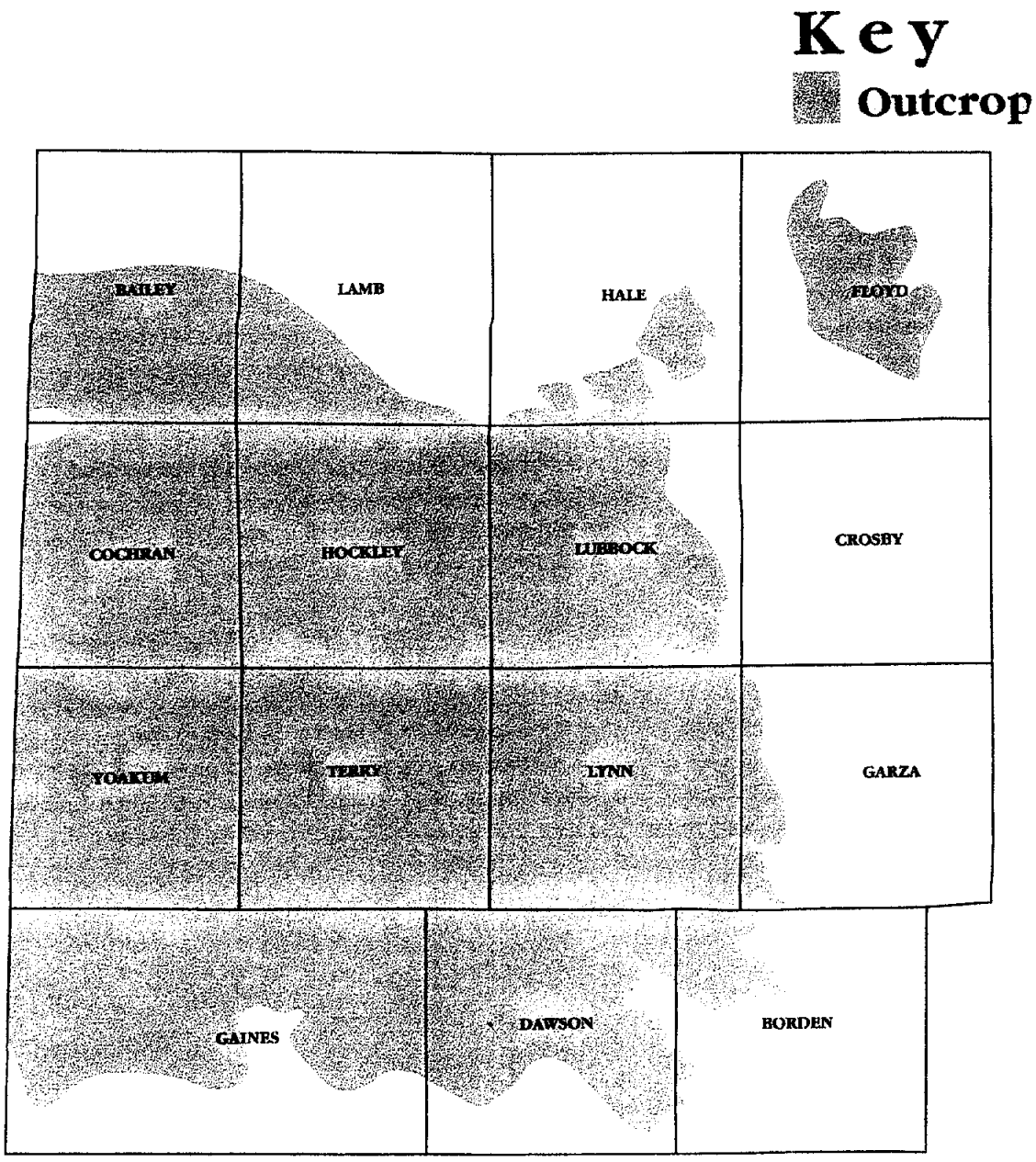
Queen City Aquifer



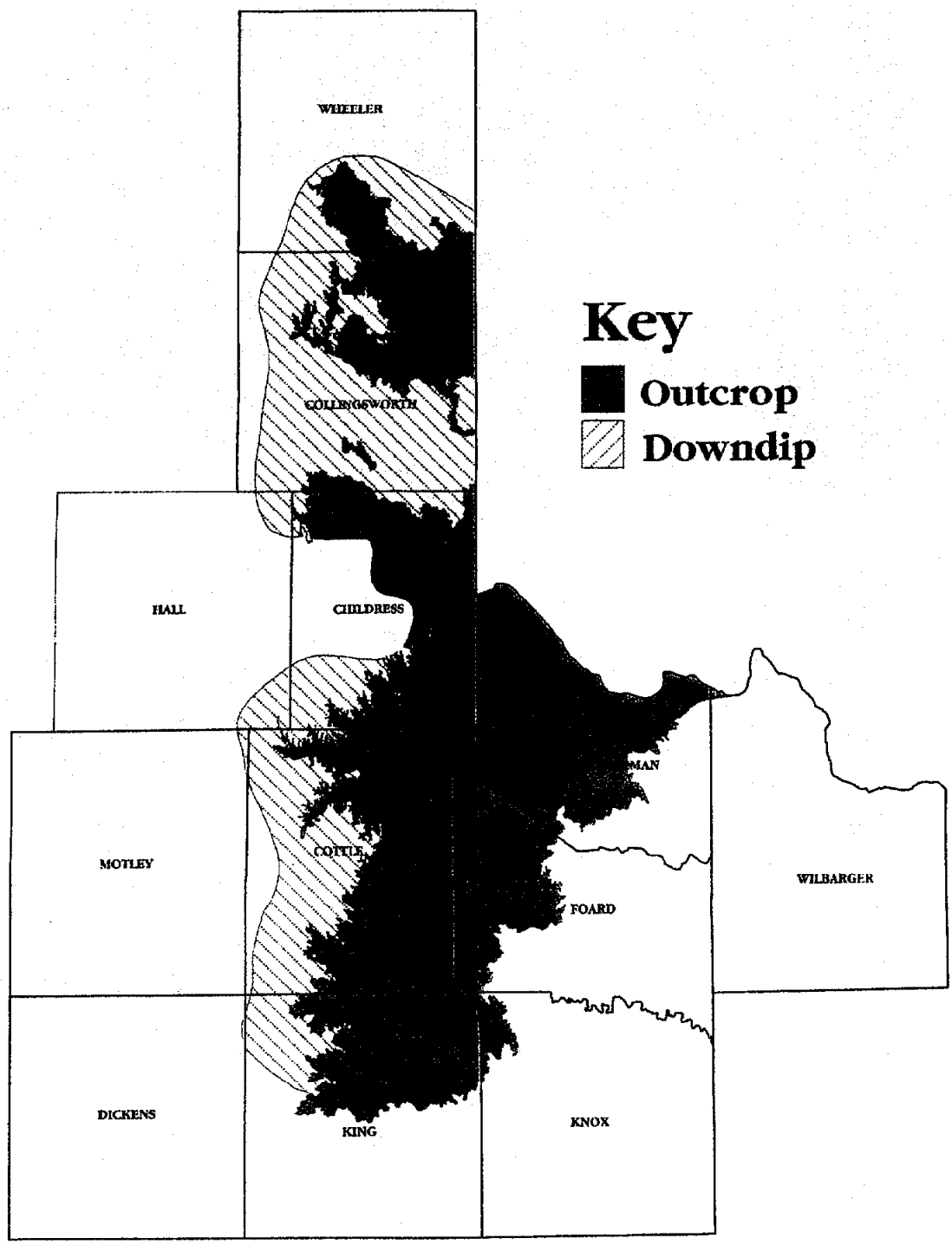
