

CHAPTER 447

H.B. No. 181

An Act relating to the creation, administration, powers, duties, operations, and financing of special utility districts, the addition of land to and exclusion of land from special utility districts, and the consolidation and dissolution of those districts.

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

SECTION 1. Chapter 65, Water Code, is reenacted to read as follows:

CHAPTER 65. SPECIAL UTILITY DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 65.001. DEFINITIONS. In this chapter:

- (1) "District" means a special utility district operating under this chapter.
- (2) "Board" means the board of directors of a district.
- (3) "Director" means a member of the board of directors of a district.
- (4) "Commission" means the Texas Water Commission.
- (5) "Executive director" means the executive director of the Texas Department of Water Resources.

(6) "Public agency" means any city, the United States and its agencies, the State of Texas and its agencies, and any district or authority created under Article XVI, Section 59, or Article III, Sections 52(b)(1) and (2), of the Texas Constitution.

(7) "City" means any incorporated city or town.

(8) "Extraterritorial jurisdiction" means the extraterritorial jurisdiction of a city as defined in the Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes).

(9) "Sole expense" means the actual cost of relocating, raising, lowering, rerouting, changing grade, or altering the construction to provide comparable replacement without enhancing the facility, after deducting the net salvage value derived from the old facility.

(10) "Water supply corporation" means any member-owned, consumer-owned water supply corporation created and operating under Chapter 76, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 1434a, Vernon's Texas Civil Statutes), that on or before January 1, 1985, was providing the services of a water supply corporation under a certificate of convenience and necessity issued by the Public Utility Commission of Texas.

[Sections 65.002-65.010 reserved for expansion]

SUBCHAPTER B. CREATION OF DISTRICT; CONVERSION OF DISTRICT

Sec. 65.011. CREATION OF DISTRICT. A special utility district may be created under and subject to the authority, conditions, and restrictions of, and is considered a conservation and reclamation district under Article XVI, Section 59, of the Texas Constitution.

Sec. 65.012. PURPOSES OF DISTRICT. A district may be created for the following purposes:

(1) to purchase, own, hold, lease, and otherwise acquire sources of water supply; to build, operate, and maintain facilities for the transportation of water; and to sell water to towns, cities, and other political subdivisions of this state, to private business entities, and to individuals;

(2) the establishment, operation, and maintenance of fire-fighting facilities to perform all fire-fighting activities within the district; and

(3) the protection, preservation, and restoration of the purity and sanitary condition of water within the district.

Sec. 65.013. COMPOSITION OF DISTRICT. (a) A district may include the area in all or part of any one or more counties including all or part of any cities and other public agencies.

(b) The land composing a district is not required to be contiguous, but may consist of separate bodies of land separated by land that is not included in the district.

Sec. 65.014. CERTIFIED RESOLUTION SEEKING CREATION OF DISTRICT. (a) If creation of a district is proposed by a water supply corporation, a certified copy of a resolution requesting creation must be filed with the commission.

(b) The resolution shall be signed by the president and secretary of the board of directors of a water supply corporation and shall state that the water supply corporation, acting through its board of directors, has found that it is necessary and desirable for the water supply corporation to be converted into a district.

Sec. 65.015. CONTENTS OF RESOLUTION. In addition to the requirements stated in Section 65.014 of this code, the resolution shall:

(1) describe 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, or by any other commonly recognized means in a certificate attached to the resolution executed by a registered professional engineer;

(2) state the general nature of the services presently performed by the water supply corporation, the general nature of the services proposed to be provided by the district, and the necessity for the services provided by the district;

(3) include a name of the district that is generally descriptive of the location of the district followed by the words special utility district, but may not be the same name as any other district in the same county; and

(4) include the names of not less than five and not more than 11 qualified persons to serve as the initial board of directors of the district.

Sec. 65.016. CONSENT OF CITY. A district may operate within the corporate limits of a city or within the extraterritorial jurisdiction of a city, provided that a city may require that the district construct all facilities to serve the land in accordance with plans and specifications that are approved by the city. The city may also require that the city be entitled to inspect facilities being constructed by a district within the corporate limits or extraterritorial jurisdiction of the city.

Sec. 65.017. DEPOSIT. (a) A resolution filed with the commission must be accompanied by a deposit of \$250 that is paid to the commission for use by the state, and no part of the deposit may be returned except as provided by Subsection (d) of this section.

(b) The deposit shall be deposited with the state treasurer to be held in a special trust account until the commission either grants or denies the request to allow the water supply corporation to convert into a district.

(c) On granting or denying the request, the commission shall direct the state treasurer to transfer the deposit from the special trust account to the general revenue fund.

(d) If at any time before the hearing on the resolution the board of directors that submitted the resolution desires to withdraw the resolution, the commission shall direct the refund of the deposit to the board of directors or to its attorney of record, whose receipt for the deposit is sufficient evidence of refund.

Sec. 65.018. ESTABLISHING DATE OF HEARING. (a) On the filing of a resolution, the commission shall set a date, time, and place at which the resolution will be heard and shall issue notice of the date, time, and place of hearing.

(b) The notice shall inform all persons of their right to appear and present evidence and testify for or against the material included in the resolution, the form of the resolution, the necessity and feasibility of the water supply corporation's request for conversion, and the benefits to accrue from conversion.

Sec. 65.019. NOTICE OF HEARING. (a) Notice of the hearing must be published in a newspaper with general circulation in each county in which the district is located once a week for two consecutive weeks. The first publication must be at least 14 days before the date set for the hearing.

(b) Notice of the hearing shall also be given by mailing a copy of the notice to the Public Utility Commission of Texas and to each city that has extraterritorial jurisdiction in a county in which the proposed district is to be located and that has formally requested notice of the creation of all districts in that county.

(c) The request by a city for notice of any hearing on the creation of a district must be filed annually with the commission during January. The request shall state the names of not more than two persons who are to receive the notice on behalf of the city and the mailing addresses of those persons.

(d) A certificate of a representative of the commission that shows notice was mailed to each city that has extraterritorial jurisdiction in a county in which the proposed district is to be located and that has formally requested notice is conclusive evidence that notice was properly mailed to each city.

Sec. 65.020. HEARING. (a) At the hearing, the commission shall examine the resolution to determine if it is sufficient, and any person interested may appear before the commission in person or by attorney and offer testimony on the sufficiency of the resolution and whether or not the request for conversion is feasible and practicable and is necessary and would be a benefit to all or any part of the land proposed to be included in the district.

(b) The commission has jurisdiction to determine all issues on the sufficiency of the resolution and the creation of the district.

(c) The hearing may be adjourned from day to day, and the commission may make all incidental orders necessary with respect to the matters before it.

Sec. 65.021. GRANTING OR REFUSING CREATION OF DISTRICT. (a) After the hearing on the resolution, if the commission finds that the resolution conforms to the requirements of Section 65.015 of this code and that the request for conversion is feasible and practicable and is necessary and would be a benefit to the land proposed to be included in the district, the commission shall make these findings in an order and shall authorize the creation of the district on approval at the confirmation and directors' election called and held under this subchapter.

(b) In determining if the request for conversion is feasible and practicable and if it is necessary and would be a benefit to the land included in the district, the commission shall consider:

- (1) the availability of comparable service from other systems, including water districts, municipalities, and regional authorities;
- (2) the reasonableness of projected construction costs, if any, tax rates, and water and sewer rates; and
- (3) whether or not the district and its system and subsequent development within the district will have an unreasonable effect on the following:
 - (A) land elevation;
 - (B) subsidence;
 - (C) groundwater level within the region;

- (D) recharge capability of a groundwater source;
- (E) natural runoff rates and drainage; and
- (F) water quality.

