

CHAPTER 734

H.B. No. 1702

An Act relating to the creation, administration, powers, duties, operations, financing, and dissolution of stormwater control districts.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Title 4, Water Code, is amended by adding Chapter 66 to read as follows:

CHAPTER 66. STORMWATER CONTROL DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 66.001. DEFINITIONS. In this chapter:

- (1) "District" means a stormwater control district.*
- (2) "Commission" means the Texas Water Commission.*
- (3) "Department" means the Texas Department of Water Resources.*

- (4) "Executive director" means the executive director of the department.
- (5) "Board" means the board of directors of a district.
- (6) "Director" means a member of the board.

[Sections 66.002-66.010 reserved for expansion]

SUBCHAPTER B. CREATION OF DISTRICT

Sec. 66.011. **CREATION.** A stormwater control district may be created pursuant to Article XVI, Section 59, of the Texas Constitution, as provided by this subchapter.

Sec. 66.012. **PURPOSE OF DISTRICT.** A district may be created to control stormwater and floodwater and to control and abate harmful excesses of water for the purpose of preventing area and downstream flooding in all or part of a watershed.

Sec. 66.013. **COMPOSITION OF DISTRICT.** A district may be composed of contiguous or noncontiguous areas within all or part of the watershed of a river, stream, creek, or bayou.

Sec. 66.014. **PETITION.** (a) To create a district, a person or the commissioners courts in the counties in which all or part of the district is to be located shall file a petition with the executive director requesting creation of the district.

(b) The petition must be signed by at least 50 persons who reside within the boundaries of the proposed district or by a majority of the members of the commissioners court in each county in which all or part of the district is to be located.

Sec. 66.015. **CONTENTS OF PETITION.** The petition must include:

- (1) a description of the boundaries of the proposed district by metes and bounds or by lot and block number, if there is a recorded map or plat and survey of the area;
- (2) a statement of the general nature of the work proposed to be done by the district and the estimated cost of any work to be done by the district; and
- (3) the proposed name of the district.

Sec. 66.016. **DISTRICT NAME.** (a) A district shall be named the _____ (Insert name of county, river, stream, creek, or bayou in district) Stormwater Control District.

(b) A district may not have the same name as any other district.

Sec. 66.017. **DEPOSIT.** (a) A petition to create a district shall be accompanied by a deposit of \$250 payable to the commission for the use of the state.

(b) The executive director shall deposit the \$250 with the state treasurer to be held in trust outside the state treasury until the commission either grants or denies the petition. On granting or denying the petition, the commission shall direct the state treasurer to transfer the deposit to the general revenue fund.

(c) If the petitioners withdraw their petition before the hearing, the commission shall direct the state treasurer to refund the deposit to the petitioners. The receipt of any petitioner is sufficient to discharge the state of its liability to return the deposit under this subsection.

Sec. 66.018. **NOTICE AND HEARING.** (a) On receiving a petition to create a district, the commission or a person designated by it shall set a date for a hearing on the petition.

(b) After a date is set for the hearing, the executive director shall give notice of the hearing and the commission shall hold the hearing and issue an order stating its final decision in the manner provided by the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes). In addition to other notice required by law, the executive director shall publish notice in a newspaper with general circulation in the area of the proposed district once a week for two consecutive weeks, the first publication to be made at least 30 days before the date set for the hearing.

Sec. 66.019. **COMMISSION FINDINGS AND DECISION.** (a) After the hearing, the commission shall grant the petition if it finds that:

(1) the petition conforms to the requirements of Sections 66.014 and 66.015 of this code; and

(2) the projects proposed by the district are feasible and practicable, are necessary, and will be a benefit to land included in the district.

(b) In making its decision, if the commission finds that a part of the land to be included in the district will not be benefited by creation of the district, the commission shall make this finding, exclude the nonbenefited land from the proposed district, and redraw the boundaries of the proposed district to conform to this change.

(c) The commission shall deny the petition if it finds that:

(1) the petition does not conform to the requirements of Sections 66.014 and 66.015 of this code; or

(2) the projects proposed for the district are not feasible, practicable, or necessary, or will not benefit any of the land proposed to be included in the district.

(d) A copy of the commission's order including its findings and decision shall be mailed to the petitioners as provided by rules of the department.

Sec. 66.020. **APPEAL OF COMMISSION ORDER.** The order of the commission granting or denying a petition may be appealed as provided by the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

Sec. 66.021. **TEMPORARY DIRECTORS.** (a) If the commission grants the petition, it shall appoint five persons who reside within the boundaries of the proposed district to serve as temporary directors until the initial regular directors are elected.