Woodbine Aquifer



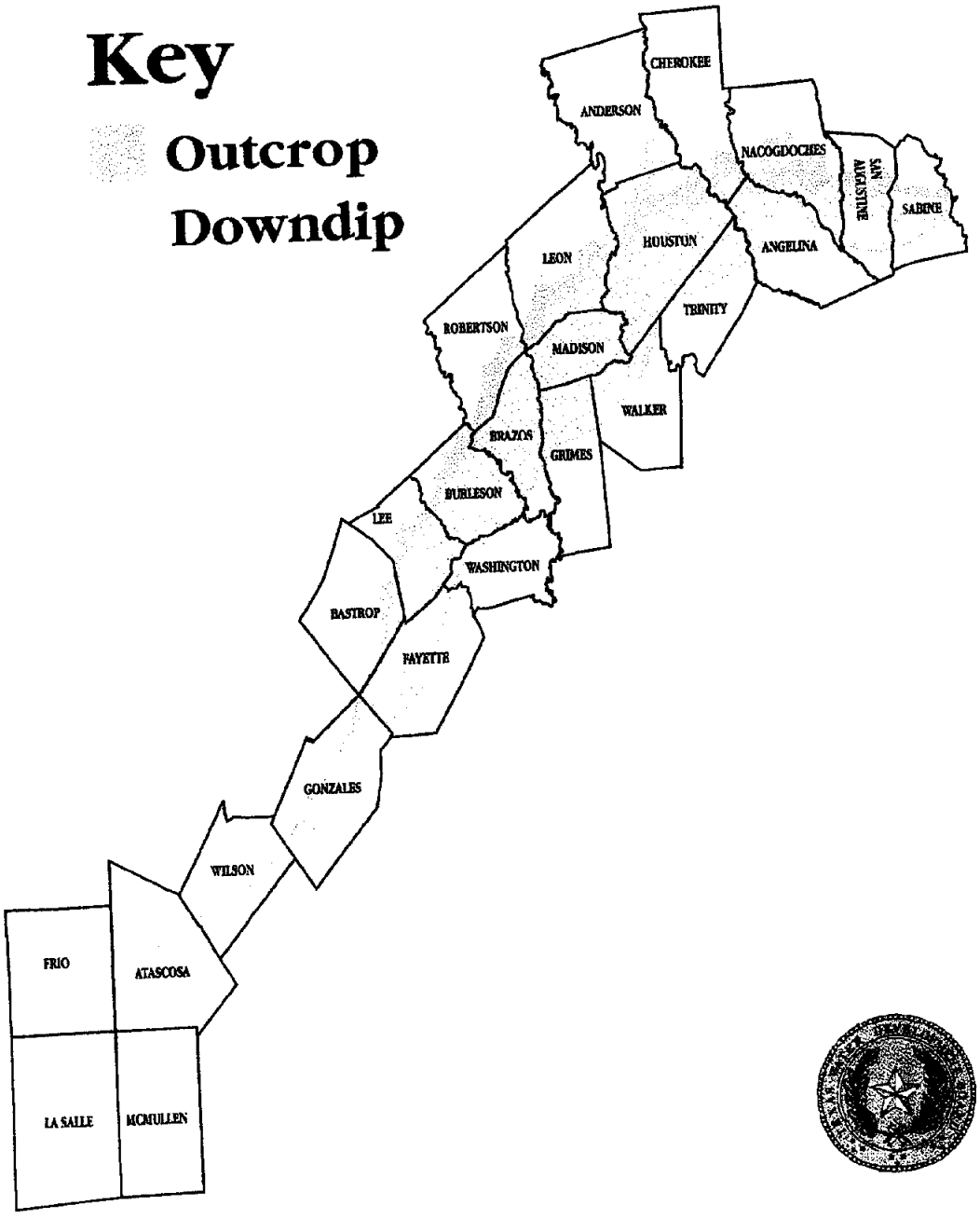
Edwards-Trinity Aquifer (High Plains)