(c) If the commission finds that not all of the land proposed to be included in the district will be benefited by the creation of the district, the commission shall formally make this finding and shall exclude all land that is not benefited from the proposed district and shall redefine the proposed district's boundaries accordingly.

(d) If the commission finds that the resolution does not conform to the requirements of Section 65.015 of this code or that the request for conversion is not feasible, practicable, necessary, or a benefit to the land in the district, the commission shall make this finding in its order and shall deny the creation of the district.

(e) A copy of the order of the commission granting or denying the request for conversion stated in the resolution must be mailed to each city that has extraterritorial jurisdiction in a county in which the proposed district is located and that requested notice of hearing as provided by Section 65.019 of this code.

Sec. 65.022. TEMPORARY DIRECTORS. If the commission authorizes the creation of the district, it shall appoint those persons whose names are listed in the resolution filed with the commission by the water supply corporation to serve as temporary directors until initial directors are elected as provided by this subchapter.

Sec. 65.023. APPEAL FROM ORDER OF COMMISSION. A city or a person who appeared in person or by attorney and offered testimony for or against the creation of the district, may appeal from the order of the commission authorizing or refusing the creation of the district. The appeal must be made within 30 days after the entry of the order.

Sec. 65.024. QUALIFICATION AND ORGANIZATION OF TEMPORARY DIRECTORS. On appointment, each temporary director shall execute his bond as provided by Section 65.116 of this code and shall take his oath of office, and the board shall meet and organize.

Sec. 65.025. CONFIRMATION AND DIRECTORS' ELECTION. On the first available uniform election date following the commission's order approving creation of the district, an election must be held within the boundaries of the proposed district to determine if the proposed district will be created and to elect initial members to the board of directors.

Sec. 65.026. NOTICE OF CONFIRMATION AND DIRECTORS' ELECTION. (a) The temporary board shall give notice of the confirmation and directors' election.

(b) The notice must include the date and place or places for holding the election, the creation proposition, and a statement that directors are to be elected for the district.

(c) The notice must be published once a week for two consecutive weeks in a newspaper with general circulation in each county in which the proposed district is to be located. The first publication of notice must be at least 14 days before the date set for the election.

Sec. 65.027. ELECTION BALLOT. (a) The ballot for the election shall be printed to provide for voting for or against: "Creation of the district."

(b) The names of the temporary directors shall be printed on the ballot as candidates for membership on the board.

(c) Each person voting at the election may vote for not more than a total number of candidates that is equal to the number of persons that are serving on the temporary board.

Sec. 65.028. ELECTION RESULTS. (a) Immediately after the confirmation and directors' election, the presiding judge for each voting place shall make returns of the results of the election to the temporary board.

(b) The temporary board shall canvass the returns and, by order, shall declare the results of the election at the earliest practicable time.

(c) If a majority of the qualified voters voting at the election votes to create the district, the temporary board shall declare the district created. If a majority of the qualified voters voting at the election votes against creation of the district, the temporary board shall declare the district not to be created.

(d) If the temporary board declares the district created, it shall also declare to be elected as the initial directors of the district the appropriate number of persons receiving the highest number of votes. The appropriate number is the number of members of the temporary board.

(e) The temporary board shall file a copy of its order declaring the election results in its minutes and also shall file copies with the executive director and in the deed records of each county in which the district is located or was to be located.

Sec. 65.029. SUPERVISION BY COMMISSION. The rights, powers, privileges, authority, and functions conferred on a district by creating the district are subject to the continuing right of supervision of the state to be exercised by and through the commission and the executive director.

[Sections 65.030-65.100 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

Sec. 65.101. **BOARD OF DIRECTORS.** A district is governed by a board of not less than five and not more than 11 directors.

Sec. 65.102. **QUALIFICATIONS FOR DIRECTORS.** To be qualified to serve as a director, a person must be:

- (1) at least 18 years old;
- (2) a resident citizen of this state; and
- (3) either own land subject to taxation in the district, be a user of the facilities of the district, or be a qualified voter of the district.

Sec. 65.103. **ELECTION OF DIRECTORS; TERMS OF OFFICE.** (a) The persons receiving the highest number of votes at each election shall serve as directors of the district.

(b) The terms of the directors may run concurrently, or may be staggered, but in any event, the term of office of a director may not exceed three years.

(c) The method for determining the initial terms for each of the directors constituting the initial board shall be determined by the temporary directors, and the terms must be clearly stated on the ballot for the confirmation and directors' election. At subsequent elections in each following year in which there is an election, the election must be held on the same uniform election date as the confirmation and directors' election, and the terms of the directors being elected must be stated on the ballot.

(d) The election of directors must be held in a district on one of the dates provided by Section 9b, Texas Election Code (Article 2.01b, Vernon's Texas Election Code).

(e) The permanent directors may assign a position number to each director's office, and each director subsequently shall be elected by position and not at large.

Sec. 65.104. **APPLICATION TO GET ON BALLOT.** (a) Except for the first elected board of directors, a candidate for the office of director must file with the secretary of the board of directors or any agent who may be designated by the board his application to have his name printed on the ballot.

(b) An application must be signed by a candidate or by 10 qualified voters of the district and must be filed at least 31 days before the election.

Sec. 65.105. **VACANCIES ON BOARD.** (a) A vacancy in the office of director or any office on the board shall be filled by appointment of the board for the unexpired term.

(b) If at any time the number of qualified directors is less than three because of the failure or refusal of one or more directors to qualify or serve, because of death, or incapacitation, or for any other reason, the commission, on the petition of any landowner in the district, shall appoint the necessary number of directors to fill vacancies on the board.

Sec. 65.106. **ORGANIZATION OF BOARD; ELECTION OF OFFICERS.** After the issuance of the order by the commission creating the district, and after the directors elected at each election have qualified by executing a bond and taking the oath of office, the board shall organize by electing a president, a vice-president, a secretary, and any other officers that are considered necessary by the board.

Sec. 65.107. **QUORUM; OFFICERS' DUTIES.** (a) A majority of the directors constitutes a quorum for the transaction of business, and each director is entitled to a vote.

(b) The district shall act and proceed by and through resolutions adopted by the board, and the affirmative vote of a majority of the directors present is necessary to adopt a resolution.

(c) The president shall preside at all meetings of the board and is the chief executive officer of the district. The vice-president shall act as president in the absence or on disability of the president.

(d) The secretary shall act as president if both the president and vice-president are absent or disabled. The secretary shall act as secretary of the board and is responsible for the proper keeping of records, books, and accounts of the district.

(e) The board may appoint a director, the general manager, or an employee as assistant or deputy secretary to assist the secretary, and that person is entitled to certify the authenticity of any record of the district, including proceedings relating to bonds, contracts, or indebtedness of the district.

Sec. 65.108. **BYLAWS.** The board may adopt bylaws to govern:

- (1) the time, place, and manner of conducting its meetings;
- (2) the powers, duties, and responsibilities of its officers and employees;
- (3) the disbursement of funds by checks, drafts, and warrants;
- (4) the appointment and authority of director committees;
- (5) the keeping of records, books, and accounts; and

(6) other matters that the board considers appropriate.

Sec. 65.109. MEETINGS AND NOTICE. (a) The board may establish regular meetings to conduct district business and may hold special meetings at other times as the business of the district requires.

(b) The board shall hold its meetings within the district unless the board by a majority vote at a public meeting votes to hold the meetings outside the district.

(c) Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), is applicable to meetings of the board of directors.

Sec. 65.110. DISTRICT OFFICE AND MEETING PLACE. (a) The board shall designate and establish a district office and meeting place within the district, and the board may also establish a meeting place outside the district. Either or both district meeting places may be a private residence or office provided the board in its order establishing the meeting place declares it to be a public place and invites the public to attend any meeting of the board.