(b) The person who submits the petition for creation of the district shall submit a list of at least five persons for appointment as temporary directors, and the commission shall consider those recommendations when making the appointments.

(c) The temporary directors must have the same qualifications for office as provided by Section 66.102 of this code for permanent directors.

Sec. 66.022. **QUALIFICATION OF TEMPORARY DIRECTORS; VACANCY.** (a) Within 30 days after the petition is granted, the temporary directors shall qualify by taking the oath of office and shall meet and organize. Temporary directors are not required to file a bond.

(b) If a person fails to qualify for or if a vacancy occurs in the office of temporary director, the board of temporary directors shall appoint another person who resides in the proposed district to serve as temporary director. If the number of vacancies occurring on the board at any time is three or more, the commission shall appoint the number of persons necessary to fill those vacancies from persons who reside in the proposed district.

Sec. 66.023. **CONFIRMATION AND DIRECTORS' ELECTION.** (a) At the meeting held under Section 66.022 of this code, the temporary directors shall call an election to be held within the boundaries of the proposed district to confirm the creation of the proposed district and to elect the initial regular directors of the district.

(b) The general law requiring elections to be held on uniform or specified election dates does not apply to an election ordered under this section.

Sec. 66.024. **ELECTION NOTICE.** (a) Notice of the confirmation and directors' election must state the day and places for holding the election, the proposition to be voted on, and the candidates for director.

(b) The temporary board shall publish the notice of the election one time in one or more newspapers of general circulation in the proposed district. The notice must be published at least 35 days before the date set for the election.

Sec. 66.025. **PETITION TO PLACE NAME ON BALLOT.** A person who desires to have his name printed on the ballot as a candidate for director of the district shall file an application with the temporary directors before the 30th day preceding the date of the election.

Sec. 66.026. **BALLOT.** (a) The ballot for the election shall be printed to provide for voting for or against the creation of the district.

(b) The ballot also shall have the names of the persons who have filed as candidates for director of the district. A voter is entitled to vote for five candidates for director.

Sec. 66.027. **CANVASS OF RETURNS.** Within five days after the date on which the confirmation and directors' election is held, the presiding judge of each polling place shall return the results of the election to the temporary board, and the temporary board shall canvass the returns and declare the results.

Sec. 66.028. **DECLARATION OF RESULTS.** (a) If a majority of the votes cast at the election favor creation of the district, the temporary board shall declare the district created and shall enter the results in its minutes. If a majority of the votes cast at the election are against the creation of the district, the temporary board shall declare that the district was defeated and shall enter the results in its minutes. The temporary board shall also file a copy of the election results with the commission.

(b) If a majority of the voters at the election approve the creation of the district, the temporary board shall declare the five candidates for director who received the highest number of votes to be elected as the directors of the district. If two or more candidates tie for the fifth highest number of votes for a director's position, the temporary board shall select the fifth director by lot from those tying for the position. The three directors elected with the highest number of votes shall serve until the qualification of the three new directors elected at the second regular directors' election, and the two remaining directors shall serve until the qualification of the two directors elected at the third regular directors' election.

(c) If a majority of the voters at the election vote against the creation of the district, no further elections may be held to create the district. This subsection does not prohibit persons residing in, or a majority of the commissioners court of each county all or part of which is located in, a proposed district that is not approved from petitioning the commission again for creation of a district.

Sec. 66.029. BOND PROPOSITION. (a) *At the confirmation and directors' election, the temporary board may include a separate ballot proposition to approve the issuance by the district of bonds payable from property taxes.*

(b) *The notice of the election under Section 66.024 of this code must state the bond proposition that is to appear on the ballot.*

(c) *The proposition shall be printed to provide for voting for or against the issuance of bonds and the levy of property taxes for payment of the bonds.*

(d) *If a majority of the qualified voters voting on the proposition approve the proposition, the district, if created, may issue the bonds. If a majority of the qualified voters voting on the proposition do not approve the proposition, the district may not issue the bonds.*

(e) *The temporary board shall file a copy of the bond election results in its records and with the commission.*

[Sections 66.030-66.100 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

Sec. 66.101. BOARD OF DIRECTORS. *A district shall be governed by a board of directors composed of five members, who are elected as provided by this chapter.*