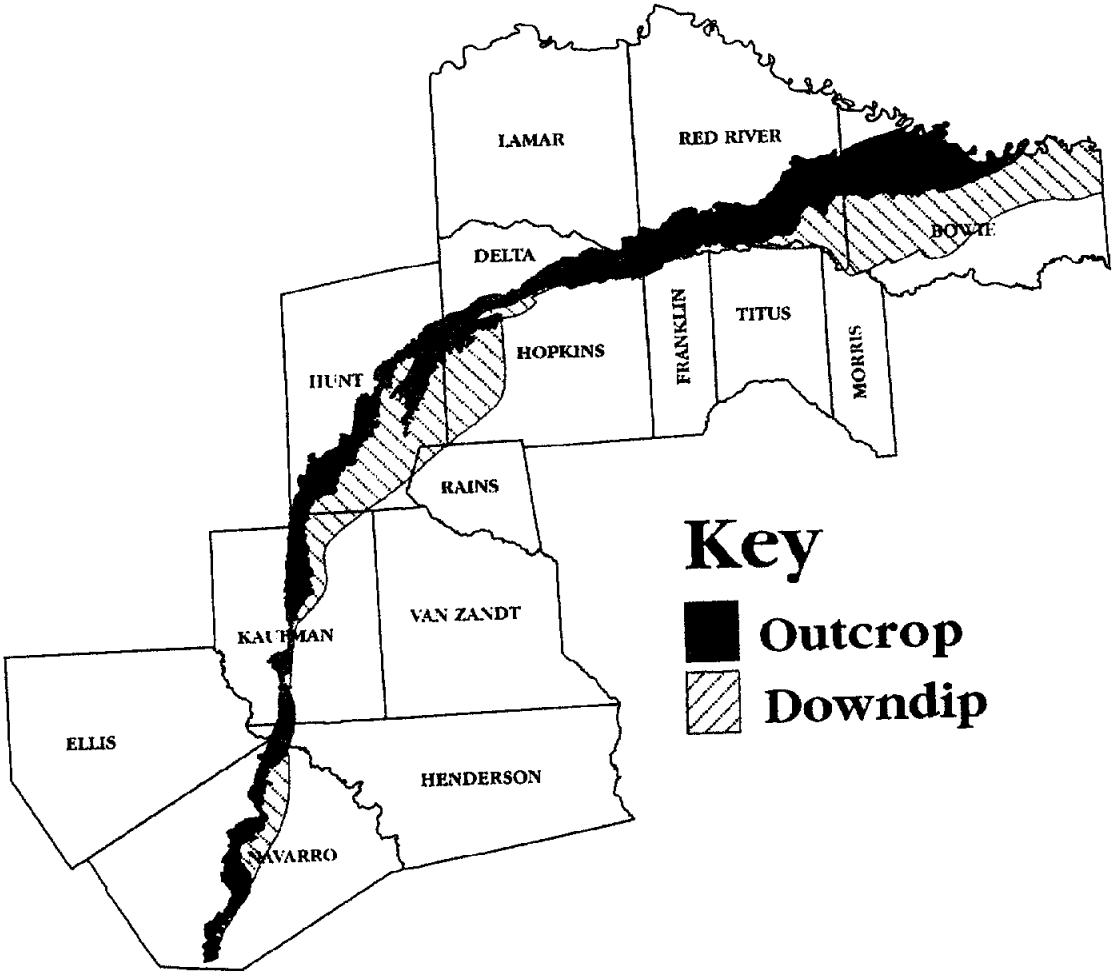
Blaine Aquifer



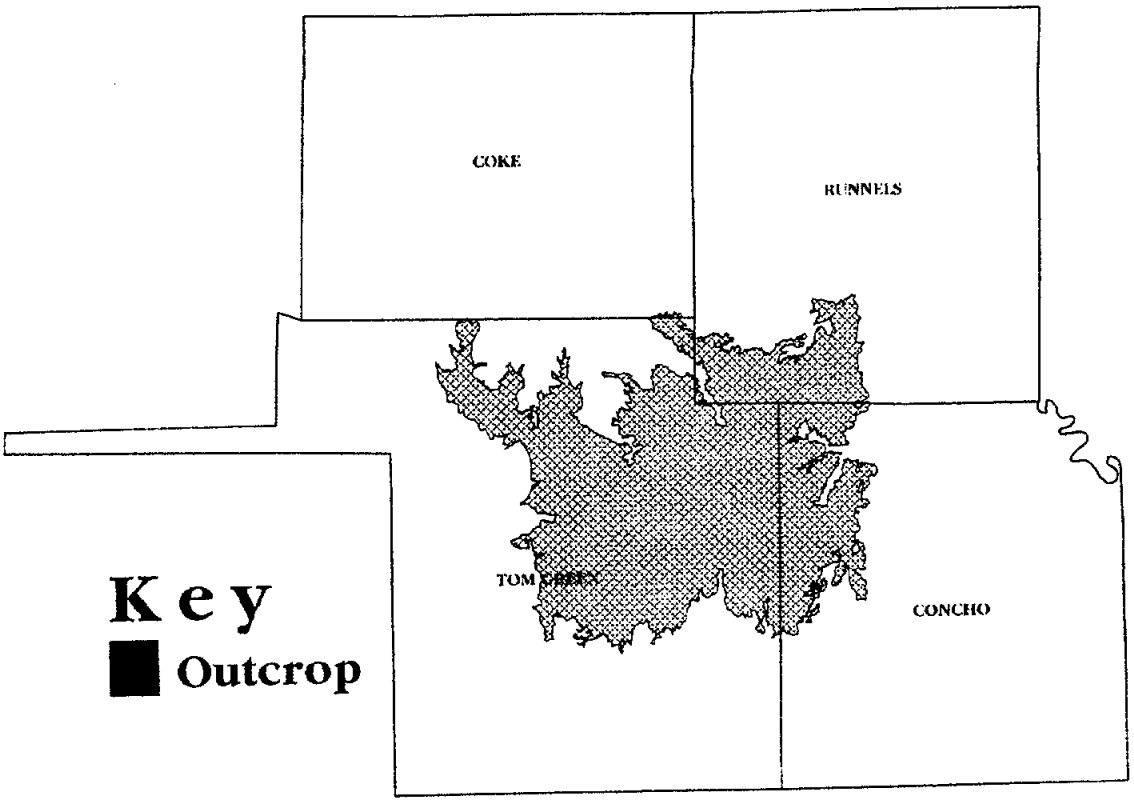