(b) If the board establishes a meeting place outside the district, it shall give notice of the location by filing a copy of the resolution establishing the location of the district office with the commission and also by publishing notice of the location in a newspaper of general circulation in each county in which the district is located. If the location of the meeting place outside the district is changed, notice of the change must be given in the same manner.

Sec. 65.111. MANAGEMENT OF DISTRICT. (a) The board of directors shall have control over and management of all the affairs of the district and shall employ all persons considered necessary by the board for the conduct of the affairs of the district, including engineers, attorneys, financial advisors, a general manager, a utility operator, bookkeepers, auditors, and secretaries.

(b) The board shall determine the terms of service and the compensation of employees and consultants by contract or by resolution of the board.

(c) Employees may be dismissed by the board or the designated manager of the district.

(d) The board may require a bond of any officer or employee payable to the district and conditioned on the faithful performance of his duties.

Sec. 65.112. SUPPLIES. The board is entitled to purchase all materials, supplies, equipment, vehicles, and machinery needed by the district.

Sec. 65.113. SEAL. The directors shall adopt a seal for the district.

Sec. 65.114. FEES OF OFFICE. (a) Each director is entitled to receive as fees of office not less than \$25 nor more than \$100 per month for each month of service as determined by the board.

(b) The fees may not exceed \$100 in any one month regardless of the number of days of necessary service during that month.

(c) On approval by the board, a director may be reimbursed for travel or other expenses incurred on behalf of the district on presentation to the board of a verified statement.

Sec. 65.115. DIRECTOR NOT TO BE EMPLOYEE OF DISTRICT. A director may not be employed by the district.

Sec. 65.116. BOND AND OATH OF OFFICE. (a) Each director shall take the oath of office prescribed by the constitution for public officers.

(b) As soon as practicable, each director appointed as an officer shall execute a bond in an amount established by the board payable to the district and conditioned on the faithful performance of his duties as stated in the bylaws of the district.

(c) Each bond of a director must be approved by the board.

(d) The bond and oath must be filed with the district and retained in its records.

Sec. 65.117. RECORDS. (a) Original minutes and orders of the board, construction contracts and related instruments, bonds of the district's board, and bonds of the district's officers and employees shall be kept in a safe place and maintained as permanent records of the district.

(b) Minutes and orders of the board may not be destroyed.

(c) All records necessary for the district's annual audits and necessary to comply with the terms of its bond orders or resolutions must be retained for at least one full year after the expiration of the preceding fiscal year.

(d) A district contract, other than a construction contract, and the records relating to it must be retained for at least four years after the performance of the contract.

(e) Except as specifically provided by this section, a district's records may be destroyed if the board determines that the records are no longer needed or useful. If district records are to be destroyed, the board shall designate the person to destroy them and the manner of the destruction. If the board considers it advisable, it may have any instruments to be destroyed inventoried or microfilmed before they are destroyed.

Sec. 65.118. SUITS. (a) A district created under this chapter is a governmental agency and a body politic and corporate and is declared to be a defined district within the meaning of Article XVI, Section 59, of the Texas Constitution and may, through its directors, sue and be sued in any court of this state in the name of the district. Service of process in a suit may be accomplished by serving any two directors.

(b) The courts of this state shall take judicial notice of the establishment of any districts.

Sec. 65.119. CONTRACTS. A district shall contract and be contracted with in the name of the district.

Sec. 65.120. ELECTIONS. (a) Unless otherwise provided, notice of an election ordered by the board shall be given by publication once a week for two consecutive weeks with the first publication in a newspaper with general circulation in each county in which a district is located for at least 14 days before the date of the election.

(b) Notice of the election also shall be posted in two public places in the district at least 14 days before the date of the election.

(c) Each clerk for absentee voting is not required to be a resident or qualified voter in the district.

Sec. 65.121. EMPLOYEE BENEFITS. (a) The board may provide for and administer a retirement, disability, and death compensation fund for the officers and employees of the district and may adopt plans to carry out the purpose of this section, including the forms of insurance and annuities that are considered advisable by the board. The board, after notice to the employees and a hearing, may change any plan or rule.

(b) Money provided from the compensation of the officers and employees participating in the fund and plan authorized by this section and by the district for the retirement, disability, and death compensation fund, after the money has been received by the district, shall be invested as the board considers advisable.

(c) The money may be invested in the following manner:

(1) in bonds of the United States, this state, any county, city, or other political subdivision of this state, or in bonds issued by any agency of the United States, the payment of the principal of and interest on which is guaranteed by the United States; and

(2) in life insurance policies, endowment or annuity contracts, or interest-bearing certificates of legal reserve life insurance companies authorized to write those contracts in this state.

(d) A sufficient amount of the money shall be kept on hand to meet the immediate payment of amounts likely to become due each year out of the fund as determined by the board.

(e) The recipients or beneficiaries from the fund are not eligible for any other pension, retirement fund, or direct aid from this state, unless the fund created under this section is released to this state as a condition precedent to receiving the other pension, aid, or membership in any other system.

(f) The board may include hospitalization and medical benefits to their officers and employees as part of the compensation currently 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.

Sec. 65.122. WORKERS' COMPENSATION. The board may also become a subscriber under the workers' compensation law.

[Sections 65.123-65.200 reserved for expansion]

SUBCHAPTER D. GENERAL POWERS AND DUTIES

Sec. 65.201. POWERS. (a) A district has the functions, powers, authority, and rights that will permit accomplishment of the purposes for which it is created.

(b) A district may purchase, construct, acquire, own, operate, maintain, repair, improve, or extend inside and outside its boundaries any works, improvements, facilities, plants, equipment, and appliances necessary to accomplish the purposes for which it was created, including works, improvements, facilities, plants, equipment, and appliances incident, helpful, or necessary to:

(1) supply water for municipal uses, domestic uses, power and commercial purposes, and other beneficial uses or controls;

(2) collect, transport, process, dispose of, store, and control domestic, industrial, or communal wastes whether in fluid, solid, or composite state;

(3) gather, conduct, divert, and control local storm water or other local harmful excesses of water in the district;

(4) irrigate the land in a district;

(5) alter land elevation in a district where it is needed; and

(6) provide fire-fighting services for the inhabitants of the district.

Sec. 65.202. **ACQUISITION OF EXISTING FACILITIES.** If a district acquires existing works, improvements, facilities, plants, equipment, and appliances, including those works, improvements, facilities, plants, equipment, and appliances owned by the district's predecessor water supply corporation, that are completed, partially created, or under construction, a district may assume the contracts and obligations of the previous owner and perform the obligations of the previous owner in the same manner and to the same extent that any other purchaser or assignee would be bound.

Sec. 65.203. **SOLID WASTE.** A district may collect solid waste and may purchase, construct, acquire, own, operate, maintain, repair, improve, and extend a solid waste collection and disposal system inside and outside the district and may make proper charges for its facilities or services provided by the system.

Sec. 65.204. **FEES AND CHARGES.** (a) A district may adopt and enforce necessary charges, including standby charges, fees, or rentals, for providing any district facilities or services.

(b) A district may require a deposit for any services or facilities furnished, and the district may or may not provide that the deposit will bear interest.

(c) A district may discontinue a facility or service to prevent an abuse or enforce payment of an unpaid charge, fee, or rental due to the district.

Sec. 65.205. **ADOPTING RULES.** A district may adopt and enforce reasonable rules to:

- (1) secure and maintain safe, sanitary, and adequate plumbing installations, connections, and appurtenances as subsidiary parts of its sanitary sewer system;
- (2) preserve the purity and the sanitary condition of all water controlled by the district;
- (3) prevent waste or the unauthorized use of water controlled by the district;
- (4) regulate privileges on any land or easement owned or controlled by the district;
- (5) provide and regulate a safe and adequate freshwater distribution system; and
- (6) ensure adequate safeguards in the performance of the district's fire-fighting activities.