Sec. 66.102. QUALIFICATION OF DIRECTORS. *To serve as a director, a person must be at least 18 years old, a qualified voter, and a resident of the district.*

Sec. 66.103. TERM OF OFFICE. *Except for the initial directors elected under Subchapter B of this chapter, a director shall hold office for a term of four years and shall serve until his successor is elected and has qualified.*

Sec. 66.104. ELECTION OF DIRECTORS. (a) *On the first Saturday in April in each odd-numbered year, an election shall be held in the district to elect the appropriate number of directors to the board.*

(b) *A person who desires to have his name printed on the ballot at a directors' election as a candidate for director shall file an application with the secretary of the district before the 35th day preceding the date of the election. The board shall publish notice in a newspaper with general circulation in the area of the proposed district once a week for two consecutive weeks, the first publication to be made at least 14 days before the date set for the election.*

Sec. 66.105. BEGINNING OF DIRECTOR'S TERM. *A director shall take office at the first regular meeting of the board in April following his election to the board.*

Sec. 66.106. VACANCY ON BOARD. *A vacancy on the board shall be filled by appointment of the remaining members of the board for the unexpired term.*

Sec. 66.107. OATH. *Each director shall take the constitutional oath of office required of state officers.*

Sec. 66.108. COMPENSATION. *Each director is entitled to receive for his services not more than \$50 a day for each meeting of the board that he attends plus reimbursement for actual expenses reasonably incurred while engaged in his duties for the district as approved by the board.*

Sec. 66.109. ORGANIZATION OF BOARD. (a) *After each directors' election, the board shall hold a regular meeting at the district office and shall organize by electing from the members of the board one person to serve as chairman, one person to serve as vice-chairman, one person to serve as secretary, and one person to serve as treasurer.*

(b) *A person elected to serve as chairman, vice-chairman, secretary, or treasurer shall serve until the first regular meeting of the board in April following the next directors' election.*

(c) *The chairman shall preside over meetings of the board, and in his absence, the vice-chairman shall preside.*

(d) *The chairman, vice-chairman, secretary, and treasurer shall perform the duties and may exercise the powers specifically given them by this chapter or by orders of the board.*

Sec. 66.110. QUORUM. *A majority of the members of the board constitute a quorum for the transaction of business of the district, and no official action of the board is valid without the affirmative vote of a majority of the members of the board.*

Sec. 66.111. OTHER OFFICERS. (a) *The board may appoint or employ persons to serve as engineer, attorney, and accountant for the district.*

(b) *The persons appointed or employed under this section are entitled to the compensation provided by the district's budget.*

Sec. 66.112. GENERAL MANAGER. *The board may employ a general manager who will be the chief administrative officer of the district and may delegate to him full authority to manage and operate the affairs of the district subject only to orders of the board.*

Sec. 66.113. PERSONNEL. (a) *The board or the general manager, if the district has a general manager, may employ other persons necessary for the proper handling of the business and*

operation of the district and may employ or contract with personnel who are necessary to carry out this chapter.

(b) The board shall determine the terms of employment and the compensation to be paid to employees under this section.

(c) A majority of the members of the board, or the general manager, if the district has a general manager, may dismiss an employee of the district.

(d) The board shall require each officer, employee, or person under contract with the district who collects, pays, or handles any funds of the district to furnish a bond, payable to the district, for an amount sufficient to protect the district from financial loss resulting from actions of the officer, employee, or other person. Each bond must be conditioned on the faithful performance of the officer's, employee's, or person's duties and on accounting for all money and property of the district in his hands. The district shall pay for each bond.

Sec. 66.114. **OFFICE.** The board shall maintain one or more offices for conducting the business of the district.

Sec. 66.115. **MEETINGS OF BOARD.** The board shall hold regular meetings within the district on dates established by order of the board. The board may hold special meetings at the call of the chairman or on request of three members of the board.

Sec. 66.116. **MINUTES AND RECORDS.** (a) The board shall keep a complete written account of all its meetings and other proceedings and shall preserve its minutes, contracts, records, plans, notices, accounts, audits, receipts, and records of all kinds in a secure manner.

(b) Minutes, contracts, records, plans, notices, accounts, audits, receipts, and other records are the property of the district and are subject to Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes).

Sec. 66.117. **CONTRACTS.** The board may enter into contracts to carry out the powers and duties under this chapter, and those contracts shall be executed by the board in the name of the district.

Sec. 66.118. **RULES.** After notice and hearing, the board shall adopt rules to carry out this chapter, including rules providing procedures for giving notice and holding hearings before the board.