Sparta Aquifer



Nacatoch Aquifer

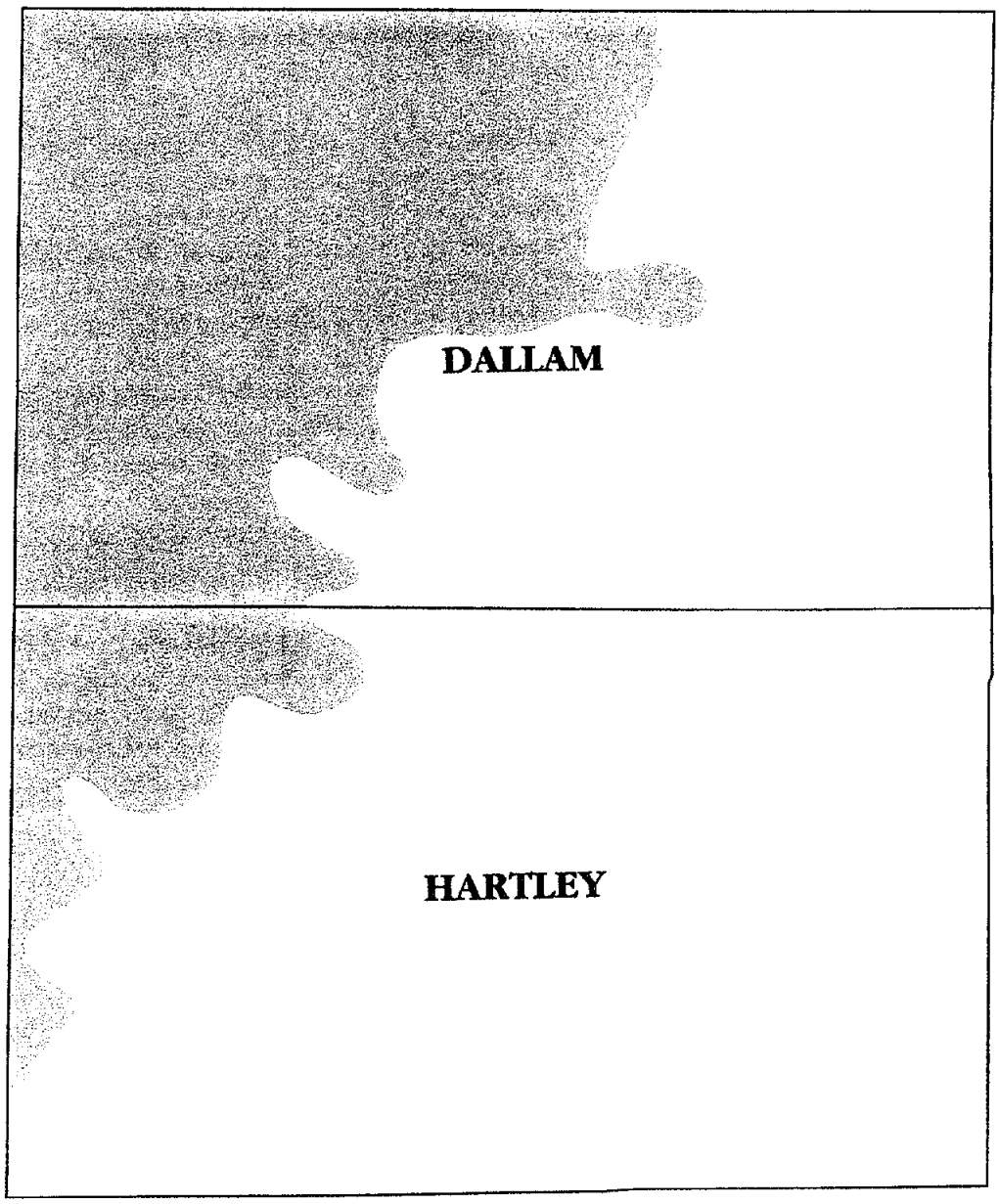


Lipan Aquifer