Sec. 65.206. **EFFECT OF RULES.** After the required publication, rules adopted by the district under Section 65.205 of this code shall be recognized by the courts as if they were penal ordinances of a city.

Sec. 65.207. **PUBLICATION OF RULES.** (a) The board shall publish a substantive statement of each rule and the penalty for its violation once a week for two consecutive weeks in one or more newspapers with general circulation in the area in which the district is located.

(b) The substantive statement shall be condensed as far as possible to intelligently explain the purpose to be accomplished or the act forbidden by each rule.

(c) The notice must advise that breach of a rule will subject the violator to a penalty and that the full text of each rule is on file in the principal office of the district at which it may be read by any interested person.

(d) Any number of rules may be included in one notice.

Sec. 65.208. **EFFECTIVE DATE OF RULES.** The penalty for violation of a rule is not effective and enforceable until five days after the last publication of the notice. Five days after the last publication, the published rule takes effect and ignorance of the rule is not a defense to a prosecution for the enforcement of the penalty.

Sec. 65.209. **PENALTIES FOR VIOLATION OF RULES.** (a) The board may set reasonable penalties for the breach of any rule of the district, but the board may not set a penalty that provides a fine of more than \$200 or confinement in the county jail for more than 30 days, or both the fine and confinement.

(b) 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 is located.

Sec. 65.210. **ENFORCEMENT BY PEACE OFFICERS.** A district may employ its own peace officers with power to:

- (1) make arrests when necessary to prevent or abate the commission of any offense against the rules of the district and against the law of this state if the offense or threatened offense occurs on any land, water, or easement owned or controlled by the district; and
- (2) make an arrest in case of an offense involving injury or detriment to any property owned or controlled by the district.

Sec. 65.211. **ACQUISITION OF PROPERTY.** (a) A district may acquire land, materials, waste grounds, easements, rights-of-way, and other property considered necessary by the board to accomplish any one or more of the purposes provided by this chapter.

(b) A district may acquire property by gift, grant, or purchase, and the right to acquire property includes property considered necessary for the construction, improvement, extension,

enlargement, operation, or maintenance of the works, improvements, facilities, plants, equipment, or appliances of a district.

(c) A district may acquire either the fee simple title to or an easement on public or private land either inside or outside the district and may acquire the title to or an easement on property other than land held in fee.

(d) A district may also lease property on terms and conditions the board determines to be advantageous to the district.

Sec. 65.212. EMINENT DOMAIN. (a) A district may acquire any land, easement, or other property inside the district and may acquire any land, easement, or other property outside the district solely for sewer, water, storm drainage, and flood drainage connections when necessary by condemnation. The district also may elect to condemn either the fee simple title or an easement only.

(b) Except as specifically provided by this section, the right of eminent domain may be exercised in the manner provided in Chapter 21, Property Code, except that a district is not required to give bond for appeal or bond for costs in any 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) The proceedings must be instituted under the direction of the board and in the name of the district.

Sec. 65.213. COSTS OF RELOCATION OF PROPERTY. If the district, in the exercise of the power of eminent domain or power of relocation, or any other power, makes necessary the relocation, raising, lowering, rerouting, or changing the grade of, or altering the construction of, any highway, railroad, electric transmission or distribution line, telephone or telegraph properties and facilities, or pipeline, the necessary relocations, raising, lowering, rerouting, changing of grade, or alteration of construction must be accomplished at the sole expense of the district.

Sec. 65.214. SALE OF SURPLUS LAND. Any property or land owned by the district that may be found to be surplus and not needed by the district may be sold by order of the board either at a public or private sale or the land may be exchanged for other land.

Sec. 65.215. LEASES. A district may lease to any person all or any part of any facilities constructed or acquired or to be constructed or acquired by it. A lease may include the terms and provisions that the board determines to be advantageous to the district.

Sec. 65.216. RIGHT TO USE ROAD RIGHT-OF-WAY. A district is granted right-of-way along and across any public, state, or county road or highway, but the district shall restore the road crossed to its previous condition of use, as nearly as possible, at the sole expense to the district.

Sec. 65.217. CONTRACTS. (a) A district may enter into a contract with any person for the joint ownership and operation of any works, improvements, facilities, plants, equipment, and appliances necessary to accomplish any purpose or function of the district, or a district may purchase an interest in any project used for any purpose or function of the district.

(b) A district may enter into contracts with any person in the performance of any purpose or function of the district.

(c) Without limiting the authority granted by Subsections (a) and (b) of this section, a district may enter into contracts with any person on the terms and conditions the board considers desirable, fair, and advantageous for:

- (1) the purchase and sale of water;
- (2) the collection, transportation, treatment, storage, and disposal of the district's domestic, industrial, and communal wastes or the collection, transportation, treatment, and disposal of domestic, industrial, and communal wastes of other persons;
- (3) the gathering, diverting, and control of local storm water, or other local harmful excess of water;
- (4) the continuing and orderly development of the land and property within the district through the purchase, construction, or installation of works, improvements, facilities, plants, equipment, and appliances that the district may be authorized to do or perform so that, to the greatest extent reasonably possible, considering sound engineering and economic practices, all of the land and property may be placed in a position to ultimately receive the services of the works, improvements, facilities, plants, equipment, and appliances of the district;
- (5) the maintenance and operation of any works, improvements, facilities, plants, equipment, and appliances of the district or of another person;
- (6) the collection, treatment, and disposal of solid wastes collected inside or outside the district; and
- (7) the exercise of any other rights, powers, and duties granted to a district.

Sec. 65.218. SOURCE OF CONTRACTUAL PAYMENTS. A contract may provide that the district will make payment under the contract from proceeds from the sale of notes or bonds or from any income of the district or any combination of these sources of payment.

Sec. 65.219. CONTRACTS FOR MATERIALS, MACHINERY, AND CONSTRUCTION OF MORE THAN \$25,000. (a) The board shall seek bids for a contract that requires the expenditure of \$25,000 or more for the purchase of materials, machinery, and all things to constitute the works, improvements, facilities, plants, equipment, and appliances of the district or for construction.

(b) The board shall advertise the letting of a contract, including the general conditions, time, and place of opening of sealed bids.

(c) The notice for bids shall be published in one or more newspapers with general circulation in the state and one or more newspapers published in each county in which the district is located. If there are more than four counties in the district, notice may be published in any newspaper with general circulation in the district. If no newspaper is published in the county or counties in which the district is located, publication in one or more newspapers with general circulation in the state is sufficient.

(d) The notice shall be published once a week for the two consecutive weeks immediately preceding the date on which the bids are to be opened.

(e) A contract may cover all of the improvements to be provided by the district or the various elements of the improvements may be segregated for the purpose of receiving bids and awarding contracts. A contract may provide that the improvements will be constructed in stages over a period of years.

(f) A contract may provide for the payment of a total sum that is the completed cost of the improvement or may be based on bids to cover the cost of units of the various elements entering into the work as estimated and approximately specified by the district's engineers, or a contract may be awarded in any other form or composite of forms and to any responsible person or persons that, in the board's opinion, will be most advantageous to the district and result in the best and most economical completion of the district's proposed plants, improvements, facilities, works, equipment, and appliances.

Sec. 65.220. ADDITIONAL WORK; CHANGE ORDERS. After a contract is awarded and the district determines that additional work is needed or that the character or type of work or facilities should be changed, the board may authorize change orders to the contract on terms the board may approve.