Sec. 66.119. **SUITS; PAYMENT OF JUDGMENTS.** (a) The district may, through its board, sue and be sued in any court of this state in the name of the district. Service of process in a suit may be had by serving the chairman of the board.

(b) The courts of this state shall take judicial notice of the creation of the district.

(c) A court of this state that renders a money judgment against the district may require the board to pay the judgment from money in the district depository that is not dedicated to the payment of any indebtedness of the district.

Sec. 66.120. **SEAL.** The board shall adopt a seal for the district.

[Sections 66.121-66.200 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES

Sec. 66.201. **GENERAL POWERS.** The district may:

- (1) acquire land to construct facilities for the district;
- (2) construct regional stormwater retention and detention pond facilities to retain stormwater runoff and to prevent area and downstream flooding in the district;
- (3) construct outfall drainage ditches and similar facilities to control stormwater and floodwater and prevent area and downstream flooding;
- (4) provide for and use the land on which regional stormwater retention and detention pond facilities are located for park and recreational areas when the area is not used for holding water;
- (5) provide financing for land and facilities and for construction of facilities from money obtained from sources provided by this chapter and other laws of this state;
- (6) advise, consult, contract, cooperate with, and enter into agreements with the federal government and its agencies, the state and its agencies, local governments, and persons; and
- (7) apply for, accept, receive, and administer gifts, grants, loans, and other funds available from any source.

Sec. 66.202. **PLAN FOR FACILITIES.** (a) Before the district begins to acquire land and construct facilities, the district engineer under the supervision of the board shall prepare a detailed plan for the location of stormwater retention and detention ponds and outfall drainage ditches or other similar facilities within the district and for the acquisition of land and construction of those works and facilities.

(b) In preparing the plan, the district shall attempt to locate stormwater retention and detention ponds and outfall drainage ditches and other similar facilities so that they will provide the

minimum amount of runoff in the district while at the same time providing the maximum amount of protection from area and downstream flooding.

(c) On completion of the plan by the employees, the board shall approve the plan as the tentative plan and shall submit the plan to the commission and to the commissioners court of each county in which all or part of the district is located.

(d) The commission and each commissioners court shall review the plan.

(e) Within 60 days after the date on which a plan is submitted to a commissioners court, the commissioners court shall prepare its suggestions for change in the plan and shall submit those suggestions in writing to the commission.

(f) Not later than 10 days after the first day on which the commission has received written suggestions from all commissioners courts to which the plan was submitted, the commission shall give notice and hold a hearing to consider the plan together with its suggestions and the suggestions for change from the commissioners courts. Notice shall be given and the hearing held as provided by the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(g) At the conclusion of the hearing, the commission shall issue an order stating the changes made in the plan, if any, and approving the plan.

(h) An order of the commission under this section may not be appealed.

(i) Amendments and modifications to a plan shall be made in the manner provided by this section for preparation and approval of the original plan.

Sec. 66.203. ACQUISITION OF PROPERTY. The district may acquire by gift, grant, devise, purchase, lease, or condemnation any land or other property interest necessary to carry out its powers and duties under this subchapter.

Sec. 66.204. EMINENT DOMAIN. (a) The district may acquire land for purposes authorized by this chapter by condemnation when the board determines, after notice and hearing, that it is necessary.

(b) The right of eminent domain shall be exercised by the district in the manner provided by Chapter 21, Property Code, except that the district is not required to give bond for appeal or bond for costs in a condemnation suit or other suit to which it is a party and is not required to deposit double the amount of any award in any suit.

(c) If the district, in the exercise of the power of eminent domain, makes necessary the relocation, raising, lowering, rerouting, or changing in grade, or alteration of the construction of any highway, railroad, electric transmission or distribution line, telephone or telegraph properties and facilities, or pipeline, all necessary relocations, raising, lowering, rerouting, changing in grade, or alteration of construction shall be accomplished at the sole expense of the district. Sole expense is the actual cost of relocation, raising, lowering, rerouting, or changing in grade or alteration of construction to provide comparable replacement without betterment of facilities, after deducting the net salvage value derived from the old facility.

Sec. 66.205. DISTRICT TO ENTER INTO CONSTRUCTION CONTRACTS. The district may contract with any person to construct any of its facilities.