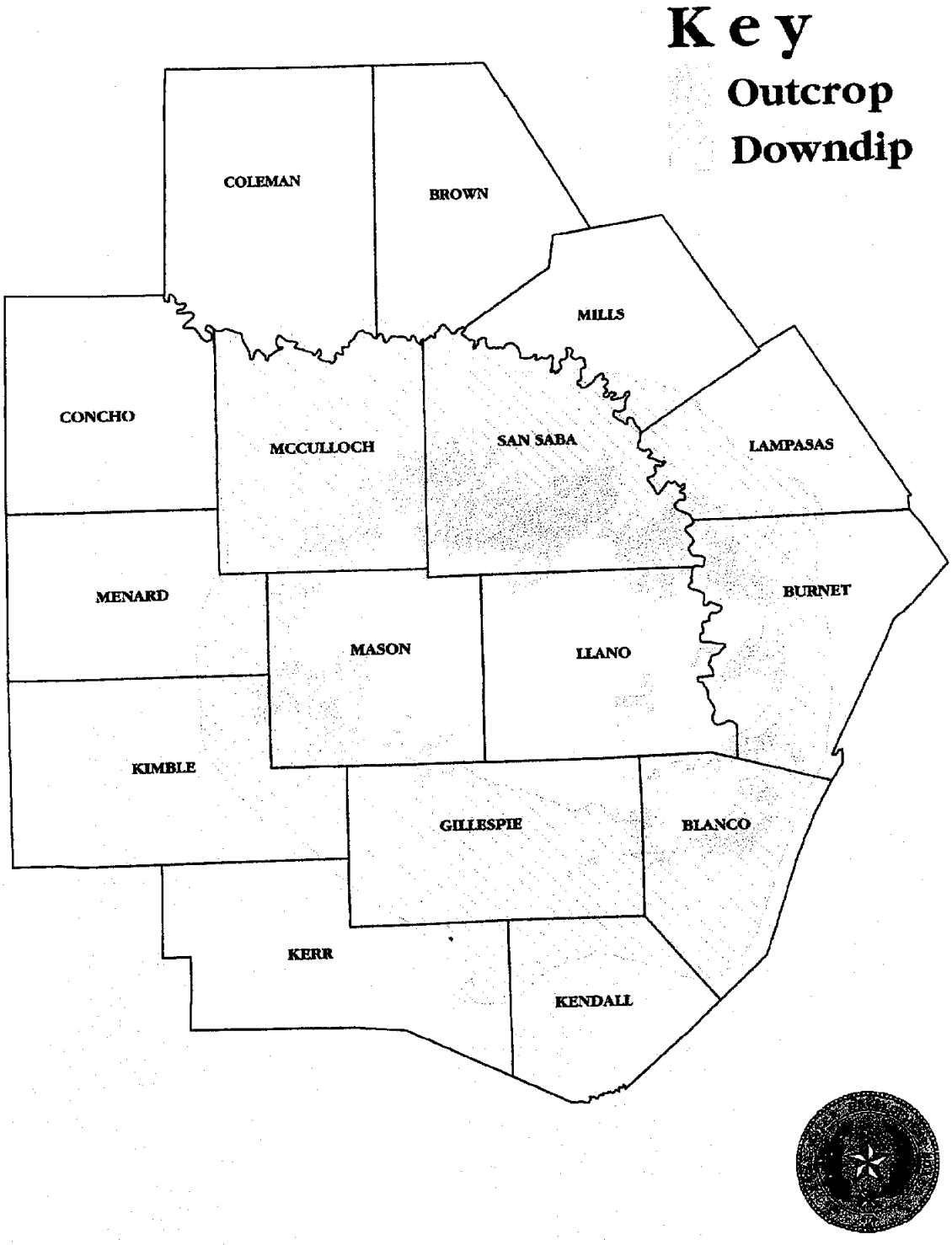


Igneous Aquifer

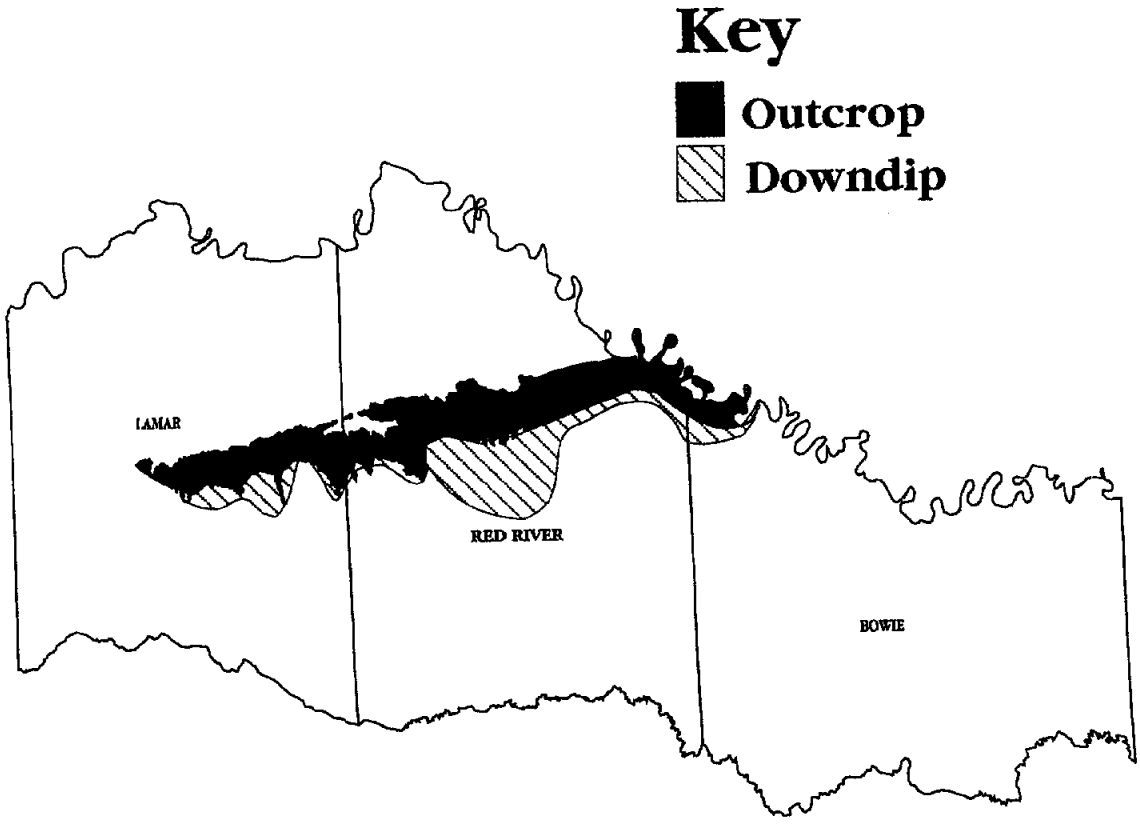
Rita Blanca Aquifer