Sec. 65.221. CONSTRUCTION BIDS. (a) A person who desires to bid on proposed construction work shall submit to the board a written sealed bid together with a certified or cashier's check on a responsible bank in the state or a bidder's bond for at least two percent of the total amount of the bid.

(b) Bids shall be opened at the same time, and the board may reject any or all of the bids.

(c) If the successful bidder fails or refuses to enter into a proper contract with the district or fails or refuses to furnish the bond required by law, he shall forfeit the amount of the check or bond that accompanied his bid.

(d) The district may specify reasonable additional requirements.

Sec. 65.222. REPORTS FURNISHED TO PROSPECTIVE BIDDERS. The board shall furnish to any person who desires to bid on construction work, and who makes a request in writing, a copy of the engineer's report that shows the work to be done and all details of the work. The board may charge for each copy of the engineer's report an amount sufficient to cover the cost of making the copy.

Sec. 65.223. PROVISIONS OF CONTRACTS FOR CONSTRUCTION WORK. (a) A contract entered into by the board for construction work shall conform to this subchapter, and this subchapter is considered a part of the contract and prevails if this chapter and the contract are in conflict.

(b) The contract shall include or have attached to it the specifications, plans, and details for work included in the contract, and all work must be done in accordance with these plans and specifications under the supervision of the board and the district engineer.

Sec. 65.224. EXECUTING AND MAINTAINING CONSTRUCTION CONTRACTS. (a) Contracts for construction work must be in writing and signed by an authorized representative of the district and the contractor.

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

Sec. 65.225. CONTRACTOR'S BOND. Any person to whom a contract is let must give good and sufficient performance and payment bonds as provided by Article 5160, Revised Statutes.

Sec. 65.226. INSPECTION OF AND REPORTS ON CONSTRUCTION WORK. (a) The board shall have control of construction being done for the district under contract for the

purpose of determining whether or not the contract is being fulfilled and shall have the construction work inspected by the district engineer or his assistants.

(b) During the progress of the construction work, the district engineer shall submit to the board detailed written reports showing whether or not the contractor is complying with the contract, and when the work is completed, the district engineer shall submit to the board a final detailed report including as-built plans of the facilities showing whether or not the contractor has fully complied with the contract.

Sec. 65.227. COMMISSION SUPERVISION OF PROJECTS AND IMPROVEMENTS. (a) During construction of a project or improvement approved by the commission, substantial alterations may not be made in the plans and specifications without the approval of the commission.

(b) The commission or the executive director may inspect the project or improvement at any time during construction to determine if the project or improvement is being constructed as provided by the plans and specifications approved by the commission.

(c) If the commission finds that the project or improvement is not being constructed as provided by the approved plans and specifications, the commission shall give written notice immediately by certified mail to each member of the board of the district and the district's manager.

(d) If within 10 days after the notice is mailed the board does not take steps to ensure that the project or improvement is being constructed as provided by the approved plans and specifications, the commission shall give written notice of this fact to the attorney general.

(e) After the attorney general receives notice under Subsection (d) of this section, he may bring an action for injunctive relief or quo warranto proceedings against the directors. Venue for either suit is in a district court in Travis County.

Sec. 65.228. PAYMENT FOR CONSTRUCTION WORK. (a) The district shall pay the contract price of construction contracts as provided in this section.

(b) The district shall make progress payments under construction contracts based on estimates approved by the district engineer monthly as the work proceeds, or at more frequent intervals as determined by the district engineer.

Sec. 65.229. CONTRACTS FOR MATERIALS, MACHINERY, AND CONSTRUCTION OF \$5,000 OR MORE BUT LESS THAN \$25,000. (a) If the estimated amount of a proposed contract for works, plant improvements, facilities other than land, or the purchase of equipment, appliances, materials, or supplies is \$5,000 or more but less than \$25,000, or if the contract is for a duration of more than two years, competitive bids on uniform written specifications must be requested from at least three bidders.

(b) A contract must be written and must be awarded to the lowest and best bidder.

Sec. 65.230. CONTRACTS WITH GOVERNMENTAL AGENCIES. This subchapter does not prohibit a district from purchasing property from public agencies by negotiated contract or without the necessity of advertising for bids.

Sec. 65.231. PERSONAL OR PROFESSIONAL SERVICE CONTRACTS. The requirements of this subchapter do not apply to contracts for personal or professional service or for a utility service operator.

Sec. 65.232. GRANTS, GIFTS, ADVANCES, AND LOANS. A district may accept grants, gifts, advances, and loans in any form from any source approved by the board, including the United States, the state or any of its agencies, any private or public corporation, and any other person and may enter into contracts, agreements, and covenants the board considers appropriate in connection with acceptance of grants, gifts, advances, and loans.

Sec. 65.233. AREAWIDE WASTE TREATMENT. The powers and duties conferred on the district are granted subject to the policy of the state to encourage the development and use of integrated areawide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state, it being an objective of that policy to avoid the economic burden to the people and the impact on the quality of the water in the state that result from the construction and operation of numerous small waste collection, treatment, and disposal facilities to serve an area when an integrated areawide waste collection, treatment, and disposal system for the area can be reasonably provided.

Sec. 65.234. SERVICE TO AREAS OUTSIDE THE DISTRICT. (a) A district may purchase, construct, acquire, own, operate, repair, improve, or extend works, improvements, facilities, plants, equipment, and appliances necessary to provide a water system and a sewer system, collect solid waste, or provide fire-fighting services for areas contiguous to or in the vicinity of the district provided the district does not duplicate a service of another public agency. A district may not provide a water or a sanitary sewer system or fire-fighting services to serve areas outside the district that are within a city unless the district obtains a resolution or ordinance of the city granting consent for the district to serve the area within the city.

[Sections 65.235-65.300 reserved for expansion]

SUBCHAPTER E. POWERS AND DUTIES RELATING TO FIRE-FIGHTING ACTIVITIES

Sec. 65.301. FIRE DEPARTMENTS. A district may establish, operate, and maintain a fire department to perform all fire-fighting activities within the district as provided by Section 50.055, Water Code.

[Sections 65.302-65.400 reserved for expansion]

SUBCHAPTER F. GENERAL FISCAL PROVISIONS

Sec. 65.401. DISBURSEMENT OF FUNDS. A district's money may be disbursed only by check, draft, order, or other instrument and must be signed by at least two authorized signatories, except the general manager, treasurer, or other employee of the district, when authorized by resolution of the board, may sign checks, drafts, orders, or other instruments on any district operation account without additional signatures.

Sec. 65.402. PURPOSE FOR BORROWING MONEY. The district may borrow money for any district purpose or combination of district purposes.

Sec. 65.403. BOND ANTICIPATION NOTES. Bond anticipation notes may be issued for any purpose for which bonds of the district may be issued or may be issued for the purpose of refunding previously issued bond anticipation notes. A district may enter into a covenant with the purchasers of the bond anticipation notes that the district will use the proceeds of the sale of bonds for the purpose of paying or refunding the bond anticipation notes. If the district enters into such a covenant, the board is required to use the proceeds received from sale of the bonds to pay the principal of, interest on, or redemption price on the bond anticipation notes.

Sec. 65.404. REPAYMENT OF ORGANIZATIONAL EXPENSES. The board may pay all costs and expenses necessarily incurred in the creation and organization of a district, the cost of investigation and making plans, the cost of the engineer's report, legal fees, and other incidental expenses, and may reimburse any person for money advanced for those purposes. Those payments may be made from money obtained from the issuance of notes or the sale of bonds first issued by the district.

Sec. 65.405. PREMIUM ON DIRECTORS' OR EMPLOYEES' BONDS. The board may pay the premium on surety bonds required of directors or employees of the district out of available funds of the district including proceeds from the sale of bonds.

