

## CHAPTER 586

## S.B. No. 1304

An Act relating to the creation, administration, powers, duties, operations, financing, and organization of the Riviera Water Control and Improvement District.

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

**SECTION 1. CREATION AUTHORIZED.** On approval at an election called and held under Section 6 of this Act, the Riviera Water Control and Improvement District, in Kleberg County, is created pursuant to Article XVI, Section 59, of the Texas Constitution.

**SECTION 2. DEFINITIONS.** In this Act:

- (1) "District" means the Riviera Water Control and Improvement District.
- (2) "Board" means the board of directors of the district.
- (3) "Director" means a member of the board of directors.
- (4) "Person" means an individual, corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, joint venture, association, or any other legal entity.
- (5) "Department" means the Texas Department of Water Resources.

**SECTION 3. LEGISLATIVE FINDINGS AND DECLARATION.** (a) The legislature finds that the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district and by the powers granted pursuant to Article XVI, Section 59, of the Texas Constitution, and that the district is created to serve a public use and benefit.

(b) The legislature declares the creation and operation of the district to be essential to accomplish the purposes of Article XVI, Section 59, of the Texas Constitution.

(c) The district is declared to be a governmental agency and a body politic and corporate.

**SECTION 4. AUTHORITY BOUNDARIES.** (a) The district consists of the territory contained within the following described area:

**Tract I**

Beginning at a point in the West Right of Way of St. L. B. & M. R.R., said point also being the point of intersection of said West Right of Way and a line 150 feet North of and parallel to the Centerline of Mesquite Avenue;

Thence in an Easterly direction along said line 150 feet North of and parallel to Mesquite Avenue to a point 150 feet East of the West line of Lot 10, Section 17, of the Theodore F. Koch Lands;

Thence in a Southerly direction parallel to and 150 feet East of the West Line of Section 17 and 20 of the Theodore F. Koch lands to a point of intersection with an East/West line dividing blocks 42, 43, 44 and 45 of the Riviera Townsite;

Thence in a Westerly direction along said East/West line dividing blocks 42, 43, 44 and 45 to a point in the West Right of Way of the St. L. B. & M. R.R.;

Thence in a Northwesterly direction along said West Right of Way of the St. L. B. & M. R.R. to the point of beginning for that portion of said Water Control Improvement District East of U. S. Highway 77.

## Tract II

Beginning at a point in the West Right of Way of the St. Louis Brownsville and Mexican Railroads right of way, said point also being the point of intersection of said right of way and an East/West line 150 feet South of the Centerline of Live Oak Avenue;

Thence in a Westerly direction along said East/West line to its point of intersection with the West right of way line of First Street;

Thence in a Northerly direction along the West Right of Way line of First Street to its point of intersection with an East/West line dividing Blocks 26 and 25 of the Riviera Townsite;

Thence in an Easterly direction along the East/West line dividing Blocks 26 and 25 to a point in the West Right of Way of said Railroad;

Thence in a Southeasterly direction along said West Right of Way line to the point of beginning for that portion of said Water Control Improvement District West of U.S. Highway 77. The acreage contained in the district is 248 acres, more or less.

(b) The legislature finds and determines that the boundaries and field notes of the Riviera Water Control and Improvement District form a closure. If any mistake is made in copying the field notes in the legislative process or a mistake is otherwise made in the field notes, the mistake in no way affects the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purpose for which the district is created, or to pay the principal of or interest on the bonds, or the right to assess, levy, and collect taxes, or in any other manner affect the legality or operation of the district or its governing body.

**SECTION 5. TEMPORARY DIRECTORS.** (a) On the effective date of this Act the following persons shall take office and shall serve as the temporary board of directors for the proposed district:

- (1) P. M. Cooper;
- (2) Fred Yaklin, Jr.;
- (3) Sulema Longoria;
- (4) Roy Cantu; and
- (5) Stan Yaklin.

(b) Members of the temporary board shall serve until the persons elected as directors under Section 6 of this Act have been elected and have qualified for office.

(c) A vacancy on the temporary board shall be filled by appointment of the remaining members of the temporary board.

**SECTION 6. CONFIRMATION AND DIRECTORS' ELECTION; BONDS.** (a) An election shall be held not earlier than January 1, 1986, but not later than June 1, 1986, within the boundaries of the proposed district to determine if the proposed district will be created and, if created, to elect directors for the district.