Sec. 66.206. BIDS ON CONTRACTS. Contracts entered into under Section 66.205 of this code requiring an expenditure of more than \$10,000 may be made only after competitive bidding as provided by Chapter 770, Acts of the 66th Legislature, Regular Session, 1979 (Article 2368a.3, Vernon's Texas Civil Statutes).

Sec. 66.207. ADDITIONAL WORK. (a) Except as provided by Subsection (b) of this section, after a contract under Section 66.205 of this code is awarded, if the district determines that additional work is needed or if the character or type of facilities should be changed, the board may authorize change orders to the contract on terms the board approves.

(b) If a change order proposes an increase in the total cost of the contract by more than 25 percent, the change order also must be approved by the commission.

Sec. 66.208. ATTACHMENTS TO CONTRACTS. A contract entered into under Section 66.205 of this code must contain, or have attached to it, the specifications, plans, and details for work included in the contract, and work shall be done according to those plans and specifications under the supervision of the district.

Sec. 66.209. EXECUTION AND AVAILABILITY OF CONTRACTS. (a) A contract entered into under Section 66.205 of this code must be in writing and signed by the contractor and a representative of the district designated by the board.

(b) The contract shall be kept in the district's office and shall be available for public inspection.

Sec. 66.210. CONTRACTOR'S BOND. (a) A contractor shall execute a bond in an amount determined by the board, not to exceed the contract price, payable to the district and approved by the board, conditioned on the faithful performance of the obligations, agreements, and covenants of the contract.

(b) The bond must provide that if the contractor defaults on the contract, he will pay to the district all damages sustained as a result of the default. The bond shall be deposited in the district's depository, and a copy of the bond shall be kept in the district's office.

Sec. 66.211. **MONITORING WORK.** (a) The board has control of construction being done for the district under a contract entered into under Section 66.205 of this code and shall determine whether or not the contract is being fulfilled.

(b) The board shall have the construction work inspected by engineers, inspectors, and personnel of the district.

(c) During the progress of the work, the engineers, inspectors, and personnel doing the inspections shall submit to the board written reports that show whether or not the contractor is complying with the contract.

(d) On completion of construction work, the engineers, inspectors, and personnel shall submit to the board a final detailed written report including information necessary to show whether or not the contractor has fully complied with the contract.

Sec. 66.212. **PAYMENT FOR WORK.** (a) The district shall pay the contract price of construction contracts in accordance with this section.

(b) The district will make progress payments under contracts monthly as the work proceeds, or at more frequent intervals as determined by the board.

(c) If requested by the board, the contractor shall furnish an analysis of the total contract price showing the amount included for each principal category of the work, in such detail as requested, to provide a basis for determining progress payments.

(d) In making progress payments, 10 percent of the estimated amount shall be retained until final completion and acceptance of the contract work. However, if the board, at any time after 50 percent of the work has been completed, finds that satisfactory progress is being made, it may authorize any of the remaining progress payments to be made in full. Also, if the work is substantially complete, the board, if it finds the amount retained to be in excess of the amount adequate for the protection of the district, may release to the contractor all or a portion of the excess amount.

(e) On completion and acceptance of each separate project, work, or other division of the contract, on which the price is stated separately in the contract, payment may be made without retention of a percentage.

(f) When work is completed according to the terms of the contract, the board shall draw a warrant on the depository to pay any balance due on the contract.

Sec. 66.213. **CONTRACTS FOR PURCHASE OF VEHICLES, EQUIPMENT, AND SUPPLIES OVER \$10,000.** (a) If the estimated amount of a proposed contract for the purchase of vehicles, equipment, or supplies is more than \$10,000, the board shall ask for competitive bids as provided by Section 66.206 of this code.

(b) This section does not apply to purchases of property from public agencies or to contracts for personal or professional services.

Sec. 66.214. **ENTRY ON LAND.** (a) The directors and the employees of the district may go on any land inside or outside the boundaries of the district to make surveys and examine the land with reference to the location of facilities, and to attend to business of the district.

(b) Before a director or an employee enters on the land, five days' written notice must be given to the landowner.

(c) If any activities of the district on the land cause damages to the land or property, the land or property shall be restored as nearly as possible to its original state. The district shall pay the cost of the restoration.

Sec. 66.215. **RIGHT TO USE ROAD RIGHT-OF-WAY.** The district has a right-of-way along and across all public state or county roads or highways, but the district shall restore the roads and highways crossed, as nearly as possible, to their previous condition of use at the sole expense of the district.