Sec. 65.406. DEPOSITORY. (a) The board, by order or resolution, shall designate one or more banks inside or outside the district to serve as depository for the funds of the district.

(b) Funds of the district must be deposited in the depository bank or banks unless otherwise required by orders or resolutions authorizing the issuance of the district's bonds.

(c) To the extent that funds in a depository bank are not insured by the Federal Deposit Insurance Corporation, the funds must be secured in the manner provided by law for the security of funds of counties of this state.

(d) The board, by resolution, may authorize a designated representative to supervise the substitution of securities pledged to secure the district's funds.

Sec. 65.407. INVESTMENTS. (a) Funds of the district may be invested and reinvested by the board or its authorized representative in direct or indirect obligations of the United States, the state, or any county, city, school district, or other political subdivision of the state.

(b) Funds of the district may be placed in certificates of deposit of state or national banks or savings and loan associations within the state provided that they are secured in the manner provided for the security of the funds of counties of this 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 the investments on terms the board considers advisable.

Sec. 65.408. ACCOUNTS AND RECORDS; AUDITS. (a) The district shall keep a complete system of accounts, and an audit of its affairs for each year must be prepared in accordance with any procedures or requirements approved by the board, by an independent certified public accountant, or by a firm of independent certified public accountants.

(b) The fiscal year of the district is January 1 through December 31, until changed by the board.

(c) A signed copy of the audit report must be delivered to each member of the board of directors not later than 120 days after the close of each fiscal year, and a copy of the audit must be kept on file at the district office and shall constitute a public record open for inspection by any interested person during normal office hours.

Sec. 65.409. PAID BONDS AND COUPONS. District bonds and interest coupons or notes when paid shall be delivered to the district or destroyed and evidence of the destruction furnished by the board.

[Sections 65.410-65.500 reserved for expansion]

SUBCHAPTER G. ISSUANCE OF BONDS AND NOTES

Sec. 65.501. ISSUANCE OF BONDS AND NOTES. The district may issue its bonds or notes for the purpose of purchasing, constructing, acquiring, owning, operating, repairing, improving, or extending any district works, improvements, facilities, plants, equipment, and appliances needed to accomplish the purposes listed in Section 65.012 of this code, including works, improvements, facilities, plants, equipment, and appliances needed to provide a waterworks system, sanitary sewer system, storm sewer system, solid waste disposal system, or to provide for solid waste collection or fire-fighting services and facilities.

Sec. 65.502. FORM OF BONDS AND NOTES. (a) A district may issue its bonds or notes in various series or issues.

(b) Bonds or notes shall mature serially or otherwise not more than 40 years from their date and shall bear interest at any rate permitted by the constitution and laws of this state. The board shall determine the maturity and the interest rate of the bonds and notes.

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

(d) A district's bonds or notes may be issued in the form, denominations, and manner and under the terms, conditions, and details, and must be signed and executed, as provided by the board in the resolution or order authorizing the issuance of the bonds or notes.

Sec. 65.503. MANNER OF REPAYMENT OF BONDS OR NOTES. The board may provide for the payment of principal of and interest and redemption price, if any, on the bonds or notes by pledging all or any part of the designated revenues to result from the ownership or operation of the district's works, improvements, facilities, plants, equipment, and appliances or under specific contracts for the period of time the board determines.

Sec. 65.504. ADDITIONAL SECURITY FOR BONDS OR NOTES. (a) The bonds or notes, within the discretion of the board, may be additionally secured by a deed of trust or mortgage lien on all or part of the physical properties of the district, and franchises, easements, water rights, and appropriation permits, leases, and contracts and all rights appurtenant to those properties, vesting in the trustee power to sell the property for payment of the indebtedness, power to operate the property, and all other authority necessary for the further security of the bonds or notes.

(b) The trust indenture, regardless of the existence of the deed of trust or mortgage lien on any property, may:

- (1) include provisions prescribed by the board for the security of the bonds or notes and the preservation of the trust estate;
- (2) make provision for amendment or modification;
- (3) condition the right to spend district money or sell district property on approval of a registered professional engineer selected as provided in the trust indenture; and
- (4) make provision for investment of funds of the district.

(c) Any purchaser under a sale under the deed of trust or mortgage lien, if one is given, is absolute owner of the property, facilities, and rights purchased and is entitled to maintain and operate them.

Sec. 65.505. METHOD FOR ISSUANCE OF BONDS AND NOTES. Bonds or notes may be issued by resolution or order of the board.

Sec. 65.506. PROVISIONS OF BONDS OR NOTES. (a) In an order or resolution 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, and may enter into additional covenants relating to the bonds or notes and the pledged revenues and to the operation and maintenance of those works, improvements, facilities, plants, equipment, and appliances the revenues of which are pledged, including provision for the operation or for the leasing of all or any part of the improvements and the use or pledge of money derived from the operation contracts and leases, as the board considers appropriate.

(b) An order or resolution of the board authorizing the issuance of bonds or notes also may prohibit the further issuance of bonds, notes, or other obligations payable from the pledged revenue or may reserve the right to issue additional bonds 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 being issued, subject to the conditions that may be set forth in the order or resolution.

(c) An order or resolution of the board issuing bonds or notes may include other provisions and covenants determined by the board that are not prohibited by the constitution or by this chapter.

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

Sec. 65.507. **USE OF BOND OR NOTE PROCEEDS.** The district may use bond or note proceeds to pay interest, administrative, and operating expenses expected to accrue during the period of construction. The period of construction under this section may not exceed three years as provided by the bond order or resolution. The district also may use bond or note proceeds to pay expenses incurred and to be incurred in the issuance, sale, and delivery of the bonds or notes.

Sec. 65.508. **SALE OR EXCHANGE OF BONDS.** (a) The board shall sell the bonds on the best terms and for the best possible price, but the bonds may not be sold for less than 95 percent of their face value.

(b) The district may exchange bonds for property acquired by purchase or in payment of the contract price of work done or services performed for the use and benefit of the district.

Sec. 65.509. **APPROVAL BY ATTORNEY GENERAL; REGISTRATION BY COMPTROLLER.** (a) Bonds issued by a district must be submitted to the attorney general for examination.

(b) If the attorney general finds that the bonds are authorized in accordance with law, he shall approve them, and the comptroller shall register the bonds.

(c) After the registration of bonds by the comptroller, 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.

(d) If bonds that are payable from revenues recite that they are secured partially or otherwise by a pledge of the proceeds of a contract or a lease made between the district and one or more parties, a copy of the contract or lease and the proceedings authorizing the contract or lease may or may not be submitted to the attorney general along with the bond records. If submitted, the approval by the attorney general of the bonds constitutes an approval of the contract or lease, and the contract or lease is incontestable as provided by Subsection (c) of this section.

Sec. 65.510. **REFUNDING BONDS.** (a) A district may issue bonds to refund all or any part of its outstanding bonds, notes, or other obligations, including matured but unpaid interest coupons.

(b) Refunding bonds shall mature serially or otherwise not more than 40 years from their date and shall bear interest at any rate or rates permitted by the constitution and laws of this state.

(c) Refunding bonds may be payable from the same source as the bonds, notes, or other obligations being refunded or from other additional sources.

(d) The refunding bonds shall be approved by the attorney general and shall be registered by the comptroller on the surrender and cancellation of the bonds being refunded as provided by Section 65.509 of this code.

(e) An order or resolution authorizing the issuance of refunding bonds may provide that the refunding bonds will be sold and the proceeds deposited in the place or places at which the bonds being refunded are payable, and the refunding bonds may be issued before the cancellation of the bonds being refunded provided an amount sufficient to pay the principal of and interest on the bonds being refunded to their maturity dates, or to their option dates if the bonds have been duly called for payment prior to maturity according to their terms, is deposited in the place or places at which the bonds being refunded are payable. The comptroller shall register the refunding bonds without the surrender and cancellation of bonds 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 this section, a district may refund bonds, notes, or other obligations as provided by the general laws of this state.