(b) Notice of the confirmation and directors' election shall state the day and places for holding the election, the proposition to be voted on, and the candidates for director. 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 30 days before the date set for the election.

(c) A person who desires to have his name printed on the ballot as a candidate for director of the district shall file a petition with the temporary board before the 35th day preceding the date of the election.

(d) The ballot for the election shall be printed to provide for voting for or against the proposition: "The creation of the Riviera Water Control and Improvement District." Also, the ballot shall have the names of the persons who have filed as candidates for director. A voter is entitled to vote for five candidates for director.

(e) Immediately after the confirmation and directors' election, the presiding judge of each polling place shall make returns of the election to the temporary board, and the temporary board shall canvass the returns and declare the result.

(f) 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 creation of the district was defeated and shall enter the results in its minutes. The temporary board also shall file a copy of the election results with the department.

(g) If a majority of the voters at the election approve the creation of the district, the temporary board shall declare the five candidates who received the highest number of votes to be elected directors for the district. If two or more candidates tie for the fifth highest vote for a director position, the commissioners court shall select the fifth director by lot from those tying for the position.

(h) After the directors elected at the confirmation and directors' election have qualified for office, they shall draw lots to determine their terms of office. Two of the directors shall serve terms that expire at the first regular meeting of the board in April following the second directors' election and the three remaining directors shall serve terms that expire at the first regular meeting of the board in April following the third directors' election.

(i) If a majority of the voters at the election votes against the creation of the district, the temporary board may call and hold additional confirmation and directors' elections, but another election to confirm creation of the district may not be called and held by the temporary board before the first anniversary of the most recent confirmation and directors' election. If the district is not created within five years after the effective date of this Act, this Act expires.

(j) At an election to confirm creation of the district, the temporary board may include a separate proposition on the ballot to approve the issuance by the district of bonds payable wholly or partially from property taxes. The notice of the election under Subsection (b) of this section must state the bond proposition that is to appear on the ballot. The proposition shall be printed on the ballot to provide for voting for or against the proposition: "The issuance of bonds in the amount of \$ *(INSERT AMOUNT)* payable wholly (or partially) from property taxes for *(STATE PURPOSE FOR WHICH BOND PROCEEDS TO BE USED)* and the levy of taxes in payment of those bonds." If a majority of the voters at the election approves the bond proposition, the temporary board shall declare the result and enter it in its minutes, and the district, if created, may issue the bonds in the amount authorized for the purpose authorized and may levy and collect taxes necessary to pay the principal of and interest on the bonds. If a majority of the voters at the election do not approve the bond proposition, the temporary board shall declare the result and enter it in its minutes, and the district, if created, may not issue the bonds payable in whole or in part by property taxes. The temporary board shall file a copy of the bond election results with the department.

**SECTION 7. BOARD OF DIRECTORS.** (a) The district shall be governed by a board of directors composed of five members, who are elected as provided by this Act.

(b) The directors shall be elected from the district at large.

**SECTION 8. QUALIFICATIONS OF DIRECTORS.** To serve as a director, a person must be at least 18 years old and must be a resident of the area within the boundaries of the district.

**SECTION 9. TERM OF OFFICE.** Except for the initial directors elected under Section 6 of this Act, a director shall hold office for a term of four years and shall serve until his successor is elected and has qualified.

**SECTION 10. ELECTION OF DIRECTORS.** (a) On the first Saturday in April in each odd-numbered year, an election shall be held in the authority 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 a director shall file a petition with the secretary of the district before the 30th day preceding the date of the election.

**SECTION 11. 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.

**SECTION 12. VACANCY ON BOARD.** A vacancy on the board shall be filled by appointment of the remaining members of the board until the next election of directors for the district. If that position is not scheduled to be filled at that election, the person elected to fill the position shall serve only for the remainder of the unexpired term.

**SECTION 13. OATH.** Each director shall take the constitutional oath of office required of state officers.

**SECTION 14. COMPENSATION.** Each director is entitled to receive for his services not more than \$25 a day for each day he is actually engaged in his duties for the district.

**SECTION 15. ORGANIZATION OF BOARD.** (a) After each directors' election, the board shall hold a regular meeting in April 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, and one person to serve as secretary.

(b) A person selected to serve as chairman, vice-chairman, or secretary shall serve in that capacity for a term of two years.