Sec. 66.216. **TRANSFER OF LAND AND FACILITIES.** (a) On completion of all facilities proposed to be built by the district, the district shall transfer title to the land and facilities other than detention ponds to the county or counties in which the land and facilities are located.

(b) Each county that receives transfer of title to land and facilities under Subsection (a) of this section shall maintain those facilities and shall use the land and facilities for the purpose of stormwater retention and detention ponds and for park and recreational areas as authorized for the district.

(c) If another regional flood control project is constructed by the state or a political subdivision of the state, the county may transfer title of the land and facilities transferred to it under this section to the state or to the political subdivision to be used for the purposes for which it was originally acquired or constructed by the district.

(d) A conveyance of land and facilities to the county under this section is made free and clear of all indebtedness of the district.

Sec. 66.217. EFFECT OF TRANSFER. *(a) On conveyance of land and facilities to a county under this subchapter the district is no longer responsible for the land and facilities or their maintenance or upkeep, and the control over the land and facilities is solely in the county to which conveyed.*

(b) Conveyance of land and facilities to a county under this subchapter does not affect the duties and responsibilities of the district to pay in full the principal of and the premium, if any, and interest on any outstanding bonds or other indebtedness of the district and to observe and perform the covenants, obligations, or conditions provided by the orders or resolutions authorizing the bonds or other indebtedness.

(c) Notwithstanding the conveyance of land and facilities to a county under this subchapter, the district is solely responsible and liable for payment in full of the principal of and the premium and interest on any bonds or other indebtedness of the district.

Sec. 66.218. TRANSFER IN PORTIONS. *This subchapter may not be construed as preventing the conveyance of a portion of the land and facilities proposed to be constructed by a district if the district's facilities are constructed in stages.*

[Sections 66.219-66.300 reserved for expansion]

SUBCHAPTER E. GENERAL FISCAL PROVISIONS

Sec. 66.301. 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 more than once in a 24-month period.

Sec. 66.302. ANNUAL AUDIT. *Annually, the board shall have an audit made of the financial condition of the district.*

Sec. 66.303. 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 proposed budget;*
- and*
- (7) the estimated tax rate that will be required.*

Sec. 66.304. AMENDING BUDGET. *After the annual budget is adopted, it may be amended on the board's approval.*

Sec. 66.305. LIMITATION ON EXPENDITURES. *Money may not be spent for an expense not included in the annual budget or an amendment to it unless the board by order declares the expense to be necessary.*

Sec. 66.306. DEPOSITORY. *(a) The board shall name one or more banks to serve as depository for district funds.*

(b) District funds, other than those transmitted to a bank of payment for bonds issued by the district, shall be deposited as received with the depository bank and shall remain on deposit. This section does not limit the power of the board to invest the district's funds as provided by Section 66.307 of this code.

(c) Before the district deposits funds in a bank in an amount that exceeds the maximum amount secured by the Federal Deposit Insurance Corporation, the bank must execute a bond or provide other security in an amount sufficient to secure from loss the district's funds that exceed the amount secured by the Federal Deposit Insurance Corporation.

Sec. 66.307. INVESTMENTS. *(a) Funds of the district may be invested and reinvested by the board or its authorized representative in the following:*

- (1) direct obligations of or obligations guaranteed directly or indirectly by the United States;*
- (2) obligations, debentures, notes, or other evidence of indebtedness issued or guaranteed directly or indirectly by the Association for Cooperatives, Federal Intermediate Credit Banks, Federal Home Loan Association System, Export-Import Association of the United States, Federal Land Banks, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Farmers' Home Administration, Tennessee Valley Authority, Federal Farm Credit System, the Government National Mortgage Association, or successor agencies;*

(3) obligations issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States, or temporary notes, preliminary loan notes, or project notes issued by public agencies or municipalities that are fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States;

(4) direct and general obligations of or obligations guaranteed by the state, the payment of the principal of and interest on which is a general obligation of the State of Texas;

(5) demand deposits or interest-bearing time deposits, certificates of deposit, or other similar banking arrangements that are made with a member of the Federal Deposit Insurance Corporation, or any savings and loan association that is a member of the Federal Savings and Loan Insurance Corporation, provided those time deposits or certificates of deposit, to the extent not insured to their full amount, are fully secured by obligations of the types specified in Subdivision (1), (2), (3), (4), (8), or (9) of this subsection that have a fair market value at least equal at all times to the amount of such deposits;