Sec. 65.511. **OBLIGATIONS; LEGAL INVESTMENT; SECURITY FOR FUNDS.** (a) Bonds, notes, and other obligations issued by a district are legal and authorized investments for all banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, and trustees, guardians, and for interest and sinking funds and other public funds of the state and its agencies, including the permanent school fund, and counties, cities, school districts, and other political subdivisions of the state.

(b) A district's bonds, notes, and other obligations are eligible to secure deposits of public funds of the state and its agencies and counties, cities, school districts, and other political subdivisions of the state. The bonds, notes, and other obligations are lawful and sufficient

security to the extent of their market value if accompanied by all unmatured interest coupons attached to them.

Sec. 65.512. **AUTHORITY OF COMMISSION OVER ISSUANCE OF DISTRICT BONDS.** (a) The executive director shall investigate and report on the organization and feasibility of all districts that issue bonds, other than refunding bonds, under this chapter.

(b) A district that desires to issue bonds under this chapter, other than refunding bonds, shall submit to the commission a written application for investigation, together with copies of the engineer's report and data, profiles, maps, plans, and specifications prepared in connection with the engineer's report.

(c) The executive director shall examine the application and accompanying documents and shall visit and carefully inspect the project. The executive director may request and must be supplied with additional data and information requisite to a reasonable and careful investigation of the project and proposed improvements.

(d) The executive director shall file in his office written suggestions for changes and improvements and shall furnish to the board a copy of the report prepared by him.

(e) If the commission approves or refuses to approve the project or the issuance of bonds for the improvements, it shall make a full written report that it shall file in its office. The commission shall furnish a copy of that report to the district.

Sec. 65.513. **MANDAMUS BY BONDHOLDERS.** In addition to other rights and remedies provided by the law of this state, if a district defaults in the payment of principal of, interest on, or redemption price on its bonds when due, or if the district fails to make payments into any fund created in the order or resolution authorizing the issuance of the bonds, or defaults in the observation or performance of any other covenants, conditions, or obligations stated in the resolution or order 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 the district and its officials to observe and perform the covenants, the obligations, or conditions prescribed in the order or resolution authorizing the issuance of the district's bonds.

Sec. 65.514. **FEES AND CHARGES.** (a) A district may establish, maintain, revise, charge, and collect the rates, fees, rentals, tolls, or other charges considered necessary for the use, services, and facilities of the water and sewer system, the collection of solid waste, or fire-fighting services that provide service to areas outside the district. The rates, fees, rentals, tolls, and other charges may be higher than those charged for comparable service to residents inside the district.

(b) The rates, fees, rentals, tolls, or other charges must be at least sufficient to meet the expense of operating and maintaining the water and sewer system, solid waste collection system, or fire-fighting services serving areas outside the district and to pay the principal of and interest and redemption price on bonds issued to purchase, construct, acquire, own, operate, repair, improve, or extend the system.

Sec. 65.515. **CANCELLATION OF UNSOLD BONDS.** (a) The board, by order or resolution, may provide for the cancellation of all or any part of any bonds that have been submitted to and approved by the attorney general and registered by the comptroller, but not yet sold, and may provide for the issuance of new bonds in lieu of the old bonds in the manner provided by this chapter for the issuance of the original bonds including their approval by the attorney general and their registration by the comptroller.

(b) The order or resolution of the board shall describe the bonds to be canceled, and also shall describe the new bonds to be issued in lieu of the old bonds.

(c) A certified copy of the order or resolution of the board providing for the cancellation of the old bonds, together with the old bonds, shall be delivered to the comptroller, who shall cancel and destroy the old bonds and make a record of the cancellation.

[Sections 65.516-65.700 reserved for expansion]

SUBCHAPTER H. ADDING AND EXCLUDING TERRITORY; CONSOLIDATING AND DISSOLVING DISTRICTS

Sec. 65.701. **EXCLUDING LAND FROM DISTRICT.** (a) The board may on its own motion call a hearing on the question of the exclusion of land from the district under Sections 65.702-65.707 of this code, if it considers the exclusions are practicable, just, or desirable.

(b) The board must call a hearing on the exclusion of land or other property from the district on the written petition of any landowner or property owner in the district filed with the secretary of the board.

Sec. 65.702. **HEARING TO ANNOUNCE PROPOSED EXCLUSIONS AND TO RECEIVE PETITIONS.** If the board determines that an exclusion hearing should be held or if a written petition requesting an exclusion hearing is filed with the secretary of the board as provided by Section 65.701 of this code, the board shall give notice of a time and place for a

hearing to announce its own conclusions relating to land or other property to be excluded and to receive petitions for exclusion of land or other property.

Sec. 65.703. NOTICE OF HEARING. (a) The board shall publish notice of the hearing once a week for two consecutive weeks in one or more newspapers with general circulation in the district. The first publication shall appear at least 14 days before the date of the hearing.

(b) Notice of the hearing also must be posted in two public places within the district at least 14 days before the date set for the hearing.

(c) The notice shall advise all interested property owners of their right to:

- (1) present petitions for exclusions of land or other property;
- (2) offer evidence in support of the petitions;
- (3) contest any proposed exclusion based on either a petition or the board's own conclusions; and
- (4) offer evidence in support of the contest.

Sec. 65.704. PETITION. (a) A petition for exclusion of land must accurately describe by metes and bounds or lot and block number the land to be excluded. A petition for exclusion of other property must describe the property to be excluded.

(b) A petition for exclusion must be filed with the district at least seven days before the hearing and shall state clearly the particular grounds on which the exclusion is sought. Only the stated grounds may be considered.

Sec. 65.705. GROUNDS FOR EXCLUSION. Exclusions from the district may be made on the grounds that:

- (1) to retain any particular land or other property in the district and to extend to it, either presently or in the future, the benefits, services, or protection of the district's facilities would create an undue and uneconomical burden on the remainder of the district; or
- (2) the land desired to be excluded cannot:
 - (A) be improved as to conditions of living and health;
 - (B) be provided with water or sewer service;
 - (C) be protected from flood, or drained, or freed from interruption of traffic caused by an excess of water on the roads, highways, or other means of transportation serving the land; or
 - (D) otherwise be benefited by the district's proposed improvements.

Sec. 65.706. HEARING PROCEDURE. (a) The board may adjourn the hearing from day to day and until all persons desiring to be heard are heard.

(b) The board shall specifically describe all property that it proposes to exclude on its own motion and shall hear first any protests and evidence against exclusions proposed on the board's own motion.

Sec. 65.707. ORDER EXCLUDING LAND. (a) After considering all engineering data and other evidence presented to it, the board shall determine whether the grounds exist under Subdivision (1) or (2), Section 65.705, of this code to exclude the land and, if so, shall issue an order excluding the land or other property. In its order, the board also shall redefine the boundaries of the district to include land not excluded.

(b) A copy of the order excluding land and redefining the boundaries of the district shall be filed in the deed records of each county in which the district is located.

Sec. 65.708. SUIT TO REVIEW EXCLUSION. A person who owns an interest in land affected by the order may file a petition to review, set aside, modify, or suspend the order. The petition must be filed not later than the 20th day after the order takes effect.

Sec. 65.709. VENUE OF SUIT. Venue in any action shall be in a district court in the county in which the district is located. If the district includes land in more than one county, the venue is in a district court in the county in which the major portion of the acreage of the land sought to be excluded from the district is located.