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

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

**SECTION 16. QUORUM.** A majority of the members of the board constitute a quorum for the transaction of business of the district, but no official action of the board is valid without the affirmative vote of a majority of the members of the board.

**SECTION 17. OTHER OFFICERS.** (a) The board shall appoint persons to serve as treasurer and attorney for the district.

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

(c) The person appointed as treasurer shall execute a bond in the amount determined by the board, payable to the district, conditioned on the faithful performance of the treasurer's duties. The district shall pay for the bond.

**SECTION 18. GENERAL MANAGER.** (a) The board may employ a general manager to 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.

(b) The general manager shall execute a bond in the amount determined by the board, payable to the district, conditioned on the faithful performance of the general manager's duties. The district shall pay for the bond.

(c) The general manager is entitled to receive the compensation provided by the district's budget.

**SECTION 19. ENGINEER.** The board may appoint or contract with a competent professional civil engineer for the district and may determine the amount of compensation to be paid to the engineer.

**SECTION 20. PERSONNEL.** (a) The board or the general manager at the direction of the board shall employ persons necessary for the proper handling of the business and operation of the district and may employ or contract with expert and specialized personnel who are necessary to carry out this Act.

(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 at the direction of the board may dismiss an employee of the district.

(d) The board shall require each employee or person under contract to 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 employee or another person. Each bond shall be conditioned on the faithful performance of the 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.

**SECTION 21. OFFICE.** The board shall maintain an office within the boundaries of the district for conducting the business of the district.

**SECTION 22. MEETINGS OF BOARD.** The board shall hold regular meetings at the district's office at least once each month on a date established by rule of the board.

**SECTION 23. 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, receipts, and records of all kinds in a secure manner at the district's office.

(b) Minutes, contracts, records, plans, notices, accounts, receipts, and other records are the property of the district and are subject to public inspection.

**SECTION 24. CONTRACTS.** The board may enter into contracts as provided by this Act, and those contracts shall be executed by the board in the name of the district.

**SECTION 25. RULES.** (a) After notice and hearing, the board may adopt rules to carry out this Act.

(b) The board shall adopt rules providing procedures for giving notice and holding hearings before the board.

**SECTION 26. SUPERVISION OF DISTRICT.** The district is subject to the continuing right of supervision by the state, to be exercised by the commission under this Act and the Water Code.

**SECTION 27. 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 general manager.

(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.

**SECTION 28. SEAL.** The board shall adopt a seal for the district.

**SECTION 29. GENERAL POWER OF DISTRICT.** The district may prepare and adopt plans for and may purchase, construct, acquire, own, operate, maintain, repair, improve, and extend inside and outside the boundaries of the district any works, improvements, facilities, plants, pipelines, equipment, and appliances necessary to collect, transport, process, dispose of, and control domestic, industrial, and communal waterborne wastes within the district.

**SECTION 30. GIFTS, GRANTS, LOANS, AND OTHER FUNDS.** To carry out any purposes or power under this Act, the district may apply for, accept, receive, and administer gifts, grants, loans, and other funds available from any source.

**SECTION 31. CONSULTATION, CONTRACTS, AND COOPERATION WITH OTHER GOVERNMENTAL AGENCIES AND ENTITIES.** To carry out any purposes or power under this Act, the district may advise, consult, contract, and cooperate with the federal government and its agencies, the state and its agencies, local governments, and private entities.

**SECTION 32. ACQUISITION OF PROPERTY.** The district may acquire by gift, grant, devise, purchase, lease, or condemnation any land, easements, rights-of-way, and other property interests necessary to carry out the powers and duties provided by this Act.

**SECTION 33. EMINENT DOMAIN.** (a) The authority may acquire land for the purposes authorized by Section 29 of this Act 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 authority 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 change 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, change in grade, or alteration of construction shall be accomplished at the sole expense of the authority. "Sole expense" means the actual cost of relocation, raising, lowering, rerouting, or change in grade or alteration of construction to provide comparable replacement without enhancement of facilities, after deducting the net salvage value derived from the old facility.

**SECTION 34. AUTHORITY TO ENTER INTO CONSTRUCTION, RENOVATION, AND REPAIR CONTRACTS.** The district may contract with any person to construct, renovate, or repair any of its works, improvements, facilities, plants, pipelines, equipment, and appliances and, from time to time, make improvements to them.