(6) repurchase agreements with banks that are members of the Federal Deposit Insurance Corporation and with members of the Association of Primary Dealers in United States Government Securities, the underlying securities of which are of the type described in Subdivisions (1) and (2) of this subsection and each of which is fully secured at all times by obligations of the same type that have a fair market value, including accrued interest, at least equal to the amount of the repurchase agreement including accrued interest;

(7) interest-bearing time deposits or repurchase agreements with agencies or intermediaries of the federal government of the United States that are described in Subdivisions (1) and (2) of this subsection;

(8) obligations of this state, any other state within the United States, any nonprofit corporation, or any instrumentality of this state, any other state, or any nonprofit corporation, provided that at the time of their purchase under the indenture, those obligations are rated in one of the two highest letter-rating categories by a nationally recognized securities credit rating agency; and

(9) obligations issued by political subdivisions or municipalities of this state, any other state within the United States, any nonprofit corporation, or any instrumentality of this state, any other state, or any nonprofit corporation, that are rated in one of the two highest letter-rating categories by a nationally recognized securities credit rating agency.

(b) Funds of the district may be placed in certificates of deposit of state or national banks or state or federal savings and loan associations within the state provided that the funds are secured in the manner required for the security of the funds of counties of the state.

(c) 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 terms the board considers advisable.

Sec. 66.308. PAYMENT OF EXPENSES. (a) The district's directors may pay all costs and expenses necessarily incurred in the creation, organization, and operation of the district, legal fees, and other incidental expenses and may reimburse any person for money advanced for those purposes.

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

Sec. 66.309. BORROWING MONEY. The district may borrow money for any purpose authorized under this chapter or any combination of those purposes.

Sec. 66.310. ISSUANCE OF BONDS. (a) The board may issue and sell bonds in the name of the district to acquire land and construct facilities as provided by this chapter.

(b) Bonds issued by a district and projects and improvements of the district that are provided through the issuance of bonds are governed by Sections 54.516 and 54.517 of this code.

Sec. 66.311. MANNER OF REPAYMENT OF BONDS. The board may provide for the payment of the principal of and interest on the bonds from the levy and collection of property taxes on all taxable property within the district.

Sec. 66.312. BOND ELECTION. (a) Bonds may not be issued by the district until authorized by a majority vote of individuals qualified to vote and actually voting in the area within the boundaries of the district at an election called and held for that purpose.

(b) The board may order a bond election, and the order calling the election must 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 to be authorized, and the maximum maturity of the bonds.

(c) Notice of a bond election must be given as provided by Section 66.024 of this code for the confirmation and directors' election.

(d) At an election to authorize bonds, the ballots must be printed to provide for voting for or against the issuance of bonds and the levy of property taxes for payment of the bonds.

(e) 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, the bonds may be issued by the board, but if a majority of the votes cast at the election do not favor issuance of the bonds, the bonds may not be issued.

Sec. 66.313. **FORM OF BONDS.** (a) The district may issue its bonds in various series or issues.

(b) Bonds may 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 this state.

(c) The district's bonds and interest coupons, if any, are investment securities under the terms of Chapter 8 of the Business & Commerce Code and may be issued registrable as to principal or as to both principal and interest or may be issued in book entry form and may be made redeemable before maturity at the option of the district or may contain a mandatory redemption provision.

(d) The district's bonds 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.

Sec. 66.314. **PROVISIONS OF BONDS.** (a) In the orders or resolutions authorizing the issuance of bonds, 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 and may make additional covenants with respect to the bonds and the pledged fees.

(b) The orders or resolutions of the board authorizing the issuance of bonds may also prohibit the further issuance of bonds or other obligations payable from the pledged fees or may reserve the right to issue additional bonds to be secured by a pledge of and payable from the fees on a parity with or subordinate to the pledge in support of the bonds being issued.

(c) The orders or resolutions of the board issuing bonds may contain other provisions and covenants as the board may determine.

(d) The board may adopt and have executed any other proceedings or instruments necessary and convenient in connection with the issuance of bonds.

Sec. 66.315. **APPROVAL BY ATTORNEY GENERAL; REGISTRATION BY COMPTROLLER.** (a) Bonds issued by the district and the records relating to their issuance must be submitted to the attorney general for examination.

(b) If the attorney general finds that the bonds have been authorized in accordance with law, he shall approve them, and they shall be registered by the comptroller of public accounts.

(c) After the approval and registration of bonds, the bonds 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.