Sec. 65.710. APPEAL. A person may appeal a judgment or order of a district court in a suit brought under Sections 65.708-65.709 of this code to the appropriate court of civil appeals and supreme court as provided in other civil cases. The appeal is subject to the statutes and rules of practice and procedure in civil cases.

Sec. 65.711. ADDING LAND BY PETITION OF LANDOWNER. A landowner may file with the board a petition requesting that there be included in the district the land described in the petition 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.

Sec. 65.712. PETITION SIGNED AND EXECUTED. A petition of the landowner to add land to the district must be signed and executed in the manner provided by law for the conveyance of real estate.

Sec. 65.713. **HEARING AND DETERMINATION OF PETITION.** The board shall hear and consider the petition and may add to the district the land described in the petition if the land is considered to be to the advantage of the district and if the water, sewer, and drainage system and other improvements or services of the district are sufficient or will be sufficient to supply the added land without injuring land already in the district.

Sec. 65.714. **RECORDING PETITION.** A petition that is granted adding land to the district must be filed for record and must be recorded in the office of the county clerk of each county in which the land is located.

Sec. 65.715. **ADDING LAND BY PETITION OF LESS THAN ALL LANDOWNERS.** In addition to the method of adding land to a district that is described in Sections 65.711-65.714 of this code, defined areas of land, whether or not they are contiguous to the district, may be annexed to the district in the manner provided by this subchapter.

Sec. 65.716. **FILING PETITION.** A petition requesting the annexation of a defined area signed by a majority in value of the landowners in the defined area, as shown by the tax rolls of each county in which the area is located, or signed by 50 landowners if the number of landowners is more than 50, shall be filed with the secretary of the board.

Sec. 65.717. **HEARING ON PETITION.** The board shall issue an order establishing a time and place at which the petition for annexation will be heard. The hearing must be held not less than 30 days from the date the order calling the hearing is issued.

Sec. 65.718. **NOTICE OF HEARING.** (a) The secretary shall issue a notice stating the time and place of the hearing and describing the area proposed to be annexed.

(b) Notice of the hearing must be given by posting copies of the notice in three public places in the district and in one public place in the area proposed to be annexed at least 14 days before the date set for the hearing and by publishing a copy of the notice in a newspaper of general circulation in each county in which the area proposed to be annexed is located one time at least 14 days before the date set for the hearing.

Sec. 65.719. **ORDER ADDING DEFINED AREA.** (a) After the hearing on the petition, if the board finds that the proposed annexation of the area to the district is feasible and practicable and would be of benefit both to the area and to the district, the board, by order entered in its minutes, shall call and hold an election on the question of annexation. The election shall be held in the area described in the petition.

(b) The district calling the election does not have to include all of the land described in the petition, if the board at the hearing finds a modification or change necessary or desirable. The territory to be added shall be described in the petition.

(c) At the election, a proposition shall be submitted to the voters on the question of annexation.

(d) The board shall canvass the results of the election and, by order, shall declare the results.

(e) If a majority of the qualified voters voting in the election approves the proposition, the board, by order, shall annex the area to the district.

Sec. 65.720. **FILING ORDER ADDING LAND.** (a) A copy of an order annexing land to the district, attested by the secretary of the board, must be filed and recorded in the deed records of each county in which the district is located.

(b) After the order is recorded, the area is a component part of the district.

Sec. 65.721. **DUTY TO SERVE NEW LAND INCLUDED IN DISTRICT.** The district has the same duty to furnish service to the annexed land that it previously had to furnish service to other land in the district, and the board shall endeavor to serve all land in the district without discrimination.

Sec. 65.722. **DUTY TO ADVISE EXECUTIVE DIRECTOR.** The board shall furnish the executive director a detailed description of any land excluded from or annexed to the district within 30 days after the exclusion or annexation or as soon after that time as practicable.

Sec. 65.723. **CONSOLIDATION OF DISTRICTS.** Two or more districts governed by this chapter may consolidate into one district as provided by this subchapter.

Sec. 65.724. **ELECTIONS TO APPROVE CONSOLIDATION.** (a) After the board of each district has agreed on the terms and conditions of consolidation, which may include the assumption by each district of the other district's bonds, notes, or other obligations and adoption of a name for the consolidated district, the board of each district shall order an election in each of their respective districts to determine whether the districts should be consolidated.

(b) The board of each district shall order the election to be held on the same day in each district and shall give notice of the election for the time and in the manner provided by law for bond elections under this chapter.

(c) The districts may be consolidated only if the qualified voters in each district voting at the election vote in favor of the consolidation.

Sec. 65.725. **GOVERNING CONSOLIDATED DISTRICTS.** (a) After two or more districts are consolidated, they become one district and are governed as one district.

(b) During a period of 90 days after the date of the election to approve consolidation, 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) The consolidation agreement may provide that the officers of the original districts shall continue to act jointly as officers of the consolidated district or name persons to serve as officers of the consolidated district until their successors assume office under Subsection (e) of this section.

(d) On the next available uniform election date, an election shall be called and held, and directors will be elected for the consolidated district in the same manner and for the same term as directors elected under Section 65.103 of this code.

(e) New officers of the consolidated district must qualify as officers of the district within the period of 90 days after the election and shall assume their offices at the expiration of the 90-day period.

(f) The current board shall approve the bond of each new officer.

Sec. 65.726. **DEBTS OF ORIGINAL DISTRICTS.** After two or more districts are consolidated, the debts of the original districts shall be protected and may not be impaired.

Sec. 65.727. **DISSOLUTION OF DISTRICT PRIOR TO ISSUANCE OF BONDS.** (a) If the board considers it advisable before the issuance of any bonds, notes, or other indebtedness, the board may dissolve a district and liquidate the affairs of the district as provided by this subchapter.

(b) If a majority of the board finds at any time before the issuance of bonds, notes, or other obligations or the final lending of its credit in another form that the proposed undertaking for any reason is impracticable or apparently cannot be successfully and beneficially accomplished, the board may issue notice of a hearing on a proposal to dissolve the district.

Sec. 65.728. **NOTICE OF HEARING.** The board shall post notice of the hearing on the bulletin board at the courthouse door of each county in which the district is located and at three or more other public places within the boundaries of the district and shall publish notice of the hearing two times in a newspaper with general circulation in the district. The notice must be posted and published at least one time no later than the 14th day before the date set for the hearing on the proposed dissolution of the district.

Sec. 65.729. **HEARING.** The board shall hear all interested persons and shall consider their evidence at the time and place stated in the notice.

Sec. 65.730. **BOARD'S ORDER TO DISSOLVE DISTRICT.** If the board unanimously determines from the evidence that the best interests of the persons and property in the district will be served by dissolving the district, the board shall enter the appropriate findings and order in its records dissolving the district. Otherwise the board shall enter its order providing that the district has not been dissolved.

Sec. 65.731. **JUDICIAL REVIEW OF BOARD'S ORDER.** The board's decree to dissolve the district may be appealed in the manner provided by Sections 65.708-65.710 of this code for the review of an order excluding land from the district.

Sec. 65.732. **APPLICATION.** Section 11, Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes), does not apply to the annexation of a portion of a special utility district created or operating under this chapter.

SECTION 2. Section 50.380, Water Code, as added by Section 5, Chapter 435, Acts of the 68th Legislature, Regular Session, 1983, is reenacted to read as follows:

Sec. 50.380. **APPLICATION.** Section 11, Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes), does not apply to the annexation by a city of a district which has a noncontiguous portion which is not within the extraterritorial jurisdiction of the city.

SECTION 3. This Act takes effect on November 15, 1985.

SECTION 4. 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 April 11, 1985, by a non-record vote; passed by the Senate on May 21, 1985, by the following vote: Yeas 31, Nays 0.

Approved: June 1, 1985

Effective: November 15, 1985