**SECTION 35. BIDS ON CONTRACTS.** Contracts entered into under Section 34 of this Act requiring an expenditure of more than \$5,000 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).

**SECTION 36. ATTACHMENTS TO CONTRACTS.** A contract entered into under Section 34 of this Act 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.

**SECTION 37. EXECUTION AND AVAILABILITY OF CONTRACTS.** (a) A contract entered into under Section 34 of this Act shall 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.

**SECTION 38. 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.

**SECTION 39. MONITORING WORK.** (a) The board has control of construction, renovation, or repairs being done for the district under a contract entered into under Section 34 of this Act and shall determine whether or not the contract is being fulfilled.

(b) The board shall have the construction, renovation, or repair 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, renovation, or repair 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.

**SECTION 40. PAYMENT FOR WORK.** (a) The district shall pay the contract price of construction, renovation, or repair 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.

**SECTION 41. 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 35 of this Act.

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

**SECTION 42. ENTRY ON LAND.** (a) The directors, the engineer, 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 works, improvements, facilities, plants, pipelines, equipment, and appliances and to attend to business of the district.

(b) Before a director, engineer, or 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.

**SECTION 43. 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.

**SECTION 44. FEES AND CHARGES.** (a) The board may adopt and enforce all necessary charges, fees, or rentals, in addition to taxes, for providing any district facilities or service.

(b) The board may require a deposit for any service or facilities furnished and may or may not provide that the deposit will bear interest.

(c) The board may discontinue a facility or service to prevent an abuse or enforce payment of an unpaid charge, fee, or rental due the district including taxes that have been due for not less than six months.

**SECTION 45. ACQUISITION OF EXISTING FACILITIES.** If the district acquires existing works, improvements, facilities, plants, equipment, and appliances that are completed, partially completed, or under construction, the 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.

**SECTION 46. 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 the 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.

**SECTION 47. CONSERVATION PROGRAM.** The board shall adopt and implement a program of water conservation that incorporates practices, techniques, and technologies that:

- (1) will reduce consumption of water, reduce loss or waste of water, improve efficiency in the use of water, or increase recycling and reuse of water so that a water supply is made available for future or alternative uses; and
- (2) the Texas Department of Water Resources determines will meet reasonably anticipated local needs and conditions.

**SECTION 48. 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.

**SECTION 49. ANNUAL AUDIT.** Annually, the board shall have an audit made of the financial condition of the district.

**SECTION 50. 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.

**SECTION 51. AMENDING BUDGET.** After the annual budget is adopted, it may be amended on the board's approval.

**SECTION 52. 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.

**SECTION 53. 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 54 of this Act.

(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.

**SECTION 54. 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.

**SECTION 55. 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.

**SECTION 56. BORROWING MONEY.** The district may borrow money for any purpose authorized under this Act or any combination of those purposes.

**SECTION 57. ISSUANCE OF BONDS.** The board may issue and sell bonds in the name of the district to acquire land and construct works, improvements, facilities, plants, pipelines, equipment, and appliances as provided by this Act.

**SECTION 58. 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.

**SECTION 59. 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 6 of this Act 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.

**SECTION 60. 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.

**SECTION 61. 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.

**SECTION 62. 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.

**SECTION 63. 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).

**SECTION 64. 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.

**SECTION 65. 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.

**SECTION 66. 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.

**SECTION 67. 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).

**SECTION 68. 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.

**SECTION 69. LEVY OF TAXES.** The board may annually levy taxes in an amount not to exceed five cents on each \$100 of assessed valuation of property in the district to pay the principal of and interest on bonds issued by the district and the expense of assessing and collecting taxes.

**SECTION 70. 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 an amount not to exceed one cent on each \$100 of assessed valuation of property in the district to pay operating expenses of the district. The operating tax election shall be held in the manner provided by Section 6 of this Act for the confirmation and directors' election.

**SECTION 71. 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.

**SECTION 72. 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.

**SECTION 73. 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.

**SECTION 74. EMERGENCY.** 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, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on May 15, 1985, by the following vote: Yeas 31, Nays 0; Senate concurred in House amendment on May 27, 1985, by the following vote: Yeas 31, Nays 0; passed the House, with amendment, on May 24, 1985, by the following vote: Yeas 147, Nays 1, one present not voting.

Approved: June 13, 1985

Effective: Immediately