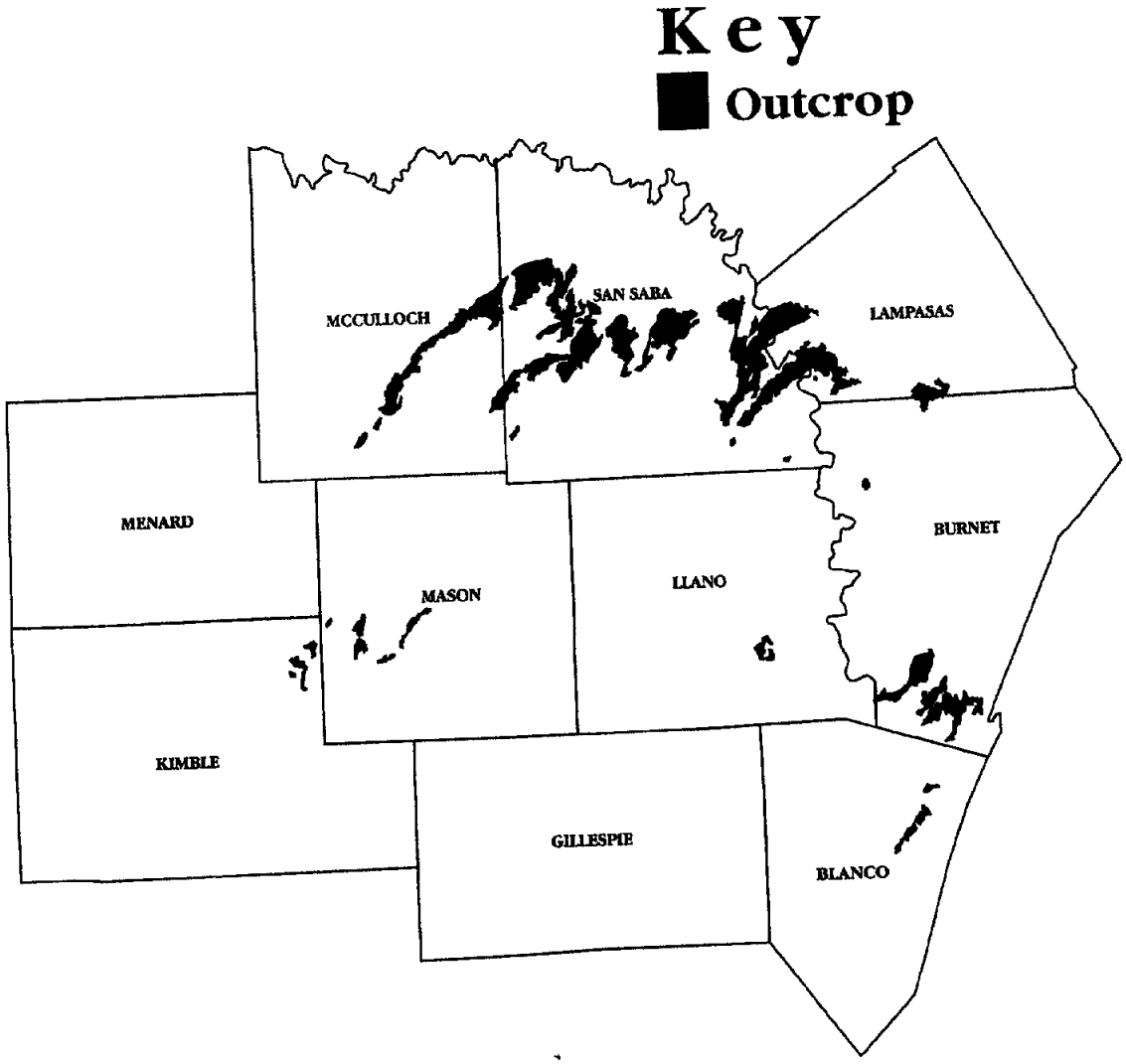
Ellenburger-San Saba Aquifer



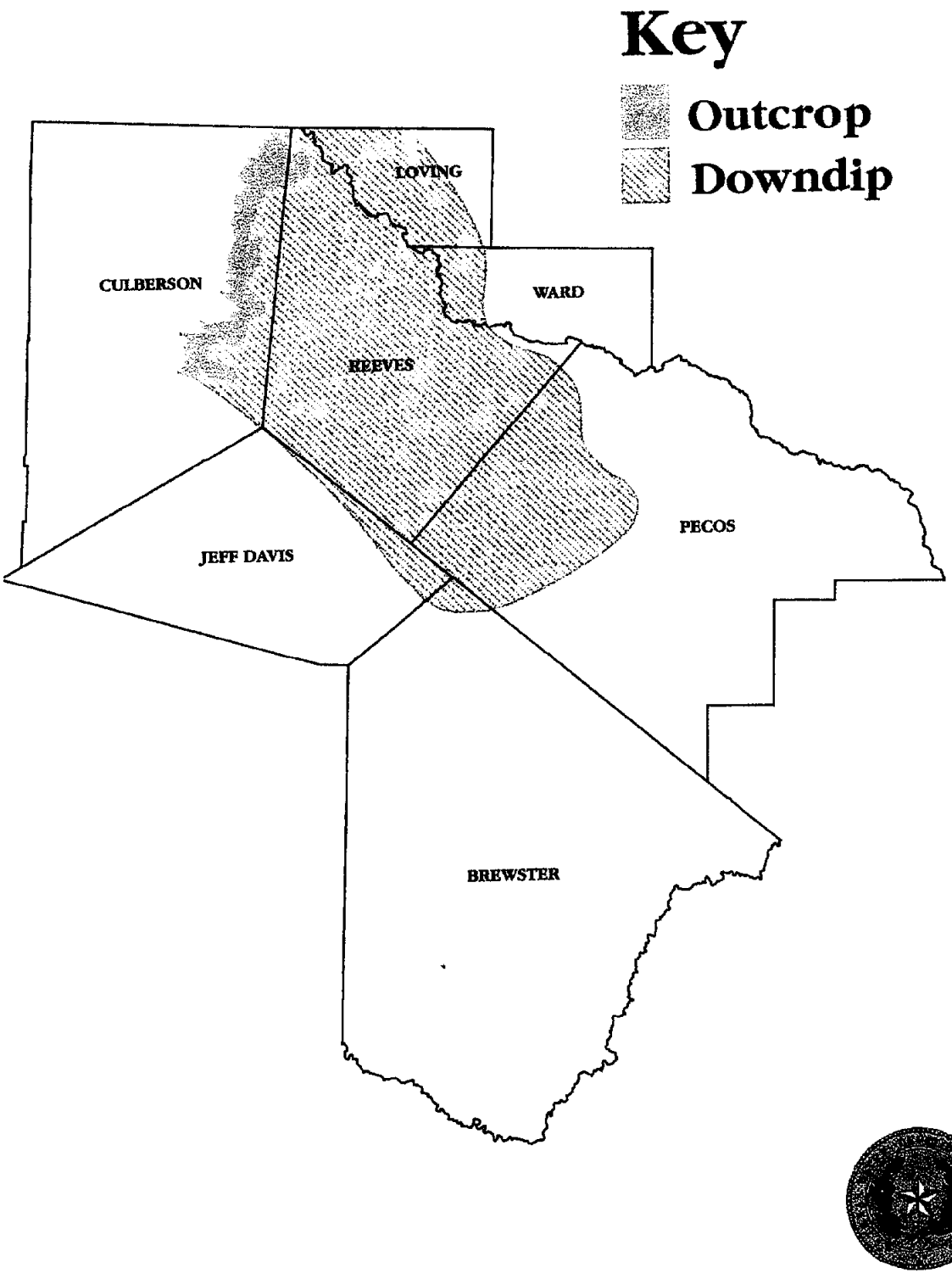