Sec. 66.316. **REFUNDING BONDS.** Refunding bonds may be issued for the purposes and in the manner provided by general law including Chapter 503, Acts of the 54th Legislature, Regular Session, 1955 (Article 717k, Vernon's Texas Civil Statutes), and Chapter 784, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-3, Vernon's Texas Civil Statutes).

Sec. 66.317. **BONDS AS INVESTMENTS.** District bonds 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.

Sec. 66.318. **BONDS AS SECURITY FOR DEPOSITS.** District bonds 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 are lawful and sufficient security for deposits to the extent of their value when accompanied by all unmatured coupons.

Sec. 66.319. **MANDAMUS BY BONDHOLDERS.** In addition to all other rights and remedies provided by law, if the district defaults in the payment of principal, interest, or redemption price on its bonds when due or if it fails to make payments into any fund or funds created in the orders or resolutions authorizing the issuance of the bonds or defaults in the observation or performance of any other covenants, conditions, or obligations set forth in the orders or resolutions authorizing the

issuance of its bonds, the owners of any of the bonds are entitled to a writ of mandamus issued by a court of competent jurisdiction compelling and requiring the district and its officials to observe and perform the covenants, obligations, or conditions prescribed in the orders or resolutions authorizing the issuance of the district's bonds.

Sec. 66.320. **APPLICATION OF OTHER LAWS.** Bonds of the district are considered bonds under the Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes).

Sec. 66.321. **TAX STATUS OF BONDS.** Since a district created under this chapter is a public entity performing an essential public function, bonds issued by the district, any transaction relating to the bonds, and profits made in the sale of the bonds are free from taxation by the state or by any city, county, special district, or other political subdivision of the state.

Sec. 66.322. **LEVY OF TAXES.** The board may annually levy taxes in the district to pay the principal of and interest on bonds issued by the district and the expense of assessing and collecting taxes.

Sec. 66.323. **OPERATING TAX.** On approval of a majority of the voters in the district at an election called for that purpose, the district may levy and collect an operating tax in the district to pay operating expenses of the district. The operating tax election shall be held in the manner provided by Subchapter B of this chapter for the confirmation and directors' election.

Sec. 66.324. **BOARD AUTHORITY.** (a) The board may levy taxes for the entire year in which the district is created.

(b) The board shall levy taxes on all property within the boundaries of the district subject to district taxation.

Sec. 66.325. **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.

Sec. 66.326. **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.

[Sections 66.327-66.400 reserved for expansion]

SUBCHAPTER F. DISSOLUTION

Sec. 66.401. **PETITION FOR DISSOLUTION.** After a district has completed all construction of facilities provided in the plan and conveyed those facilities to the designated counties and after all bonds and other indebtedness of the district are paid in full, the district shall submit to the commission a petition for dissolution accompanied by such evidence as the commission requires in its rules or by order to show that the plan prepared and adopted in accordance with Section 66.202 of this chapter has been carried out and all bonds and other indebtedness have been paid in full.

Sec. 66.402. (a) After considering the petition and the accompanying evidence, if the commission finds that the work is completed according to the plan and the facilities have been conveyed and that all bonds and other indebtedness have been retired, the commission shall order the district dissolved.

(b) If the commission finds that the work has not been completed according to the plan, that all facilities have not been conveyed, or that all bonds and other indebtedness have not been retired, the commission shall issue an order that will ensure that the work is completed by the district, all conveyances are made, and all debt will be retired, and on compliance with this order shall issue an order dissolving the district.

Sec. 66.403. **DISTRIBUTION OF ASSETS.** (a) If at the time a district is dissolved, the district has any surplus funds in any of its accounts, the board shall transfer those funds to the county that assumes jurisdiction over the facilities conveyed by the district, and the county receiving the funds shall use those funds to maintain the facilities conveyed.

(b) If more than one county assumes jurisdiction over district facilities, the board shall transfer the funds to each county based on the proportion of the proceeds of all indebtedness incurred by the district to acquire the land and construct the facilities conveyed to that county.

Sec. 66.404. **EFFECT OF COMMISSION ORDER.** On the issuance of the order of dissolution by the commission, the dissolved district ceases to exist as a governmental entity, and the board shall continue in existence only for the purpose of transferring district funds and disposing of district assets.

SECTION 2. This Act takes effect on September 1, 1985.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 17, 1985, by a non-record vote; passed by the Senate on May 24, 1985, by the following vote: Yeas 29, Nays 0.

Approved: June 14, 1985

Effective: September 1, 1985