Blossom Aquifer



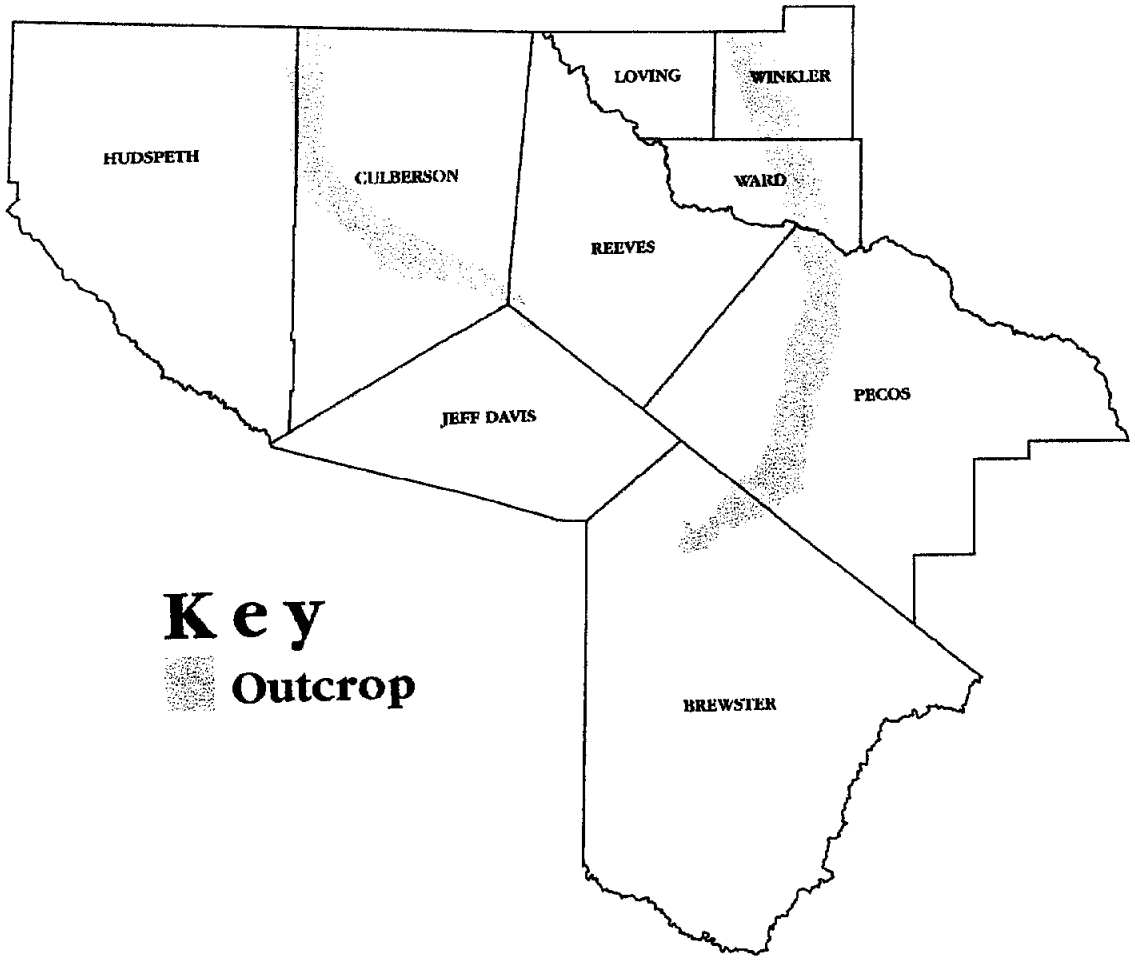
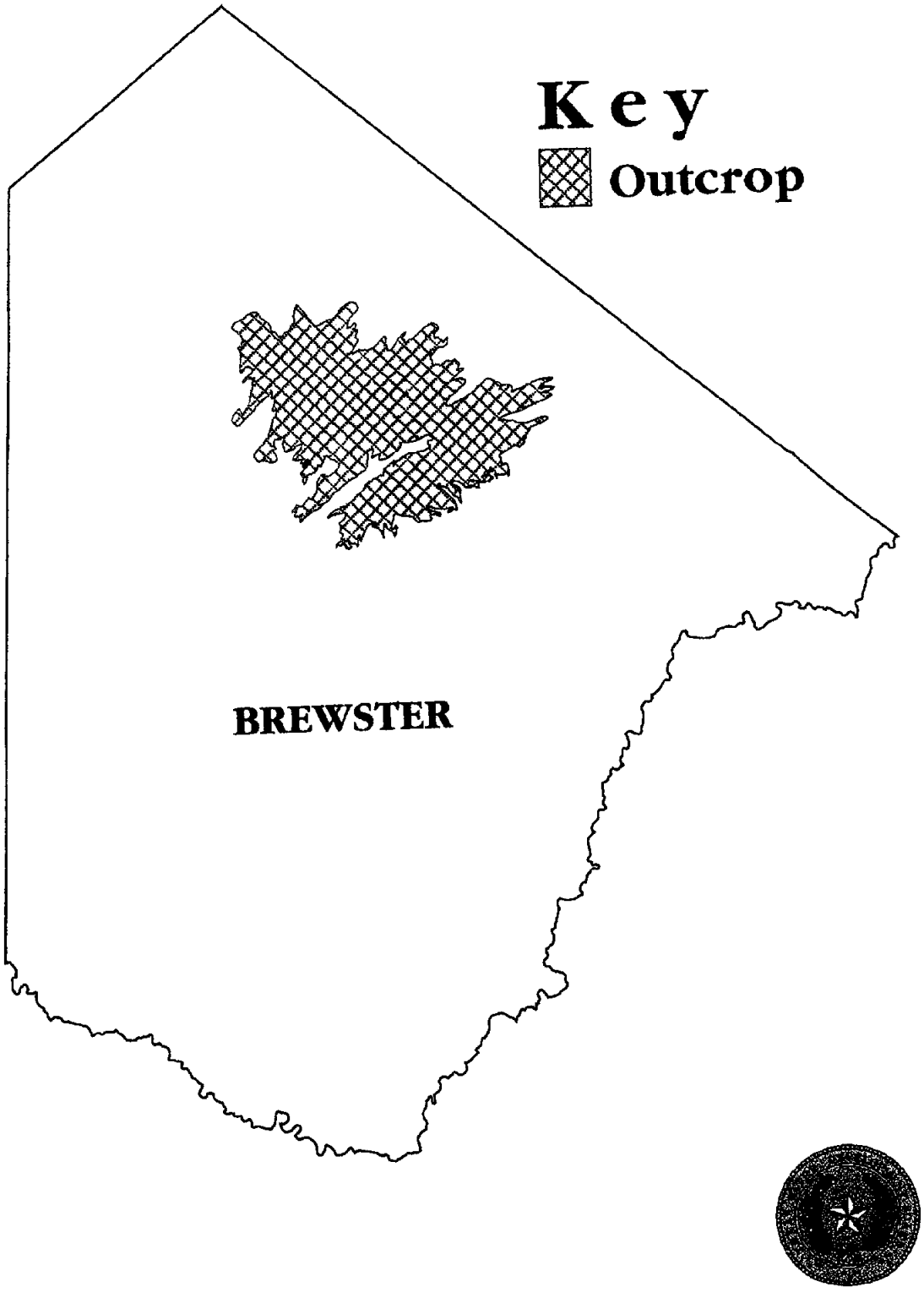
Marble Falls Aquifer



Rustler Aquifer



Capitan Reef Complex Aquifer



Marathon Aquifer